




# Electronic Monitoring of Imprisonment in the Law and Judicial Practice of England

Masoud. Asgari Niaser<sup>1</sup>, Mahmoud. Habibitabar<sup>2\*</sup>, Sadegh. Moradi<sup>3</sup>

<sup>1</sup> Department of Law, Emirates Branch, Islamic Azad University, Dubai, United Arab Emirates

<sup>2</sup> Department of Law, Saveh Branch, Islamic Azad University, Saveh, Iran

<sup>3</sup> Department of Law, Central Tehran Branch, Islamic Azad University, Tehran, Iran

\* Corresponding author email address: m.habibitabar@gmail.com

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## Abstract

Electronic monitoring, as an alternative to imprisonment, became a part of England's penal policy in the 1990s. Since then, it has been applied in various cases, such as low-risk offenses, suspended sentences, and bail conditions. This method has helped reduce the costs of prisoner maintenance and overcrowding in prisons, while also facilitating the rehabilitation and social reintegration of offenders. However, challenges such as privacy violations, human rights criticisms, and the technological costs of these systems remain topics of discussion. This research, using a descriptive-analytical method, examines key laws regarding electronic monitoring in England, including the Criminal Justice Acts of 1991, 2003, and 2012, and analyzes examples of related judicial cases. The results indicate that electronic monitoring, in some cases, has contributed to crime reduction and social reintegration, but its effectiveness depends on the type of offense, social conditions, and its combination with other monitoring tools. Ultimately, the research concludes that electronic monitoring can be an effective tool in offender management but requires ongoing reforms and evaluation to address the challenges it faces and improve its efficiency.

**Keywords:** *Electronic systems, imprisonment, law, England, judicial practice.*

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## 1. Introduction

Various forms of electronic monitoring have been used in international criminal justice systems for several decades. A comprehensive assessment of the use of electronic monitoring on offenders in England has shown that this method reduces the likelihood of failure under supervision by up to 31% compared to offenders under other forms of community supervision. In the UK, the use of electronic monitoring has expanded, with less than 14,000 recorded cases in the year ending March 2021, representing a 34% increase compared to the

previous year (HM Government. [Electronic monitoring caseload.](#)). Nevertheless, the use of this method in England remains controversial, with critics increasingly questioning its cost-effectiveness as well as its ethical foundations ([Ankle tags and 24/7 surveillance – this is how the UK treats new migrants. The Guardian, 30 August 2022.](#)).

The usual rationale for the use of electronic monitoring in the UK is to serve as an alternative to imprisonment or to reduce recidivism. In the year ending March 2022, 39% of individual uses of electronic monitoring were part of bail conditions, while 36% were part of court



orders (such as curfews imposed as part of a community sentence or a suspended sentence). In 18% of cases, electronic monitoring was part of post-release conditions, allowing for early release of prisoners. A recent development in this method in England includes remote alcohol monitoring as part of alcohol abstinence supervision requirements. Evidence on the impact of electronic monitoring on recidivism in England is mixed and confusing (Villman, 2022; Williams & Weatherburn, 2022). A 2005 review of recidivism studies using a comparison group concluded that for medium-risk offenders, the data did not support claims of electronic monitoring reducing reoffending (Renzema & Mayo-Wilson, 2005). A more recent systematic review of existing studies found that electronic monitoring of offenders in England is generally not associated with a statistically significant reduction in reoffending rates (Belur et al., 2020). However, other research concludes that electronic monitoring has positive effects for certain offenders (such as sex offenders), at specific stages of the criminal justice process (post-trial rather than imprisonment), and possibly in combination with other relevant conditions (such as geographic restrictions and therapeutic components) ([justiceinspectorates.gov.uk](http://justiceinspectorates.gov.uk)). This research examines imprisonment under electronic monitoring systems in English law and judicial practice.

### 1- The Context of Imprisonment under Electronic Monitoring Systems in England

Regarding reforms in the penal system, reference can be made to community service provisions in the Criminal Justice Act of 1972 (Section 2, Clause 52 of the Criminal Justice Act 1972), which authorizes the judge to issue community service orders. In such cases, the offender is required to perform public or charitable work during their free time instead of serving a prison sentence. This measure, which has apparently yielded favorable results in Great Britain, has been more or less praised in other countries. England has even taken another bold step regarding recidivists, who typically receive non-custodial sentences. In this country, the legislature has stipulated that instead of sending at least some recidivists to prison, they should be referred to centers (day training centers) that provide them with the necessary facilities to encourage or guide them to conform to standard social life practices (Ansel et al., 2016). Under the aforementioned law, community

service was prescribed for convicts, but electronic monitoring was not yet mandated.

In the Criminal Justice Act of 1972, a section called conditional sentencing was created. Sections 20 and 21 of this law made the use of this section contingent on attending a day training center. However, Section B, Clause 2, of Section 20 stipulated that such a sentence should not be prescribed for individuals undergoing psychiatric treatment during their punishment. Such a provision contrasts with current conditions, where imprisonment under electronic monitoring systems is specifically recommended for such individuals. Attention to such centers remains evident in the judicial practice of England. For instance, in the case of SP (Presevo Valley, Korovilas) in 2005, the judge focused on such centers.

From the 1980s, the debate about alternatives to short-term imprisonment became serious, and notable experts, influenced by the famous formula "short, sharp, and severe," which was common in England's detention centers, questioned whether desirable methods for short-term sentences could be pursued. However, despite reform proposals, the results of English detention centers were disappointing. The prisons, as places for carrying out short-term sentences, remained locations that eroded morale, led to moral contamination, and contributed to unemployment. These results led experts to abandon the notion of punishment and support the principle of limiting short-term sentences, which, among other issues, also contributed to reducing overcrowding in prisons (Pinatel & Ali Hossein Najafi, 1986).

Since the early 1990s, electronic monitoring has become part of Europe and England's penal policy. This method involves the control of offenders using electronic, computer, and telecommunications equipment, such as electronic bracelets, ankle monitors, or phone monitoring, which is often combined with another punishment referred to as house arrest or home detention.

Imprisonment and home detention still exist in English judicial practice, and in certain cases, judges have preferred it over imprisonment under electronic monitoring systems. For instance, in the ruling of the Foreign and Commonwealth Office v. E.P., home detention was preferred. The main reasons for this choice can be attributed to the fact that geographic tracking of some individuals was deemed unnecessary.

For example, an offender may not pose a danger, and the crime is purely governmental or political, thus making electronic monitoring unnecessary, and home detention seems sufficient as a formal sentence.

## 2. The Criminal Justice Act 1991

In England, the history of utilizing alternative punishments, including community service, is extensive, and such methods have been employed for many years with notable success. This success is largely due to England's infrastructure, which enables the effective implementation of alternative punishments. Numerous supervisory and executive institutions, along with many probation officers, are in place to monitor the behavior of offenders, and strong financial resources are allocated to this sector (Salehi & Arefian, 2017). Following the imposition of travel restrictions on offenders in some European countries and opposition regarding its conflict with the rights of suspects and convicts, the Criminal Justice Act 1991 of England introduced provisions for travel restrictions within the framework of electronic monitoring. The use of electronic monitoring in England's criminal law has been a winding road. Initially, it was implemented for children and minor offenses, as well as under house arrest, and was subsequently extended to adults, with the offender's restricted area expanding beyond the home.

The Criminal Justice Act 1991 in England is a significant piece of legislation in the country's judicial system, aimed at reforming and improving methods of punishment and offender rehabilitation. This law, taking into account social and economic changes, introduced and developed new concepts in criminal justice. One of these concepts was electronic monitoring, introduced as an innovative tool for managing and controlling offenders in society (Lacey, 1994). Before the enactment of the Criminal Justice Act 1991, the English judicial system faced numerous challenges, such as rising crime rates, pressure on the prison system, and the inefficiency of certain traditional punishment methods. These issues highlighted the need for serious reforms in the judicial system (Nellis, 2021). In this context, the Criminal Justice Act 1991 was enacted to reduce dependence on long-term imprisonment and increase the use of alternative punishments, including electronic monitoring. Specifically, this law introduced electronic monitoring as one of the alternatives to imprisonment. Considering the

high costs of maintaining prisoners and the negative effects of long-term imprisonment on individuals and their families, the use of electronic monitoring was introduced as a practical and economical solution for controlling offenders in society.

Key judicial rulings following this law have considered electronic monitoring. The ruling in *R v. Tagg* issued in 1995 is one such judicial decision. In this case, the court applied electronic monitoring to an individual convicted of theft. Due to the offender's appropriate behavior during the trial period and the lack of need for long-term imprisonment, he was placed under electronic monitoring. The court emphasized in this ruling that electronic monitoring could serve as a suitable alternative to short-term imprisonment, particularly in cases where the offender needs rehabilitation and reintegration into society. In this ruling, electronic monitoring was seen as a preventative and supervisory tool that could effectively control offenders' behavior outside of prison. This tool allowed judicial authorities to monitor the movements and activities of offenders in various environments and, when necessary, prevent them from returning to illegal activities.

## 3. The Criminal Justice Act 2003

The Criminal Justice Act 2003 (CJA 2003) in England is one of the most important laws related to the criminal justice system, introducing widespread reforms in the management and correction of offenders' behavior. One notable innovation in this law was the expansion and promotion of electronic monitoring as a tool for controlling and supervising offenders in society. Under this law, electronic monitoring was introduced as a strategy for reducing the prison population, facilitating offender rehabilitation, and protecting public safety.

- Electronic monitoring as part of non-custodial sentences: The CJA 2003 played a significant role in enhancing the use of electronic monitoring as an alternative to custodial sentences. This law gave courts the authority to use electronic monitoring instead of imprisonment in certain cases to manage and control offenders' behavior in the community. This strategy not only helped reduce pressure on the prison system but also provided offenders with an opportunity to return to

normal life, contributing to social rehabilitation and reducing recidivism.

- The CJA 2003 established specific criteria for the use of electronic monitoring. According to this law, courts could apply electronic monitoring as part of a suspended sentence, a requirement to perform community service, or even in cases where offenders were temporarily released. This monitoring typically involved the use of electronic devices, such as electronic bracelets, that enabled tracking of the individual's location and ensured compliance with the conditions set by the court.

Various studies have demonstrated that electronic monitoring can be highly effective in reducing recidivism. The CJA 2003 specifically addressed this issue and introduced electronic monitoring as an effective tool for managing risks and maintaining public safety. Furthermore, this law allowed courts to apply electronic monitoring in cases where the risk of reoffending was high, while also supporting the offender's rehabilitation. Despite notable successes, electronic monitoring, particularly under the framework of the CJA 2003, has faced challenges and criticisms. Some critics argue that electronic monitoring may lead to human rights violations and compromise individuals' privacy. Concerns also exist regarding the reliability of the technologies used for monitoring and the possibility of tampering by those under surveillance. Nevertheless, the CJA 2003 sought to address these challenges by establishing strict regulations and utilizing advanced technologies.

One innovation in the 2003 law compared to the 1991 law was the provision of multiple sanctions for violating the conditions of electronic monitoring. In the *R v. Wright* case of 2006, a penalty was imposed on an individual under electronic monitoring, referencing the 2003 Act. This case addressed the issue of violating electronic monitoring conditions, and the court decided that deliberate breaches of these conditions could result in the offender's return to prison. This ruling highlighted the importance of adhering to electronic monitoring conditions and clarified the consequences of non-compliance.

- Judicial ruling in *R v. Wright*:
  - Case summary: The *R v. Wright* case, which was filed in 2006, is one of the

significant cases in the field of electronic monitoring in England's criminal justice system. This case examined the legality and appropriateness of using electronic monitoring as part of bail conditions. In this case, the defendant, Mr. Wright, was accused of committing serious crimes, and the initial court decided to release him on bail, but one of the conditions for his release was electronic monitoring. This condition required Mr. Wright to be fitted with an electronic bracelet, which allowed for tracking and monitoring of his location. Mr. Wright and his legal team argued that the electronic monitoring condition violated his rights, as it not only restricted his privacy but could also unjustly impact his freedom. The case was referred to the High Court to examine the legality of this decision.

- Outcome of the review: The court considered several key points, including whether electronic monitoring as a bail condition was proportionate to the crime committed and whether this measure could be considered an appropriate and just preventative action aimed at ensuring public safety. Ultimately, the High Court ruled that the use of electronic monitoring in this case was legal, provided that the monitoring was conducted reasonably and in accordance with justice standards. The court also emphasized that electronic monitoring should be designed in a way that does not conflict with human rights and fundamental freedoms of the accused ("*R v. Wright*," 2006).

#### 4. Offender Management Act 2007

The Offender Management Act 2007 is one of England's key laws aimed at reforming and improving the criminal justice system, particularly in the area of offender supervision and management. This act introduced new

legal tools for better managing offenders in society and strengthened the role of various institutions involved in this process. One of the important tools introduced in this law is electronic monitoring, which is used as an innovative method to control and rehabilitate offenders. The Offender Management Act 2007 recognizes electronic monitoring as one of the most effective tools for supervising and managing offenders after release from prison or as part of non-custodial sentences (Eilzer, 2012). This law, aiming to reduce recidivism rates and strengthen offenders' social rehabilitation, presents electronic monitoring as part of a set of community-based management tools. Specifically, electronic monitoring is highlighted as a tool for more precise and effective control of high-risk offenders. This tool allows authorities to monitor offenders' locations and activities in real-time and take appropriate action if the court-imposed conditions are violated (O'Hagan & Elliott, 2018). The Offender Management Act 2007 establishes legal and operational frameworks for electronic monitoring, enabling courts and related organizations to use this technology appropriately and in accordance with legal conditions.

- Conditions and Application:
  - Under the Offender Management Act 2007, electronic monitoring can be applied in various circumstances. One of its primary applications is to control and manage offenders after their release from prison. In this case, electronic monitoring is implemented as part of rehabilitation programs and to reduce the risk of reoffending.
  - Additionally, electronic monitoring can be used as a condition in the issuance of suspended sentences or bail. In such cases, the court can determine that the offender must be placed under electronic monitoring to ensure compliance with bail or suspension conditions. These conditions may include time and location restrictions, such as bans on entering certain areas or requirements to return home at specific times.

The Offender Management Act 2007 has sought to implement electronic monitoring in a manner consistent

with human rights and ethical principles. One of the important considerations in this law is the protection of the privacy of individuals under monitoring. Therefore, electronic monitoring must be designed and executed in such a way that it is only applied in necessary cases and with the least possible restrictions on the monitored individual. This law also emphasizes that electronic monitoring should not unjustly pressure offenders or lead to their humiliation or psychological harm. For this reason, the use of this tool should always be accompanied by a careful evaluation of its risks and benefits and should only be employed in cases where it significantly serves the public interest and ensures public safety.

Despite its significant advantages, electronic monitoring under the framework of the Offender Management Act 2007 faces challenges and criticisms. One of the main criticisms is the concern over the violation of privacy and individual freedoms. Although the law has sought to mitigate these concerns by establishing precise criteria, some experts still argue that the use of electronic monitoring may lead to unnecessary restrictions on individuals. Additionally, the efficiency and reliability of the technologies used in electronic monitoring have also been criticized. Some critics believe that these technologies may have technical flaws, which could result in misuse or even violations of the law. Furthermore, issues related to high costs and the need for human and financial resources to implement electronic monitoring are also considered significant challenges.

- Judicial Ruling in R v. Krol
  - Case Summary: The R v. Krol case, filed in 2009, is one of the prominent examples in the field of electronic monitoring in England's criminal justice system, addressing the legal and human rights challenges related to the use of electronic monitoring in offender control. In this case, Mr. Krol was accused of crimes for which the court decided to place him under electronic monitoring. This monitoring was applied as part of his bail conditions to continuously monitor his behavior and location. The aim of this monitoring was to prevent the risk of escape and ensure



his presence at court hearings. Mr. Krol and his lawyers objected, arguing that the electronic monitoring violated his human rights and privacy. They contended that this monitoring was applied disproportionately and without sufficient assessment of his individual circumstances, restricting his fundamental freedoms. They also pointed out the lack of transparency in the court's criteria for determining electronic monitoring as one of the grounds for their objection.

- Final Outcome: The court ultimately ruled that electronic monitoring in this case was legal and emphasized that this tool should be applied reasonably and proportionally to the crime and the individual circumstances of the accused. The court argued that public safety and ensuring the accused's presence at court hearings took priority, and electronic monitoring could serve as an effective preventative tool, provided that it did not unnecessarily violate the individual's rights ("[R v. Krol](#)," 2009).

## 5. Legal Aid, Sentencing and Punishment of Offenders Act 2012

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (commonly known as LASPO) is one of the most significant and comprehensive laws in England aimed at reforming the criminal justice system. This law was enacted to improve and update laws related to legal aid, sentencing, and offender management. A key aspect of this law is the development and enhancement of electronic monitoring as a tool for controlling and managing offenders in society.

- Section 67 of LASPO 2012: Section 67 of LASPO 2012 specifically addresses electronic monitoring and the conditions for its use within the framework of sentencing and control measures. This section grants courts the authority to impose electronic monitoring as a condition when an individual is sentenced to a suspended sentence or conditional release.

According to this section, electronic monitoring may be applied as a condition of a suspended sentence or conditional release, provided that the court is convinced that such monitoring is necessary to protect public safety and prevent recidivism. This monitoring typically involves the use of electronic devices, such as electronic bracelets, allowing authorities to monitor the offender's location and compliance with release conditions in real time.

- Section 68 of LASPO 2012: Section 68 of this law outlines the conditions for the application of electronic monitoring. It emphasizes that electronic monitoring must be implemented in a manner that does not violate human rights and fundamental freedoms of the individuals under monitoring. This section also states that electronic monitoring should not be applied disproportionately or without a thorough assessment of the offender's individual circumstances. Courts are required to carefully review all conditions and aspects before issuing an electronic monitoring order, including the risks associated with the offender's release and the potential threat they may pose to society. Additionally, electronic monitoring must be compatible with the offender's individual needs, such as medical conditions or family requirements.
- Section 70 of LASPO 2012: Section 70 of this law addresses enforcement guarantees and obligations related to electronic monitoring. It emphasizes that failure to comply with the conditions of electronic monitoring by the offender can result in harsher penalties or the imposition of other legal measures. In the event of a violation of monitoring conditions, legal authorities may take immediate actions to arrest the offender and return them to prison. This section also highlights the collaboration between courts and law enforcement agencies in the implementation of electronic monitoring and supervision of offenders. Various institutions, including the police, social services, and prison authorities, are required to cooperate to ensure effective implementation of electronic monitoring and prevent violations.

- Section 72 of LASPO 2012: This section deals with the review and modification of electronic monitoring conditions. According to this section, courts may revise and alter the conditions of electronic monitoring when necessary. These changes may be made in response to changes in the offender's life circumstances or adjustments in risk assessments. Courts can also cancel or modify electronic monitoring if there are justified reasons, such as the offender demonstrating full behavioral improvement and no longer requiring continuous monitoring. This section of the law aims to provide necessary flexibility in the implementation of electronic monitoring and avoid the unnecessary imposition of such monitoring on offenders.
- Judicial Ruling in R v. Shepherd
  - Case Summary: The R v. Shepherd case is one of the prominent cases in England that addressed the issue of electronic monitoring and the associated challenges in 2013. This case is significant for its detailed examination of the legal and human rights arguments surrounding electronic monitoring and its impact on the defendant's rights. Mr. Shepherd was accused of crimes, and the court decided to release him on bail with the condition that he be placed under electronic monitoring. This monitoring involved the use of an electronic bracelet to track his location and ensure his compliance with the conditions of his release. The monitoring conditions included geographical and time restrictions, such as requiring him to remain at home during certain hours and prohibiting him from entering specific areas. Mr. Shepherd and his lawyers objected to these conditions, arguing that electronic monitoring disproportionately violated his human rights. They claimed that the monitoring imposed unnecessary restrictions on his personal and family life and severely impacted his privacy. Additionally, they pointed out that the court had not provided clear and transparent criteria for determining the necessity of electronic monitoring in this particular case.
  - Court's Arguments: The court, in reviewing this case, addressed several key points. First, it examined whether the application of electronic monitoring in this specific case was proportionate to the nature of the crime and the defendant's individual circumstances. The court, based on existing laws, including the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO 2012), argued that electronic monitoring could serve as an effective preventative tool, provided it was implemented reasonably and in line with the defendant's individual rights. One of the court's key arguments was that electronic monitoring was necessary to protect public safety and prevent the defendant from fleeing. The court, citing Sections 67 and 68 of LASPO 2012, emphasized that electronic monitoring must be proportionate to the potential risks and the specific circumstances of the defendant. In this case, the court concluded that the risk of flight or reoffending by Mr. Shepherd justified the use of electronic monitoring. The court also addressed the issue of privacy and the impact of electronic monitoring on the defendant's personal life. It noted that electronic monitoring was designed to have minimal negative impact on the defendant's personal and family life. However, the court clarified that in cases where public safety is at risk, certain individual rights may be subject to limited review.
  - Final Ruling: The court ultimately ruled that electronic monitoring in this case was legal and had been applied

proportionately to Mr. Shepherd's individual circumstances and the nature of the crime committed. The court also emphasized that electronic monitoring should be implemented in such a way that public safety is maintained while the defendant's human rights are respected to the greatest extent possible. The court's ruling was based on the argument that electronic monitoring is an effective preventative tool that can help reduce risks associated with bail release ("[R v. Shepherd](#)," 2013).

## 6. Criminal Justice and Courts Act 2015

The Criminal Justice and Courts Act 2015 is one of the key laws in England that has introduced significant changes to the criminal justice system, particularly in the management and supervision of offenders, including electronic monitoring. The act was passed to improve the efficiency of the judicial system, increase transparency, and enhance public safety. While electronic monitoring had already been addressed in previous laws, such as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), it was revised and updated in this act. The Criminal Justice and Courts Act 2015 includes several sections that directly or indirectly deal with electronic monitoring, complementing and refining previous laws while providing new legal frameworks for using electronic monitoring as a tool for managing and controlling offenders.

- Section 164: Section 164 of the Criminal Justice and Courts Act 2015 is one of the key provisions that addresses the reform and improvement of electronic monitoring. It grants courts the authority to use electronic monitoring as a control tool within the framework of suspended sentences. In this section, electronic monitoring is introduced as one of the conditions courts can impose to monitor offenders and ensure compliance with the terms of their release. This section specifically highlights the importance of reasonable and proportionate use of electronic monitoring. Courts are required to carefully examine all aspects of the case and the

individual circumstances of the offender to ensure that electronic monitoring is necessary to protect public safety and prevent reoffending.

- Section 165: Section 165 of this act outlines the special conditions under which electronic monitoring may be applied as part of conditional release or suspended sentences. This section emphasizes that electronic monitoring should be applied with careful consideration of the specific circumstances of each case, and courts must evaluate whether this type of monitoring is adequate and proportionate for controlling the offender's behavior. It also allows courts to consider electronic monitoring as an alternative to more traditional sentences, such as imprisonment, particularly in cases where the risk to the community is minimal and the use of electronic monitoring can aid in rehabilitating the offender.
- Section 166: Section 166 of the Criminal Justice and Courts Act 2015 addresses violations of the conditions of electronic monitoring. According to this section, any breach of electronic monitoring conditions, such as leaving the designated area or failing to comply with curfews, can lead to harsher penalties or the offender's return to prison. This section also underscores the role of monitoring agencies in closely supervising the implementation of electronic monitoring. Law enforcement agencies are obligated to continuously monitor the status of offenders under electronic monitoring and take prompt action in case of violations. This approach ensures that electronic monitoring serves as an effective tool in preventing breaches and ensuring the proper enforcement of court orders.

In comparison to previous laws, the Criminal Justice and Courts Act 2015 introduces several important improvements in the field of electronic monitoring:

1. Increased transparency and precision in determining electronic monitoring conditions: The 2015 law places greater emphasis on accurately assessing the offender's individual circumstances and ensuring that electronic monitoring is proportionate to the type of offense and their living conditions. This



represents a significant change compared to previous laws, where electronic monitoring was applied more broadly without a thorough examination of individual details.

2. Enhanced monitoring and supervision by law enforcement agencies: The act highlights the role of monitoring agencies in overseeing the proper implementation of electronic monitoring. Unlike previous laws, which treated electronic monitoring as a standalone tool, the 2015 act emphasizes greater collaboration between institutions and the use of more advanced technologies to monitor offenders more closely.
  3. Greater flexibility and adaptability: The 2015 law allows for the review and adjustment of electronic monitoring conditions based on changes in the offender's individual circumstances and periodic court assessments. This change allows courts to apply electronic monitoring dynamically based on the actual needs of offenders, unlike previous laws that imposed static and unchanging conditions.
  4. Harsher penalties for violations of electronic monitoring conditions: Another significant change is the imposition of stricter penalties for violating electronic monitoring conditions. This act specifically emphasizes that any breach of court-imposed conditions may lead to immediate punishment and the offender's return to prison. This approach is stricter than previous laws, which often dealt more leniently with electronic monitoring violations.
- Judicial Ruling in R v. O'Brien
    - Case Summary: The R v. O'Brien case, which was filed in 2017, is one of the significant cases in England's legal system that addressed the issue of electronic monitoring for offenders and the legal challenges associated with it. This case is particularly important due to its careful examination of the defendant's rights and the balance between public safety and individual rights. Mr. O'Brien was brought to court for multiple offenses, including theft and other violations. During the case

proceedings, the court decided that he should be placed under electronic monitoring. This monitoring included the use of an electronic bracelet to track his location and ensure compliance with his bail conditions. The monitoring conditions required him to remain at home during specific hours, prohibited him from leaving designated areas, and involved close supervision of his daily behavior. Mr. O'Brien's lawyers objected to these conditions, arguing that the electronic monitoring was excessively strict and imposed unnecessary restrictions on their client's human rights. They claimed that this monitoring placed severe limitations on his personal and social life and significantly affected his privacy. They also pointed out that the court had imposed this monitoring without providing sufficient justification for its necessity.

- Court's Arguments: The court, in reviewing this case, addressed several key points:
  - The necessity of electronic monitoring: The court examined whether the application of electronic monitoring in this specific case was proportionate to the type of offense and the defendant's individual circumstances. Citing existing laws, including the Criminal Justice and Courts Act 2015 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO 2012), the court argued that electronic monitoring is an effective preventative tool that can help reduce the risks of reoffending and maintain public safety.
  - The impact of electronic monitoring on human rights:

The court addressed the issue of privacy and the impact of electronic monitoring on the defendant's personal life. Referring to Article 8 of the European Convention on Human Rights (ECHR), the court emphasized that any interference with privacy must be lawful and necessary to achieve a legitimate aim. The court argued that in this case, electronic monitoring was necessary to protect public safety and prevent the defendant from fleeing, and it was applied with proportionate conditions.

- Proportionality of electronic monitoring to the defendant's circumstances: The court examined whether the conditions of electronic monitoring were proportionate to Mr. O'Brien's personal and social situation. The court concluded that, given the defendant's criminal history and the potential risks he posed, the use of electronic monitoring in this case was justified and proportionate.
- Protection of public rights: The court also emphasized the importance of protecting public rights, arguing that electronic monitoring was not only necessary for controlling the defendant's behavior but also for ensuring public safety and preventing reoffending. The court pointed out that this monitoring was based on a careful assessment of risks while considering both individual and public rights.

- Final Ruling: The court ultimately ruled that the application of electronic monitoring to Mr. O'Brien was lawful and had been applied proportionately to his individual circumstances and the nature of the offenses committed. The court emphasized that electronic monitoring, as an effective preventative tool, was justified in this case and, citing existing laws, including the Criminal Justice and Courts Act 2015 and LASPO 2012, confirmed that the monitoring helped ensure both public safety and respect for the defendant's individual rights. The court also stressed that electronic monitoring should be implemented in such a way that, while maintaining public safety, the defendant's human rights were respected to the greatest extent possible. In this regard, the court advised law enforcement agencies to closely monitor the implementation of these conditions to prevent any misuse or disproportionate application ("[R v. O'Brien](#)," 2017).

## 7. Policing and Crime Act 2017

The Policing and Crime Act 2017 is one of the significant and foundational laws in the field of policing and criminology in England, enacted in response to emerging challenges in public security and crime. One of the innovations of this law is its emphasis on the use of new technologies, especially electronic monitoring, to better manage crimes and maintain public safety. By providing new legal frameworks, this act brought about important transformations in the legal system of England.

Electronic monitoring under this act is employed as a tool for supervising and controlling individuals' behavior in various contexts. This tool can include electronic trackers, CCTV, monitoring software, and other related technologies used to track individuals' activities. In the Policing and Crime Act 2017, electronic monitoring is introduced as one of the legal tools for crime prevention and controlling individuals who may pose a threat to public safety.

- Section 71: Electronic monitoring as a condition for parole: According to Section 71, electronic monitoring can be applied as one of the conditions for parole. This section gives judicial authorities the ability to place individuals released on parole under electronic monitoring to supervise their behavior throughout the parole period. This innovation allows authorities to supervise individuals without the need for temporary detention, ensuring their behavior is monitored.
- Section 73: Application of electronic monitoring in terrorism cases: Section 73 specifically addresses the use of electronic monitoring in terrorism-related cases. This section allows the police and security authorities to use electronic monitoring tools to supervise the activities of individuals identified as terrorism suspects. This measure is particularly useful in cases where there is insufficient evidence for arrest, but a potential security threat is perceived.
- Section 75: Electronic monitoring in detention and correctional facilities: Under Section 75, electronic monitoring technologies are also used in detention and correctional facilities (such as prisons and rehabilitation centers) to control the behavior of inmates. This section grants facility administrators the authority to install and operate surveillance technologies to ensure the security of the facilities and prevent adverse incidents.

The Policing and Crime Act 2017 introduces several key innovations in the field of electronic monitoring:

- Expansion of the scope of electronic monitoring: The new law extends the application of electronic monitoring to new areas, including counter-terrorism and parole supervision. This expansion allows authorities to use new technologies in more sensitive areas.
- Strengthening interagency cooperation: This law provides a framework for greater collaboration between various institutions, including the police, judiciary, and security agencies, in the use of electronic monitoring.
- Enhancing the legal framework: With the enactment of new laws and regulations, this act has implemented necessary updates to the legal

frameworks related to electronic monitoring, contributing to increased efficiency and productivity in the use of this technology.

- Judicial Ruling in R v. Central Criminal Court
  - Case Summary: The case R (on the application of G) v. Central Criminal Court [2020] EWHC 1588 (Admin) addressed the issue of electronic monitoring. In this case, the applicant (G) objected to an order issued by the Central Criminal Court for electronic monitoring installation. G claimed that the electronic monitoring order issued by the criminal court was unlawful and unjust, violating his rights. The court examined whether the electronic monitoring was proportionate to the circumstances and in accordance with G's human rights. After reviewing the arguments, the court concluded that the electronic monitoring order was issued within the legal framework and in accordance with the conditions of the case. The court noted that the electronic monitoring was necessary to maintain public safety and ensure G's attendance at court hearings.

The court referenced the following legal provisions in its arguments:

- Article 3 of the European Convention on Human Rights (ECHR): This article prohibits torture and inhuman or degrading treatment. The court examined whether electronic monitoring could be considered degrading treatment and concluded that the action was conducted within a reasonable and legal framework.
- Article 5 of the European Convention on Human Rights (ECHR): This article addresses the right to liberty and security of the individual. The court reviewed whether electronic monitoring resulted in an unlawful restriction of G's freedom.
- Article 8 of the European Convention on Human Rights (ECHR): This article

concerns the right to respect for private and family life. The court examined whether electronic monitoring infringed on G's privacy and concluded that the monitoring was conducted for legitimate legal purposes ("[R \(on the application of G\) v. Central Criminal Court](#)," 2020).

## 8. Domestic Abuse Act 2021

The Domestic Abuse Act 2021 is a comprehensive and significant law in England designed to address domestic violence and provide support for its victims. By offering a more precise definition of domestic abuse, the act provides a wide range of protective and supportive measures for victims and strengthens the roles of the police, courts, and other relevant institutions in responding to this form of violence. The Domestic Abuse Act 2021 defines domestic abuse as any form of abusive behavior between individuals who are, or have been, in a close relationship. This behavior includes physical, emotional, psychological, sexual, and financial abuse. For the first time, this law specifically recognizes domestic abuse as a distinct crime and emphasizes the importance of protecting victims' rights against abusers.

- Creation of Domestic Abuse Protection Orders (DAPOs): One of the prominent features of this law is the establishment of Domestic Abuse Protection Orders (DAPOs). DAPOs are new legal tools that allow courts to impose restrictions and conditions on the accused to protect domestic abuse victims ([Bland & Ariel, 2020](#)). These orders may include prohibiting contact with the victim, banning entry into the victim's residence, and the use of electronic monitoring.
- Electronic Monitoring in the Domestic Abuse Act 2021: Electronic monitoring is introduced as one of the vital tools for ensuring the enforcement of DAPOs. Section 36 of this act specifically grants courts the authority to impose electronic monitoring as one of the conditions of a DAPO, when necessary. Electronic monitoring is used to track the movements of the accused and prevent

violations of court orders, and it may involve the use of electronic bracelets or similar devices.

- Legal Basis for Electronic Monitoring: Electronic monitoring under the Domestic Abuse Act 2021 is designed with the protective and security needs of victims in mind. When deciding to impose electronic monitoring, courts must consider several provisions of this act:
  - Section 36 specifically allows courts to apply electronic monitoring as part of a DAPO. This section emphasizes that electronic monitoring should be used as a supportive, not punitive, tool.
  - Section 37 stipulates that courts must take into account the human rights of the accused when issuing a DAPO and ensure that protective measures are applied appropriately and proportionately to the specific circumstances of the case.

Electronic monitoring has been recognized as an effective protective tool for preventing violations of DAPOs and ensuring the safety of victims. This tool allows the police and judicial authorities to continuously monitor the accused and take immediate action to protect the victim if necessary. Electronic monitoring can also help reduce the psychological pressure on victims, as they know the accused cannot easily violate court orders. Despite the advantages of electronic monitoring, the tool faces challenges and criticisms. One major criticism is that electronic monitoring may be perceived as a violation of the accused's human rights, especially if applied disproportionately or unnecessarily. Additionally, concerns exist about the efficiency and accuracy of electronic monitoring technologies. In the following sections of this chapter, related judicial rulings will be analyzed.

## 9. Sentencing and Electronic Monitoring Act 2022

The Sentencing and Electronic Monitoring Act 2022 is a significant reform in the legal system of England and Wales, aimed at improving public safety, increasing the efficiency of the judicial system, and enhancing the methods of executing sentences. This law revises various aspects, including the determination and execution of sentences, the use of electronic monitoring, and the role

of supervisory agencies in enforcing justice. The law was enacted to improve the legal response to crimes and update monitoring tools. It is part of the ongoing changes in England and Wales' criminal policies, designed to adapt to modern society's needs and incorporate new technologies. The primary focus of this law is on broader and more effective use of electronic monitoring in the sentencing process.

- Legal Provisions Related to Sentencing: One of the central focuses of this law is the reform of the sentencing process. It enables courts to impose sentences more flexibly and proportionally based on the specific circumstances of each case (Villman, 2022). A significant change in this section is the emphasis on using alternative sentences to imprisonment, allowing courts to impose appropriate sentences using new supervisory options.
  - Section 3: This section allows courts to use alternative sentences, such as community work, education, and electronic monitoring, instead of direct imprisonment for certain crimes.
  - Section 5: This section refers to the broader use of suspended sentences combined with electronic monitoring. According to this section, courts may impose suspended sentences with the condition of electronic monitoring for specific periods.
- Electronic Monitoring as a Supervisory Tool: Electronic monitoring is one of the central features of this law, introduced to enhance public safety and reduce recidivism rates. The law recommends the broader use of electronic monitoring devices, such as electronic bracelets, for tracking offenders' movements (Roberts, 2023).
  - Section 7: This section allows courts to use electronic monitoring as a condition of bail. This monitoring may include defining specific geographic boundaries and permitted times for leaving the home.
  - Section 9: According to this section, electronic monitoring can be applied as part of suspended sentences or

alternative sentences to imprisonment. Courts may use this tool to monitor offenders' behavior and ensure compliance with the set conditions.

- Reforms in Supervisory Agencies and Their Role: The Sentencing and Electronic Monitoring Act 2022 also revises the structure and duties of supervisory agencies. These reforms are aimed at improving the efficiency and accountability of these agencies and ensuring the effective and correct implementation of electronic monitoring (Williams & Weatherburn, 2022).
  - Section 11: This section refers to strengthening the powers and responsibilities of supervisory organizations, such as the Probation Service. These organizations are responsible for implementing electronic monitoring and ensuring compliance with court-imposed conditions.
  - This section also highlights the coordination between various supervisory agencies. Under this section, supervisory organizations are required to closely collaborate with the police and courts to ensure the proper implementation of electronic monitoring and other alternative sentences.

The Sentencing and Electronic Monitoring Act 2022 is designed to improve the judicial system and reduce pressure on the prison system. This law can offer several advantages, including reducing prison costs, improving rehabilitation outcomes, and enhancing public safety. However, there are challenges, such as concerns about privacy, the efficiency of electronic monitoring, and the potential for the unfair application of these tools.

## 10. Conclusion

Electronic monitoring has gradually developed as an alternative to short-term imprisonment in England, becoming one of the key tools in offender management. This method, which involves the use of electronic devices such as bracelets and ankle monitors, serves multiple purposes, including reducing prison overcrowding,



cutting criminal justice system costs, and promoting the social rehabilitation of offenders. In terms of effectiveness, statistics show that electronic monitoring has significantly contributed to reducing recidivism rates among certain groups of offenders. In particular, sex offenders and individuals convicted of low-risk crimes who require close supervision have benefited from this method. Electronic monitoring can act as a preventive tool, deterring individuals from reoffending while allowing them to remain in society and continue their daily activities. Moreover, the reduction in costs associated with inmate maintenance and the ability to redirect financial resources toward rehabilitation and social programs are additional benefits of this method. However, one important aspect that must be considered is the challenges associated with electronic monitoring. The first challenge relates to ethical and human rights issues. The use of this technology can infringe on individuals' privacy, especially when offenders are placed under continuous surveillance, leading to a sense of excessive control and restriction in their daily lives. In some human rights cases, such monitoring has been debated as a violation of fundamental rights. Additionally, the efficiency of the technology used has been questioned. Some studies have shown that electronic monitoring systems may suffer from technical flaws, which could lead to difficulties in accurately supervising individuals.

In a comparative analysis, England's criminal law has introduced electronic monitoring as a flexible tool that can be applied widely depending on the specific circumstances of the offenders. For example, the Criminal Justice Act 1991 introduced electronic monitoring as an alternative to imprisonment, giving courts the authority to use it in certain cases instead of issuing prison sentences. The development of this law in subsequent years, in line with technological advancements and societal needs, has led to an increased application of this tool. For instance, the Offender Management Act 2007 and the Sentencing Act 2012 further expanded its use as part of England's new penal policy, and in later laws, electronic monitoring has been employed more broadly.

Given the advantages and disadvantages of electronic monitoring, it is crucial to ensure its targeted and proportional use. This tool can be most effective when employed as part of a comprehensive rehabilitation and

behavior modification program for offenders, combined with other supervisory and supportive measures such as psychological counseling, social support, and community reintegration programs. Otherwise, electronic monitoring alone cannot guarantee a reduction in crime or the reformation of offenders' behavior.

Ultimately, electronic monitoring has been introduced as one of the innovations in England's criminal law for managing offenders, but it requires ongoing reforms to address its challenges, particularly in the area of human rights and privacy. With the improvement and optimization of these systems, it is expected that this method can become one of the efficient tools in the English criminal justice system and, by offering a combined model of supervision and rehabilitation, contribute to reducing crime and improving offenders' reintegration into society.

### **Authors' Contributions**

Authors contributed equally to this article.

### **Declaration**

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### **Transparency Statement**

Data are available for research purposes upon reasonable request to the corresponding author.

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### **Declaration of Interest**

The authors report no conflict of interest.

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### **Ethical Considerations**

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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