JAIL BULLETIN

NUMBER 39 MARCH, 1988

The Jail Bulletin is a monthly feature of the Crime Commission Update. The Bulletin may be used as a supplement to your jail in-service training program if officers study the material and complete the attached "open book" quiz. The Bulletin and quiz may be reproduced for use by your staff. We welcome any jail training materials you would like to contribute to the Bulletin.

The following article was originally published as a National Institute of Justice, Crime File Study Guide. The article is printed here with the permission of the National Institute of Justice, a Division of the U.S. Department of Justice. The videotape, House/Arrest, is available through the Nebraska Crime Commission Film Library for those interested in further information on the subject.

HOUSE ARREST

By Joan Petersilia, The Rand Corporation

What Is House Arrest And Why Is It So Popular?

As prison crowding worsens, the pressure to divert non-dangerous offenders to community-based alternatives has increased. Since it is generally agreed that the public is in no mood to coddle criminals, such alternatives must be tough and punitive and not compromise public safety. House arrest sentencing is seen by many as meeting these criteria.

House arrest is a sentence imposed by the court in which offenders are legally ordered to remain confined in their own residences. They are usually allowed to leave their residences only for medical reasons and employment. They may also be required to perform community service to pay victim restitution or probation supervision fees. In at least 20 states, "electronic bracelets" are being used to detect violations of house arrest.

While the goal of "house arrest" is easily understood - to restrict freedom - the mechanisms used to confine an offender to his home vary considerably. Typically, offenders participating in Intensive Probation Supervision programs are required to be in their residences during evening hours and on weekends. House arrest programs of this type now exist in Georgia, New Jersey, and Illinois.

In some instances, curfews are added to the offender's court-ordered parole or probation conditions. While curfews permit individual freedom in the community except for particular hours, more intrusive home incarceration programs restrict the offender's freedom in all but court-approved limited activities. These more intrusive programs now exist in Kentucky, Utah, Michigan, Oregon, and California. Several have been modeled on the house arrest program operated by the State of Florida.

Florida's Community Control Program

Florida's house arrest program, known as "Community Control," was established in 1983 to help alleviate prison crowding in the state. It is the most ambitious program of its type in the country, with about 5,000 offenders "locked up" in their homes on any one day. Leonard Flynn, a panelist on this Crime File segment, oversees the program's operations for the Florida Department of Corrections.

Florida's program targets "incarceration-bound" offenders, including misdemeanants and felons. Each offender is supervised by a community control officer, whose primary function is to ensure that the offender is adhering to court-ordered house arrest restrictions. The community control officer works nights and weekends to monitor compliance. For the more serious offenders, an electronic monitoring system is used. This system operates by having a central computer randomly telephone the offender during designated hours. The offender responds to the telephone call by placing a receiving module (contained in a watch-like wristband) into a modem. The computer verifies the action via a remote printer.

Offenders are permitted to leave their residences only for court-approved employment, rehabilitation, or community service activities. Participants must pay monthly supervision fees of $30 to $50 to offset the costs of supervision, pay restitution to victims, and provide for their own and their family's support.

Officials in Florida consider the house arrest program to be a resounding success. Since 70 percent of those 10,000 persons were believed likely to have been sent to prison otherwise, real cost savings have been realized. In Florida, it costs about $3 per day to supervise a house arrest offender, compared with $38 per day for imprisonment.

Florida's success, coupled with the intense pressure that nearly every state is feeling to reduce prison commitments, ensures that interest in house arrest will continue to grow. An additional impetus is provided by manufacturers of electronic monitoring equipment, who promote their products as a means to achieve public safety without incurring exorbitant costs. Consequently, it is important to consider the major advantages and disadvantages of house arrest programs as well as the larger conceptual issues that such sentencing practices raise.

Advantages Of House Arrest

Cost effectiveness. The surge of interest in house arrest programs has come primarily from their financial appeal. House arrest (particularly without electronic monitoring) is thought to be highly cost effective. If the offender was truly prison bound, then the state saves not only the yearly cost of housing the offender (on average about $10,000 to $15,000 per year) but also reduces the pressure to build new prisons (at about $50,000 per bed).

If electronic monitoring equipment is used, house arrest is not as cost effective. The equipment is currently quite expensive. For instance, Kentucky spent $32,000 for 20 electronic devices, and Albuquerque, New Mexico, paid $100,000 for its first 25 monitor/bracelet sets.

However, manufacturers argue that such figures are misleading, since they reflect high "startup" costs that will decline as usage increases. Manufacturers also say that it is misleading to look only at the system's direct costs. Most house arrest programs require the offender to be employed. Such offenders continue to pay taxes and may be required to make restitution payments and pay probation supervision fees. Moreover, offenders can continue to support their families, saving the state possible welfare expenditures.

We do not now have sufficient information to compute the actual costs of house arrest programs. Nationwide figures show that house arrest programs without electronic monitoring cost anywhere from $1,500 to $7,000 per offender per year. House arrest with electronic monitoring costs $2,500 to $8,000. But these operational costs do not include the cost of processing any recidivists. According to recent estimates, the cost averages $2,500 for each recidivist rearrested and processed.

At this point we know that administering house arrest costs less than confinement in either state or local facilities, but the indirect costs that such programs entail have not been quantified.

Social benefits. Most advocates believe that house arrest programs are "socially cost effective." A defendant who had a job before he was convicted can keep it during and after house arrest. By preventing the breakup of the family and family networks, house arrest can also prevent psychological and physical disruptions that may have lasting effects on the offender, the spouse, the children, and even the next generation.

Furthermore, house arrest has none of the corrupting or stigmatizing effects associated with prison. This is a particular advantage for first offenders who may not yet be committed to a life of crime. They will not come under the influence of career criminals or be exposed to the physical or sexual assaults of prison inmates. Keeping offenders from the criminogenic effects of prison was one of the major reasons Oregon and Kentucky officials devised house arrest programs for drunken drivers.

Most of those operating house arrest programs view the foregoing as an important advantage. While prisons are not designed to scar inmates psychologically, many believe this happens. If it does, avoiding this psychological damage is a desirable social goal, especially for young, inexperienced, or first-time offenders. If we could devise a sentence that would make such emotional scars less likely or less common without compromising public safety, surely it would be preferred.

Responsiveness to local and offender needs. House arrest is flexible. It can be used as a sole sanction or as part of a package of sentencing conditions. It can be used at almost any point in the criminal justice process - as a diversion before an offender experiences any jail time, after a short term in jail, after a prison term (usually joined with work release), or as a condition for probation or parole.

House arrest can also be used to cover particular times of the day, or particular types of offenders. This is an attractive option for controlling offenders who are situationally dangerous. The drunk driver, the alcoholic who becomes assaultive in a bar, and the addict may all be likely candidates for house arrest.

House arrest also has potential applications for offenders with special needs - such as the terminally ill and the mentally retarded. For example, Connecticut is exploring use of house arrest for pregnant offenders. Another program includes an AIDS victim whose needs cannot be met in jail. Several states are developing programs for elderly offenders.

Implementation ease and timeliness. Pressure to reduce prison crowding is immediate, and jurisdictions are looking for alternatives that can be developed quickly. Because house arrest sentencing requires no new facilities and can use existing probation personnel, it is one of the easier programs to implement (particularly if no electronic monitoring devices are used.) House arrest programs, for the most part, do not require legislative changes and can be set up by administrative decisions. The conditions of house arrest are usually easy to communicate, facilitating implementation.

Policymakers also like the notion that the offender can be removed from the community quickly, at the first sign of misbehavior. House arrestees are usually on some type of suspended jail or prison sentence; the suspension can be revoked quickly and the offenders incarcerated if they fail to meet house arrest requirements. The "suspended sentence" status makes the process of revocation much simpler and faster than if the offender were simply on probation or parole.

Advocates of house arrest believe that the sentence is worth trying because it is less intrusive and less expensive than prison. But house arrest is not without critics.

Disadvantages of House Arrest

House arrest may widen the net of social control. Non-violent and low-risk offenders are prime candidates for house arrest; these offenders are least likely to have been sentenced to prison in the first place. As judges become more familiar with house arrest, they may well use it for defendants who would normally have been sentenced to routine probation with nominal supervision. Hence, a sentence originally intended to reduce crowding might instead "widen the net" of social control without reducing prison and jail populations significantly. Alternatively, house arrest may be used as an "add on" to the sentence the judge would normally have imposed, thus lengthening the total time the offender is under criminal sanction.

In the long run, "widening of the net" with house arrest programs is a realistic possibility. If we begin to regard homes as potential prisons, capacity is, for all practical purposes, unlimited. Such possibilities have widespread social implications.

Alvin Bronstein, head of the American Civil Liberties Union's National Prison Project says: "We should be looking for ways to place fewer controls on minor offenders, not more. If these devices are used as alternatives to jail, then maybe there's no problem with them. If you're sending the same people to jail and putting people who otherwise would be on probation on them it's a misuse. We're cautiously concerned."

If house arrest does widen the net of social control, it will have increased, rather than decreased, the total cost of criminal sanctions. However, some net-widening may be appropriate in some jurisdictions. One cannot assume that all offenders - particularly felons being supervised by overworked probation staff - are receiving supervision commensurate with the risk they pose to the community.

House arrest may narrow the net of social control. Some critics of house arrest are concerned that a sentence of house arrest is not sufficiently severe to constitute an appropriate punishment for many crimes. In many states, house arrest programs are intended for use as punishment in lieu of prison. If that intention is realized, some critics argue that the result will be, in effect, to depreciate the seriousness with which crimes are treated. Mothers Against Drunk Driving (MADD) has been particularly critical of house arrest for drunk drivers and sees such sentencing as a step backward for efforts to stiffen penalties. Drunk drivers are frequent house arrest participants. The lessened severity of punishment, in theory, may reduce the criminal law's deterrent effects. In addition, critics could argue, because some offenders will commit new offenses while on house arrest, the crime preventive effects that prison sentences achieve by incapacitation will not take place.

House arrest focuses primarily on offender surveillance. Some worry that house arrest, particularly if implemented with electronic devices, will strike the final blow to the rehabilitative ideal. As probation officers focus more heavily on surveillance of offenders, human contact is reduced and the potential for helping offenders is diminished. Most probation officers monitoring house arrest participants admit they have little time for counseling.

Although the research evidence does not urge optimism about the rehabilitative effects of probation officers' efforts, many believe that it is important that humane efforts be made, and be seen to be made, to reform offenders.

While it is true that counseling is reduced in most house arrest programs, employment or enrollment in school is often required. It could be argued that having a job or a high school diploma may do more than counseling to reduce the long-term prospects of recidivism.

House arrest is intrusive and possibly illegal. Some critics object to the state's presence in individuals' homes, long regarded as the one place where privacy is guaranteed and government intrusion is severely restricted by law. The use of electronic devices raises the fear that we may be headed toward the type of society described in George Orwells' book, 1984. In 1984, citizens' language and movement are strictly monitored and used as tools of government oppression.

But house arrest, with or without electronics, is quite different from the 1984 scenario. House arrest is used as a criminal sentence and is imposed on offenders only after they have been legally convicted. It is imposed with full consent of the participant. And, indeed, its intent is to be used as an alternative to incarceration. Surely a prison cell is more intrusive than any house arrest program can be.

There have been no formal challenges to date concerning the legality of house arrest. But legal analyses prepared by officials in Utah and Florida conclude that house arrest, with or without electronic monitoring, will withstand constitutional challenges as long as it is imposed to protect society or rehabilitate the offender, and the conditions set forth are clear, reasonable, and constitutional.

Race and class bias may enter into participant selection. Because house arrest programs are in the experimental stage, administrators are extremely cautious in selecting participants. Most programs limit participation to offenders convicted of property crimes, who have minor criminal records and no history of drug abuse. Such strict screening makes it difficult to identify eligible offenders, and those who are eligible tend disproportionately to be white-collar offenders.

American Civil Liberties Union officials say the programs also discriminate against the young and the poor because, to qualify for most house arrest programs, a person generally needs to be able to pay a supervision fee, typically $15 to $50 a month. If electronic monitors are used, the fee is higher, and the offender needs to have a home and a telephone. Persons without these resources may have no alternative but prison.

This situation raises possible "equal protection" concerns and concerns about overall fairness. Some programs have instituted sliding scale fee schedules, and a few others provide telephones for offenders who do not have them.

House arrest compromises public safety. Some critics seriously question whether house arrest programs can adequately protect the public. Regardless of stringency, most advocates admit that house arrest cannot guarantee crime-free living, since the sanction relies for the most part on the offender's willingness to comply. Can a criminal really be trusted to refrain from further crime if allowed to remain in his home?

To date, both recidivism and escape rates for house arrest participants are quite low. Generally less than 25 percent of participants fail to complete the programs successfully. But the low rates result, in part, from such programs' selection of good risks. Eligibility requirements often exclude drug addicts and violent offenders. Profiles of house arrestees show that most have been convicted of relatively minor offenses. Such offenders have lower than normal recidivism rates, with or without the house arrest program. Without a controlled scientific experiment, it is impossible to know whether house arrest programs themselves or the characteristics of participants account for initial success. As house arrest sentencing becomes more widespread and is extended to other types of offenders, the public safety question will undoubtedly resurface.

On the Need to Proceed Cautiously

The evolution and performance of house arrest sentencing invite close scrutiny. Such sentencing represents a critical and potentially far-reaching experiment in U.S. sentencing policy. If successful, house arrest could provide a much needed "intermediate" form of punishment. If unsuccessful, house arrest could lead to more punitive and expensive sanctions for a wider spectrum of offenders. Which scenario proves true in the long run will depend on whether policy makers take the time to develop programs that reflect the needs and resources of local communities.

QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in-service training each year. The Jail Bulletin may be used to supplement in-service training if an officer studies the Bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspection.

SUBJECT: HOUSE ARREST NAME _____

NUMBER: 38 DATE _____

1. In Florida, it costs about $_____ a day to supervise a house arrest offender.

2. House arrest that is used to cover particular times of day may be useful for controlling offenders who are _____ dangerous.

3. Electronic bracelets are being used as a component of house arrest programs in at least _____ states.

4. The organization "Mothers Against Drunk Drivers" (MADD) strongly supports the use of house arrest to punish drunk drivers.

   _____ TRUE _____ FALSE

5. Recidivism and escape rates for house arrest participates are quite low.

   _____ TRUE _____ FALSE

CREDIT: 1/2 HOUR CREDIT FOR JAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.

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SUBJECT: HOUSE ARREST NAME _____

NUMBER: 38 DATE _____

1. In Florida, it costs about $ 3.00 a day to supervise a house arrest offender.

2. House arrest that is used to cover particular times of day may be useful for controlling offenders who are SITUATIONALLY dangerous.

3. Electronic bracelets are being used as a component of house arrest programs in at least 20 states.

4. The organization "Mothers Against Drunk Drivers" (MADD) strongly supports the use of house arrest to punish drunk drivers.

   _____ TRUE XX FALSE

5. Recidivism and escape rates for house arrest participates are quite low.

   XX TRUE _____ FALSE

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