



ELECTRONIC MONITORING OF YOUTH

IN THE CALIFORNIA JUVENILE JUSTICE SYSTEM
ADDITIONAL DATA

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ELECTRONIC MONITORING OF YOUTH IN THE CALIFORNIA JUVENILE JUSTICE SYSTEM ADDITIONAL DATA

The Samuelson Law, Technology & Public Policy Clinic is engaged in an ongoing effort to better understand how electronic monitoring (“EM”) technology is impacting young people going through California’s juvenile justice system. EM technology tracks young people’s movements, typically through an ankle bracelet that cannot be removed. In 2017, the Samuelson clinic and East Bay Community Law Center jointly published a report examining the terms and conditions that young people must follow while on EM.¹ The report concluded that while the terms and conditions used throughout California vary widely, they generally have overly strict and burdensome requirements, and lack privacy protections due to invasive surveillance measures.

In this new report, we have gathered additional data from California counties to answer five important questions about the use of EM in the state. Relying on these records, which we have placed in an online repository,² we answered the following questions:

- First, we asked counties to provide updated information on whether they have an EM program for their juvenile systems.
- Second, we asked counties how many “unique”³ youth were placed on EM during a 12-month period.
- Third, we asked counties to specify which technology, either GPS or radio frequency, they used to implement EM.
- Fourth, we asked counties that use GPS whether they used it exclusively to enforce house arrest or whether they also used it in alternative ways, for example to monitor a young person’s movements within the community.
- Fifth and finally, we asked whether the counties share information gathered through EM with any law enforcement agencies, and if they do, under what circumstances they share it.

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KEY FINDINGS

53
OUT OF
58

53 of California's 58 counties use EM in their juvenile systems.



44
OUT OF
53

44 of the 53 counties with EM programs now use GPS bracelets.

Our research demonstrates that EM is widely used and that many system-involved youth are subject to it. Fifty-three of California's 58 counties use EM in their juvenile systems. About 10,000 unique youth are tracked using EM each year.

We also found that although EM technology has grown more sophisticated and flexible, counties generally still use EM the same way they historically have: to enforce house arrest. Today there are two different types of EM ankle bracelets. Radio-frequency ankle bracelets can only detect a person's distance from a home-based receiver, and therefore can only be used to enforce house arrest. By contrast, GPS ankle bracelets can track young people wherever they go. GPS bracelets can theoretically be used to implement more flexible restrictions, for example requiring a young person to stay away from a victim's home but otherwise allowing freedom of movement.

Our research demonstrates that 44 of the 53 counties with EM programs now use GPS bracelets for at least some youth. However, of these 44 GPS-using counties, 36 use the technology exclusively to impose house arrest. The change in the technology's capabilities has not led to widespread change in how it is used.

Finally, our research shows that 38 of the 53 counties with EM programs share data with law enforcement agencies. Both counties that use GPS and counties that use radio frequency monitoring shared some data, although counties that use GPS have more data to share because they track all of a young person's movements. The overwhelming majority of counties that shared data did so on a case-by-case basis, for example providing law enforcement agents with data about a specific youth suspected of a crime. However, three of the GPS-using counties gave law enforcement agencies unrestricted access to the database containing location data of all youth on EM.

In short, the data we gathered demonstrates that EM is widespread and entrenched, and therefore worthy of more study than it has so far received. It also demonstrates that changes in what technology can do may not result in changes in how the technology is used. Despite its vastly greater tracking capabilities, GPS has led to only modest changes in EM programs.

To be sure, the questions this report answers are basic ones. However, very little data currently exists regarding juvenile EM, and therefore the information that we have gathered helps fill a critical gap in the public's knowledge about how the technology is used. We hope it will be helpful to policymakers, advocates, and practitioners.⁴



38
OF THE
53

38 of the 53 counties with EM programs share some or all data collected with law enforcement agencies.

NUMBER OF COUNTIES THAT USE ELECTRONIC MONITORING ON YOUTH

DATA: The data we have collected indicates that 53 out of the 58 California counties have EM programs. The five counties that do not have EM programs are Alpine, Imperial, Modoc, Riverside, and Yuba Counties.⁵

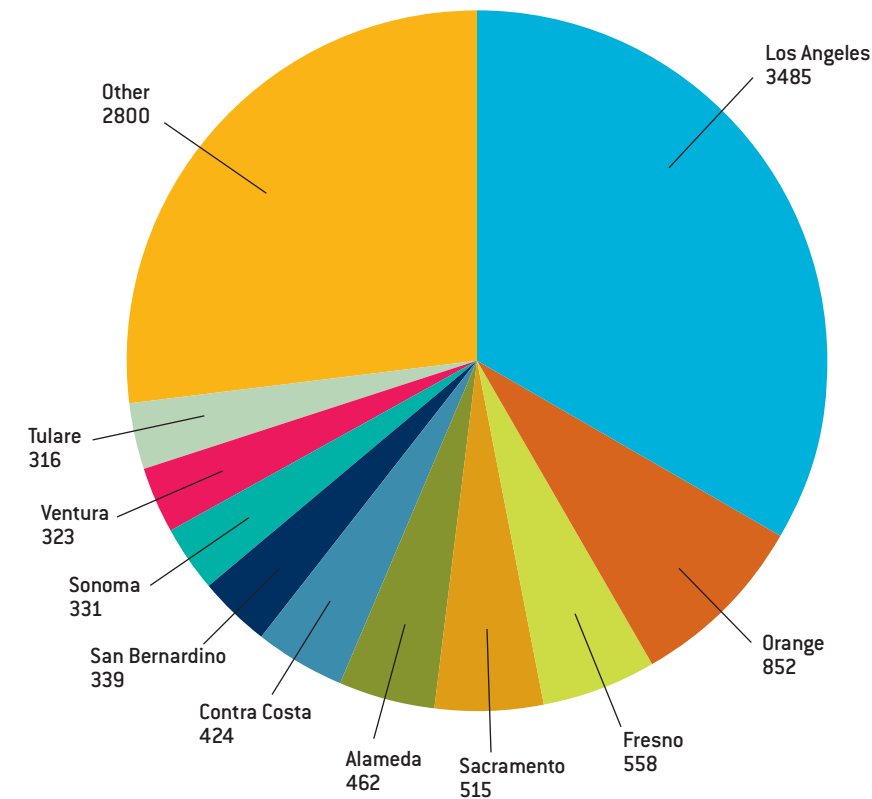
KEY TAKEAWAYS: Our data shows that juvenile EM is widespread in California. Over 90 percent of counties use the technology on young people.

METHODOLOGY: We gathered this information by filing California Public Records Act (“PRA”) requests in June 2018 that sought “all electronic monitoring-related contracts between the county and juvenile probationers.” We assumed that possession of a contract meant that the county had an EM program for youth.



Counties with an electronic monitoring program

NUMBER OF UNIQUE YOUNG PEOPLE ON ELECTRONIC MONITORING



DATA: In 2017,⁶ there were roughly 10,000 unique young people on EM in the California juvenile justice system.

The 10 counties with the largest number of unique youth on EM are as follows: Los Angeles (3485), Orange (852), Fresno (558), Sacramento (515), Alameda (462), Contra Costa (424), San Bernardino (339), Sonoma (331), Ventura (323), and Tulare (316).⁷ Nearly three quarters of the young people on EM in California reside in these 10 counties. These are also some of the most populated counties in California.

Meanwhile, Colusa, Glenn, Inyo, Mariposa, Mendocino, Sierra, and Sutter Counties had no youth on EM during the 12-month period even though they each have a youth EM program. These are all smaller counties—they each have a population size of under 100,000 people.⁸

KEY TAKEAWAYS: The fact that roughly 10,000 unique young people in California were on EM in a year demonstrates that EM plays a significant role in the California juvenile justice system. For comparison, during 2017 there were 71,791 referrals of youth to California juvenile probation departments overall.⁹

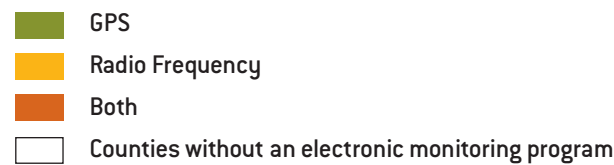
METHODOLOGY: In November 2017, we filed PRA requests with all California counties to collect the number of unique youth on EM over a 12-month period. We asked for the number of unique young people who were on EM in the most recent 12-month period for which the county had available data; which 12-month period that referred to; and whether this was an exact number or an estimate.

TYPE OF ELECTRONIC MONITORING TECHNOLOGY USED

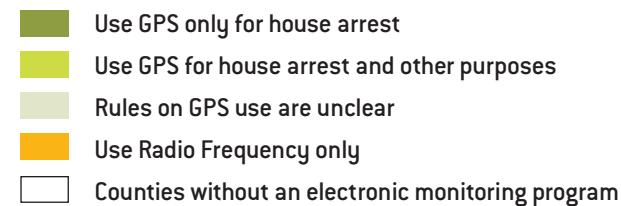
DATA: Of the 53 counties with EM programs, 35 counties use only GPS; nine counties use only radio frequency; and nine counties use both GPS and radio frequency.

KEY TAKEAWAYS: This data demonstrates that GPS is the dominant technology for EM of youth in California today.

METHODOLOGY: We drew on the EM rules for youth we obtained through our PRA requests, and categorized the counties by whether they used GPS or radio frequency, as stated in those documents. If the answer was not apparent, we contacted counties individually to obtain the answer.



HOW COUNTIES USE GPS



DATA: We asked counties with GPS how they used the technology. Of the 44 counties that use GPS, 36 counties use the technology exclusively to impose house arrest. That is roughly 80 percent of the GPS-using counties.

Seven counties use GPS more flexibly. While they might sometimes use the technology to enforce house arrest, they also used it to, for example, create inclusion zones (zones of free movement larger than the home, such as a particular neighborhood) and exclusion zones (zones to exclude a young person from a specific area, such as a victim's home). These seven counties are Marin, Napa, San Francisco, Santa Barbara, Shasta, Sonoma, and Sutter. Sierra, a low-population county of fewer than 3,000 people, does not have a clear policy on how it uses GPS because it so rarely uses EM to monitor juveniles.

KEY TAKEAWAYS: In theory, GPS allows for geographic restrictions other than house arrest. However, counties rarely use GPS to allow for more flexible geographic restrictions. The vast majority of counties deploying GPS use it exclusively to enforce house arrest.

METHODOLOGY: We analyzed the EM rules we collected through our PRA requests. Using the compilation, we determined whether the geographic restrictions the county imposed consisted of only house arrest (rather than a larger menu of options). We then conducted follow-up outreach to counties whose rules were unclear.

SHARING ELECTRONIC MONITORING DATA WITH LAW ENFORCEMENT

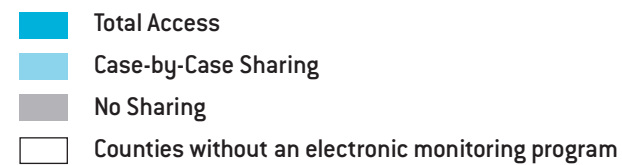
DATA: Of the 53 counties with EM programs, 35 counties share data with law enforcement on a case-by-case basis and three counties share all their data with law enforcement. Fifteen counties do not share any data with law enforcement.

KEY TAKEAWAYS: The use of EM leads probation departments to provide information about young people’s movements to law enforcement agencies.

Most counties that shared information did so on a case-by-case basis. Counties provided different guidelines for when they shared data. Some counties shared location information if it was needed to assist with an active law enforcement investigation; others shared when the youth was designated as a sex offender, the youth was deemed a danger to public safety, or if the youth had run away. Still others provided only general guidelines, sharing if there were exigent circumstances or it seemed reasonable to them to do so.

Three counties—Kings, Orange, and Shasta—gave law enforcement agencies total and direct access to youth geolocation data. This means that law enforcement agencies in these counties can review this data at their own discretion. In Orange County, for example, certain law enforcement agencies can log into the system and engage in “crime scene correlation,” which involves checking to see if any young people on EM were at the location of a crime scene.

METHODOLOGY: In December 2018, we followed up with all California counties with a juvenile EM program to collect information about whether the counties shared the data gathered about youth on EM with law enforcement. Our PRA requests asked whether the office shared the geolocation data of youth on EM on a case-by-case basis or whether law enforcement had unfettered access to the geolocation data of all youth on EM. Whenever possible, we asked counties to provide examples of what they considered “case-by-case” circumstances that merited the sharing of geolocation data with law enforcement.



ENDNOTES

¹See Univ. of Cal., Berkeley, Sch. of Law Samuelson Law, Tech. & Pub. Pol. Clinic & East Bay Cmty. Law Ctr., *Electronic Monitoring of Youth in the California Juvenile Justice System 1–20* (2017), https://www.law.berkeley.edu/wp-content/uploads/2017/04/Report_Final_Electronic_Monitoring.pdf

²We have made the raw data relied on in this report available to the public. It can be accessed here: *Juvenile Electronic Monitoring Records 2019*, <https://drive.google.com/drive/u/0/folders/1i0KHxDWnzD4yYtqoh8AplGdWidw8b1yt>.

The conclusions this report draws are based on analysis of hundreds of responses to requests for records we filed under the California Public Records Act, as well informal queries. Given the volume and nature of these records, including detailed citations for each point in this report is infeasible. Readers are invited to review the online repository to delve more deeply into the data.

³We define “unique” such that each individual youth who was placed on EM during the year-long period is only counted once, regardless of how many times the young person was assigned to the county’s EM program.

⁴For a more contextualized discussion of the data, see Catherine Crump, *Tracking the Trackers: Electronic Monitoring of Youth in Practice*, 53 U.C. Davis L. Rev. 795 (2019), <http://lawcat.berkeley.edu/record/1129127/files/Crump%20Tracking%20the%20Trackers.pdf>

⁵In the initial 2017 report by the Samuelson clinic and the East Bay Community Law Center, Mendocino, Sutter, and Tehama Counties also did not have EM programs for young people. All three counties began implementing an EM program after data were collected for that report.

⁶Each county provided the number of unique youth assigned to EM over a recent 12-month period. However, the timeframes differed slightly. Some counties provided data for the fiscal year 2017; some provided data for the calendar year 2017; and some provided data for a 12-month period from late 2017 and into 2018.

⁷We were unable to determine whether these youths were pre-disposition or post-disposition referrals. As far as we could tell, most counties do not differentiate the data in this way.

⁸Population data was derived from U.S. Census Bureau data. Quickfacts, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (enter “[county name] County, California” and select “Population estimates, July 1, 2019, [V2019]”). The populations of the counties are as follows: 1. Colusa (21,547); 2. Glenn (28,393); 3. Inyo (18,039); 4. Mariposa (17,203); 5. Mendocino (86,749); 6. Sierra (3,005); and 7. Sutter (96,971). Id.

⁹See Cal. Dep’t of Justice, *Juvenile Justice in California 14* (2017), <https://data-openjustice.doj.ca.gov/sites/default/files/2019-06/jj17.pdf>. Note that these were the total number of youth referred, not the number of unique youth referred. This figure likely double (or more) counts a single youth who was referred to probation more than once in a single year.

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