

The Challenges of GPS and Sex Offender Management

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DUE TO THE NATURE of sex crimes and their impact, no other criminal population generates as much public trepidation as sex offenders. The extensive media coverage of sex crimes is highly influential in public perception and legislative response. The media's interest regarding sex offenders may instill fears about public safety and the potential for victimization. This "media hype" may also perpetuate misinformation about these offenses, who commits them, and who is most likely to be targeted (Proctor, Badzinski, & Johnson, 2002; Sample & Kadleck, 2008). This misinformation and the lack of details about sex offender management strategies can exacerbate the public's already legitimate concerns, leading to stricter measures for safeguarding people and their communities.

On average, on any given day, 200,000 sex offenders are under the control of correctional agencies in the United States, with 60 percent of these offenders supervised in the community (International Association of Chiefs of Police, "Strategically Monitoring Sex Offenders"). Constitutional safeguards do not allow continuous imprisonment after an individual has served their maximum sentence. Short of receiving a life sentence without the possibility of parole, those incarcerated by our judicial system will eventually re-enter society. Currently, global positioning system (GPS) technology is regularly used to monitor sex offenders in the community. This technology combines tracking, crime-mapping, and web-based data integration to provide information to the supervising officer about the location and movements of offenders.

There are two primary types of GPS technology commonly used to monitor sex offenders: *passive and active GPS monitoring*. Both technologies require offenders/defendants to wear a receiver/portable tracking device, usually around their ankle; they also require use of a cellular telephone and computer software to review GPS data. Signals from global positioning satellites create a map of offenders' movements. With *passive GPS monitoring*, the information is downloaded to a monitoring center and relayed to the supervising officer once or twice daily. This is commonly referred to as "after the fact reporting." In *active GPS monitoring*, the

information collected is transmitted every few minutes by cellular telephone to a monitoring center and any violations are immediately reported to the officer. This method is the closest to “real-time monitoring.”

It is important to understand the limitations and the melding of the two technologies of GPS (which identifies signals from satellites) and cellular technology (which transfers that data to the nearest cell phone tower). The weaknesses of these technologies are compounded by combining them. Non-violation innocuous alerts are common, which makes the technology very labor intensive and causes some critics to question the reliability of GPS as a tracking tool. It is also crucial to emphasize that these GPS devices only allow officials to track the offender’s whereabouts when everything works properly and when the offender/defendant cooperates.

GPS monitoring zones not only exclude geographic areas (exclusion or “hot zones”) for sex offenders such as schools, libraries, etc., but also define acceptable areas. Inclusion zones may be used to identify places where offenders/defendants are required to be (such as home, treatment sessions, or employment) and specific times for those locations. This flexibility allows agencies to develop appropriate supervision strategies based on the defendant/offender’s risk level and offense patterns, instead of requiring the same restrictions on all sex offenders. GPS systems serve a variety of other functions, including analyzing data location points to identify specific patterns of movement and frequently visited locations, which may warrant further investigation.

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Top Challenges of GPS and Sex Offender Management

GPS Abilities & Misconceptions

With GPS emerging as a common tool to supervise sex offenders, agencies must be aware of the uses, capabilities, and limitations of this technology. GPS monitoring, which was once embraced as a highly effective technological solution for tracking sex offenders, is proving to be less than ideal as a categorical solution for some state and local agencies. System limitations that must be considered include certain geographical conditions (terrain, large or dense urban areas, vehicles, and weather), which may cause problems with the GPS receiver’s ability to record location information. While GPS is a valuable tool, it is not a panacea or a replacement for community supervision, which includes the officer’s personal contact with the offender, his employer, family members, residence, etc.

Many contend that GPS is more effective for acting on tips about potential crimes or investigating incidents that already have occurred. That is because monitoring reveals a location as a dot on a map but not what the offender is doing there.

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False Sense of Security

GPS is yet another supervision tool that allows data on offenders to be collected from a distance (similar to surveillance, without having to be present). This information may include knowing whether an offender/defendant is at home or work, or pinpointing the exact location of an offender/defendant at a certain time. It is crucial to understand that if the officer has not assigned an exclusion zone to a particular victim, school, etc., then the officer *will not* be notified that the offender/defendant has entered such a zone. Different GPS devices have different functions and should be used with an understanding of the capabilities, purposes, and limitations of each device.

Due to a limited public understanding of what GPS monitoring can accomplish, there is significant potential for a false sense of security. Media misinformation and false information

received from a variety of other sources can lead the public to believe that GPS is a panacea for monitoring all sex offenders for life. This is simply not true. Further, there is an incorrect perception, among both the public and law enforcement, that “someone” is in a room with a life-size map and constantly watching the movements of all sex offenders. This is not the case. Each individual is monitored 24/7; however, the assigned officer is typically only notified if there is a possible violation. For example, the offender/defendant goes on a school campus that has been determined by the officer and designated as a “hot zone” or exclusionary zone. Normally, not all schools, libraries, and places where children might congregate are designated as exclusionary zones. The reason for this is that in most communities there are too many schools, libraries, etc. If every one was an exclusion zone, the offender/defendant would not be able to take public transportation down a major thoroughfare in most cities. This is why officers should limit their zones to areas that the offender/defendant frequents, or areas on the way to and from employment, etc.

Because GPS monitoring is a relatively new form of technology, the public may not realize that offenders/defendants can tamper with ankle devices or render them inoperable. This may be as simple as failing to charge the device. While the officer will eventually be notified that the equipment battery has died, at the point where the unit loses charge, the offender/defendant and his or her whereabouts are no longer known. The officer will only be able to determine the last viable point where the equipment was properly functioning. Another example is an offender/defendant who cuts the transmitter from his or her ankle. While the officer will be notified of this violation, the officer will only be able to determine where and when the bracelet was severed. He or she will not be able to determine where the defendant/offender went, or whether the defendant/offender has cut off the transmitter in a “dead zone” where there is no GPS (such as Metro).

Additionally, there may be a time lapse between an alert notification and agency response. In some areas, particularly if the cellular coverage is poor, the tracking will be limited. This in effect means that there may be gaps in time or periods throughout any given day where no tracking information is available.

GPS by itself is useful as an outdoor technology; while it frequently will track offenders into buildings, public transportation, etc., it is designed to work outside, and cannot offer information within a building, such as the particular floor a defendant/offender is visiting. The limited tracking information is likely to include when the offender/defendant entered the building and lost GPS, and when he or she exited the building and GPS was again re-acquired.

If everything is functioning properly with a GPS unit, it can provide tracking and information about an offender/defendant’s whereabouts. However, while it may tell us where the offender/defendant is located, it does not tell us what he or she is doing. Therefore, it is not going to stop a crime from happening or even tell us, without further follow-up, whether a crime is occurring. It is a tool that, combined with the proper restrictions/parameters placed on an individual, *may* help the officer to intervene in a potentially dangerous situation.

Effective sex offender management incorporates multiple tools with an overall strategy that includes community supervision, treatment providers, polygraphist, and law enforcement to work toward increased public safety.

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Lifetime GPS Monitoring for Sex Offenders

To date, 22 states have passed legislation requiring the use of GPS technology to track sex offenders (International Association of Chiefs of Police, “Tracking Sex Offenders with Electronic Monitoring Technology” 2008). At least seven of those states have enacted laws requiring lifetime GPS monitoring for certain sex offenses. Some law-enforcement leaders who pushed for a ballot initiative requiring sex offenders to be tracked by GPS for life are now saying that the surveillance program voters endorsed is not feasible, and is unlikely to be fully

implemented for years.

Placing sex offenders on GPS for life has huge implications for law enforcement, as the law does not specify many basic details of implementation, including which sex offenders require supervision, who should monitor them, how to define the restrictions on living near places where children congregate, and how to pay for GPS tracking, which could ultimately cost hundreds of millions of dollars a year.

Another significant issue is the impracticality of tracking sex offenders who are no longer required to report to parole or probation officers, the lack of any penalty for those who refuse to cooperate with monitoring, and the question of whether such widespread tracking is effective in protecting the public. For example, if a sex offender travels from one city to another, or outside the state—as they are free to do once discharged from parole—it would be unrealistic for local authorities to continue to track them where they have no jurisdiction.

Overall, GPS is “just one tool in a very large tool bag” and does not enable law enforcement to exert complete control over sex offenders. GPS technology does not prevent sex offenders from committing crimes, but it does record their whereabouts, may alert officers to potential supervision violations, and may allow the officer an opportunity to intervene in certain situations.

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Residency Restrictions for Sex Offenders

Residency restrictions seem to have unintended consequences that many now believe may make communities less safe rather than more safe, because a poor residential situation makes an offender more likely to re-offend (Florida Department of Corrections, n.d.; Willis & Grace, 2008). These restrictions make it more difficult to find housing for released defendants/offenders, resulting in increased risk factors for recidivism, such as homelessness, transience, and instability (Levenson & Hern, 2007).

Restrictions regarding acceptable housing for convicted sex offenders have grown increasingly stringent over the past two decades. These statewide mandates do not include the many local ordinance restrictions enacted in cities and counties. For example, in some states, real estate developers and private communities are mandating background checks that will automatically exclude convicted sex offenders from being able to buy or rent property in these residential areas, regardless of the proximity to schools, day care centers, or bus stops (Levenson & D’Amora, 2007).

Probation officers have been required to devote an increasing amount of work, time, and effort to looking for suitable places for sexual offenders to live. Especially in more densely packed low-income communities, the common 1,000- or 2,000-foot rule keeps many registered sex offenders from residing with immediate family, relatives, and loved ones, or from finding affordable housing of any kind. When these offenders lack a stable home environment, it is more difficult to monitor them, to ensure that they receive treatment, and to see that they comply with the conditions of their supervision. This makes the lives of these defendants/offenders less stable, which promotes homelessness, unemployment, and despair—all of which increase the likelihood of new sex crimes.

Public perception and the increase of restrictions have led to a serious decrease in available housing for a large percentage of the sexual offender population, and since these restrictions now exist in over half of the United States, the problem is more significant than ever (Bumby, 2008). For example, due to the high density of schools and parks in San Francisco, California, a sex offender subject to the 2000-foot restriction would be unable to find a suitable residence that complies with Jessica’s Law, which would make the entire city virtually off limits.

Critics contend that in many states, legal requirements are so strict that defendants/offenders

may not be able to find anywhere to live, which is extremely problematic and creates an enormous dilemma: whether it is better to have sex offenders identified and residing in populated neighborhoods or to have them homeless, where they are unaccountable and where supervision is virtually impossible.

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Increased Officer Workload and Costs

With several states requiring lifetime GPS monitoring for certain convicted sex offenders, the numbers of individuals on community supervision will increase. The result is an increased workload for law enforcement and community supervision officers (International Association of Chiefs of Police, “Tracking Sex Offenders with Electronic Monitoring Technology” 2008). Agencies must be prepared for several labor-intensive tasks, which may include:

- Monitoring GPS equipment
- Responding to alerts
- Reviewing GPS data
- Fitting offenders with GPS units
- Teaching offenders how the equipment works (learning curve)
- Maintaining equipment, procurement, inventory, and product replacement.

Probation officers have experienced a major increase in the workload associated with the supervision of sexual offenders. In some cases, political agendas, media sensationalism, and public outcry have resulted in legislative unfunded mandates that possibly deter from the true goal of containment (A.L. Datz, “Sex Offender Residency and Other Sex Offender Management Strategies”). Unfortunately in many cases, input has not always been solicited from those who conduct supervision.

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Legal Issues

GPS monitoring of sex offenders presents a wealth of potential legal issues, which may or may not have court precedent. Some of the issues that have been brought before the courts include:

- Cases involving a failure to respond to an alert that results in a new crime.
- Cases involving a new crime committed when the satellite and cellular signal is lost or during equipment malfunction.
- Questions about the admissibility of location data points and reports from GPS vendors.
- Privacy rights challenges.
- Potential issues of cruel and unusual punishment.
- Cases involving an officer with the ability to respond to a significant alert, but who chose not to (versus having limited access with non-GPS technology such as radio frequency).

GPS technology is still somewhat new, and jurisdictions may be challenged in court. There are several states with current GPS cases pending in federal court dealing with some of the above issues.

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Conclusion

Our nation has continued to experience a considerable increase in sex offender legislation over the past decade. Unfortunately, in some cases decisions seem to have been made for political reasons or in response to tragic cases that have had a large impact on the victims and their communities. Campaigns claiming to be “tough on crime” can result in policies that have been developed haphazardly, rather than through careful consideration of the best way to protect communities and deter further crime. Policies can evolve due to heightened pressure by victims to initiate immediate change following tragedy. This unfortunately causes initiatives to be drawn up quickly, and may not allow for thorough proposals. As a result, in many cases money and time have been poured into policies and programs that do not make our communities safer, because they are politically or emotionally motivated, rather than motivated by evidence of effectiveness.

One of the most significant steps taken nationally is the development of laws and policies that take into account the varied levels of risk posed by different types of sex offenders. These evidence-based practices, particularly in terms of risk, consistently demonstrate the significant public safety value of implementing strategies that are driven by risk level (Andrews & Bonta, 2006). Risk-based sex offender management policies may include imposing longer sentences (including indeterminate sentencing) for sex offenders who pose the greatest risks and allowing for alternative sentencing options for lower-risk sex offenders; or reserving intensive supervision, lifetime supervision, and GPS tracking strategies for high-risk sex offenders (Andrews & Bonta, 2006). Through risk-based strategies that prioritize resources for higher-risk sex offenders, the desired impact of policies for reducing sexual victimization and increasing public safety are more likely to be achieved.

Policymakers have begun to explore and develop well-informed data-driven and evidence-based sex offender management policies. Ultimately, the goal of GPS as a tool should be to enhance supervision and form one part of an overall comprehensive strategy of community supervision. In order to effectively allocate resources, reduce future victimization, and increase community safety, GPS monitoring should be individually tailored to the risk level posed by the defendant/offender and primarily used for moderate- to high-risk defendant/offenders. In addition, officers must be given the proper resources to manage a reasonable caseload.

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