



Cutting Edge Corrections: *Using Technology to Improve Community Supervision in Texas*

by Vikrant P. Reddy, Esq.
& Marc A. Levin, Esq.

Key Points

- Use risk assessments to match probationers and parolees with the most appropriate level of supervision.
- Explore use of including voice recognition reporting for the lowest-risk offenders, thus reallocating supervision resources to frequent home visits as well as GPS monitoring for high-risk offenders.
- Given that many of those under supervision with technical probation revocations become absconders, consider using enhanced monitoring in order to reduce technical revocations.
- While continuing to use ignition interlock devices where appropriate, also consider expanding the use of other alcohol detection devices that are directed at stopping alcohol abuse, not just drunk driving.

Introduction

Over the last three decades, the United States has seen an extraordinary burst of technological innovation. Desktop computing, mobile communication, and mapping are just a few aspects of daily life that are completely different than they were only thirty years ago. For Texas legislators, these innovations have provided exciting new opportunities throughout public policy. In education policy, for example, digital learning could lead to a revolution in student outcomes.¹

Criminal justice policy in Texas is one area that could especially benefit from innovation. In particular, technology has the potential to completely revolutionize community supervision. The fundamental needs of community supervision are technologies for monitoring offenders, for communicating with them, and for analyzing data about them. In all of these areas, technology has grown leaps and bounds.

There is an emerging consensus on both the left and the right that while offenders must be held accountable, long periods of incarceration are a counter-productive sanction for most low-level, non-violent offenders. For example, a Maryland study found that low-risk substance abuse offenders who were directed into an evidence-based probation and treatment program were 22 percent less likely to recidivate within a year after the program than comparable offenders sent to prison.² Similarly, the Hawaii HOPE Court has utilized swift, certain, and commensurate sanctions, including a weekend in jail, to achieve reductions in recidivism and substance abuse of more than 50 percent among low-level drug offenders.³

Given these results, it is not surprising that there is an increasing use of sanctions that require offenders to demonstrate that they have changed, seek treatment for their mental health and substance abuse issues, and pay appropriate restitution to their victims. Essentially, this process requires effective monitoring and supervision in the community to verify that offenders are keeping their end of the bargain.

The primary reason to support better community supervision is to enhance public safety. Sending low-level offenders to prison, where they absorb bad habits and emerge with diminished skills and employment options is a path to recidivism, as illustrated by the three-year re-arrest rate of more than 62 percent for discharged Texas state jail inmates.⁴ It is also true, however, that improving community supervision would likely yield significant savings for Texans because it is much less costly than incarceration. In 2012, parole cost \$3.63 per offender per day, whereas incarceration cost \$50.04.⁵ Indeed, \$50.04 may be an underestimate; the Vera Institute for Justice has suggested that certain “hidden costs”—e.g., employee benefits, pension contributions, capital costs—result in a daily per offender figure of \$58.60.⁶

If Texas can move more low-level, non-violent offenders from incarceration into community supervision, the benefits to taxpayers would therefore be considerable. Technology may provide that opportunity in at least two forms: better electronic monitoring and expanding the use of new alcohol detection devices.

A new trend may even be towards the elimination of a separate monitoring device altogether given the fact that the vast majority of Americans have cellular phones which have a GPS capability.

Recommendations

Utilize Risk Assessments to Assign Different Offenders Different Levels of Electronic Monitoring

There are different types of electronic monitoring, and while all electronic monitoring is vastly cheaper than incarceration, some types are relatively more expensive than others because they have greater capabilities, such as being able to track an offender in real-time anywhere rather than just verify when they are at home.

Policymakers and practitioners are not obligated to use only one kind of approach. Instead, they can tailor the choice of which device to use on a given offender by using risk assessments, inventories that ask questions of inmates to predict their likelihood of recidivism (e.g. age, criminal record, employment status, substance abuse history).⁷ These actuarial assessments have been retroactively validated to demonstrate that the scores they produce are highly correlated with the risk of re-offense, and these assessments also typically reveal what needs for treatment should be addressed to reduce the identified risk level.⁸ Given that some risk factors are dynamic, it is important to assess offenders again during their supervision term. With these risk assessment instruments, policymakers can better distinguish between those offenders who would benefit from the more rigorous and costly monitoring and those who would benefit from the less costly form.

Radio frequency monitoring, for instance, is less costly than GPS monitoring. Radio frequency monitoring involves an anklet that detects a signal connected to a home telephone so that the authorities can ensure that an offender is at home—although they will not know where he is if he has left the home. GPS, on the other hand, collects data about an offender's exact location at all times. Because radio frequency monitoring is less comprehensive (and less costly), it can be reserved for lower-risk probationers and parolees who need

something beyond basic reporting. In fact, all states currently utilize radio frequency monitoring for house arrest, the lowest level of offender supervision.

Jurisdictions are understandably reluctant to use less rigorous radio frequency monitoring on higher-level offenders, and they are just as reluctant to use more costly GPS monitoring on lower-level offenders. Thanks to modern risk assessment instruments, however, policymakers can see a tangible estimate of an offender's likelihood to recidivate. These estimates can in turn be used to assign different types of monitoring to different offenders.

Public safety interests might be well-served, for instance, if GPS technology were used to monitor suspected gang members whose risk assessments suggest they are slightly more likely to reoffend. Authorities can use the technology to ensure that gang members do not leave their homes, their treatment facilities, or their places of employment at suspicious times of day to enter known gang hotspots.

In fact, even within GPS monitoring, important priorities can be set. The highest-risk offenders can be placed under active GPS monitoring, which reports the offenders' coordinates instantly, and slightly less-risky offenders can be assigned passive GPS-monitoring, which allows information about the offenders' coordinates to be downloaded by authorities at regular intervals.

A new trend may even be towards the elimination of a separate monitoring device altogether given the fact that the vast majority of Americans have cellular phones which have a GPS capability. This approach can avoid the cost of an additional device as well as the stigmatizing effect of visible device when an offender is interviewing for a job.

In Georgia, the parole system is using voice recognition technology to allow for verified self-reporting by the lowest-risk offenders, freeing up the time of parole officers to make frequent home visits to check up on high-risk offenders as well as monitoring them with GPS through their cell phones.

For the lowest-risk offenders, the state of Georgia actually began to experiment successfully in 2011 with monitoring via self-reporting through voice recognition that verifies that it is the parolee calling in, coupled with a back-end web interface

that processes and records the parolee's answers to various questions about their status. This type of supervision must be earned by an offender by successfully completing a period under more traditional supervision. In the first 90 days that Georgia's parole authorities experimented with a self-reporting pilot program with 3,149 parolees, compliance rates were 95 percent.⁹

Equally important, Georgia was able to reduce officer case-loads by 10-20 parolees per supervising officer. This, of course, allowed officers to spend more one-on-one time in the field with higher-risk parolees. Georgia continues to use the voice recognition reporting program for the lowest-risk offenders, and in 2013, 97 percent of the offenders supervised in this manner successfully completed parole. Georgia officials attribute part of the greater effectiveness to parole agents being able to get a better reading on an offender when they visit him—sometimes without notice—rather than having that individual be able to present himself in the parole office. The home visits also better enable parole officers to identify and address issues involving the offender's family and housing situation that could contribute to re-offending.

Georgia has even managed to add a technology component to the parole hearing process. By experimenting over a six-month period with conducting hearings via teleconference, Georgia's parole board avoided 34,741 miles of travel. At a cost of \$0.51 per mile, this saved \$17,718.¹⁰

Most recently, Georgia's parole agency has added GPS monitoring of high-risk parolees through their cell phones. Just as with a separate device, if the offender tries to disable it, an alert is generated and the offender is tracked down. While the Georgia cell phone-based GPS program is so new that no results are available as of yet, research has shown that GPS in general can be highly effective in reducing absconding among offenders on supervision.

A landmark study of 75,661 Florida offenders placed on radio frequency and GPS monitoring concluded:

“In relation to public safety effectiveness, electronic monitoring was found effective in reducing the likelihood of reoffending and absconding while on home confinement. Both radio frequency and GPS significantly reduced the likelihood of revocation for a new offense and abscond-

In the first 90 days that Georgia's parole authorities experimented with a self-reporting pilot program for the lowest-risk offenders with 3,149 parolees, compliance rates were 95 percent.

ing from supervision, even when controlling for sociodemographic characteristics of the offender, current offense, prior record, and term of supervision factors and conditions. The use of GPS monitoring compared with the use of radio frequency monitoring was found to be no more likely to reduce revocations or incidents of absconding.”¹¹

This study found GPS has a “prohibitive” effect on absconding. In all, offenders were 89 to 95 percent less likely to be revoked for a new offense if they were on electronic monitoring. Finally, the study concluded that electronic monitoring did not have a net widening effect because it more often served as an alternative to incarceration than as an addition to existing supervision practices that would have succeeded in keeping the offender out of prison even without the monitoring. These results parallel a 2003 study by the Florida Department of Corrections of probationers on GPS, which concluded that probationers “supervised with electronic monitoring had fewer revocations than community control offenders who were not.”¹² Similarly, a New Jersey study of 225 sex offenders on community supervision found only one committed a new sex offense and 19 committed another offense or a technical violation over a period of more than two years.¹³

Additionally, some GPS devices and services offer crime scene correlation, whereby police and probation departments can determine whether a monitored defendant or probationer was at a crime scene at a certain time.

Currently, there are more than 24,000 felony probationer absconders in Texas.¹⁴ While they may succeed for a time in skirting their obligations to report to a probation officer, when they are pulled over for a traffic violation or are otherwise apprehended, they will face the prospect of being revoked to prison. At least 35 percent of probationers revoked

Drunk driving is just one of the public safety problems that stem from alcoholism. Domestic violence, property crime, and a whole host of other problems are related to alcohol abuse, and society has an interest in reducing all of these collateral problems.

for technical violations (where there is no allegation of a new offense) were classified as absconders at the time.¹⁵ Based on the 12,287 total technical revocations in 2013, this amounts to at least 4,300 technical revocations associated with absconding, which translates into annual incarceration costs of \$79 million, not counting the compounding effect over time as the revocation time served will exceed a year in most cases.¹⁶

This analysis demonstrates the potential of utilizing GPS to reduce the number of technical revocations. Given that any type of GPS monitoring costs a fraction of the \$50.49 per day prison cost, it is a particularly sensible option for those who were placed on probation for a non-violent offense and have failed to report, but are not assessed as a high risk of re-offending.

Self-reporting through voice recognition and GPS are each ideally suited for different types of offenders. Rather than a “one size fits all” solution, community corrections agencies must use risk assessments to match the most appropriate supervision strategy to each offender and regularly update this assessment.

Expand the use of Alcohol Detection Devices that Monitor for Alcohol Abuse and Addiction, not Just Drunk Driving

Another important avenue for improved community supervision thanks to innovation is the expanded use of alcohol detection devices. Ignition interlock devices are widely used—and widely understood by the public and policymakers. Many people are less familiar, however, with new technologies that can detect alcohol over a telephone or with technologies that can detect alcohol through the sweat on an

individual’s ankle. Increased use of these devices, where appropriate, would go one step beyond curbing repeat drunk driving. Instead, these technologies could potentially address the root problem: alcohol abuse.

For years, the criminal justice system has used ignition interlock devices, the machines that prevent a car from starting unless the driver blows into a machine attached to the dashboard to register an alcohol content on his breath that is below a pre-set threshold. In Texas, the devices are mandatory after the second DWI. But these devices—to whatever extent they may have reduced driving while drunk—did not really handle the elemental problem of alcohol abuse. Drunk driving is just one of the public safety problems that stem from alcoholism. Domestic violence, property crime, and a whole host of other problems are related to alcohol abuse, and society has an interest in reducing all of these collateral problems.

New voice recognition technologies have now been developed that allow offenders to blow into a device attached to their home phone so that the authorities may determine whether or not they have been drinking. Continuous alcohol monitoring devices have also been developed which attach to the offender’s ankle and measure alcohol content through perspiration.

South Dakota has used the devices to establish a program called 24/7. It requires offenders to submit to breathalyzer tests twice a day or to wear an alcohol monitoring bracelet. Offenders who test positive for alcohol amounts above a certain threshold are not dragged through the court process a second time; they are given swift and certain sanctions, such as one or two days in jail. In South Dakota, the 24/7 program has reduced DUI arrests at the county level by 12 percent, but equally significant, it has reduced domestic violence arrests by 9 percent.¹⁷

A push towards using more of these machines and programs would demonstrate an understanding that the fundamental problem is not drunk driving—it is alcoholism.

These devices and programs (along with continued use of ignition interlock devices, if necessary) would allow probation departments to prioritize their officers better. They could direct the officers to those offenders who are most in need of personal, one-on-one supervision. For many DWI offenders,

such intense supervision is unnecessary. Research suggests that most DWI offenders are “scared straight” (and rightly so) after being stopped for drunk driving.¹⁸ They are terrified that they are on the brink of ruining their life. These offenders do not need to report to parole officers every week. Voice and alcohol recognition technologies would save time and money.

Conclusion

For public choice reasons, government institutions are often the last to embrace technological innovations.¹⁹ Individuals and private sector entities tend to be earlier adopters. Private sector entities often recognize that while initial technologies often typically carry an initial cost to deploy, the savings from greater efficiency over time can ultimately increase profits, which are returned to the owners or shareholders. Yet in government budgets are often not reduced when such savings accrue, but rather the leftover funds are simply spent on another program. This does not mean the public sector should not adopt new technologies, but rather fund such innovations in a way that does not increase spending.

It generally requires visionary policymakers and practitioners for governments to embrace new ways of doing things, balance any initial outlays for new technologies with cuts elsewhere in the budget, and ensure taxpayers ultimately benefit from greater efficiencies. In other words, it requires people who can think “outside the box,” or when it comes to improving community supervision, people who can think “outside the cell.” As Georgia’s success demonstrates, fears that technology will result in corrections professionals be-

It generally requires visionary policymakers and practitioners for governments to embrace new ways of doing things, balance any initial outlays for new technologies with cuts elsewhere in the budget, and ensure taxpayers ultimately benefit from greater efficiencies.

coming superfluous are unfounded, as instead technological advances enable the limited human capacity to be more effectively deployed.

Costs and manpower are obvious limitations on a total “Panopticon” of the sort dreamed up by Jeremy Bentham,²⁰ but technology truly is improving our ability to supervise criminal offenders in dramatic ways. This is a great boon for public safety in part because offenders who are at a substantial risk of re-offending are more closely supervised and less likely to offend—and they are more easily caught if they do offend. It is also a boon because when offenders are monitored outside of prison, they are better able to maintain jobs, pay restitution to their victims, and provide for their families. All of these things allow the offender to avoid the collateral consequences of conviction and the difficult process of reentry. This, in turn, can lead to lower recidivism and, ultimately, improved public safety. ★

Endnotes

- ¹ See, e.g., James Golsan and Brandy Alexander, "The Current State of Digital Integration in Texas Public Schools," Texas Public Policy Foundation (Jan. 2014) 3.
- ² Maryland Dept. of Public Safety and Correctional Services, Status Report on the Correctional Options Program (Sept. 1997).
- ³ National Institute for Justice, *HOPE in Hawaii: Swift and Sure Changes in Probation*, U.S. Department of Justice, Office of Justice Programs (June 2008).
- ⁴ Legislative Budget Board, *Statewide Criminal Justice Recidivism and Revocation Rates* (Jan. 2013).
- ⁵ Legislative Budget Board, figures calculated using data from *Criminal Justice Uniform Cost Report: Fiscal Year 2010-2012* (Jan. 2013).
- ⁶ Ruth Delaney and Christian Henrichson, *The Price of Prisons: What Incarceration Costs Taxpayers*, Vera Institute of Justice Center on Sentencing and Corrections (Jan. 2012) 8.
- ⁷ See generally Marc A. Levin, "The Role of Risk Assessment in Enhancing Public Safety and Efficiency in Texas Corrections," Texas Public Policy Foundation (July 2010).
- ⁸ *Ibid.*, 1-2.
- ⁹ Interview with Michael Nail, Director of Georgia Department of Corrections Parole Division (22 Apr. 2014).
- ¹⁰ *Ibid.*
- ¹¹ Kathy G. Padgett, William D. Bales, & Thomas G. Blomberg, "Under Surveillance: An Empirical Test of the Effectiveness and Consequences of Electronic Monitoring," *Criminology and Public Policy* 5.1 (2006) 61-69.
- ¹² State of Florida, Office of Program Policy Analysis and Government Accountability (Apr. 2005).
- ¹³ New Jersey State Parole Board, Report on New Jersey's GPS Monitoring of Sex Offenders (Dec. 2007).
- ¹⁴ Fiscal Year 2012: Statistical Report for the Texas Department of Criminal Justice.
- ¹⁵ Legislative Budget Board, Texas Community Supervision Revocation Project: A Comparison of Revoked Felons During September 2005 and September 2007 (Aug. 2008).
- ¹⁶ Texas Department of Criminal Justice, Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds (Dec. 2013).
- ¹⁷ *An Innovative Way to Curb Problem Drinking* (Rand Corporation: 2012).
- ¹⁸ William Clements, "How Many Come Back? DUI Offender Recidivism in Vermont," *Vermont Bar Journal* (Mar. 2002).
- ¹⁹ For an interesting historical example that explains the problem, see Robert B. Ekelund and Robert Tollison, "A Rent-Seeking Theory of French Mercantilism" in *The Theory of Public Choice – II* (eds. James M. Buchanan, Robert D. Tollison) (University of Michigan Press: 1984) 221, n. 11.
- ²⁰ Graeme Wood, "Prison Without Walls," *The Atlantic Monthly* (Sept. 2010).

About the Authors



Marc A. Levin is a director of the Center for Effective Justice. Levin is an attorney and an accomplished author on legal and public policy issues. In 1999, Levin graduated with honors from the University of Texas with a B.A. in Plan II Honors and Government. In 2002, he received his J.D. with honors from the University of Texas School of Law. Levin has served as a law clerk to Judge Will Garwood on the U.S. Court of Appeals for the Fifth Circuit and Staff Attorney at the Texas Supreme Court.

Levin's articles on law and public policy have been featured in publications such as *The Wall Street Journal*, *USA Today*, *Texas Review of Law & Politics*, *National Law Journal*, *New York Daily News*, *Jerusalem Post*, *Toronto Star*, *Atlanta Journal-Constitution*, *Philadelphia Inquirer*, *San Francisco Chronicle*, *Washington Times*, *Los Angeles Daily Journal*, *Charlotte Observer*, *Dallas Morning News*, *Houston Chronicle*, *Austin American-Statesman*, *San Antonio Express-News* and *Reason Magazine*.



Vikrant P. Reddy is a senior policy analyst in the Center for Effective Justice at the Texas Public Policy Foundation, where he coordinates the Right On Crime campaign. He has authored several reports on criminal justice policy and is a frequent speaker and media commentator on the topic.

Reddy has worked as a research assistant at The Cato Institute, as a law clerk to the Honorable Gina M. Benavides of the Thirteenth Court of Appeals of Texas, and as an attorney in private practice, focusing on trial and appellate litigation. Reddy graduated from the University of Texas at Austin with a B.A. in Plan II Honors, Economics, and History, and he earned his law degree at the Southern Methodist University Dedman School of Law in Dallas. He is a member of the State Bar of Texas and of the State Bar's Appellate Section and Criminal Justice Section.

About the Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation's mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.

