

# No More Shackles

Ten Arguments Against Pretrial Electronic Monitoring



*a report for Challenging E-Carceration and the [#NoDigitalPrisons](#) campaign*

**MediaJustice** ≡



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*Cover photo by Chicago Community Bail Fund.*

Read our 2018 report, "[No More Shackles: Why We Must End the Use of Electronic Monitors for People on Parole.](#)"



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# No More Shackles: Ten Arguments Against Pretrial Electronic Monitoring

This report grows out of years of research and campaign work around the issue of electronic monitoring. Our efforts have consistently focused on the idea that electronic monitoring (EM) is not an alternative TO incarceration but an alternative FORM of incarceration.

In that vein, we have argued against accepting EM as part of efforts to decarcerate. In the course of making these arguments we have encountered considerable push back, both from those who claim to support criminal justice reform and those who continue to advocate a punitive approach. The contents of this report summarize the arguments that have been used effectively when electronic monitoring is a source of contention. We offer this report and our future research as resources for people on the ground struggling to transform our criminal legal system and advance the struggle for social and racial justice more broadly.



The most common form of electronic monitoring is the ankle monitor. At any given moment, there are about 300,000 on ankle monitors in the United States.

## Background

On any given day, over 600,000 people sit in local jails.<sup>1</sup> The overwhelming majority of these individuals are poor. They don't have the money needed to pay the cash bail which would free them until the resolution of their case. **This reality completely contradicts a supposed fundamental legal principle in the United States: innocent until proven guilty.**

Jail impacts marginalized and oppressed people most severely.<sup>2</sup> Black people are four times more likely than whites to land in jail.<sup>3</sup> People with mental health issues are also disproportionately impacted and four to six times more likely to be in jail than those without such conditions.

<sup>1</sup> [Mass Incarceration: The Whole Pie 2019, Prison Policy Initiative](#)  
<sup>2, 3</sup> [Incarceration's Front Door: The Misuse of Jails in America, VERA](#)

Keeping people in jail has at least two important consequences:

**Denial of Justice:** A person who remains in jail until the courts resolve their case is far more likely to be convicted than one who is released pretrial.<sup>4</sup> If convicted, they are likely to receive longer sentences. Moreover, people often will plead guilty and accept a conviction just to get out of jail, even if they are innocent.<sup>5</sup>

**Daily Life:** A short stay in jail can have devastating effects on a person's life.<sup>6</sup> They may lose their job, their accommodation or be forced to drop out of school. Time in jail can have particularly disastrous effects on children or other individuals for whom a person in jail is the primary caregiver or provider.

In response to this situation, activists and policy makers across the country have called for an end to cash bail.<sup>7,8</sup> Many have taken it further by pressing for the total elimination of pretrial detention.<sup>9</sup>

## The Debate Over Alternatives to Cash Bail

Those pushing for an end to cash bail have suggested many alternative measures to holding people in custody pretrial. But with or without cash bail, release often comes with non-financial conditions, such as drug testing, mandatory participation programs, reporting to a supervisory office, or being placed under a curfew. While often framed as supportive “alternatives,” most of these measures are actually highly punitive. In our research we have found electronic monitoring (EM) typically to be the most punitive of all pretrial release conditions.

Proponents of EM argue that it is cheaper than jail, that it ensures public safety. Those who favor monitors even try to create a favorable image of EM by referring to these devices as “ankle bracelets,” even though they



Photo courtesy of Chicago Community Bail Fund

<sup>4</sup> *"The Heavy Costs of High Bail," Journal of Legal Studies 45, no. 2*

<sup>5</sup> *"Not in it for Justice" report, Human Rights Watch*

<sup>6</sup> *"Why Three Days Count from a Defender's Perspective," pretrial.org*

<sup>7</sup> *National Bail Fund Network* <sup>8</sup> *Pretrial Justice Institute* <sup>9</sup> *National Bail Out*

are not jewelry.

By contrast, we refer to these devices as “**ankle shackles.**” Our research shows that electronic monitoring has potentially disastrous consequences for individuals on the monitor, for marginalized communities, and for the criminal legal system as a whole.

We base our arguments on the most important source of evidence available: the lived experience of those impacted by EM and of those who have worked with individuals or communities where monitoring is widely used. It is time policy makers, elected officials, and EM proponents fully recognize the importance of lived experience as evidence and give it the legitimacy it deserves.

### **Key terms: Bail, Bond, and Own Recognizance**

We often hear the words “**bail**” and “**bond**” used when we talk about money needed to release people from jail who have not been convicted. When such individuals are released without having to pay any cash or other deposit, they are said to be released on their **own recognizance**. They are taken at their word that they will follow court orders. However, historically courts typically issued demands that people surrender some cash or property as a guarantee that they would show up for their appearances and follow the rules. In most courts this is referred to as bond or bail. In many states, this is privatized, i.e. put into the hands of bail bond companies. Under this arrangement the jailed person must pay 10% of the amount set by the court to the bail bond company. So, if a person’s bail or bond is set at \$20,000, they will have to give the company \$2,000. The company will then guarantee the rest to the court. The 10% usually becomes a fee to the bail bond company. The person on trial doesn’t get that money back regardless of the outcome of the case. In states where private bond companies are banned, the person on trial surrenders that 10% to the state. This money is supposed to be returned to the person once the proceedings are complete. But, quite frequently the money is not returned. Instead, all or part of it is applied to court fees and fines.

## We Reject Electronic Monitoring

We totally reject the use of electronic monitoring as a condition of pretrial release. We do not advocate for the use of EM in any pretrial situation. We do recognize, however, that in some cases electronic monitoring may be the only reasonable option for a person who is incarcerated. However, what may apply to an individual does not automatically apply when we fight for changes in laws, policies, and practice.

We need genuine alternatives: freedom from electronic shackles, an end to pretrial detention, and a reallocation of resources to support programs and organizations which contribute to building communities and enhancing social, racial, and gender justice.

In the meantime, we must have clear arguments to contest those who want to advance electronic monitoring, or what we also refer to as **e-carceration**. This report will present the supporting evidence and details of our arguments, outlining ten main reasons for opposing pretrial EM.

### Does Electronic Monitoring Save Money?

Proponents argue that EM saves money. To make their case, they typically cite the cost per day a county or city might pay to rent a device. These figures may range from \$5 to \$15 per day. They then compare that to the cost of a day in the local jail, likely between \$60 and \$120 a day. This calculation is deceptive. First, most jail costs do not change if a few people go out on monitors. A large part of jail budgets goes toward salaries, energy, maintenance, water, consumables and other services. These do not go down significantly unless staff complements are reduced, or a large portion of the jail is completely closed or demolished. Even costs like food and health care won't fall much, if at all, unless the populations drop by a large percentage. Second, running a monitoring program involves extra staff costs. This could mean extra administrators to manage the contract plus more probation staff. Monitoring people electronically requires extra supervision due to frequent technical failures, false alarms, and parsing the enormous amount of data generated by GPS devices. So while there may be savings, they are often purposely over-estimated to promote the use of EM.



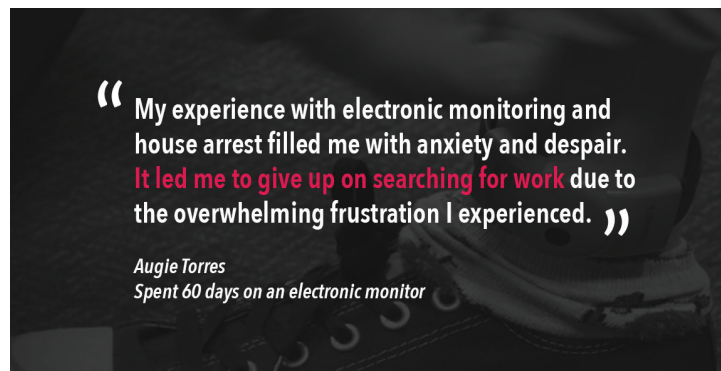
# Ten Arguments Against the Use of Pretrial Electronic Monitoring

1. Monitors restrict a person's ability to earn income.
2. Monitors reduce a person's access to legal resources and due process.
3. Monitors unfairly punish family members and other loved ones.
4. Monitors can negatively impact a person's health.
5. Monitors limit a person's participation in parenting and caregiving.
6. Monitors increase the risk of domestic violence and conflict.
7. Monitors heighten racial disparities in the system.
8. Monitors often come with user fees that squeeze money out of poor people.
9. Monitors intensify surveillance.
10. Monitors do not improve court appearance rates.

## Argument One: Monitors Restrict a Person's Ability to Earn Income

One of the promises of pretrial monitoring is the opportunity to continue working and contribute to household income. Yet, when people are released from jail on a monitor, they inevitably land on house arrest. This means they must get permission ahead of time from authorities (a judge or a probation officer) to leave the house. While this seems like a simple process, people often find it difficult to get in touch with those authorities. Even when they are able to communicate with authorities, requests for movement are often denied.

To fully understand how this impacts employment, we need to consider the limited opportunities available to most people on pretrial release. Individuals on a monitor predominately come from poor communities. This often limits employment opportunities to part-time, low-wage jobs. Such positions commonly come with unpredictable working hours, unplanned overtime, and calls to work or change shifts on short notice. These situations can be virtually impossible to negotiate with electronic monitoring authorities.



Furthermore, many EM supervisors refuse to allow people to take jobs which are not at a fixed location, claiming such jobs make it difficult to keep track of their clients. But the jobs that require mobility are often the main employment opportunities for people on pretrial release: delivery, house cleaning, gardening, construction, home healthcare, and driving. Authorities also argue against individuals working in warehouses, high-rise buildings, or concrete parking garages where EM signals often cannot be picked up.

Monitored individuals face difficult challenges even when looking for work, because job searches often involve short-notice requests to attend interviews or orientation sessions. Moreover, pretrial supervisors sometimes phone potential employers to verify their clients have these appointments. Few employ-

ers will view a potential hire in a positive light if they are informed before the interview that the person is under court supervision.

In their report on pretrial justice in Illinois' Cook County,<sup>10</sup> the Chicago Community Bond Fund presented the case of Jarrett, a 21-year-old Black man released on pretrial EM. At the time of his arrest, he was working a swing shift at UPS, but the curfew imposed by the court's Pretrial Services Division began at 11 p.m., before his shift ended. To make matters worse, the pretrial authorities believed he lived with his grandparents when he actually lived with his parents. After authorities failed to find Jarrett at his grandparents' house during a series of 3 a.m. visits, they placed him on 24-hour house arrest with no outside movement. He lost his job.

The difficulties in getting permission to leave the house for employment-related matters are magnified by the stigma of wearing the device. Employers may shy away from hiring someone with a monitor, especially in a job that requires frequent interaction with the public. Managers and owners often fear the device may prompt suspicion from customers. Moreover, some devices sound alarms or produce recorded voices that sound like robo calls, adding yet another negative dimension to employing someone on a monitor.

### **The Ripple Effect of Pretrial EM: Jerry Freeman's Story**

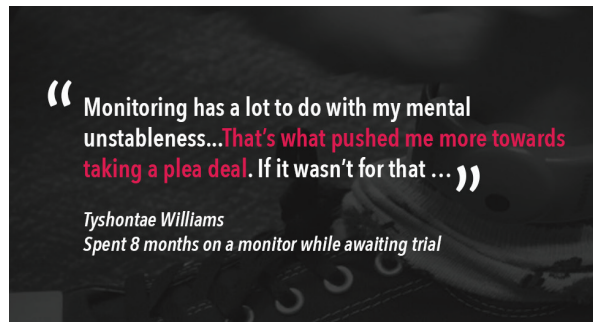
Being on a monitor has ripple effects across a person's life. Jerry Freeman is a good example. He owned a tow truck business and a car repair garage in Chicago when he was arrested. He was able to post bond on the condition he wear an ankle monitor. His 7 p.m. EM curfew blocked him from responding to most tow truck calls which came late at night. Most of his tow job referrals came from an agency which rated their vendors on the frequency with which they responded to calls. Once Jerry's EM curfew kicked in, he had to refuse the bulk of the calls that came in. Gradually his rating with the agency plummeted and the calls stopped coming. The fall in income meant he had to fire his private attorney and opt for a public defender.

His EM-related problems were further compounded when his partner had a baby and the monitoring authorities refused to let him attend the childbirth. He says they told him that they had no proof the child was his. This case demonstrates how the restrictions of electronic monitoring can have multiple effects: reducing income, undermining the capacity to take care of a partner and child, and negatively impacting a person's legal defense.

## Argument Two: Monitors Reduce a Person's Access to Legal Resources and Due Process

Some say that electronic monitoring enables people who are released from jail to more effectively contest their case. They say being free on a monitor allows people to speak more freely to their attorneys and to assist in gathering evidence. While being on a monitor may offer some opportunities not available to a person who remains in jail, EM restrictions place serious limitations on that person's access to legal resources and due process. In fact, several aspects of EM regimes mimic being in jail, and often pressure people into accepting unwanted plea agreements.

Lavette Mayes finally agreed after four months on EM to accept a plea bargain. She stressed the influence electronic monitoring had on her decision. "If EM had given me more movement, I probably would have fought the case... [But] my kids were not getting the healing that they needed," she said.



Tyshontae Williams spent eight months on a monitor while awaiting trial in New Haven, Connecticut. Like Mayes, he felt the stress of the monitoring regime: "Monitoring has a lot to do with my mental unstableness. ... That's what pushed me more towards taking a plea deal. If it wasn't for that ..."

Williams, who was only let out of the house for work or school, said his supervisor was extremely strict, and there were a lot of "trip wires"—rules and regulations he could easily violate that would lead to him back to jail. "I felt like he was plotting my downfall," Williams said.

"George" spent six months in Cook County jail, followed by three months of EM under 24-hour house arrest. His monitoring regime was part of the \$50-a-month package for which the Pretrial Services Division billed him every month. He was ultimately acquitted, but his fees were not refunded and nothing could get him those six months of jail time and three months of house

arrest back. In his role as a lawyer, Emmanuel Andre often sees this happening to his clients.

“I am having people lie in court” he said, by pleading guilty to crimes they didn’t do just to bring relief from the monitor.” One person we interviewed in Chicago referred to the monitor as a “pry bar” that prosecutors used to coerce people into accepting plea bargains.

The restrictions of electronic monitoring provide many opportunities for an individual to commit violations, what Tyshontae Williams referred to as “trip wires”—returning home late, technical failures of the device, electricity black-outs, responding to family or healthcare emergencies when there is no time to get permission for movement. These violations could land the person back in jail, or they could be entered into their court record. When the individual reaches the point of sentencing or plea-bargaining, any EM violations can have a negative impact on their assessment and ultimately disposition.

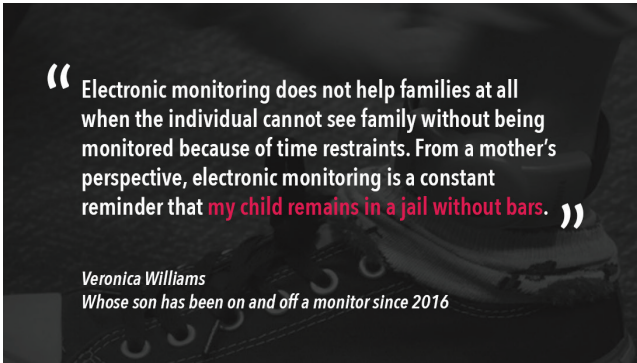
### **Transphobia and Pretrial EM: Rashanti McShane’s Story**

In December of 2017, Rashanti Mcshane was involved in a fight outside a Chicago club. Rashanti, a Black transgender woman, called the incident a “transphobic” attack by three women. When police arrived, only Rashanti was arrested and charged with three counts of felony aggravated battery. Police locked her up in the Cook County Men’s Jail. A friend paid her \$100 bail after two days and Rashanti was placed on a monitor. She said authorities soon turned her house into a “living hell.” They refused to call her by her legal name, instead reverting back to what appears on her birth certificate. Despite frequent calls on her behalf from her attorney, Lark Mulligan, Rashanti could not get out of the house for over a month to get her daily HIV medicine. Rashanti says she was rarely allowed out even to buy food. In her view, authorities were trying to kill her in three ways: denying access to meds, cutting off her food supply and plunging her into a deep depression. At one point she told Mulligan, “I have to get off this monitor as soon as possible or else I am going to die.” Mulligan noted that even as Rashanti’s lawyer, when she tried to ask for movement for her client authorities alleged that she wasn’t an attorney but an impostor. After nine and a half months, Rashanti pleaded guilty to a misdemeanor and was sentenced to probation with no electronic monitoring. Her case is a classic example of how the conditions of house arrest can have ripple effects on a person’s health, their mental state, and place pressure on them to accept a plea bargain. This pressure is even more extreme for transgender women who face possible incarceration in men’s facilities with high rates of transphobic abuse.

## Argument Three: Monitors Unfairly Punish Family Members and Other Loved Ones

Restrictions of movement often have a serious impact on family members and other loved ones, particularly those who live in the same household as the person on a device. In some cases, rules mean family members must assume responsibilities for tasks such as laundry, shopping, banking, and car maintenance. Monitoring regulations in Northwest Ohio only allow a person to leave the house to do laundry or shopping “if no other person in the household can provide this service.”<sup>11</sup>

In addition, when a person who is on a monitor cannot work to their full capacity, family members must either shoulder those financial responsibilities or cut back on their spending in order to compensate. In Cook County, some people released on pretrial monitors are not allowed out of the house for any reason. One person reported he lived alone in Chicago in a multi-story apartment building. His father, who lived nearby, did his food shopping but was not able to climb the stairs to his son’s apartment while carrying groceries. The solution they worked out was for the son to drop a rope down to the sidewalk and haul the bags up through his window.



“ Electronic monitoring does not help families at all when the individual cannot see family without being monitored because of time restraints. From a mother’s perspective, electronic monitoring is a constant reminder that my child remains in a jail without bars. ”

*Veronica Williams  
Whose son has been on and off a monitor since 2016*

Rules of release also may impose serious restrictions on household members. Frequently these include a ban on alcohol and gun possession, as well as making the home open to unannounced searches at any time of the night or day. Some devices also require a landline telephone which is an additional expense and often an inconvenience for the householder.

In many jurisdictions, people with monitors are not allowed to live in public housing or in a household with someone who is on parole. This may force family members to make difficult choices about who stays and who goes. Alternatively, they may consider breaking the housing regulations which can lead to

<sup>11</sup> [CORRECTIONS.CENTER.OF.NORTHWEST.OHIO.STRYKER.OHIO.POLICY.AND.PROCEDURES](#)

eviction or prosecution. People without houses have extra complications with EM. In some jurisdictions, a house is a requirement for EM. In other places, individuals are forced by circumstance to move from one residence to another. This can create complications if rules require them to report all changes of address. For devices which require being plugged into an outlet every day, being without a home means a person may have to plug in at a public place like a fast food restaurant or college campus.

### Argument Four: Monitors Can Negatively Impact a Person's Health

In addition to the psychological stress of being on house arrest with a monitor, restrictions on movement can have major health implications. For example, monitoring can make it difficult to respond to a healthcare emergency. In situations where individuals have a heart attack, a stroke, an impending diabetic coma or an appendicitis attack, the person under monitoring may not have time or not be able to communicate the details of their emergency to those responsible for their monitoring regime.

Medical restrictions can be much more complicated than this. For example, people on electronic monitors may not be able to undergo certain medical procedures, such as MRIs, X-Rays and CT scans, without removing the monitor. In many instances, that permission is not granted.

Gaining permission for routine doctor appointments can be trying as well. Some EM authorities require advance notice from a doctor's office to confirm the need for movement. We have encountered cases where EM supervisors demand a doctor use archaic technology like fax machines to confirm an appointment. Such demands often lead medical practitioners to simply opt out of providing services to those individuals. People also complain that when they are released and are on medication, they are not allowed movement to go to a doctor or pharmacy to get their prescriptions. Such delays may have especially dire consequences for individuals who require medication for mental health issues. For them, being



Photo by Jérémy-Günther-Heinz Jähnck  
Bracelet électronique / Wikimedia Commons

under house arrest is an additional source of stress.

For people who are pregnant, EM adds new complications, especially given the unpredictability of childbirth. At least one individual has reported having to deliver her baby in the hospital with the device on her ankle. Moreover, with anti-abortion legislation in states like Alabama and Missouri, a tracking device may link a person to an underground provider, posing threats to both the pregnant person and the provider.

Additionally, a number of people report rashes and welts due to exposure to the monitor. Though no extensive research has been done to date on this, stories from many individuals provide a strong hint that the device itself, its electronic components, or how it is installed can have negative health impacts on some people. Some women have complained that being on a monitor affects their menstrual cycle.

## Argument Five: Monitors Limit a Person's Participation In Parenting and Caregiving

Another promise of the monitor is the opportunity to perform family and care-giving duties. However, rules often make care-giving difficult. This has serious gender and racial implications.

Much of the underlying assumption of house arrest holds that those on a monitor live in comfortable nuclear family households, with access to a full refrigerator, multiple cars, cable TV, unlimited Wi-Fi, and high limit credit cards. However, this is not the typical reality. Studies show that people living on low incomes are far more likely to be incarcerated than those with higher incomes.<sup>12</sup> What the Ella Baker Center for Human Rights has shown for mass incarceration likely also applies to EM, the impacts “are felt most deeply by women, low-income families, and communities of color.”<sup>13</sup>

If a single parent lands on a monitor, they will find many challenges in looking after children who live in their home. Walking children to school, attending school meetings, delivering children to other caregivers or clinics all require permission from a supervisor. Some devices have a very limiting perimeter for

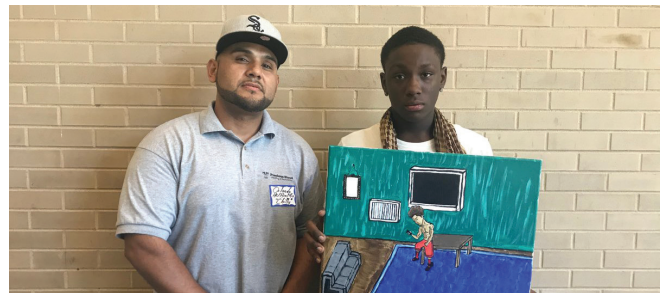
<sup>12</sup> [“Want to stay out of prison? Choose rich parents.” - Dylan Matthews, Vox.com](#)

<sup>13</sup> [Who Pays? The True Cost of Incarceration on Families \(2015\) - Ella Baker Center, Forward Together, Research Action Design](#)



moving outside the house. Even going out the front door to supervise children or escort them to a waiting car can violate EM rules. Moreover, many parents don't live in the same household as their children. Being under house arrest can become a major impediment to just visiting a child let alone carrying out other parenting responsibilities.

Lavette Mayes, a Black single mother who spent 121 days on a monitor awaiting resolution of her case in Chicago, grew frustrated by EM rules which kept her from looking after a son who has special needs. Authorities refused her movement on his first day of school and later interrupted a session she had with a therapist. When her son wanted to learn how to ride a bike, she couldn't leave the steps of her property to supervise him. In the end, she had to get permission every day to escort her son to school. On some days, she could not get through to the EM authorities and the child had to stay at home.



Charlie Parrish holding his painting next to Orlando Mayorga, who works with youth in Chicago and has been on a monitor himself

Perhaps the most difficult challenges come from making arrangements to respond to emergencies. If a family member is involved in a car accident or has a medical crisis outside the household, getting permission to respond can be very difficult. A monitored person then faces the no-win dilemma of either withholding their help in order to follow the EM rules or acting immediately to provide support for a family member in crisis, knowing that leaving the house without permission could result in re-incarceration.

Ashleigh Carter spent eight months on a monitor awaiting trial in Tennessee. She had an eight-month old daughter at the time. She was only allowed out of the house to go to her job at Starbucks. Her mother ended up coming all the way from California to stay with her to help keep up with the domestic responsibilities. In an interview with *Challenging E-Carceration*, Carter recalled the special tension that emerged when the baby got sick. She shared how on one occasion she stayed up all night with the baby when the child had a fever, but she refused to run the risk of a trip to the hospital. She said she was “shit-scared to take her to the hospital and get arrested.”

## The Paul Manafort Effect: Electronic Monitoring and White Privilege

While most people on pretrial monitors live in poor, under-resourced households, many rich people accused of crimes use EM as a privilege — a way to avoid having to be incarcerated. Financial magnate Dominic Strauss-Kahn, who was released from New York’s Rikers Island jail to home confinement with EM, spent his house arrest in a Manhattan townhouse with five bathrooms.<sup>14</sup> He paid \$200,000 a month for the monitoring and security in those digs.

Paul Manafort, who was on a monitor awaiting trial on Federal and state charges related to Donald Trump’s campaign, is the real poster child for EM privilege. Free on a \$10 million bail, he was allowed to travel back and forth between his two houses—one in Washington D.C. and one in Palm Beach Florida. He had a curfew from 11 p.m. to 7 a.m. while on his device.

<sup>14</sup> [“Get Out of Jail Unfree” - William Saletan, Slate.com](#)

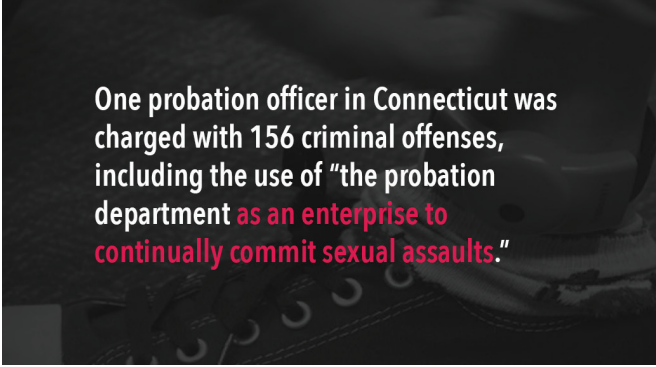
## Argument Six: Monitors Increase the Risk of Domestic Violence and Conflict

Staff who work in programs that serve people on monitors have reported that individuals are often under house arrest in a residence where they are vulnerable. Emmanuel Andre, Executive Director of Chicago’s Northside Transformative Law Center, said these actions are “forcing people to go back to a place where there is harm.” Father David Kelly, Director of Precious Blood Ministry of Reconciliation’s restorative justice program, refers to these places as “toxic.”

Court assumptions that house arrest equals a safe space ignore the likelihood that people who are involved in violent or abusive relationships may be confined to the very place where they have been abused. This has serious gendered implications. In a 2014 study, 86% of those in women’s jails reported having experienced sexual violence.<sup>15</sup> Yet house arrest rules prevent a person from fleeing a potential or existing conflict, imposing a different kind of fear in the household. Instead of offering a safe space away from a brick and mortar jail, the house arrest site can become a punitive cage, which may actually be far more dangerous.

<sup>15</sup> [Overlooked: Women and Jails in an Era of Reform, Vera Institute of Justice](#)

EM can amplify this contradiction when a supervisor or probation agent engages in sexual harassment or attempts to link lenient policies to sexual favors. For example, in Anchorage, Alaska, a probation officer was charged with sexual assault when she had sex with a client.<sup>16</sup>



One probation officer in Connecticut was charged with 156 criminal offenses, including the use of “the probation department as an enterprise to continually commit sexual assaults.”

Cases abound where probation officers have sexually assaulted or abused clients under their supervision.<sup>17,18</sup> One probation officer in Connecticut was charged with 156 criminal offenses, including the use of “the probation department as an enterprise to continually commit sexual assaults.”<sup>19</sup> A Florida probation officer allegedly traded sexual favors for releasing a client from probation early.<sup>20</sup> Another Florida woman actually video-taped her probation officer raping her and then reported it to authorities.<sup>21</sup>

Lark Milligan, a lawyer in Chicago who has represented many clients on EM, says LGBTQIA folks often report harassment from authorities while on EM. This may take the form of law enforcement showing up and gawking, or authorities responding to a minor technical problem with the device by sending a phalanx of police to investigate.

## Argument Seven: Monitors Heighten Racial Disparities in the System

Pretrial electronic monitoring takes place in the context of a criminal legal system steeped in racism. As Emmanuel Andre notes, “to disassociate this from EM’s legacy and history would be disingenuous.” Based on his years of experience as a youth justice lawyer, he has concluded that EM amounts to a “surveillance of poverty” that is implemented on people who are “98 or 99% poor, the vast majority of them youth of color.”

Part of that racism includes a failure to keep data that enables the tracking of racial disparity. Even the limited existing data reveals four things about the racial disparity in electronic monitoring:

16. [Anchorage Daily News](#)  
17. [VICE News](#)  
18. [Louisville Courier Journal](#)

19. [“Ex-Probation Officer Accused Of Sexually Assaulting Clients,” Hartford Courant](#)  
20. [“REPORT: State probation officer had sex with parolee,” WEAR-TV \(ABC\)](#)  
21. [“Fla. woman filmed parole officer raping her during home visit,” NY Daily News](#)

1. The population on EM tends to reflect the disparities in the criminal legal system as a whole. For example, in Cook County, where Black people represent 25% of the population, they constitute about 70% of the jail population and a similar percentage of those on pretrial EM.
2. Race often intersects with class, resulting in wealthy, high-profile white individuals (such as Charlie Sheen and former Trump campaign manager Paul Manafort) getting placed on electronic monitors with loose regulations instead of being incarcerated.
3. Policies and legislation for electronic monitoring often reflect race-based systems of classification. This could range from risk assessment tools that contain racial bias (see below), to policies of placing individuals with “gang histories” on monitors.<sup>22</sup> According to a national survey, more than 80% of individuals labeled as gang members are classified as Hispanic or Black.<sup>23</sup> By contrast, white supremacist or “white nationalist” groups are not typically classified as gangs.<sup>24</sup>
4. The recent increased number of asylum seekers from Central America, who are virtually all people of color, are being placed on EM at an astronomical rate. By contrast, those who arrive at airports via flights from Europe tend to not be subjected to electronic surveillance.

### **Risk Assessment Tools and Racial Bias**

Many jurisdictions use risk assessment tools to develop criteria to determine who is released from jail on an electronic monitor. These instruments use data to assign a risk level to individuals to determine whether they should be placed on a monitor, and if so, what the conditions of their monitoring program should be.

Risk assessment tools largely draw data from a person’s history in the criminal legal system. Data such as age at first arrest, previous history of incarceration, or past involvement in violence are commonly used. Yet these are all drawn from a system that disproportionately criminalizes people of color, making Black or brown individuals much more likely to appear “risky,” thus warranting the application of electronic monitors upon release.

22. *“Stanislaus soon will use tracking system for gang members, auto thieves.” The Modesto Bee*

23. [National Gang Center](#)

24. *“White nationalist groups are really street gangs, and law enforcement needs to treat them that way.” Salon.com*

## Argument Eight: Monitors Often Come With User Fees That Squeeze Money Out of Poor People

Local authorities are increasingly charging user fees for people on pretrial monitors. Even when individuals are released without having to pay cash bail, EM fees may end up costing far more than any court ordered bond. For some individuals, these fees can be financially debilitating, with ripple effects across people's lives.

Profiteering companies are often behind this. In California's Alameda County, four individuals brought a lawsuit against Leaders in Community Alternatives (LCA), a for-profit electronic-monitoring company, over the excessive costs of being on a monitor.<sup>25</sup> They alleged that EM fees, typically \$35



Photo courtesy of Chicago Community Bail Fund

per day, negatively impacted their family life, health and the welfare of their children. One of the plaintiffs, Robert Jackson, was serving a 120-day sentence when his wife, the main caregiver for their three children, died suddenly. The court gave Jackson a mercy release on EM, with weekly fees of \$250 a week—more than half of his weekly income. In order to keep up with EM payments he sold his car, gave up his apartment, and sent his children away to stay with various relatives. He said his actions were a response to repeated threats by LCA to return him to jail if he didn't pay his EM fees.

In other instances, potential corruption and profiteering from electronic monitoring may be linked to inappropriate policies. For example, in New Orleans, journalist Matt Sledge uncovered a scheme where judges had the responsibility of not only putting people on monitors but also deciding what EM provider would be used.<sup>26</sup> In one instance, Orleans Parish (La.) Criminal District Court Judge Paul Bonin apparently assigned people in his court to a company owned by one of his campaign contributors.

25. "Lawsuit Confronts Extortion of Prisoners by Electronic Monitoring Firm," *Truthout*

26. "In New Orleans, ankle monitors, fees, donations to judge raise concerns, watchdog says," *The New Orleans Advocate*

To make matters worse, a few large players control the electronic monitoring industry. These same firms are already deeply invested in the prison-industrial complex. The largest of these EM corporations, BI, is a subsidiary of the GEO Group, the world's largest private prison operator and a firm with a long history of abuse and ruthless profiteering. In addition to contracting with dozens of counties for pretrial EM, BI provides electronic monitoring for more than ten state prison systems and has a virtual monopoly on monitoring the nearly 50,000 immigrants who are on GPS devices under the control of Immigration and Customs Enforcement (ICE).<sup>27</sup> BI claims to have over 140,000 individuals on monitors in the US.<sup>28</sup> Their contracts to supervise immigrants alone have brought them over \$800 million in revenue.

### **The Ripple Effect of Pretrial EM: Kenny's Story**

Kenny was released on bond from Cook County in 2017. There was no mention of EM in court. A few days later he landed on EM with a 5 p.m. to 5 a.m. curfew on weekdays and 24 hours on weekends. He appealed to have his evening hours extended so he could work longer and place less burden on his mother with whom he shared a car. This was refused. Also, since his child lived several miles from where Kenny was staying, the curfew made visiting his son much more difficult. The restrictions also limited his ability to access doctors and treatment for his drug addiction. Ultimately, he was told none of his EM time would be credited as time served and he would have to pay a \$50 monthly fee for pretrial supervision. Hence, the monitor, which was only imposed on him after he was released on bond, had ripple effects through his life, impacting his relationship with his family, his income and his health.

## **Argument Nine: Monitors Intensify Surveillance**

Over 70% of electronic monitoring devices in use today are GPS-enabled.<sup>29</sup> This means they record the physical movement of individuals, typically in real time. This data is then stored in the cloud.

There is little regulation or knowledge about what happens to this data. Since four large companies, Amazon, Google, Microsoft and IBM control more than half of the world's cloud storage space, one of these mega-corporations most likely holds the keys to the EM data kingdom.<sup>30</sup> Most individuals on EM have landed in databases of the criminalized population before they were placed on

27. ["Ankle monitors for immigrants almost universally disliked," The Denver Post](#)

28. [The GEO Group, 2018 Annual Report](#)

29. ["Use of Electronic Offender-Tracking Devices Expands Sharply," Pew](#)

30. [Cloud market share 2018, Canalys](#)

an ankle shackle. This might have been due to a school suspension, a mental health episode, inclusion in family court proceedings, landing on Child Protections Service rolls, or a variety of other sources. All of these are areas where Black people and other people of color are disproportionately represented. Adding EM data to their already bulging files drives them deeper into the ranks of those being targeted for tracking by the state and the corporate world.

Being tracked in these databases may impact an individual's access to employment, housing, credit, education or other opportunities. Plus, location tracking helps contribute data to predictive policing. Placing individuals in certain localities connects them to the people and the activities that occur there, whether or not they have any involvement.

## Argument Ten: Monitors Do Not Improve Court Appearance Rates

Another key argument brought by those who favor pretrial electronic monitoring contends it will reduce the number of failures to appear for court appearances. Yet, there is no conclusive research that shows EM is effective at decreasing these absences. A study of local and national pretrial EM practices by the Illinois Criminal Justice Information Authority concluded that “little is known about the effectiveness of EM at pretrial.”<sup>31</sup> They cited a 2017 study of federal EM usage that showed no impact on failure to appear with the use of monitors.



An example of an electronic monitor being used in Chicago, IL. Courtesy of Chicago Community Bail Fund.

The Pretrial Justice Institute, in a 2018 briefing, suggested that more research is needed on this issue.<sup>32</sup> It also did not cite any work supporting a positive result for EM.

31. *An Examination of Illinois and National Pretrial Practices, Detention, and Reform Efforts*, ICJLA

32. *Electronic Monitoring: Proceed with Caution*, Pretrial Justice Institute

## The Fight Back

Many organizations have pushed back against the use of pretrial electronic monitoring. The member organizations of the [National Bail Fund Network](#) as well as the [The Bail Project](#) have posted cash bond for thousands of individuals across the country who couldn't afford their bond. They have worked to keep those they release off of monitors. The [National Bailout Collective](#), which focuses on paying cash bail for Black mothers, has also opposed the use of monitors. [The Pretrial Justice Institute](#), a leading voice for pretrial reform, has rejected employing electronic monitors as a condition of pretrial release.

## Conclusion

We have highlighted ten major reasons why we oppose the use of pretrial electronic monitoring. If you are new to the debate on EM, we hope our arguments will help you understand the need to resist this technology. If you are already fighting for the freedom of those in pretrial detention, we hope our report provides you with information and talking points to use in your struggles. If you or your jurisdiction are unable to eliminate or severely limit the use of pretrial electronic monitoring, we suggest three possible interim responses:

1. Gather and publicly share the stories of people placed on a monitor. From their experiences build a body of evidence showing how EM has disrupted their economic and personal lives, jeopardized their health, harmed their legal defenses and negatively impacted their lives in other ways.
2. Use the guidelines and the advice for lawyers documents that Challenging E-Carceration has prepared, available online, to reduce the harm done by EM and try to gain more freedom of movement for those under EM.<sup>32, 33</sup>
3. If you are located in an area where there is a community bond or bail fund, collaborate with them to help bring an end to money bail and pretrial detention. You can find directories of community bail funds through the National Bail Fund Network and The Bail Project.

These are three strategies for reducing the harm done by EM in the short term. In certain situations, these are the only effective options. However, in the long term let's push for freedom, not shackles of any sort.

33. [Guidelines for Respecting the Rights of Individuals on Electronic Monitors, MediaJustice](#)

34. [Practical Advice for Defense Attorneys with Clients Who May Be Placed on Electronic Monitoring, Electronic Frontier Foundation](#)



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