



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Continuous Electronic Monitoring (CEM) using Global Positioning Satellite (GPS) Systems			Article: 1710
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POLICY

The Global Positioning System, which provides equipment incorporating the latest advances in technology as well as a high level of electronic monitoring, can be useful as an additional supervision tool. There are no legal barriers to the use of this program as a term and condition of probation for specified offenders. The Global Positioning Satellite technology is a navigational system that can be used as an additional supervisory tool to electronically monitor the location of higher risk probation caseloads. The objective is more effective supervision, which to the extent it is successful, can lead to reduced recidivism and fewer revocations. This effectiveness has been demonstrated through success in the following three areas, all of which are beneficial in reducing recidivism and in protecting the community. The CEM devices are designed to be worn by a human being and to emit a signal 24 hours a day that can be tracked in a variety of environments within the limits of resources and technology. In addition, the devices are designed to be resistant to intentional tampering or accidental damage within these same limits.

CEM has been shown to reduce recidivism due to its deterrent effect for many offenders who are made aware of the capabilities of the technology in tracking their whereabouts (geo- location) in relation to time. These offenders know they are being tracked with an increased level of accountability and this awareness will assist them in making appropriate decisions regarding their whereabouts and activities.

CEM allows for the enforcement of conditions of probation related to the geo-location and activities of offenders. Examples of such conditions include: protective or no contact orders, stay away orders from parks, schools, places where children congregate, etc. (exclusion zones for CEM); employment, counseling, curfew, etc. (inclusion zones from CEM); travel restrictions; etc.

CEM geo-location database information can be made available to law enforcement agencies as an investigative tool to assist in eliminating or identifying probationers as suspects in criminal activity that has occurred at a specific identified location.

I. STATUTORY AUTHORITY

Electronic monitoring and Global Positioning System (GPS) is addressed in Penal Code sections 1210.7 – 1210.16. These sections address the standards and

guidelines of the program as well as authorize the Chief Probation Officer discretion of who should be supervised and monitored on the program. Proposition 83, otherwise known as Jessica's law, is the Sex Offenders, Sexually Violent Predators; Punishment, Residence Restrictions and Monitoring Statute. This measure increased penalties for violent and habitual sex offenders and child molesters. It also prohibits all registered sex offenders from taking up residence within 2,000 feet of a school and park and requires them to be monitored via GPS for life. While our department will not be monitoring sex offenders for life, we can utilize GPS for the time they are on probation.

II. METHODS

Radio frequency-based monitoring systems; or electronic monitoring systems, known as "EM" systems have been used for years to monitor probationers on house arrest. These systems can determine when a probationer is at home or away. These EM systems solely report the presence or absence of the probationer at the monitoring locations. CEM uses technology such as GPS to monitor the exact location of a probationer at nearly any moment in time.

GPS is a worldwide radio-navigation system. GPS is a navigational system that can accurately locate your position anywhere on Earth. GPS uses 24 satellites which are located 11,000 miles above the Earth. The satellites transmit data back to Earth and by locking onto this data, the GPS system can tell you where you are. GPS works in all weather conditions, but the satellite receivers operate by line of sight with the satellites. This means that at least three satellites must be in "view" of the GPS receiver in order to calculate your location.

The Portable Tracking Device (PTD) carried by the probationer receives messages from different satellites and computer circuitry detects, decodes, and processes the GPS satellite signals. The location of the PTD on earth can be calculated by how long it takes radio signals from the satellites to reach the receiver, the positions of the satellites at a particular time, and where the signals from four satellites intersect simultaneously at the PTD. The receiver's position can then be plotted accurately to within a few feet.

This information is then transmitted to a vendor monitoring station through the equipment carried by the probationer. The hardware of this system typically consists of an electronic transmitter worn by the probationer and a charger for the portable tracking device.

CEM systems can be either active, passive, or "on demand". The systems use mapping technology to track the probationer's actual movement throughout the day. It is possible to follow the probationer in real time (Active) or one can download the data about the probationer's movements throughout the day and find out information about his/her activities (passive); or a combination of the two (on demand). It can be

especially useful to determine whether a probationer may have been near the location of illicit activity at a given time.

The major shortcoming of the technology is usually a signal loss. In some cases, the GPS signals may be interrupted by certain kinds of obstructions. For example, when the probationer is inside buildings, especially in basement areas, the satellite signals may be blocked. Most systems send an alert when this occurs. Most location tracking systems communicate with the vendor through cellular telephone technology, and one of the pit falls of cellular telephones, is signal loss. If this occurs, the portable tracking device continues to store information about the probationer's location. Although the information can be retrieved, it cannot be reported until the portable tracking device is out of the area of signal loss, thus the transmission of this information will be delayed.

III. EXCLUSION AND INCLUSION ZONES

Using such system, the probation officer can determine inclusion and exclusion zones for each probationer. Exclusion zones are areas the probationer is not permitted to go, such as parks and schools, or a former victim's home. Exclusion zones can range from a specified radius of a given geo-location or a designated polygon. Inclusion zones are areas the probationer is expected to be at various times, such as his work, counseling or home.

IV. ALARMS

Violations come in various forms: tampering, proximity, and exclusionary alarms. A tampering alarm occurs when the probationer attempts to remove or tamper with the electronic device. Inclusion zone alarms occur when a probationer leaves or fails to arrive at a designated area at a preset time or condition. An exclusionary alarm occurs when a probationer enters an area that is prohibited by either court order or direction of the probation officer consistent with the authority provided by a court order. The probation officer is notified of each of these alarms at preset intervals and is able to respond accordingly.

V. CUSTODY

The strategy of Continuous Electronic Monitoring is to implement the technology as an enhanced probation supervision tool. CEM is no more of an alternative to imprisonment than traditional probation supervision. CEM shall be used as an enhanced supervision tool, and not as a form of custody or in lieu of jail time. Therefore, time spent under CEM should not toll as time served in custody nor should they receive any custody credits while on GPS.

VI. SELECTION OF OFFENDERS

Static-99 Risk Assessment Tool - Static 99 is the synthesis of two previously existing scales, the Rapid Risk Assessment for Sex Offense Recidivism (RRASOR) and Thornton's Structured Anchored Clinical Judgment (SACJ). Static-99 is comprised of the following elements: prior sex offenses, unrelated victims, stranger victims, male victims, age, never married, non- contact sex offenses, four or more prior sentencing dates, current non-sexual violence, and prior non-sexual violence. This scale was tested in four diverse samples of sex offenders and showed moderate accuracy in predicting both sexual and violent recidivism. Through translating the Static-99 worksheet scores into risk categories, the scores vary from 0-6+. Pursuant to Penal code 1202.8 (b), "every person who has a risk level of high (6+) shall be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person." Additionally, any defendant reaching a score of 4 or above may be placed on GPS for the term of their probation as deemed necessary.

Many risk factors are based on an objective "historical" review of the offender's case information (static risks). Additional risk factors can also be identified through supervision and ongoing personal interactions with the offender and those around him (dynamic risks).

Officers should consider four main factors in determining whether to use CEM:

- A. Type of offense
- B. Probability of re-offending
- C. Seriousness of the impact of re-offending on the community or a victim
- D. Factors limiting utilization of routine supervision tools
- E. Availability of appropriate and enforceable terms and conditions that can be monitored using GPS, i.e.: whereabouts and activities.

Officers should also consider that many risk factors cannot be thoroughly assessed prior to a completed treatment provider evaluation and an initial period of probation supervision. New cases or cases of probationers recently released from custody should be considered to be more at risk until a determination can be made regarding unknown" in the case dynamics. Assigned officers are expected to evaluate all cases under their supervision for the potential utilization of CEM as a supervision tool. It is expected that after initial implementation the continued use of CEM will be reviewed on a previously established intermittent bases to determine whether CEM supervision continues to be appropriate. As in all sound supervision practices, risk assessment should be an ongoing process.

VII. RISK FACTORS

- A. PC 290 Registrant
- B. Prior Sex Offending conduct
- C. Prior criminality involving use of weapons or violent behavior
- D. Sadistic/Psychopathic crime
- E. Active CDCR Parole
- F. Domestic violence/Stalking
- G. Deviant Sexual Preferences
- H. Active Gang Member
- I. Recently released from Department of Juvenile Justice
- J. Static-99 score of 4 or above

VIII. OTHER RISK FACTORS: (RELATED TO PERSONALITY ATTRIBUTES)

- A. Depression / anxiety / despair
- B. Recent high-risk conduct
- C. Negative/criminal associations/loner
- D. Prior CDC sentence
- E. Ineligible/Unsuitable for probation
- F. Attitude/values support criminal behavior
- G. Anger/Hostility
- H. Family/Friends/Employer enable or are in denial
- I. Current use of alcohol or illegal drugs
- J. Prior grants of Probation
- K. Prior violations of probation

IX. TERMS AND CONDITIONS WHICH ARE APPROPRIATELY ENFORCED THROUGH THE USE OF CONTINUOUS ELECTRONIC MONITORING (CEM)

- A. Sex Offenders terms and conditions
- B. Terms and conditions relate to contact with or protection of a specific victim/identified victim group
- C. Identified exclusion/inclusion zone
- D. Curfews
- E. Protective orders
- F. Specific prohibited activities
- G. Whereabouts
- H. Associates
- I. Prohibition of volunteer work
- J. Travel to prohibited locations not readily identifiable as exclusion zones i.e.: liquor stores, bars, high narcotics trafficking areas, arcades, theme parks.

X. SUPERVISION STAFF DUTIES AND RESPONSIBILITIES

The use of CEM technology as an adjunct to supervision and provides the probation department with information related to the probationer's whereabouts that was not available in the past without conducting constant visual surveillance.

The assigned probation officer responsible for CEM supervision of a probationer should recognize that in general the single most effective aspect of CEM supervision for offenders is the deterrent effect that is created when offenders recognize that the technology works and that they will be held accountable for their whereabouts. This deterrent effect can be strongly reinforced in an offender's mind when he receives direct evidence of such through the assigned officer. Several examples of this reinforcement include, but are not limited to:

- A. CEM alerts received directly by the probationer from the CEM provider.
- B. Telephone contact to an offender describing his approximate recent whereabouts accompanied by questioning as to his recent activities at those locations.

- C. Questions asked, or information provided during routine contacts with the probationer related to recent travel patterns, presence/absence at counseling or work, etc.
- D. Personal contact at a location in the field or home by the assigned officer, other deputy probation officers, or law enforcement officers made aware of the CEM location information for the probationer.
- E. Reinforcing with the probationer that the data related to his whereabouts is maintained and can be recalled/researched for comparison to the location/time of a reported crime occurring or report of violation conduct being received at a later time.

It is an expectation that officers assigned to CEM supervised probationers reinforce this deterrent effect with the probationers on an ongoing basis. In addition to the substantial deterrent effect, the CEM location information can serve as evidence of a probation violation. Should an officer receive information from the CEM data that an offender was in violation of probation this should be investigated. The assigned officer is expected to consult with the supervisor should questions arise or should the case present unusual dynamics.

The assigned officer is responsible for reviewing the CEM data reports on a daily basis during working days to determine if any of the alerts or information require additional follow-up with the probationer or other sources. It is anticipated that on occasion; due to unplanned workload, emergencies, court appearances, etc.; the officer may be unable to conduct the daily review. If any days of review are missed (i.e.: weekends, holidays, sick days, emergencies, etc.) the officer is to review the reports for those missed days upon return to work in a timely manner. If the officer is expecting to be off work for planned vacation or leave, review of the reports is to be coordinated with the unit supervisor.

The assigned officer is also responsible for periodic review of the actual travel patterns. In addition, if the officer has a planned contact with the probationer, a review of CEM data should be conducted prior to the contact to address any unusual or suspicious travel patterns with the probationer, as well as to reinforce the deterrent effect.

XI. GLOBAL POSITIONING SYSTEM RESPONSE GUIDE

- A. The GPS vendor will notify the probation officer of any tracking problem caused by the offender's actions and/or equipment/signal problems including the determination of the following alerts:
 - 1. Unauthorized entry into an exclusion zone

2. Unauthorized absence from an inclusion zone
 3. Proximity violation
 4. Equipment malfunction(s)
 5. Tampering
 6. Power degradation
 7. Location verification failure
 8. Communication failure
- B. During normal working hours, the probation officer assigned to GPS tracking will investigate the alert immediately, consult his or her supervisor as needed, and respond accordingly. Methods of investigation and/or taking action include but are not limited to:
1. Telephone the offender
 2. Notify a specific victim
 3. Notify the appropriate law enforcement agency
 4. Conduct a field investigation
 5. Place a subject under arrest depending on field investigation
- C. These methods should be utilized depending on case dynamics, but in all cases the response by staff will be immediate, upon notification from the vendor. The way in which an officer may act on information received from the vendor or their equipment is determined by each case's particular elements. Also, GPS information alone may not be enough to support a violation of probation so, officers may need to augment the case evidence through further investigation.