Legislative Audit Division

State of Montana

Report to the Legislature

December 2006

Performance Audit

Use of Electronic Supervision Technologies

Department of Corrections

Section 53-1-201, MCA, states the Montana Department of Corrections will use at maximum efficiency the resources of state government in a coordinated effort to develop and maintain comprehensive services and programs for adult offenders. This performance audit examines one aspect of those programs, the use of electronic supervision technologies.

The Department of Corrections has modified its statewide community supervision strategies and expanded the number of residential treatment beds available for offenders. However, the department has not formally pursued the full capability of electronic supervision as a standard supervision tool. Recommendations in this report address:

- **Developing a strategy for using electronic supervision technologies statewide as a standard supervision tool.**
- **Considering the cost-effectiveness of electronic supervision as another factor when evaluating offender placement needs.**
- **Seeking legislation to clarify whether the Department of Corrections has authority to grant DOC commitment inmates a conditional release to a community placement without Board of Pardons and Parole approval.**

Direct comments/inquiries to:
Legislative Audit Division
Room 160, State Capitol
PO Box 201705
Helena MT 59620-1705

06P-14

Help eliminate fraud, waste, and abuse in state government. Call the Fraud Hotline at 1-800-222-4446 statewide or 444-4446 in Helena.

PERFORMANCE AUDITS

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy. The audit work is conducted in accordance with audit standards set forth by the United States Government Accountability Office.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, mathematics, statistics, economics, political science, criminal justice, computer science, education, and biology.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE

Senator Joe Balyeat, Vice Chair	Representative Dee Brown
Senator John Brueggeman	Representative Hal Jacobson
Senator Jim Elliott	Representative Christine Kaufmann
Senator Dan Harrington	Representative Scott Mendenhall
Senator Lynda Moss	Representative John Musgrove, Chair
Senator Corey Stapleton	Representative Janna Taylor

LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor
Tori Hunthausen,
Chief Deputy Legislative Auditor

Deputy Legislative Auditors:
James Gillett
Jim Pellegrini

December 2006

The Legislative Audit Committee
of the Montana State Legislature:

Section 53-1-201, MCA, states the Montana Department of Corrections will use at maximum efficiency the resources of state government in a coordinated effort to develop and maintain comprehensive services and programs for adult felony offenders. This performance audit examines one aspect of those programs, the use of electronic supervision technologies.

The Department of Corrections has modified its statewide community supervision strategies and expanded the number of residential treatment beds available for offenders. However, the department has not formally pursued the full capability of electronic supervision as a standard supervision tool. This report contains recommendations for improving the use of electronic supervision technologies. The department's formal response to the recommendations is included at the end of the report.

We wish to express our appreciation to Department of Correction's personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Scott A. Seacat

Scott A. Seacat
Legislative Auditor

Room 160 · State Capitol Building · PO Box 201705 · Helena, MT· 59620-1705
Phone (406) 444-3122 · FAX (406) 444-9784 · E-Mail lad@mt.gov

Legislative Audit Division

Performance Audit

Use of Electronic Supervision Technologies

Department of Corrections

Members of the audit staff involved in this audit were Lisa Blanford and Kent Wilcox.

Table of Contents

List of Figures and Tables ii
Appointed and Administrative Officials iii
Report Summary S-1

Chapter I – Introduction 1
Introduction 1
Audit Objective, Methodology, and Scope 1
Findings and Report Organization 2

Chapter II – What is Electronic Supervision? 3
Electronic Supervision 3
Why Use Electronic Supervision? 4
What Type of Offenders Can Be Supervised on Electronic Supervision? 5
Types of Offenders Currently in Community Corrections Programs and Facilities 5

Chapter III – Department Use of Electronic Supervision 7
Introduction 7
Electronic Supervision Limited to Specific Programs 7
Not a Standard Supervision Tool 8
Developing an Overall Strategy for Electronic Supervision 9

Chapter IV – Costs-Benefits of Electronic Supervision 13
Introduction 13
Public Safety 13
Implementation and Operating Costs for Electronic Supervision 14
Operating Costs Would Increase 15
Department Could Reduce Costs or Avoid Some Costs with Electronic Supervision 16
Electronic Supervision May Benefit Some Offenders 19
Are There Barriers to More Effective Use of Electronic Supervision? 20
Department Should Seek Clarification of Its Authority to Transfer DOC Commitments in Prison to Community Programs 20
Management Memorandum 22
Area for Future Performance Audit 22

Department Response A-1
Department of Corrections A-3

List of Figures and Tables

Figures

Figure 1 Likely Electronic Supervision Population and 2006 Offender Distribution Populations 10

Tables

Table 1 Selection Criteria for Electronic Supervision..... 5
Table 2 Daily Rates for Electronic Supervision..... 15
Table 3 Comparative Analysis of Electronic Supervision and Residential Placement Costs 19

Appointed and Administrative Officials

Department of Corrections	Mike Ferriter, Director
	Pam Bunke, Administrator, Community Corrections Division
	Ron Alsbury, Chief, Probation and Parole Bureau, Community Corrections Division
Board of Pardons and Parole	Craig Thomas, Executive Director

Introduction

Section 53-1-201, MCA, states the department will use at maximum efficiency the resources of state government in a coordinated effort to develop and maintain comprehensive services and programs for adult offenders. Department goals and objectives include managing a diverse correctional population through the strategic use of department and contractor resources while improving public safety and security. This performance audit examined the Department of Corrections' (department) policy and objectives for current and future use of electronic supervision and whether changes to its use of electronic supervision technologies would increase or compromise public safety. We also examined the costs-benefits the department might realize from expanded use of electronic supervision.

Background

Electronic supervision, also commonly called electronic monitoring, refers to a wide array of electronic technologies ranging from voice-recognition systems to streamline offender reporting to global position systems capable of real-time offender tracking. Correctional agencies use electronic supervision to facilitate offender treatment and reentry to communities, to increase public safety, and to address prison over crowding or reduce costs.

The types of offenders considered for electronic supervision in communities are nonviolent offenders without serious criminal histories and who pose minimal public safety risks. Other selection criteria include offender willingness to comply with supervision requirements and whether placement in the community is in the public interest. Electronic supervision is generally not used for violent or sexual offenders except when these offenders have discharged their prison sentences and will be supervised in the community.

Department Use of Electronic Supervision

The department has primarily used electronic supervision as part of the Intensive Supervision Program. The department has also implemented pilot electronic supervision programs in select areas. However, the department has not formally explored the use of electronic supervision as a standard community supervision tool. Instead, the department has focused its resources on increasing

community-based residential placements and assessment and sanction programs.

Our analysis indicated the department has a population of offenders who might be supervised on electronic supervision without compromising public safety as an alternative to secure or residential correctional facilities and programs. ***We recommend the department develop a strategy for phasing-in and using electronic supervision technologies as a standard community supervision tool***.

Electronic Supervision and Public Safety

Based on the criteria established for an effective electronic supervision program of nonviolent offenders, we determined that there are two basic components necessary to help ensure such a program operates without compromising public safety. First, there must be a process for identifying and evaluating whether certain nonviolent offenders can be released to the community without compromising public safety. Second, there must be supervision strategies to identify potential or actual noncompliance with supervision standards and the ability to remove those offenders from Montana communities.

To examine these two components, we analyzed department data for 1,929 offenders committed to the department, placed in a residential placement or prison, and subsequently granted conditional releases to the community. Department data indicated 33 percent of the offenders were placed in or returned to prison for technical violations, which are violations of supervision standards and rules. However, only 2 percent, or 34 offenders, were returned to prison for new charges or convictions. The remaining 65 percent of the offenders either remain on community supervision or have since discharged their sentences.

We concluded the department has a process in place to identify and select higher risk nonviolent offenders who may be supervised in communities without compromising public safety. Also, we concluded the department's risk assessment processes and supervision efforts are capable of identifying and removing from

communities those offenders engaged in behaviors that are likely to pose a risk to public safety. Because electronic supervision allows even higher levels of supervision, an overall strategy for using electronic supervision should increase the department's ability to supervise higher risk offenders while protecting public safety.

Department Could Reduce or Avoid Some Costs with Electronic Supervision

We conducted a comparative cost-benefit analysis to determine whether using electronic supervision more extensively would be cost-beneficial to the department. Our analysis indicated operating costs for probation and parole supervision would increase due to impacts on probation and parole officer workload and equipment operation. We estimated the department would need approximately 1.0 FTE for every 28 offenders on electronic supervision for a year.

We also examined the number of offenders that might be served on electronic supervision, as well as the type of equipment needed. Department management estimated up to 300 offenders annually might be supervised on electronic supervision. Since it is difficult to accurately project the number of offenders that might be served, we based our analysis on more conservative estimates of up to 200 offenders serving 180 days on electronic supervision. We also assumed these offenders would otherwise be in custody or supervised at a higher supervision level. We estimate the department could realize cost savings, or avoid costs, ranging from approximately $47,000 to $2.1 million annually. Table 3 in the full report provides information on potential cost savings or avoidance based on different scenarios.

Interviews with department and contractor personnel indicate electronic supervision provides a structured support some offenders need to comply with supervision standards, thereby reducing the likelihood some offenders will be returned to prison. Additionally, offenders who remain in the community are more likely to support their families, to make restitution to victims, and to pay fines and court costs.

The department considers various factors when selecting the most appropriate placements for offenders. Public safety is the primary consideration, with other factors such as availability of treatment services also considered. ***Because of the potential cost savings or cost avoidance electronic supervision can provide, we recommend the department consider the cost effectiveness of electronic supervision when making offender placement decisions.***

Clarifying Department Authority to Transfer DOC Commitments in Prison to Community Programs

Existing statutes do not clearly defined whether the department or the Board of Pardons and Parole (board) has jurisdiction over DOC commitments placed in prison. In 2002, the department granted almost 300 nonviolent DOC commitments in prisons a conditional release in response to prison crowding issues. However, the board contends statute only authorizes the board to grant early releases for any person in prison. The department subsequently signed an agreement with the board and established policy that all offenders could obtain an early release from prison only when granted by the board.

Department policy and practice ensures an independent entity reviews and approves all DOC commitments early release decisions. However, it also restricts the department's ability to manage offender populations and costs by transferring these offenders to less costly and more appropriate placements when the department determines public safety would not be at risk. ***We recommend the department seek legislation clarifying whether the department has the authority to transfer DOC commitments from a prison to a community corrections program without Board of Pardons and Parole approval.***

Chapter I – Introduction

Introduction

Nationwide, correctional systems are using electronic supervision more extensively as part of efforts to manage inmate populations, reduce costs, and increase public safety. Electronic supervision refers to an array of technologies that enable correctional systems to obtain information about offender activities without direct observation by a probation and parole officer. The Legislative Audit Committee requested a performance audit of the Department of Corrections (department) to examine and evaluate the extent of the state's use of electronic supervision technologies to manage offenders in the custody of, or supervised by, the department.

Audit Objective, Methodology, and Scope

The audit objective was to assess and evaluate the department's strategies for and use of electronic supervision capabilities and technologies. To address this objective, we used the following approach. First we answered questions related to current use:

- What are the department's policy and objectives for current and future use of electronic supervision?
- Is the use of electronic supervision consistent with statute and the department objectives and/or policy?

If the potential exists for changes in the use of electronic supervision, then we would address other areas:

- Could department changes to its use of electronic supervision technologies increase or compromise public safety?
- What are the potential costs-benefits of any changes to the department's use of electronic supervision?

To address the objective and answer the questions, we:

- Reviewed state statute and department goals, objectives and strategies.
- Analyzed department offender, custody, and supervision information.
- Analyzed electronic supervision cost information.
- Reviewed use of electronic supervision in other states and by the federal corrections system.
- Interviewed correctional system stakeholders, including department personnel, a district court judge, pre-release

personnel, a deputy county attorney, an electronic supervision contractor, and the executive director of the Board of Pardons and Parole.

Audit scope was limited to examining adult nonviolent felony offender populations. We concentrated on nonviolent offenders because these individuals represent the best candidates for use of electronic supervision. We analyzed department information for fiscal years 2002 through 2006, which was the most current and complete information available.

Findings and Report Organization

Our analysis indicated the department has not fully utilized electronic supervision technologies. The remainder of the report discusses the following topics:

- Chapter II provides background information on electronic supervision including information on offender selection criteria.
- Chapter III discusses and assesses the department's current and future use of electronic supervision.
- Chapter IV examines impacts to public safety and provides a cost-benefit analysis related to the use of electronic supervision. Additionally, other areas for consideration are discussed that may be needed to improve the department's ability to use electronic supervision more efficiently and effectively.

Chapter II – What is Electronic Supervision?

Electronic Supervision

Electronic supervision, also commonly called electronic monitoring, refers to a wide array of technological tools that can enhance surveillance of offenders in the community. Technologies range from systems that use voice verification for basic surveillance and automated offender reporting to systems that provide real-time tracking of offender movements. The following list provides an overview of different electronic supervision technologies and common uses.

- Equipment-free systems. These systems do not require equipment for individual offenders. These systems commonly use voice-recognition or biometric (i.e., fingerprints or eye-scans) technologies to verify offenders' identities. These systems are most commonly used to streamline offender reporting. Some systems also use caller ID technology, and a probation and parole officer can require an offender to report from an approved phone number to verify the offender is at home, school, or work.
- Radio frequency systems. These systems are typically used to verify offenders comply with curfew or home arrest requirements. A transmitter is attached to the offender's wrist or ankle and a receiver is secured in the offender's residence. The system notifies the correctional agency if the offender is not within range of the receiver according to scheduled curfews. A receiver unit can also be placed in a victim's residence to alert a victim and law enforcement if the offender violates restraining orders. These systems may use either standard telephone lines or cellular telephone technology.
- Global positioning systems (GPS). These systems provide the most comprehensive offender surveillance and monitoring. Active systems provide real-time tracking of offender movements. Passive systems track offender locations for downloading at a later time. Commonly used to track sexual offenders, GPS systems also can verify offenders stay outside of exclusion zones such as schools or playgrounds.
- Alcohol detection systems. These systems can detect alcohol use and notify the correctional agency of non-compliance.

These systems may also include optional features or other technologies. Radio frequency systems may include mobile receivers that allow officers to verify offender attendance at work or

other scheduled activities without disrupting offenders, employers, or other persons. Radio frequency and GPS systems also are capable of detecting offender efforts to tamper with equipment.

Electronic supervision does not reduce the need for community-based treatment and services for offenders. Rather, it is intended to enhance officers' abilities to monitor offender activities by supplementing or replacing some time-consuming officer activities. Electronic supervision, however, can place additional demands on community-based programs and services.

Why Use Electronic Supervision?

Correctional agencies use electronic supervision for one or more reasons in the following list.

- Increase public safety. Electronic supervision allows correctional agencies to more closely monitor offender activities.
- Facilitate offender treatment and reentry to communities. Electronic supervision can be a useful component of treatment programs by helping offenders adjust to more structured lifestyles. Some systems can detect alcohol use and encourage offenders to avoid problematic situations.
- Provide behavioral incentives. Agencies may use electronic supervision as a behavioral incentive or sanction. Offenders who comply with program rules can be granted additional freedoms, while offenders who violate supervision conditions can face more restrictions.
- Increase victim safety. Correctional agencies can use electronic supervision systems to alert law enforcement and victims if domestic violence or sexual offenders approach a residence or location.
- Reduce prison crowding or reduce costs. Agencies can use electronic supervision for some offenders who otherwise might be in prison. Electronic supervision can be used to verify compliance with curfews without the cost of 24-hour staff supervision.
- Temporary placement. Electronic supervision can be used as an alternative to holding facilities for offenders pending or waiting for an opening in a community-based treatment program.

What Type of Offenders Can Be Supervised on Electronic Supervision?

Electronic supervision is not appropriate for all offenders. Generally, electronic supervision is used for lower risk offenders or when additional supervision is needed for higher risk offenders required to be released from prison. Correctional agencies implementing electronic supervision should have clear selection criteria according to a 2002 American Probation and Parole Association study. Selection criteria should include factors for inclusion and exclusion. Table 1 provides examples of criteria for including or excluding offenders from electronic supervision.

Table 1

Selection Criteria for Electronic Supervision

Examples of Inclusion Criteria	Examples of Exclusion Criteria
• Lack of serious criminal history	• Significant criminal history
• Willingness and motivation to comply with supervision requirements	• Current or prior violent or sexual offenses
• Pregnant offenders	• Inappropriate behavior in jail or prison
• Offender provides financial support to family	• Failure in previous community-based correctional programs
• Offender has medical needs that can be best managed in the community	• Offender will reside in community with victims
• Offender can receive treatment in the community	• Severe substance abuse or mental illness that limits an offender's ability to control behaviors
• Reasonable expectation of public safety	

Source: Compiled by the Legislative Audit Division from the American Probation and Parole Association.

Types of Offenders Currently in Community Corrections Programs and Facilities

There are four types of offenders currently placed in Montana's community corrections programs.

- Probationers. A district court judge can sentence an offender to probation as an alternative to prison. The Department of Corrections (department) supervises probationers according to conditions of supervision specified by the court. Only the court can revoke a probationary sentence.

- Parolees. The Board of Pardons and Parole (board) may grant eligible prison inmates an early release from prison. The department supervises parolees according to conditions set by the board. Only the board can revoke an offender's parole. Parole is commonly used as an incentive for good behavior in prison and to help transition inmates released into the community.
- Department of Corrections Commitments. A district court judge can commit a convicted offender to the department of corrections for placement in an appropriate facility or treatment program. These offenders are commonly referred to as Department of Corrections (DOC) commitments. The department has authority to place these offenders in any program unless an offender is placed in prison. By agreement with the board and department policy, only the board may grant a DOC commitment an early release from prison to a community corrections program.
- Inmates. Offenders sentenced to a prison term are classified as inmates. The board may require inmates successfully complete a community corrections program before granting paroles.

If a DOC commitment successfully completes a department placement in a community correction program, the department may grant the offender a conditional release. These offenders are supervised like probationers and parolees, but are still considered on inmate status. The department may revoke a conditional release for cause.

Chapter III – Department Use of Electronic Supervision

Introduction

Our first question was to identify the department's current use of and plans for using electronic supervision. Additionally, we examined whether the use of electronic supervision is consistent with statute and the Department of Corrections (department) goals and objectives.

The Community Corrections Division (division) within the department operates and contracts for a variety of community corrections services and programs for offenders. Programs range from traditional community supervision for probationers and parolees to residential treatment facilities. These programs are administered in six regions of the state.

The Probation and Parole Bureau (bureau) within the division manages the probation and parole program, which supervises almost 8,200 offenders, or approximately two-thirds the department's total offender population. These offenders live in communities throughout Montana. Electronic supervision is used for some offenders in some Montana community corrections settings.

Electronic Supervision Limited to Specific Programs

The department uses electronic supervision technologies primarily as a component of the Intensive Supervision Program (ISP). The Probation and Parole Bureau manages the six-month program. ISP officers have more contacts with and closer supervision of offenders. The ISP program also includes a radio-frequency electronic supervision component. Offenders are typically on electronic supervision for approximately two months. The bureau also uses ISP as a 90-day sanction for offenders who violate probation or parole supervision conditions, which may require the offender to be on electronic supervision.

The department has considered some additional limited uses of electronic supervision technologies. One region recently implemented a pilot program for felony DUI offenders that uses the

Secure Continuous Remote Alcohol Monitor (SCRAM). SCRAM detects alcohol use in a person's perspiration.

The department is also exploring voice recognition technology to streamline reporting procedures for low-risk offenders. The department is currently using this technology in two regions. The system calls offenders at their residences, verifies their identity, and asks a series of questions which are recorded for later review. A probation and parole technician uses the information to track and monitor offender activities. Any concerns or unusual responses are referred to the probation and parole officer for further action.

Not a Standard Supervision Tool

Our audit work indicates the department has not pursued electronic supervision as a standard supervision tool for probationers and parolees. The department relies primarily on officers to make direct contact with or surveil offenders. Department management indicated the department has focused its resources on expanding community-based residential and treatment facilities. The department has not actively developed an overall strategy for use of electronic supervision.

Section 53-1-201, MCA, states the department will use at maximum efficiency the resources of state government in a coordinated effort to develop and maintain comprehensive services and programs for adult offenders. Department goals and objectives include managing a diverse correctional population through the strategic use of department and contractor resources while improving public safety and security.

Department management stated the potential to increase the use of electronic supervision as a standard supervision strategy is consistent with its goals and objectives. Additionally, management recognized electronic supervision as a useful tool for improving the department's community supervision strategy, and helping it to fully realize its mandate of efficient and effective supervision.

Conclusion: Department use of electronic supervision has generally been limited to offenders in the Intensive Supervision Program or as part of a specialized regional pilot program. Additionally, the department has not actively developed an overall strategy for the use of electronic supervision as a standard supervision tool.

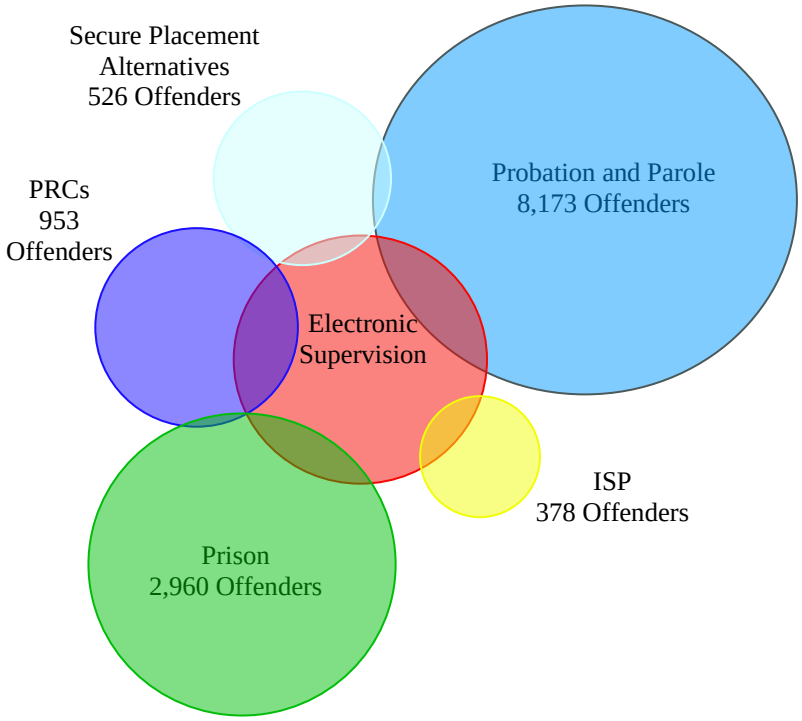
Developing an Overall Strategy for Electronic Supervision

Developing an overall strategy for the use of electronic supervision to function as a standard supervision tool would be a significant change to the department's existing community-based supervision strategies. The department has focused its resources on development of residential placement options. Although regions have explored expanding supervision strategies, the department has not pursued statewide changes to its supervision strategies.

As experienced in other states, an overall strategy for the use of electronic supervision will result in the identification of individuals in prison and community settings that are candidates for such supervision. It is difficult to accurately estimate how many offenders might be served on electronic supervision as an alternative to residential or prison placements. Offenders need to be individually assessed and considered for electronic supervision. Offenders would come from all sectors of the correctional system. Figure 1 provides information about the number of offenders in various department facilities and programs at the end of fiscal year 2006 and illustrates correctional system populations who might be served by electronic supervision.

Figure 1

Likely Electronic Supervision Population and 2006 Offender Distribution Populations



Source: Created by the Legislative Audit Division from Department of Corrections data.

As Figure 1 illustrates, the department could identify small subpopulations of offenders from each of the major population groups that could be supervised electronically. However, the number of offenders that could be on electronic supervision would vary depending on the characteristics of the offenders in those five populations.

Factors that will affect implementation, or that the department may have to address, include:

- Location. Urban and rural areas may face different obstacles to full implementation.

- Offender assessment tools. Offender assessment tools do not specifically address electronic supervision as a supervision strategy. The department would need to incorporate electronic supervision capabilities into its assessment process for selecting offenders.
- Caseload/workload formulas. The department's existing formulas for calculating probation and parole officer workload does not include impacts from electronic supervision technologies.

To effectively implement an electronic supervision standard statewide, an implementation strategy for phasing in electronic supervision in selected urban and rural communities would be the most effective strategy for identifying strengths and addressing obstacles or difficulties.

Recommendation #1
We recommend the Department of Corrections develop a formal strategy for the phase-in and use of electronic supervision technologies as a standard community supervision tool.

The next chapter addresses the public safety aspects and cost-benefit information related to using electronic supervision as a standard community supervision tool.

Chapter IV – Costs-Benefits of Electronic Supervision

Introduction

Since the potential exists for changes in the use of electronic supervision, we addressed the other two questions that were part of our initial audit objective.

- Could department changes to its use of electronic supervision technologies increase or compromise public safety?
- What are the potential costs and benefits of the change to the use of electronic supervision?

Public Safety

Based on the criteria established for an effective electronic supervision program of nonviolent offenders, we determined there are two basic components necessary to help ensure that using electronic supervision does not compromise public safety. The two components essential for supervising nonviolent but higher risk offenders in community supervision are:

1. A process for identifying and assessing whether certain nonviolent offenders can be placed in Montana communities without compromising public safety.
2. Supervision strategies to identify potential or actual offender noncompliance with supervision standards and is able to remove those offenders from Montana communities.

To test these two areas, we examined Department of Corrections (department) revocation data and outcomes of DOC commitments granted conditional releases between June 2002 and August 2006. We examined this data because effective department processes and supervision strategies in relation to public safety would result in both the identification of violators of supervision conditions and a low return rate to prison for new charges or convictions.

The following list summarizes department data.

- The department granted 1,929 DOC commitments conditional releases, including 393 DOC commitments from prison.
- Since 2002, 642 DOC commitments (33 percent) were placed in or returned to prison for technical violations, which are

violations of supervision conditions. Most common violations are alcohol and drug related or possession of a firearm.

- Only 34 offenders (2 percent) were returned to prison for new charges or convictions.
- The remaining offenders (65 percent) are on conditional release, serving the suspended portion of their sentence, or have discharged their entire sentence.

Based on our analyses of department data, we conclude the department has a process in place to identify and select higher risk nonviolent offenders who may be supervised in communities without compromising public safety. Also, we conclude the department's risk assessment processes and supervision efforts are capable of identifying and removing from communities those offenders engaged in behaviors that are likely to pose a risk to public safety.

With both of the components already in place and electronic supervision capable of providing even higher levels of supervision, an overall strategy for using electronic supervision should only increase the department's ability to supervise higher risk offenders while protecting public safety. The potential exists, as it does in other states, that the department could supervise more nonviolent offenders on community supervision rather than in residential facilities or prison.

Implementation and Operating Costs for Electronic Supervision

Our next question addresses the efficiency aspects of the department's programs and is related to identifying the costs for any potential expansion of the use of electronic supervision as the result of a statewide strategy. The first area we examined was the cost of implementation. Our examination indicates implementation costs would be relatively minimal because:

- The department can use its existing electronic supervision contracts.
- The department does not have to invest in any additional equipment. All equipment is leased from the contractor on a daily rate charge.

- System training for officers can be counted towards required minimum training hours, which are paid for from offender supervision fees.

Operating Costs Would Increase

Our examination indicates operating costs would increase due to impacts to officer workload and equipment operation. Additionally, expanding use of electronic supervision will also increase time coordinating electronic supervision services with contractors. Since electronic supervision of more high-risk or high-needs offenders would likely increase officer workload, we estimated potential additional officer supervision hours using the department's existing methodology for calculating workload. Using information from the department's workload tracking systems and department criteria for effective supervisory workload, we estimate the department would need approximately 1.0 FTE for every 28 offenders on electronic supervision for a year.

The department would also incur equipment operating costs. Under the department's current electronic supervision services contract, the department would pay a daily leased unit rate and a daily monitoring rate. Table 2 provides information on costs per day for basic units.

Table 2

Daily Rates for Electronic Supervision

FY2007 Rates

Unit Type	Daily Lease Rate	Daily Monitoring Rate
RF – standard telephone line	$1.00	$1.42
RF – cellular telephone	$2.00	$3.75
Active GPS monitoring	$0	$9.00
Passive GPS monitoring	$0	$5.00

**Note: RF = continuous radio frequency signaling.*

Source: Compiled by the Legislative Audit Division from Department of Corrections information.

The department also contracts with a prerelease center for the Secure Continuous Remote Alcohol Monitor (SCRAM) for $15 per day, which also includes additional supervision services.

The following sections address our fourth question related to identifying whether expanded electronic supervision would be cost-beneficial to the department.

Department Could Reduce Costs or Avoid Some Costs with Electronic Supervision

Electronic technologies would provide additional tools to the department's supervision "toolbox," expanding its supervision and placement options. These tools could allow the department to reduce total supervision costs or avoid paying higher costs for some offenders. For example, nonviolent offenders needing higher supervision levels are currently placed in the Intensive Supervision Program (ISP), a prerelease center (PRC), or prison. If regular community supervision supplemented with electronic supervision meets public safety and treatment needs for some offenders, the department can reduce placement costs, as well as free a higher-cost placement for those offenders for whom the higher cost placements might be more appropriate. Additionally, expanding electronic supervision would increase sanctions available to probation and parole officers, thereby avoiding or delaying a return to or placement in prison.

To examine potential cost savings the department might realize by expanding electronic supervision, we requested the department to estimate the number of nonviolent offenders that might be supervised on electronic supervision. According to department management, up to 300 offenders annually are potential candidates to be supervised on electronic supervision.

We also analyzed historical data on the release from prison of nonviolent DOC commitments between 2002 and 2004. These releases were made by the department due to overcrowding at prison facilities. In examining current inmate records, in August 2006, there were 245 nonviolent DOC commitments in prison who met the same criteria to be considered for release used by the department

between 2002 and 2004. Of those, there were 68 offenders within one year of discharging their sentence, and 140 offenders within two years of discharging their sentence. Not all of these offenders would be considered or granted a conditional release even with electronic supervision, but it is an indication that there is an offender population in secure facilities that could be supervised in the community using electronic supervision.

Another potential population is the group of offenders who could be placed on home arrest, but are not. Montana statutes authorize home arrest as a sentencing and placement option for nonviolent felony offenders. However, department and district court personnel indicated this sentencing option is rarely used. One reason given for home arrest being rarely used was the department does not have the equipment or structure necessary to fully utilize home arrest. While communities with ISP have the necessary equipment, statutes specifically state ISP is not a home arrest program. And since offenders must meet specific criteria, some potential candidates for home arrest could be excluded from ISP. Consequently, offenders are placed at a higher level of supervision or custody than necessary, increasing supervision costs.

To be conservative in our cost estimates, we estimated costs based on offender supervision populations ranging up to 200 offenders. We also used the following criteria based upon department procedures and practices:

- Offenders placed on electronic supervision would be otherwise supervised at a higher custody or supervision level.
- Offenders would be supervised on electronic supervision for 180 days.
- Equipment costs were based on the department's current contracts' highest rates for various electronic supervision equipment types, including equipment rental rates.
- Any cost savings are based on an offender being in a lower supervision level for the same number of days as an offender otherwise in a higher custody level.

- Estimated additional probation and parole officer hours necessary to supervise offenders on electronic supervision is based on the lowest caseload officers would likely be expected to carry. The number of probation and parole officer hours was then converted to FTE.

We estimate the department could potentially save or avoid supervision and custody costs ranging from approximately $47,000 to $2.1 million annually depending on number of offenders supervised and type of supervision. For example, we estimated it would cost the department approximately $123,000 annually, including hourly costs for probation and parole officers, to supervise 50 offenders using a cellular-based radio frequency system (wrist/ankle bracelets). It would cost the department approximately $495,000 to place those same offenders in a prerelease facility, for a cost savings of approximately $372,000 annually. Table 3 provides data on potential cost savings using various scenarios based on different types of electronic supervision equipment and varying numbers of offenders.

Table 3

Comparative Analysis of Electronic Supervision and Residential Placement Costs

Annual Estimates

	# of Offenders	Equipment Costs	FTE Cost	Total Cost	Cost Savings If Prerelease Center	Cost Savings If Prison	Cost Savings If Contract Facility
Continuous Radio Frequency (Cellular)	50	$51,750	$70,986	$122,736	$372,263	$534,263	$417,263
	100	$103,500	$141,972	$245,472	$744,527	$1,068,527	$834,527
	150	$155,250	$212,959	$368,209	$1,116,791	$1,602,791	$1,251,791
	200	$207,000	$283,945	$490,945	$1,489,055	$2,137,055	$1,669,055
Active GPS System	10	$16,200	$35,493	$51,693	$47,306	$79,706	$56,306
	20	$32,400	$70,986	$103,386	$94,613	$159,413	$112,613
SCRAM System	50	$135,000	$70,986	$205,986	$289,013	$451,013	$334,013
	100	$270,000	$141,972	$411,972	$578,027	$902,027	$668,027

Source: Analysis by the Legislative Audit Division from Department of Corrections information.

In addition to estimated cost savings, increased use of electronic supervision would allow the department to better manage populations in secure facilities and community-based programs and facilities, potentially delaying or avoiding the need to contract for or build additional prison cells.

Electronic Supervision May Benefit Some Offenders

Interviews with department and contractor personnel indicate electronic supervision provides the structure and support some offenders need to comply with supervision standards. For example, a probation and parole officer specializing in the supervision of felony DUI offenders said SCRAM has significantly reduced the number of offenders revoked for drinking. Additionally, since this unit immediately detects alcohol use, it may increase public safety by reducing the number of felony DUI offenders who drink and drive

again. The officer also stated some offenders have requested to be continued on or placed back on SCRAM because the system was an effective deterrent to drinking. Additionally, offenders who remain in the community are more likely to support their families, to make restitution to victims, and to pay fines and court costs.

The department considers various factors when selecting the most appropriate placement for an offender. Public safety is the primary consideration, with other factors such as availability of treatment services also being considered. Because of the potential cost savings or cost avoidance electronic supervision can provide, the department should also consider the cost-effectiveness of electronic supervision when making placement decisions.

Recommendation #2
We recommend the Department of Corrections also consider the cost-effectiveness of electronic supervision when making offender placement decisions.

Are There Barriers to More Effective Use of Electronic Supervision?

While there are costs and benefits to the use of electronic supervision for supervising offenders, we also identified an area that affects the department's ability to more effectively manage offender populations, including electronic supervision.

Department Should Seek Clarification of Its Authority to Transfer DOC Commitments in Prison to Community Programs

Existing statutes do not clearly define whether the department or Board of Pardons and Parole (board) has jurisdiction over DOC commitments placed in prison. Section 46-18-201, MCA, states a judge may sentence an offender to the department for placement in the most appropriate facility or program. The department has generally interpreted this statute as giving the department authority to place DOC commitments placed in prison to community placements outside of prison as it determines appropriate. However, section 46-23-201, MCA, states the board has authority to parole any person confined in a state prison, which the board has interpreted to mean that once an offender is placed in prison, other than for

temporary confinement or evaluation purposes, only the board can authorize release of the inmate before discharging a sentence.

In 2002, the department granted almost 300 DOC commitments in prisons (nonviolent offenders) a conditional release in response to prison crowding issues. However, the board contended section 46-23-201, MCA, authorizes only the board to grant early releases for any person in prison. The department subsequently signed an agreement with the board and established policy that all offenders could obtain an early release from prison only when granted by the board.

The department's current practice of requiring DOC commitments to obtain a parole from the board ensures an independent entity reviews and approves all DOC commitment requests for parole. However, it also restricts the department's ability to manage offender populations and costs by transferring these offenders to less costly or more appropriate placements when the department determines public safety would not be at risk. For example, under current department policy, if the department must place an offender in prison because a prerelease bed is not available, the department cannot transfer that offender to a prerelease center when a bed becomes available without the offender obtaining approval from the board.

This issue has been less significant recently, in part because prison populations have remained manageable, and the department now has more beds in community-based residential programs as alternative placements. However, the department projects a six percent growth in male prison populations and an eighteen percent growth in female prison populations, which would result in exceeding the state's existing prison capacity. If these projections hold true, the department may need to release some inmates, expand the number of prison beds, or both.

Since statutes do not clearly give the department authority to grant conditional releases to DOC commitments placed in a prison, we recommend the department seek legislative clarification of its

authority to grant conditional releases to DOC commitments in prison. Potential legislative options include:

- Clarifying the board has final authority for releases of DOC commitments placed in prison.
- Clarifying the department has authority to transfer DOC commitments placed in prison to a community-based facility or program.
- Granting the department authority to refer DOC commitments to the board for conditional releases, with the board having authority to deny a conditional release for compelling reasons.

Recommendation #3
We recommend the Department of Corrections seek legislation clarifying whether the department has the authority to transfer DOC commitments from a prison to a community corrections program without Board of Pardons and Parole approval.

Management Memorandum

During the course of the performance audit, we identified an issue related to Intensive Supervision Program (ISP) officer workload that warrants management attention. In recent years, the department has increased maximum ISP officer caseloads. For other probation and parole officers, caseload size is based on a validated workload formula that assigns workload points for factors such as the supervision level for each offender case, miles driven, and number of new cases assigned. However, the department does not use similar workload factors for determining ISP caseloads. The department should reexamine its methodology for setting ISP caseloads to ensure ISP officers are capable of meeting program supervision standards.

Area for Future Performance Audit

During this and previous performance audits, observations indicated probation and parole officers can spend significant hours in the office documenting routine offender supervision contacts and performing other routine tasks. Existing technologies such as laptop computers and personal digital assistants (PDA) might improve officer efficiency and effectiveness. New technologies would enable officers to document supervision and related activities in the field

rather than taking notes and returning to the office to transcribe notes into separate files. Audit work could examine efficiency and effectiveness of community corrections field operations and identify means for streamlining officer administrative duties.

Department Response

DEPARTMENT OF CORRECTIONS

RECEIVED
DEC 0 5 2006
LEGISLATIVE AUDIT DIV.

BRIAN SCHWEITZER, GOVERNOR

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

1539 11th AVENUE
PO BOX 201301
HELENA, MONTANA 59620-1301

December 5, 2006

Kent Wilcox
Senior Performance Auditor
Legislative Audit Division
Room 160, State Capitol Building
PO Box 201705
Helena, Montana 59620-1705

RE: Electronic Monitoring

Dear Mr. Wilcox:

The Department of Corrections has reviewed the draft report of November 21, 2006 for the performance audit of the Department's use of electronic supervision technologies. The Department's response to the recommendations appears below:

Recommendation #1

The audit recommends:

1. That the Department of Corrections develop a formal strategy for the phase-in and use of electronic supervision technologies as a standard community supervision tool.

Department's Response:

We do not concur. The Department certainly agrees with the premise that electronic supervision can be a useful adjunct to traditional supervision. Unfortunately, the basic foundation which underlies the whole report and this recommendation in particular is that the Department should do more than supplement traditional supervision with electronic monitoring. The Department does not use electronic monitoring as a placement for offenders; as an alternative to prerelease and other community placements, and as a placement in lieu of prison. Electronic monitoring can be a tool to aid traditional supervision

"AN EQUAL OPPORTUNITY EMPLOYER"

but it cannot be presumed as a sole placement. The Department cannot concur with electronic monitoring as a placement for the following reasons:

a. The Department has a carefully balanced array of placement alternatives in existence now. When a judge sentences an offender to the Department of Corrections, the Department carefully screens and evaluates the offender for the most appropriate placement considering the needs of the offender and the need for public safety.

b. An electronic monitoring placement alone does not always comport with the corrections goals to which it is incumbent upon the Department to adhere. When a judge sentences an offender to the custody of the Department, the court presumes the Department will instill some level of control, accountability, and rehabilitation. These goals plus the goal of public safety underlie the placement decisions of the Department. The corrections professionals now carefully weigh the extent to which the offender has met those goals and whether the public is safe before releasing the offender from more restrictive residential and treatment placements.

c. The Department cannot concur with recommendation number one because it also presumes that the Department will take some offenders out of prison and place them on traditional supervision with electronic monitoring. The Department released from prison several hundred Department commitments between 2002 and 2004, and placed them on traditional supervision. At that time, the Department discovered that there were many DOC commits in prison that were there because at the time they were committed to the Department and evaluated for placements, there were no other alternatives available for them. The Department identified appropriate offenders that could be placed in the community and commenced the conditional release program. Also between 2002 and 2004, though, the Department expanded community-based residential and treatment facilities. The Department also initiated the MASC program for men and the BASC program for women. These two programs provide for more extensive screening and evaluation of offenders committed to the Department.

Recommendation #2

The audit recommends

2. That the Department consider the cost-effectiveness of electronic supervision when making offender placement decisions.

Department's Response:

We do not concur. Whether the Department is making initial placement decisions about DOC commits or whether considering taking DOC commits out of the prison, the Department will consider the goals stated above: control, accountability, rehabilitation, and public safety. The Department, as stated above has a well balanced decision-making hierarchy presently in place that insures those corrections goals.

Over the past few years since the Department stopped conditional releases from prison, it has addressed the prison overcrowding problem by instituting a wide spectrum of residential and treatment services to address corrections goals and to facilitate offenders' release into the community after they have utilized some of these placements: The Department has increased beds in nearly all prereleases and placements in intensive supervision, and has opened a sixth prerelease program in Bozeman; it has initiated the Missoula Assessment and Sanction Center (MASC) for male offenders, the Billings Assessment and Sanction Center (BASC) for female offenders, two DUI facilities (WATCh), and the Sanction, Treatment, Assessment, Revocation, and Transition (START) Program; it has added an Enhanced Supervision Program (ESP), additional secure alcohol treatment beds at the Connections Corrections Program (CCP) and at the Montana Chemical Dependency Center (MCDC), and has added sanction beds in the alcohol treatment programs; within the next six months it will open both male and female methamphetamine treatment programs for a total of 120 beds; finally, it has added day reporting in conjunction with prerelease and probation and parole supervision.

The Department needs to evaluate how these added and expanded programs effect the prison population. The Department cannot institute an electronic monitoring placement program without careful thought, consideration and planning to ensure the program meets the pertinent corrections goals. Cost is not the main objective, corrections goals are the objectives. If the Department determines it can implement more electronic monitoring placements while still meeting other corrections goals and without destroying the delicate balance it now has in place, the Department looks forward to building it into its long-range corrections plan.

Recommendation #3

The audit recommends:

3. That the Department seek legislation to clarify the Department's authority to transfer DOC commitments from prison to the community without Board of Pardons and Parole approval.

Department's Response:

We do not concur. The audit recommends that the Department could better manage its prison population if it could release DOC commits from prison without Board approval. The Department currently manages its prison population of DOC commits by careful screening, evaluation, assessment and placement in options other than prison. The Department does not place a DOC committed offender in prison unless it is a last resort. In that way, the Department carefully manages the DOC committed offenders who reach the prison initially. With the amount of screening, assessment and evaluation the Department conducts to keep its offenders out of prison, it feels there are not sufficient numbers of DOC committed offenders in prison now to warrant upsetting the authority of the Parole Board as the sole prison releasing agent. Such legislation would be counter-productive to the newly established alternative to incarceration, the relationship the Department has with the Parole Board, and not result in enough releases to warrant the intrusion into the Board's authority.

Thank you to you and your staff for conducting the audit in a professional manner.

Sincerely,

Mike Ferriter, Director