

Home Detention with Electronic Monitoring in New Zealand and its Implications for Probation

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Summary

In New Zealand, Amendment No. 9 (1999) of the Criminal Justice Act 1985 introduced Home Detention Orders with electronic monitoring as an early release from prison option, implemented on the 1st October 1999. This article discusses home detention in New Zealand, and reports the results of a study conducted by the authors in 2001 considering the development and impact of home detention on offenders and their families. The article will also consider the implications of this research for probation both nationally and internationally.

Introduction

Home detention with electronic monitoring schemes are established in many countries, having developed in the mid-to-late 1980s in the States and UK (Nellis, 2000). In New Zealand, home detention developed in a political climate of: increased lack of tolerance for offenders; the need to use more cost-effective means of confinement; and a concern to reduce the escalating prison population. In practice, New Zealand followed the lead of the US, UK and other European countries and developed a home detention scheme with intensive supervision provided by probation officers. After several attempts during the early 1990's to launch a pilot home detention scheme, one such scheme, using a passive system of monitoring, was established during 1995-1997, and evaluated by the Ministry of Justice (Church & Dunstan, 1997).

The initial scheme was not very successful – the throughput of offenders was low – only 37 people were on home detention during the 18 month evaluation period; 30% of offenders were subsequently charged with new offences; and there were problems with monitoring reliability. The authors of the evaluation (Church & Dunstan, 1997) concluded that a nationwide implementation of home detention would not be wise without significant changes, and further piloting. Nevertheless, home detention was considered viable by the National Government and they amended legislation (CJA 1985, Amend. No. 9, 1999) to introduce a nationwide home detention with electronic monitoring on 1st October 1999.

The current scheme specifically caters for the early release of prisoners serving varying lengths of imprisonment. Offenders may be placed on home detention via two methods. For those given prison sentences of 2 years or less a sentencing judge may grant them “leave to apply” at court. Usually, the offender will go to prison; indicate that they wish to apply for home detention; and be seen by a home detention probation officer – who writes a report indicating suitability. The report is presented to members of the prison board (a judge, community members, probation and prison representatives) who make a decision for, or, against release. This arrangement is known as the front-end option. The other method of being placed on home detention is for prisoners serving determinate sentences of 2 years or more

who are eligible for parole. They may apply to a prison board in much the same way as the front-enders - to be released up to three months earlier than their earliest parole release date. The prison board makes its decision from the probation report and sponsors', victims', and offenders' views are also taken into consideration. In New Zealand about 25% of front-enders are granted home detention and about 8% of pre-parole prisoners are granted home detention (Spier, 2001).

Some issues from the literature on home detention

Internationally in the literature home detention continues to pose a number of conundrums linked to issues of invasion of privacy; incapacitation for offenders and their families; the failure of home detention to reduce prison populations; and the potential for increased net-widening (Ball & Lilly, 1986; Gibbs & King, 2001; Payne & Gainey, 2000). The philosophical debates are the same as for any community-based sanction: Is too much liberty or freedom removed? Is harm caused or pain inflicted? Are people receiving a harsher community-based sentence than is necessary? Can home detention be justified if prison places are not reduced? And so on. The issues of coercion, control and negative impact on offenders and their families, remain as challenges to the validity and effectiveness of home detention. However, there is some evidence that home detention can bring both increased freedoms and other benefits to offenders and their families (Dodgson *et al*, 2001; Gainey & Payne, 1998; Gibbs and King, 2001; Payne & Gainey, 2000).

Home detention is a community-based sanction where the aims, range of services, and intensity of supervision, can differ widely from country to country, or state to state. Whether home detention can be successful depends often on what point of the sentencing tariff it is placed (i.e. used as a direct alternative to custody, or as an early release from prison option); and the target group of offenders (i.e. low risk or high risk). The research on home detention indicates a wide range of completion and recidivist rates for those participating in home detention. Older offenders and drink drivers fare better, as do those who attend specific programmes of treatment on top of their electronic monitoring (Bonta *et al*, 1999; Lilly *et al*, 1993; Whitfield, 1997). Younger offenders and those on home detention as part of a curfew or alternative to custody fare worse, than those on home detention as part of a pre-release from prison package (Gibbs and King, 2001; Smith, 2001).

A range of practice concerns have also emerged from the literature: these include continuing problems with electronic monitoring equipment and reliability of monitoring processes; the lack of suitable programmes, intensive supervision, and support for the offender and his or her family; and the reluctance of probation staff to participate in home detention schemes, aligned to increasing control and surveillance functions of probation officers (Enos *et al*, 1992; Lilly & Nellis, 2001; Mortimer & Mair, 1997; Nellis, 2000).

It is with this context that the New Zealand home detention scheme is considered in the following pages.

The Home Detention Scheme in New Zealand

The New Zealand home detention scheme is aimed at the early release of prisoners, as well as ensuring that those subject to home detention have their offending behaviour dealt with by means of intensive supervision – including attendance at programmes or activities specified on the home detention order.

The mechanisms by which people given sentences of imprisonment are released to

home detention, discussed at the beginning of the article, ensure that potential home detainees (as they are called in New Zealand) are thoroughly assessed for suitability to the sanction, and risk of re-offending. The risk assessment process uses a standardised criminogenic risk-needs instrument. The suitability and risk assessments are completed by specialised probation officers. The key tasks that home detention officers (as they are known) must fulfil when assessing potential detainees are: an analysis of factors which cause offending, and which will help rehabilitate the offender; a consideration of the safety and welfare of other occupants of a potential detainee's proposed residence; and an approach to the victim or victims to inform them of their right to make a submission to the prison board about the potential detainee's application for home detention. The consent of other adults where the potential detainee is to reside must be obtained. In this way both the victims' and sponsors' (co-residents) views are clearly known to the prison board when they are making their decision as to release the prisoner or not.

Once a person is granted home detention they are released on a Home Detention Order which usually has conditions on it, for example to report to an outpatient alcohol treatment facility. The home detention order is managed by the Community Probation Service, in conjunction with a security company. A home detention officer is assigned to the detainee – the officer is responsible for supervision, arranging programmes or activities for detainees, ensuring security is established, and for informing employers or community organisations that a particular person is on home detention. The detainee is electronically monitored at all times, using an active system of monitoring. This means that the offender wears a security anklet which continuously emits a signal to equipment installed at the detainee's residence. The security company monitors the equipment and detainee's movements. Should the detainee, at any time, leave the property without permission of the supervising home detention officer, an alarm will be triggered. The security company and home detention officer also undertake random visits.

Sponsors, who are usually the detainee's co-residents (spouses, partners or flatmates) play a key role in supporting the detainee – they provide practical, emotional and financial assistance – their views are reported in a later section. Without sponsors the home detention scheme in New Zealand would be seriously compromised.

The home detention order is operated in four phases. Each phase has different expectations of the detainee and the amount of contact with the probation service. For example, during Phase I a detainee is expected to see their supervising home detention officer three times a week. A detainee also has limited permitted absences from home – only attendance at programmes specified on their order is allowed and one absence for essential shopping. During Phase IV a detainee can expect to see their supervising officer about once a fortnight, and the detainee is permitted extra absences for family outings, leisure and educational activities. Detainees can move back or forward to different phases depending on their progress. The average time a detainee spends on home detention is 13 weeks (Gibbs & King, 2001).

The Research Study

We undertook a research study during 2001 to ascertain the development, operation and impact of the introduction of home detention in New Zealand. The main research objectives were to:

Collect baseline data and demographic information about people on home detention.

Examine the decision-making process regarding the application for, and granting of, home detention.

Explore the impact of home detention on detainees, their families or sponsors, and other stakeholders.

Assess the overall effectiveness of home detention in a number of areas for example, its capacity to rehabilitate, and its benefits and limitations.

The demographic data gathered over the first 18 months provided background information for our study. After 18 months, a total of 897 people had been on home detention (compared to the New Zealand annual prison population of c. 5,550). This represented less than 30% of people who applied for home detention being released to an order. Of the home detention population, 83% were male and 17% female; 48% of detainees were NZ European; and 39% NZ Maori. There were also 5% Pacific Islanders and 6% European. Compared to their prison proportions women were much more likely to be released to home detention. The median age of detainees was 33 years. The primary offences of those on home detention in 2000 were property related (29%); drugs (26%); traffic (23%) and violence (15%) (Spier, 2001). The most recent data from Corrections (personal communication, 2001) shows re-conviction rates of 27% for detainees at 12 months following completion (or recall) of their home detention orders.

In order to achieve the research objectives we read case records and home detention reports; we observed three home detention prison board meetings; and interviewed 21 offenders, 21 sponsors, 6 home detention officers and 2 security staff. The interviews, which lasted between 1 and 2 hours, focused on participants' experience of home detention, and their views of its strengths and weaknesses. Of the detainees interviewed, 7 were female and 14 were male; 15 were NZ Europeans and 6 were NZ Maori. The average age of the group was 32 years old. Of their sponsors, 18 out of 21 were women and least 11 of these were partners or spouses of the detainees. Six of the 21 detainees were working – all men.

Research Results

We now summarise the relevant results of the research which provide a useful insight into the operation and impact of home detention in New Zealand.

Suitability and decision-making

From analysis of the home detention reports and data from the prison boards, the most suitable candidate for home detention was considered to be someone who: had suitable accommodation with supportive sponsors; was motivated to complete home detention and address their offending; had organised activities and programmes to attend on release; and was not struggling with drug or alcohol related problems. One other factor in favour of being granted home detention was that there were no major victim concerns. Older candidates and females were more likely to be granted home detention (Gibbs & King, 2001).

Members of prison boards especially emphasised the need for rehabilitative programmes; the views of the victims and the capacity of the sponsors to both support and supervise the offender, as being important factors influencing their decisions to grant or decline home detention:

“The public perception of HD is that the offender is let out of prison – we are conscious of this in our decision making. A programme to address offending is therefore an important part of the package. HD needs to have a rehabilitative aspect” (member of prison board);

“Victims’ or sponsors’ views may swing the decision -therefore very important. [We] take them seriously. A victim and their parents once attended they felt so strongly about HD. HD was not granted as a consequence of their comments” (member of prison board).

Prison board members also pointed out how much they relied upon the home detention reports prepared by home detention officers.

Role of probation

The home detention officers who were interviewed saw their contribution to home detention as two-fold: community re-integration and addressing criminogenic factors. They attempted to fulfil their roles through regular contact with detainees, and organising for detainees to attend programmes of rehabilitation. However, home detention officers were frustrated by the lack of time and resources they had at their disposal to offer intensive face-to-face counselling and preventative work.

Home detention officers were often the first point of contact for detainees and were relied upon by them for information about the expectations and demands of home detention. Home detention officers were clear that home detention was not a ‘soft option’:

“[I tell them] the restrictions – what they can’t do. A little bit of information maybe about how other people have found it. They all think they will be different and they’ll be able to handle it just fine. So it’s really pounding home to them how difficult it is, and are you up to it? Are you going to be able to manage when the family goes down to the beach for a swim on Christmas day and you can’t go?” (Home Detention Officer 4)

Home detention officers were, overall, positive about home detention and electronic monitoring, believing that it operated fairly well, with minor equipment problems, and that it allowed some offenders to rethink their criminal career paths.

Views of detainees

Home detention detainees were invariably keen to get out of prison, and keen to spend time at home with their families. None of the 21 detainees in our sample regretted their release to home detention; although one wished he had chosen a different home to live in. Several others mentioned they found it tougher and more challenging than prison. This was because they had to take more responsibility and *choose* to stay at home, whereas in prison that decision was made for them.

Detainees spoke highly of their home detention officers, mentioning that it was important for officers to have faith in them, so that they in turn were willing to abide by the conditions of the home detention orders.

“My probation officer was fantastic. She found out anything that I needed to know. She was always there to support me.” (Kathy, detainee)

Detainees felt that home detention demanded more self-discipline and organisation of their time than they were used to, but they clearly preferred it to being in prison. The benefits included: having to look after children or doing the gardening; developing more self-

discipline and organisational skills; having thinking time and using this constructively to plan for the future; gaining new opportunities – attending courses or training programmes; having access to a reasonably good social support system.

Detainees reported that completing their home detention successfully was no easy task – they had to consciously remind themselves not to go out of the house when they pleased, and to return back to their homes on time after a permitted activity. The physical constraints of electronic monitoring did make it difficult for detainees to break the rules without detection, although some did manage to take deviations from approved routes from time to time. Violations, on the whole, were relatively minor, with only one of the 21 detainees recalled to prison during the course of our study.

The other main challenge or impact of home detention on detainees, was the panic and distress caused when they were late – women were especially distressed but men could “feel the pinch” too:

“Home detention is right on the dot. Like I was 20 minutes late the other night and you know it’s different if you’re not on home detention and you’re 20 minutes late. I was nearly in tears the other night, because I was lost in Halswell and I was 20 minutes late. I thought, ‘oh no, if I’m another forty minutes late I’ll probably get recalled’. It was such a big stress factor.” (Bill, detainee)

Views of sponsors

The 21 sponsors interviewed indicated that they were keen to help detainees because of: wanting to have their loved ones back at home; benefits for the children of detainees; and to put an end to time consuming prison trips. The expectations placed upon and perceived by sponsors, from various criminal justice stakeholders, for example, judges and probation officers, included that of: being ‘jailors’ or supervisors of detainees; providing accommodation to house detainees; providing food, money and emotional support. Sponsors, most of whom were women, ended-up running special errands for detainees – shopping, driving trips, or picking up detainees’ children. They had to give up some of their spare time, finances and possessions to support detainees. Most sponsors were willing to do this but some felt that they should have been given more support from the probation service and government generally. Some sponsors, particularly spouses, described greater tension in their relationships with detainees, as a consequence of the detainee being in the house all the time:

“I guess it’s just the whole thing of, you know, just tension, because he’s sort of always here and he’s just, I don’t know. And I’d think, ‘oh, I’ll just go out’ and then I’d think he was in a bad mood because I’d left him here. If he was going out and doing his own thing, he’d be a lot happier, then I’d be a lot happier” (Sally, sponsor).

Effectiveness

Many of the 21 detainees believed that home detention would assist their rehabilitation – especially by enabling self-discipline, a re-ordering of priorities, and a greater appreciation of one’s family. However, detainees were reluctant to say whether or not home detention assisted in reducing the likelihood of further offending – they suggested instead that it was

very much down to a given individual whether they committed crime or not. Sponsors and home detention officers were, likewise, realistic about the long-term impact of home detention as an effective deterrent to further offending. There were, however, a number of factors which we believe assisted the detainees to complete their home detention successfully, and which might assist in the reduction of further offending. These were:

The ability of detainees to keep themselves usefully occupied in the home and out of the home.

Detainees' compliance with the rules.

Detainees' beliefs that if they failed to comply with the rules that they would be returned to prison.

Having the experience of being imprisoned prior to release on home detention.

The motivation of detainees to avoid offending in the future, especially by having future plans for work or training.

The support given by both family members and other organisations.

The ability of detainees to manage both the restrictions and freedoms offered by home detention.

Implications for Probation

The aforementioned factors are, essentially, good practice indicators. In the UK, a study of the home detention curfew scheme (Dodgson *et al*, 2001) found that good practice was based on factors such as: realism; self-discipline; support from others; forward planning; having a stable and secure environment to live in; and having a clear understanding of the rules. These factors and the ones we have identified rely on well-trained staff, enough resources to support the scheme, and a motivated clientele. Experience in America (Enos *et al*, 1992; Gainey & Payne, 1998; Payne & Gainey, 2000) would also suggest that a focus on these factors will help offenders successfully complete their orders and reduce their offending.

There is some debate, however, about the exact role probation might play in achieving "good practice". In our own study, while detainees were positive about the work of home detention officers, the officers themselves felt frustrated by the lack of time and resources they had to do the job of assisting the offenders' rehabilitation. Home detention officers noted that the majority of their time was spent writing home detention reports rather than supervising detainees. When they did supervise detainees they noted that their role was one of either surveillance, or social welfare oriented (practical) help, rather than intensive supervision to address offending behaviour. In other words, the process of intensive supervision was superficial – offenders were seen frequently but not enough time was spent helping them rehabilitate.

However, it may be that what home detention officers did was "good enough" - in our study, and in the national statistics data, most detainees complied with the rules of home detention and did not re-offend. Detainees succeeding was not just about the contact they had with home detention officers but also about the other factors mentioned in the previous section. It is therefore hard to gauge the exact contribution and impact of the work of home detention officers – they could be the essential element bringing the other factors into play, or a minor factor in the overall picture. That regular contact by the probation service is essential is backed by other research (Beck *et al*, 1990).

The initial low recidivism statistics may be linked to low-risk offender categories being targeted for home detention, as well as the "newness" of the programme, and tight

controls within which it is operated. In the long-term, research by Bonta *et al* (1999) suggests that cognitive-behavioural-based treatment programmes, alongside the monitoring elements of home detention, are required to reduce re-offending. Hence, either the probation service in New Zealand, or some other organisation, may need to introduce a range of programmes targeting offending behaviour; drug-related behaviour; anger control; and alcohol problems for home detainees. Whether individual home detention officers need to provide these programmes is a question which has yet to be discussed in New Zealand. In most cases detainees will be able to attend group-based probation treatments, as these programmes are already established for other community-based sentences in New Zealand.

One further debate about the role of probation is whether it is appropriate for the service to offer more assistance to the sponsors or families of detainees. In our study, sponsors complained about the lack of contact with home detention officers, and the extra burdens placed on them by having to support detainees. Other studies of the impact of home detention, while few in number, have also highlighted that families and co-residents are placed under greater stress by having their partners, or spouses, at home (Dodgson *et al*, 2001; Doherty, 1995; Mainprize, 1995). The study by Doherty (1995) concluded that in order to improve the electronic monitoring programme: more counselling for family members was needed; more assessment of how things were going during the sentence; and more time out for offenders to be with their children. While it would not be feasible for the probation service to undertake all these tasks, it may be possible for home detention officers to spend more time with couples in joint interviews; granting extra family outings; and campaigning for extra funds from the government to be paid as an allowance to family members and co-residents.

Conclusion

The introduction of home detention in New Zealand has been a relatively successful experience, with most offenders viewing it positively and most completing it without further convictions within 1 year of the end of the order (Spier, 2001). The role of probation officers appears to be essential to maintaining this success, yet a few questions remain for the service: Should probation officers help offenders' families? Should probation officers be involved with rehabilitation to a greater extent than they currently are? Should the probation service be more flexible in the operation of home detention rules, by allowing detainees and their families to have more time out of the home together?

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REFERENCES

- Ball, R.A., & Lilly, J.R. (1986). A Theoretical Explanation of Home Incarceration. *Federal Probation*, 50, 17-24.
- Beck, J.L., Klein-Saffron, J., & Wooten, H.B. (1990). Home Confinement and the Use of Electronic Monitoring with Federal Parolees. *Federal Probation*, 54, 22-33.
- Bonta, J., Wallace-Capretta, S., & Rooney, J. (1999). *Electronic Monitoring in Canada.: Canada: Solicitor General Canada, Public Works and Government Services.*

- Church, A., & Dunstan, S. (1997). *Home Detention: The Evaluation of the Home Detention Pilot Programme 1995 – 1997*. Wellington: Ministry of Justice.
- Dodgson, K., Goodwin, P., Howard, P., Llewellyn-Thomas, S., Mortimer, E., Russell, N., & Weiner, M. (2001). *Electronic Monitoring of Released Prisoners: an evaluation of the Home Detention Curfew Scheme*. Home Office Research Study 222 UK: Home Office.
- Doherty, D. (1995). Impressions of the Impact of the Electronic Monitoring Program on the Family. In K. Schulz (Ed.), *Electronic Monitoring and Corrections: The Policy, The Operation, The Research*. Canada: Simon Fraser University.
- Enos, R., Holman, J.E., & Carroll, M.E. (1992). *Alternative Sentencing*. US: Wyndhamhall.
- Gainey, R.R., & Payne, B.K. (2000). Understanding the Experience of House Arrest With Electronic Monitoring: An Analysis of Quantitative and Qualitative Data. *International Journal of Offender Therapy and Comparative Criminology*, 44, 84-96.
- Gibbs, A., & King, D. (2001). *The Electronic Ball and Chain? The Development, Operation and Impact of Home Detention in New Zealand*. Dunedin: Community and Family Studies, University of Otago.
- Lilly, J.R (1992). Electronic Monitoring – Another Fatal Remedy? In C.A. Hartjen & E.E. Rhine (Eds.), *Correctional Theory and Practice*. Chicago: Nelson Hall.
- Lilly, J.R., Ball, R.A., Curry, G.D., & McMullen, J. (1993). Electronic Monitoring of the Drunk Driver: A seven-Year Study of the Home Confinement Alternative. *Crime & Delinquency*, 39, 462-484.
- Lilly, R., & Nellis, M., (2001). Home Detention Curfew and the Future of Electronic Monitoring. *Prison Service Journal*, May Issue, 59-69.
- Mainprize, S. (1995). Social, Psychological, and Familial Impacts of home Confinement and Electronic Monitoring: Exploratory Research Findings from B.C.'s Pilot Project. In K. Schulz (Ed.), *Electronic Monitoring and Corrections: The Policy, The Operation, The Research*. Canada: Simon Fraser University.
- Mortimer, E., & Mair, G. (1997). *Curfew Orders with Electronic Monitoring: The First Twelve Months*. Research Findings No.51. UK: Home Office.
- Nellis, M. (2000). Law and Order: The Electronic Monitoring of Offenders. In D.P. Dolowitz (Ed.) *Policy Transfer and British Social Policy Learning from the USA?* Philadelphia: OUP.
- Payne, B.K., & Gainey, R.R., (1998). A Qualitative Assessment of the Pains Experienced on Electronic Monitoring. *International Journal of Offender Therapy and Comparative Criminology*, 42, 49-163.
- Payne, B.K., & Gainey, R.R., (2000). Electronic Monitoring: Philosophical, Systemic, and Political Issues. *Journal of Offender Rehabilitation*, 31, 93-111.
- Smith, D. (2001). Electronic Monitoring of Offenders: The Scottish Experience. *Criminal Justice*, 1, 201-214.
- Spier, P. (2001). *Conviction and Sentencing of Offenders in New Zealand: 1991 – 2000*. Wellington: Ministry of Justice.
- Whitfield, D. (1997). *Tackling The Tag: The Electronic Monitoring of Offenders*. Winchester, UK: Waterside Press.