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Evaluation of the national roll-out of curfew orders

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The views expressed in this report are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy).

Foreword

Trials of curfew orders with electronic monitoring began in July 1995 in Greater Manchester, Norfolk and Berkshire. The first twelve months were evaluated in Home Office Research Study No. 163 and the second year in Home Office Research Study No. 177.

This report is an evaluation of the first 13 months of the national roll-out of curfew orders from 1st December 1999 to 31st December 2000. The research aimed to establish whether the experience of the trials was replicated nationally and to assess the effectiveness of curfew orders as a sentence. It investigated:

- the organisation and operation of curfews,
- the characteristics of offenders sentenced to curfew orders, take-up rates, and the types of orders made.
- the views and experiences of those involved in the curfew order process, including offenders and their families, were obtained.
- the “market share” of curfew orders (in terms of the types of sentence they replaced)
- their overall costs and benefits.

Findings from the evaluation were generally positive and broadly reflected the outcomes of the trials. The completion rates remained high and evidence suggested that tagging could be a positive as well as a punitive experience. In terms of cost-benefit analysis, curfew orders produced a modest cost saving, mainly due to the offenders who are curfewed rather than given a custodial sentence.

Despite these achievements, the electronically monitored curfew order remained an infrequently used disposal compared to other community penalties. Criminal justice practitioners interviewed doubted the value of a fully standalone curfew order although the majority believed that the orders could support the work of the Probation service if given in conjunction with other community penalties. A summary of the interviews from the evaluation is available in Home Office Research Findings No.140.

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SUMMARY

This report describes results from an evaluation of the first 13 months of the roll-out of curfew orders, 1st December 1999 to 31st December 2000. The research aimed to establish whether the experience of the pilots was replicated nationally and to assess the effectiveness of the order. In addition to providing information on use of curfew orders, the characteristics of those tagged and curfew order outcomes, it includes the views of criminal justice practitioners, electronic monitoring staff and curfewees themselves. The experiences of five sample areas, Greater Manchester, an original pilot site, Inner London, Kent, Merseyside, and West Glamorgan are compared. Analyses of the “market share” of curfew orders, in terms of the sentences curfew orders are replacing, and their relative costs, are also presented.

Use of curfew orders

Four-thousand-six-hundred curfew orders were made over the period of the evaluation, an average of 383 per month. Take-up was somewhat lower than original predictions of 8,000 per year at roll-out (Mortimer and May, 1997). Just over 1 per cent of all community sentences given in 1999 were curfew orders¹. Pre-sentence report (PSR) proposals for curfew orders were similarly low, comprising 4 per cent of all proposals in Greater Manchester and less than 1 per cent in each of the four other sample areas. Outside Greater Manchester, an original pilot area, curfew orders were also rarely considered and assessed for in PSRs.

Interviews with criminal justice practitioners attributed low take-up of curfew orders to lack of knowledge about and confidence in the penalty, and the fact that tagging had yet to become part of the established sentencing repertoire. However, all felt it would remain a rarely used sentence because they saw few cases where a curfew was relevant, sufficiently serious and practicable. A more detailed examination of these interviews can be found in Home Office Research Finding 140, March 2001.

Who was tagged?

Ninety per cent of offenders tagged were male. The average age of curfewees was 25.5, with curfew orders used for somewhat younger offenders than in the first two years of the pilots. Criminal justice practitioners felt curfew orders were suitable for a wide range of individuals, but particularly younger offenders because they often offended at night or with peer groups. Practitioners were reluctant to propose curfews for those with mental or physical health problems or where there were domestic violence or child protection issues.

The three most common offence types attracting a curfew order were theft and handling (23%), driving whilst disqualified (15%) and burglary (10%). Common assault, other violent offences and public order offences also featured heavily. However, some differences emerged between the areas, with one-third of curfew orders in Greater Manchester given at the breach of another community sentence.

¹ Source: Criminal Statistics England and Wales 2000

Pre-sentence report proposals for curfew orders tended to be for similar offenders and offences as those on whom and for which orders were actually made. Criminal justice practitioners favoured the use of curfews to disrupt “pattern” offending that occurs at particular times and places; as an alternative to custody; and where other community penalties were inappropriate, unavailable or breached. As in the pilots, findings locate curfew orders as a top end community penalty and alternative to custody, although some criminal justice practitioners noted the flexibility of the sentence in terms of use and tariff. Curfewees had found the tag a genuinely punitive sentence.

Types of order made

Use of curfew orders by the Crown Court (13% of all orders) and Youth Courts (16%) was higher than in the pilots. The average length of all orders made was 98 days, similar to the pilots (99 days). Nearly half of orders fell between two and four months in length. The majority of curfews were overnight, for eight to twelve hours, and seven days a week. There was a query whether curfew timings were always most effectively targeted by courts.

Curfew orders were imposed jointly with another community sentence in 26 per cent of cases, less often than in the pilots (32%), the other penalty usually a probation order (71% of cases) or a community service order (20%). In Greater Manchester, curfew orders were less likely to be proposed, and then given, as a joint sentence than in the four other sample areas.

Most criminal justice practitioners doubted the value of a fully stand-alone curfew order, although some noted this could punish while offering a measure of public protection. The majority believed curfew orders were most constructive used alongside another community penalty, to provide support on the tag, assist the work of other interventions and develop the positive consequences of being curfewed.

Curfew orders in practice

Curfew orders typically required late night installations, which had caused problems for both electronic monitoring staff and offenders and their families. Curfewees were often poorly informed about their sentence prior to installation. In many areas agencies felt partnership working on curfew orders could be improved, especially around home visits, risk assessments and breach cases. They also thought it should be easier for offenders to change curfew hours and address.

All offenders interviewed were positive about the monitoring officers, describing them as respectful, friendly and helpful. Few had experienced problems with the monitoring equipment, but there were complaints about sharing a telephone line. Most disliked wearing a tag and some had found it a stigma. Offenders’ families were generally keen on tagging because it kept the curfewee out of prison and at home. Relationships had often benefited from the stability brought to offenders’ lifestyles and increased time spent at home, although the enforced presence of the curfewee could also cause friction.

Outcomes of orders

Overall completion rates for curfew orders following roll-out were about 83 per cent, better than for community service orders (71%) and similar to probation orders (81%). Fifty-seven per cent of first breach cases resulted in revocation: fewer than one in ten orders were breached more than once. About two-thirds of breaches were for absence violations. For offenders, curfew compliance was often underpinned by fear of custody.

Of offenders whose curfew orders were returned to court for breach action, a quarter² were allowed to continue on the curfew with an additional fine and in one-third of cases, there was no further action. Offenders whose curfew orders were revoked were most often re-sentenced to custody (45%) or to a further curfew order (23%). Magistrates liked the fact that curfew violations were unambiguous, but probation, YOT and monitoring officers were concerned about inconsistent approaches to curfew order breach cases by different courts.

As in the pilots, longer curfew orders were more likely to be revoked. Both younger offenders and female offenders had lower completion rates for curfew orders. Revocation also varied by offence type, with lowest completions for theft and handling (79%). Those sentenced at the Crown Court had surprisingly high rates of success, with 93 per cent completed. This reflects findings from the pilots and may represent a fear of custody if breached.

Implications

Use of curfew orders in the 13 months after roll-out has broadly reflected the experience of the pilots, although local variations again underpin the national picture. Curfew order completion rates remain high and there is evidence from the research that tagging can be a positive as well as punitive experience for offenders. Criminal justice practitioners viewed the sentence as a penalty with considerable potential.

Evidence suggests curfew orders can be used successfully in diverse ways, to disrupt pattern offending; bring stability to the lives of chaotic offenders; act as a deterrent; protect the public; reduce offending-related behaviour; and support other interventions. Stand-alone curfew orders³ can help to support the work of other community penalties given to an offender.

Although take-up of curfew orders in the year following roll-out was lower than predicted, usage has continued to grow with an average of 435 orders being made per month during 2001. Furthermore, in the first six months of 2002, 3648 orders have already been made (an average of 608 per month). There is

² A breach is an infringement of the curfew order and its conditions. An order may not necessarily be revoked if it is infringed, this depends on the nature and seriousness of the breach.

³ A stand-alone curfew order is an order that consists of a requirement to fulfil the conditions of an electronically monitored curfew only. It is considered 'stand-alone' as it does not include a requirement to undertake any rehabilitative elements.

no apparent explanation for this rapid increase in use by the courts and the rise is not confined to particular geographical areas.

A planned reconviction study of offenders tagged in the 13 months after roll-out may help to clarify the impact of tagging on offending behaviour. The current timetable for this work is for publication in early 2004. This study will complement the growing body of knowledge on the various uses of electronic monitoring.

CHAPTER ONE: INTRODUCTION

The legislation

Section 37 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the courts to impose curfew orders on offenders. The order requires the offender to be at specified place, usually the home address, at a specified time. The requirements should as far as practicable avoid any conflict with the offender's religious beliefs, educational or employment responsibilities, or the requirements of any other community order. The curfew period on any one day must be between two and twelve hours. The maximum length of an order is six months or three months if the offender is aged between ten and fifteen. For the latter, the court must, before making the order, also obtain and consider information about the offender's family circumstances and the likely effect of the order on those circumstances. In all cases, a 'responsible officer' must be identified who 'is responsible for monitoring the offender's whereabouts during the curfew periods specified in the order'⁴.

Background

The curfew order with electronic monitoring was introduced as a sentence in its own right in the 1991 Criminal Justice Act. Following an amendment in the 1994 Criminal Justice and Public Order Act, pilots of curfew orders began in Norfolk, Berkshire and the City of Manchester from 1995 and were further expanded to include Cambridgeshire, Middlesex, Suffolk and West Yorkshire from 1997.

The first two years of the pilots were evaluated by the Home Office Research, Development and Statistics Directorate (Mair and Mortimer, 1996; Mortimer and May, 1997), with encouraging results: the curfew order pilots were popular with sentencers, produced average completion rates of over 82 per cent and proved that the technology worked well. Based on this success, in 1998 ministers agreed in principle to make the order available to all courts in England and Wales once a national electronic monitoring infrastructure was in place and the Home Detention Curfew (HDC) scheme had bedded in. Curfew orders with electronic monitoring were rolled out to all courts in England and Wales on 1st December 1999.

International applications of electronic monitoring

Electronic monitoring of offenders (EM) began in the US in the mid-1980s and was operational in some form in all states by 1990. During the 1990s its use spread across the globe to Canada, Australia, Singapore, Israel and a number of European countries.

Van der Laan (1999) defines three criminal justice applications of EM:

⁴ Chapter II, section 37- (12), Powers of Criminal Courts (Sentencing) Act 2000

1. "front-end use", where a home curfew is used either as a sentence of the courts or is imposed through an administrative decision after a custodial sentence has been passed;
2. "back-end use", with early release from prison on condition that the remainder of the sentence is spent at home on a curfew; and
3. as an alternative to pre-trial detention.

In the US, EM is used in all three ways, with applications varying across county, state and federal levels. The most successful schemes appear to have targeted low-risk offenders (Whitfield, 2001) but there is a general lack of research information from the US regarding the impact of EM programmes on offending. By contrast, there has been a rigorous evaluation of EM programmes in three Canadian provinces where both front- and back-end approaches are used. Regardless of programme type, this found EM alone had no significant effect on recidivism, but suggested tagging could support the impact of offending behaviour programmes (Bonta *et al.*, 1999). An EM scheme in Australia which aims to keep low-risk offenders out of prison has also been researched, finding 80 per cent completion rates (CEP, 2001).

Pilots of various EM schemes are on-going in parts of France, Italy, Switzerland, Germany, Belgium, and Spain. They include both front- and back-end approaches and differ in targeting, but are all embedded within wider programmes of activities and/or interventions. In Scotland, a front-end scheme has been piloted using "restriction of liberty orders", which require tagged offenders either to be, or not be, in a specified place. In practice, no orders have been imposed restricting an offender from a specific place. Research on the first 14 months of the pilots found that half of orders made were combined with a probation order. Completion rates were 72 per cent, and were lowest where orders were longer and for both younger and more serious offenders (Lobley and Smith, 2000).

In Sweden, offenders sentenced to prison for up to three months may be placed on a home curfew after a decision by the Prison and Probation Service. EM is used as a means to support an intensive supervision programme and offenders must also engage in some form of work and remain drug- and alcohol-free. Completion rates of 92.5 per cent have been recorded, and there have been no adverse effects on reconviction (CEP, 2001). The scheme has been cost effective, reducing prison places by 400, and has primarily targeted drink-driving offences, which receive a mandatory custodial sentence in Sweden. In October 2001, a back-end scheme of intensive supervision was introduced for prisoners serving two years or more, allowing early release up to four months before the end of sentence.

The Netherlands also operates a front-end EM scheme. For cases usually attracting a prison sentence of six to twelve months, the courts may impose community service together with EM for one to six months. However, take-up has been very low (Van der Laan, 1999). There is also a back-end scheme in the Netherlands, where the prison administration takes a decision to release offenders, who have completed at least half of their sentence, on EM for the last one to six months. Offenders are subject to a highly structured personal daily programme that includes offending behaviour interventions, employment/training or community service and participation in specified activities. Completion rates are 90 per cent (Van der Laan, 1999).

The Home Detention Curfew (HDC) scheme in England and Wales allows prisoners serving a sentence of three months or more but less than four years, and who pass a risk and suitability assessment to be released up to two months before release date, provided they comply with an EM curfew for that period. Sixteen-thousand inmates were placed on HDC during the first year of its operation and 95 per cent successfully completed (see Dodgson *et al.*, 2001).

Currently tagging is not used as an alternative to pre-trial detention in Europe, although a pilot scheme for the use of EM as a condition of bail started in Portugal in January 2002 (CEP, 2001). This approach was piloted in England and Wales but originally with limited success, due to problems with both the technology and with the implementation of the measure (see Mair and Nee, 1990). Further pilots of this have since been completed in Manchester and Norwich between April 1998 and August 1999. The evaluation (Airs, Elliott and Conrad 2000; p.60) found that in contrast with the previous pilot, most defendants and criminal justice agency representatives regarded electronically monitored bail as a 'successful alternative to custodial remand'. This was attributed to improvements in the technology and the increased familiarity of criminal justice agency representatives with EM curfews as an option for the court. A pilot period for new powers (introduced in the Criminal Justice and Police Act 2001) allowing the electronic tagging of juveniles on bail and on remand to local authority accommodation was to begin in April 2002. A report of the evaluation will be available in early 2004.

England and Wales operate the largest tagging schemes in Europe, but the use of EM here differs from applications elsewhere in that:

- monitoring and enforcement are undertaken by a private company, not the probation service;
- stand-alone curfews are allowed. Elsewhere EM is viewed as a tool to support rehabilitation rather than an end in itself, although the Restriction of Liberty Order (RLO) being piloted in Scotland is also available as a stand-alone order.
- Curfews can be given with other penalties either for the same or for different offences.

The research

This report details findings from an evaluation of the first 13 months of the roll-out of curfew orders across England and Wales from 1st December 1999 to 31st December 2000. The research aimed to establish whether the experience of the pilots was replicated nationally and to assess the effectiveness of curfew orders as a sentence under the Criminal Justice Act 1991. It investigated:

- the organisation and operation of curfews;
- the kinds of offenders sentenced to curfew orders, take-up rates, and the types of orders made;
- the outcomes and effectiveness of curfew orders;
- the views and experiences of those involved in the curfew order process, including offenders subject to the sentence; and
- the "market share" of curfew orders, in terms of the types of sentence they replace, and their overall costs and benefits.

Methodology

The evaluation covered the period 1st December 1999 to 31st December 2000, and drew on a number of data sources and research methods:

- Data on curfew orders made, the kinds of offenders subject to curfew orders and breach rates and outcomes were primarily obtained from the electronic monitoring companies' own databases, supplemented by centrally held information on offending. England and Wales have been organised into four electronic monitoring regions which were covered by three contractors:
 - **Northern**, monitored by Securicor Custodial Services;
 - **Midlands and Wales, London and Eastern**, monitored by Premier Monitoring Services; and
 - **Southern**, formerly monitored by GSSC of Europe Ltd (now monitored by Reliance Monitoring Services Ltd).
- Additional data were collected from court notifications provided by the electronic monitoring companies for orders made in each of five sample research areas: Greater Manchester, Kent, Inner London, Merseyside and West Glamorgan. These areas were selected to provide a range of rural and urban environments, population densities and local economies. Greater Manchester was a former pilot site.
- Data on pre-sentence reports (PSRs) prepared during the evaluation period were obtained from the five sample probation areas participating in the research. The sampling strategy was originally based on predicted levels of curfew order take-up (see Mortimer and May, 1997) which proved to be an over-estimation of take-up. With the exception of Greater Manchester, where take-up met expected rates, the sampling strategy would not have given a representative sample. A further sample of PSRs prepared by the probation areas was also analysed, to examine the extent to which curfew orders were being considered in PSRs and the arguments being proposed for and against the sentence. This involved:
 - 95 PSRs where a curfew order was the main proposal, regardless of disposal;
 - 108 PSRs in cases where a curfew order was the main disposal, regardless of proposal; and
 - over 600 additional PSRs, selected at random.
- Individual and group interviews were conducted with probation officers, youth offending team (YOT) officers, magistrates and district judges in our five sample areas. Fifteen to twenty criminal justice practitioners participated at each site. Sixteen staff in different roles in the three electronic monitoring companies also were interviewed.
- Interviews were conducted in the four different monitoring regions with 20 offenders who were, or had been, subject to curfew orders. Of these, all but one were male. Length of time completed on curfew at the time of interview ranged from a few weeks to six months. Three interviewees had previously breached their order.

- To assess the “market share” of curfew orders, in terms of the sentences they might replace, data on the kinds of offenders typically sentenced to curfew orders were compared with a matched sample drawn from the Offenders Index for people beginning community penalties in 1999. This displayed the alternative community penalties or custodial sentences that would have been given to offenders who were curfewed, had they been sentenced in the year prior to roll-out.
- A simple comparison was made of the cost of the curfew orders versus the cost of the alternative sentences. However, as it has not been possible to identify cases in which a curfew order might have been combined with another sentence, this does not represent a true ‘cost benefit analysis’.

Plan of the report

The next chapter details the use of curfew orders during the first year of roll-out. It also looks at the kinds of offender and offence for which curfew orders have been made, and examines questions of curfew order tariff. Chapter 3 describes the use of curfew orders by different types of court and the length and schedules of orders made. It considers issues around the targeting of curfew hours and of combining curfew orders with other community penalties. Experiences of how curfew orders have operated in practice are presented in Chapter 4 together with details of the outcomes of orders and findings from interviews with curfewees who were breached. Chapter 5 explores the kinds of sentences curfew orders might be replacing and analyses the costs and benefits of the penalty. The final chapter brings together some conclusions and issues raised by the evaluation.

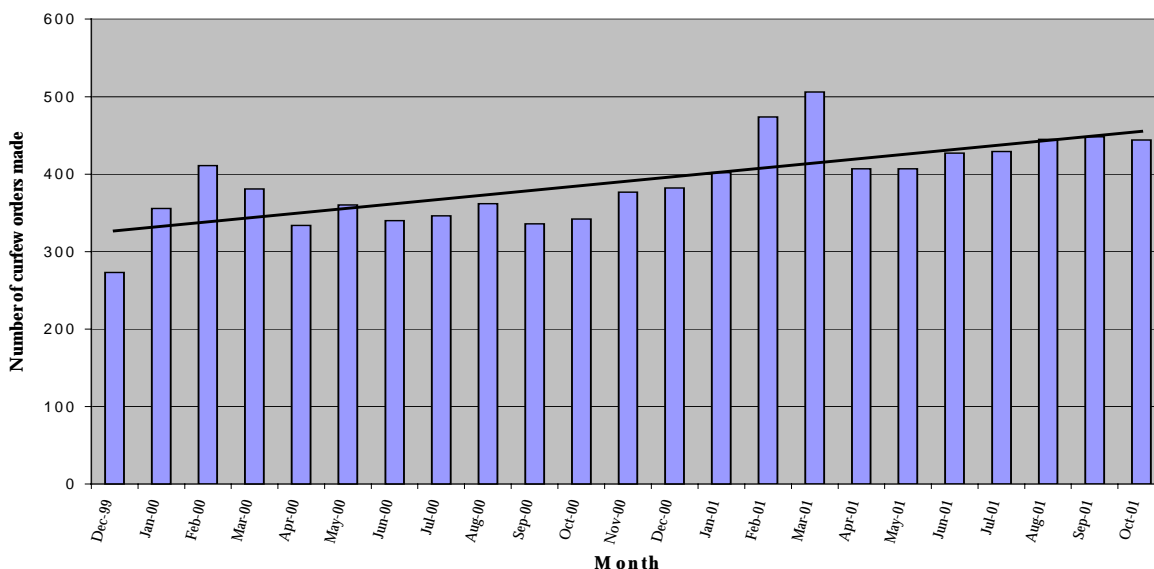
CHAPTER TWO: USE OF CURFEW ORDERS FOLLOWING ROLL-OUT

This chapter examines the take-up and use of curfew orders over the 13-month period of the evaluation. It also looks at pre-sentence report (PSR) proposals for curfew orders in each of the five sample probation areas, and explores practitioners' experiences of proposing and imposing the sentence and their views about suitable cases for tagging. It then considers the rates of curfew order proposals and curfew order disposals by gender, age and current and previous offending.

Take-up of curfew orders

Four-thousand-six-hundred curfew orders were made in the 13 months after roll-out. Numbers of orders have maintained steady growth over this period, averaging 383 per month⁵.

**Fig. 2a: Curfew orders for offenders aged 16+ in England and Wales
December 1999 to October 2001**



The former pilot areas (Greater Manchester, Norfolk and Berkshire from 1995, and Cambridgeshire, Middlesex, Suffolk and West Yorkshire from 1997) account for a disproportionate number of all orders made over the 13-month period. Use will in part reflect caseloads, but courts in Greater Manchester alone made 952 orders, over one-fifth of the total, with those in West Yorkshire accounting for a further 11 per cent. Greater Manchester and West Yorkshire Probation areas dealt with approximately 7 per cent and 6 per cent respectively of the total probation caseload for England and Wales 2000⁶.

Take-up has been somewhat lower than original predictions (Mortimer and May, 1997). However, estimates were based on findings from the second year of the curfew order pilots and current figures

⁵ Graph 2a displays the number of curfew orders made during the research period and for a further ten months after the end of the evaluation.

⁶ Source: Home Office Probation Statistics, England and Wales 2000.

suggest an increase use of curfew orders as the order 'beds in'. However, the curfew order with electronic monitoring remains a rarely used sentence when compared with other disposals. Four-thousand-two-hundred-and-eighteen curfew orders were made over the year December 1st 1999 to December 1st 2000. By comparison, 53,700 probation orders, 52,200 community service orders and 18,500 combination orders were made in 2000⁷. Even in Greater Manchester curfew orders formed only three per cent of all disposals for which pre-sentence reports were prepared during this period⁸.

Considering curfew orders in pre-sentence reports (PSRs)

Pre-sentence report (PSR) data from our five sample areas (Greater Manchester, an original pilot site, Inner London, Kent, Merseyside, and West Glamorgan) suggest curfew orders were also rarely proposed to the courts by probation services.

In Greater Manchester, curfew orders formed part of the PSR proposal in four per cent of cases and the majority of these proposals were made for a stand-alone curfew order. However, stand-alone curfew orders were proposed in less than one per cent of cases from non-pilot areas, with no proposals for stand-alone curfew orders in the Inner London PSR sample⁹. It is not possible to tell whether the courts specifically requested the consideration of a curfew order but 37 per cent of all curfew order proposals in Greater Manchester were taken up by sentencers. This is similar to rates of take-up for combination order proposals in this area. Numbers of proposals in other areas were few, but take-up rates seemed variable with, for example, half of curfew order proposals being taken up in Merseyside, but none in West Glamorgan.

Content analysis of selected PSRs explored the extent to which curfew orders were being addressed by report writers. Table 2.1 shows the proportions of random samples of PSRs from different areas in which a curfew order was discussed.

Table 2.1: Extent to which curfew orders were considered in samples of PSRs, by area, for the period 1st December 1999 to 31st December 2000.

AREA	Total random sample of PSRs	PSRs where curfew order considered	Percentage of PSRs where curfew order considered
Greater Manchester	92	58	63%
Kent	200	16	8%
Merseyside	125	4	3%
West Glamorgan	220	8	4%

NB. A random sample of PSRs was not available for the Inner London area.

⁷ Source: Home Office Probation Statistics, England and Wales 2000.

⁸ Source: Pre-sentence report (PSR) data provided by Greater Manchester Probation Service. However, these only contain disposals where a pre-sentence report was requested.

⁹ However, there was evidence that more proposals in non-pilot areas were for joint curfew orders, to be made alongside another community penalty. This is discussed further in Chapter 3.

Although the random samples of PSRs taken are too small to be representative¹⁰, Table 2.1 gives an indication of local differences in PSR consideration of curfew orders. Nearly two-thirds of PSRs from Greater Manchester addressed curfew orders, a far greater proportion than elsewhere. In practice, most rejected the sentence. However, nearly half had assessed the offender's suitability for tagging though this did not form the preferred sentencing option.

Outside Greater Manchester, curfew orders were rarely considered in PSRs. Proportionately more PSRs from Kent addressed curfew orders but most dismissed it as an appropriate sentence. Reports from non-pilot areas were more likely to request an adjournment for a full curfew order assessment. These findings suggest that in Greater Manchester, a former pilot site with higher levels of take-up, curfew orders are not only more likely to be proposed by probation officers, but are also more regularly considered and assessed for in pre-sentence reports. In interviews, magistrates often argued that take-up of curfew orders would be low unless the sentence was routinely considered in PSRs.

Outside Greater Manchester this was rarely the experience. Magistrates were concerned that further adjournment for a curfew order assessment in turn delayed the sentencing process. However, they were reluctant to ask for curfew orders to be considered in PSRs in case this "tied the hands" of the next bench. Conversely, some report writers said they usually considered tagging only if this were specifically requested by the court. Most nevertheless agreed that curfew orders should be regularly considered in "all-options" PSRs and that in some cases excluding tagging "*would be to deny offenders a legitimate opportunity to be punished in the community rather than in prison*" (Senior Probation Officer).

Specific Sentence Reports (SSRs) were only used for stand-alone curfew orders in Greater Manchester. Magistrates elsewhere generally welcomed consideration of curfews in SSRs, but probation and YOT officers were concerned that SSRs gave insufficient time to carry out necessary checks and thought the court environment might pressure defendants and their relatives into agreeing to the order.

Reasons for low take-up of curfew orders

Interviews with criminal justice practitioners and electronic monitoring staff suggested a number of reasons why curfew order proposals and disposals were low at roll-out:

- lack of knowledge about curfew orders. Training and guidance received on the sentence varied and some felt ill-equipped to assess for or impose a curfew:
Having somebody coming here and telling you something about it for two hours is not sufficient if you want to use that and put it into practice (YOT Officer).

Lay magistrates seemed particularly hard to target, and were sometimes sceptical that presentations given by the electronic monitoring companies were a "commercial exercise". Some believed lack of clear guidance at the time of roll-out had made tagging a residual sentence and

¹⁰ It would have been impractical to analyse representative samples of PSRs from each probation area, requiring over 5,000 reports to be examined.

there were fears the penalty could fall into disrepute if used inappropriately or inconsistently as a consequence. All wanted more evidence of “what works” when tagging offenders.

- curfew orders were new and rarely came to mind as a sentencing option. Interviewees described an initial flurry of training and enthusiasm for the order, but in practice *“what we found was that it disappeared, a piece of legislation that just didn’t lodge with anybody, magistrates, courts, ourselves, nobody and we just didn’t have any curfew orders”* (YOT Officer).

Magistrates often felt curfew orders had become lost among a plethora of new initiatives. For others it was a question of getting used to a whole new sentencing approach:

Because probation officers are geared to providing things which change a client’s lifestyle. They are providing advice, counselling, offending behaviour programmes and of course, curfew orders don’t really do that, do they? (Senior Probation Officer).

- lack of confidence in the value and effectiveness of the order. Magistrates felt curfew orders would potentially be proposed more often in PSRs if they were a worthwhile sentence. Some remained unconvinced that the technology worked, or that the order was properly enforced. A few early failures had also inhibited further use. For their part, court report writers believed magistrates were reluctant to tag because their proposals for curfew orders had been rejected or because they were used as a disposal so infrequently. Some also thought sentencers were ill-informed about the penalty:

I’ve felt the courts don’t seem to understand what these orders are about. They don’t understand, so should I just stick with the conventional sentences and recommendations? (Probation Officer).

Probation officers sometimes felt it was difficult to forecast when a curfew order proposal would be taken up, which had encouraged them to opt for more “predictable” sentences.

- concern about the use of curfew orders. Some report writers thought breaches of curfew orders were being handled inappropriately by the courts and so were reluctant to consider them as an option. Many also felt sentencers were not properly targeting curfew hours to tackle offending or to take account of other commitments, a view echoed by electronic monitoring staff. Others believed magistrates were extending curfew hours unnecessarily and feared this would compromise both compliance and the validity of the sentence.
- the time required to carry out home visits. This had deterred some probation officers from assessing for curfew orders. Others felt a phone call was generally sufficient: *“Time just doesn’t allow really, I know it’s good practice and good policy”* (Probation Officer). In three of our sample areas probation service officers (PSOs) were available for home visits but were rarely used in practice. However, electronic monitoring staff raised concerns that curfewees and their families were inadequately or mistakenly informed about the tag at installation.

- tagging raised human rights and ethical issues for some. A few interviewees had strong moral and ethical objections to curfew orders. Others thought the tag might stigmatise offenders:
It's a tag. It's an obvious sign that you are an offender I suppose which could be difficult depending on the sort of social circle, the job, it could be a real disadvantage if you are in employment (Probation Officer).

There were also fears of vigilantism, especially if sex offenders were tagged.

Regardless, all respondents agreed that curfew orders would only ever form a small minority of proposals and disposals because they saw so few cases which could merit a curfew order once relevance of the disposal, seriousness of the offence and practical issues were taken into account:

I look on them a little bit as part of the penal delicatessen if you like, as opposed to the staple fare of the criminal justice system (Senior Probation Officer).

Offenders tagged following roll-out

Of offenders tagged during the first 13 months after roll-out of curfew orders (data available on 4499 cases), 90 per cent were male. This represents a slight increase in the use of the order for women compared with the second year of the pilots, when 92 per cent of curfewees were men. Curfew orders were not generally seen to raise any gender issues among practitioners interviewed, although some felt there were more issues to consider when tagging women, such as childcare and domestic violence. It was also suggested that certain styles of clothing might make the tag more visible for female offenders (e.g. skirts). In Greater Manchester the gender breakdown for curfew orders, whether proposed or given, also reflected that for other community penalties.

Unfortunately, information on curfewee ethnicity was available for only 1673 of the 4600 offenders tagged between December 1st 1999 and December 31st 2000, with much missing data in the Southern region¹¹. However, from the data available, 96 per cent were recorded as white: all other ethnic groups accounted for less than one per cent of the cases.

The ages of those curfewed ranged from 16 to 72 years. The average age of curfewees was 25.5 years, slightly lower than the average in the second year of the trials of 26.4 years. However, a greater proportion of curfew order proposals and disposals were for offenders aged 21-25, and a smaller proportion for offenders aged over 40 compared to the pilot.

¹¹ This was due to the contractor for this region rarely recording ethnicity.

Table 2.2: Comparison of the age breakdown of offenders tagged December 1st 1999 – December 31st 2000 and offenders tagged during the second year of the pilots.

Age group	Tagged offenders Dec 99 – Dec 00	Tagged offenders Year 2 of pilots ¹²
16-17	14%	2%
18-20	27%	22%
21-25	23%	27%
26-29	13%	18%
30-39	18%	22%
40 and over	7%	8%
Total	100%	100%
Total available cases¹³	4463	314

NB. Percentages add to more than 100 due to rounding. Source: Contractor data.

Some differences between areas were evident in terms of age. The average age of offenders for whom curfew orders were proposed and made in both Greater Manchester and Merseyside was 28 years¹⁴. However, in Kent, West Glamorgan and Inner London the figure is somewhat lower, falling between 22 and 24 years. This supports the conclusion that some areas new to curfew orders appear to favour their use for somewhat younger offenders than was the case in the early pilots. Many criminal justice practitioners believed curfew orders were appropriate for younger offenders, in part because the typical nature of youth offending in some areas (such as night-time car thefts and other forms of TWOC) was suited to a curfew. There was also a view that tagging might create stability for young people whose lives lacked control:

Persistent offenders, those who need some structure in their lives. Kids who basically aren't keeping any regular hours, staying out all night, that sort of thing, can't get up in the morning, have no discipline (YOT Officer).

YOT officers thought a curfew order could encourage young offenders to take responsibility for their actions and remove the pressure of controlling a young person from parents. Interviewees also noted that a curfew could be used to separate younger offenders from criminal associates and give them a credible excuse not to spend time with offending peers:

It's a balancing act with curfew orders. It's a tight-rope to make sure you don't set up a kid to fail (YOT Officer).

¹² Data from Mortimer and May, 1997.

¹³ Throughout the text and tables, total (available/valid) cases vary. This is because the contractor data were not complete and the tables and figures do not always compare like with like. E.g. there may be five offenders for whom age was recorded but not offence - so different offenders may be being considered in different tables, although the core sample is likely to be relatively consistent. Here, for example, gender was recorded for more offenders in the contractor data than age.

¹⁴ The age is slightly higher than average for all orders made. This probably reflects the fact that offenders aged 16-17 are mainly dealt with by Youth Offending Teams (YOTs) rather than probation services.

Opinions were divided as to the value of curfew orders for offenders with chaotic lifestyles, including drug misusers. Pre-sentence reports often argued curfew orders could bring increased structure and stability to an offender's lifestyle by building on positive progress made while on bail, or because previous tagging, whether as a community sentence or on Home Detention Curfew (HDC), had been successful in this respect. Some supervising officers felt the sentence could bring stability and structure and secure a period of calm in which to work on offending behaviour. A few had successfully used curfew orders to disrupt habits associated with drug and alcohol use and prompt offenders to access treatment. Most thought this group would require additional intervention to help them regain control of their lives. Others believed chaotic offenders would probably breach a curfew, especially substance misusers:

If someone is completely driven by drink or drugs, maybe they haven't got the capacity to get through a curfew order (Senior Probation Officer).

On the whole criminal justice practitioners were unwilling to rule out curfew orders for specific types of offender. Many felt tagging was suitable for a wide range of individuals:

I happen to think it's a marvellous disposal, and I can think of lots of categories of people that it is highly appropriate for (Lay Magistrate).

However, most felt the sentence would be unsuitable:

- for those with mental health issues;
- for those with physical health problems needing regular or emergency treatment;
- for those with caring commitments requiring them to respond to others' needs at short notice;
- where there are domestic violence or child protection issues, or where the curfew might create friction in or pressure on a family;
- for isolated individuals, and young offenders without a supportive family environment;
- if there were any doubts about compliance.

Similarly, these were prominent arguments against making proposals for curfew orders in PSRs, along with irregular employment with long hours or complex shift patterns making a curfew impractical. In PSRs, accommodation problems and employment commitments were often presented as obstacles to making a curfew order.

Some magistrates and supervising officers had additional concerns about curfewing young people if the tag became a local status symbol:

You don't want to lift a minor shoplifter to a neighbourhood celebrity because he's got a tag on (YOT Officer).

Current offending

Table 2.3 details the main offence types attracting curfew orders in the 13-month period of the evaluation.

Table 2.3: Curfew orders made 1st December 1999 – 31st December 2000, by main offence type.

OFFENCE TYPE	Number of cases	Proportion of cases
Violent offences	280	9%
Sexual offences	13	<1%
Burglary	327	10%
Robbery	14	<1%
Theft and handling	769	24%
Fraud and forgery	89	3%
Criminal damage	166	5%
Drug offences	109	3%
TWOC	166	5%
Other indictable offences (non-motoring)	44	1%
Indictable motoring offences	33	1%
Assault (common)	243	7%
Public order offences	179	6%
Other summary offences (non-motoring)	108	3%
Driving whilst disqualified	497	15%
Driving whilst unfit	158	5%
Other summary motoring offences	25	<1%
Breach of sentence	53	2%
TOTAL	3273	100%

Source: Based on available Contractor data on just over 3000 cases.

As in the first two years of the pilots, the three most common offence groups for which curfew orders were used were theft and handling, burglary and driving whilst disqualified. Together these accounted for half of orders made for which data were available. A further 22 per cent of curfew orders were given for assault, other violent and public order offences.

There was no difference between the offence type for curfew order proposals and those for curfew order disposals in any of our five sample areas, although number of orders were small outside Greater Manchester. Offenders who had a curfew order as a disposal as well as a proposal in the PSR had a similar offence profile to all those who had curfew orders, regardless of the proposal made. However, in Greater Manchester nearly one-third of proposals for and disposals of curfew orders were made when re-sentencing at the breach of another community penalty. A further 20 per cent were for initial sentences for theft and handling, but less than four per cent of curfew orders were proposed or given for burglary.

PSR proposal and criminal justice views on offences suitable for tagging.

Analyses of pre-sentence reports (PSRs) and interviews with criminal justice practitioners identified a range of cases for which tagging was considered particularly appropriate:

- to disrupt “pattern” offending and offending-related behaviour that occurs at particular times and places, for example:
 - offending such as theft of and from cars and driving offences;
 - public order offences on a Friday or Saturday night or at football matches;
 - evening drinking in pubs or clubs or substance misuse with peer groups;
 - persistent shoplifting.

In practice, this was the most common argument in favour of making a curfew order in PSRs outside Greater Manchester. Reports suggested an appropriately targeted curfew could reduce the risk of offending and offer a measure of public protection during tagged hours. Similarly curfew orders were proposed as a means to dissociate offenders from criminal peers.

- as an alternative to custody, where many felt the order “*has filled a void or gap in the sentencing armoury*” (*District Judge*). Curfew orders were described as a “last chance saloon” which could restrict the liberty of high-tariff offenders within rather than outside the community. They were particularly favoured for young offenders as a means to avoid custody for as long as possible. Magistrates were keen on tagging where custody was likely but there were extenuating circumstances against this, for example if the offender were employed, in education or had family commitments:

... curfew for a period of time will remind and reinforce, but in no other way interfere with their ability to look after their family and maintain work (Lay Magistrate).

Similarly, curfew orders were put forward in PSRs as an alternative to custody; to avoid the influence of more sophisticated offenders; where imprisonment had failed to have an impact in the past; to ensure stabilising influences on an offender’s lifestyle, such as accommodation, employment or drug treatment, were maintained; and to allow positive progress on other community penalties to continue. Probation and YOT staff also noted that a curfew order could “add teeth” to other community penalties where offences were serious or with those at high risk of re-offending, giving the opportunity for intervention work:

A productive order for someone where there is a clear possibility of custody but where we feel that the young person will actually respond to the work we undertake (YOT Officer).

Some thought a longer curfew order could be more constructive than a short prison term because it offered the opportunity for rehabilitation and treatment within the community. In PSRs, the value of a curfew order made together or concurrent with another community penalty was argued as a punitive element within the whole sentencing “package”.

- as an additional option where other community penalties were inappropriate or unavailable. Many particularly in Greater Manchester felt curfew orders offered an alternative for persistent offenders where other community sentences had been exhausted, or for individuals who rejected probation intervention or were unable to undertake community service:

People who are failing community penalties, it is definitely a handy arrow in the quiver (Senior Probation Officer).

Some noted the curfew order is a passive sentence requiring no active participation on the offender's part, and it was proposed for individuals where motivation was low.

- for breaches of other community penalties. Many interview respondents both in Greater Manchester and elsewhere saw a place for curfew orders where offenders had failed to co-operate with other sentences or to provide direct punishment for further offending while under supervision. However, a few thought this group would be unlikely to comply with a curfew order either:

I would think twice about giving [a curfew order] to someone with a known history of failure to comply with community sentences (Probation Officer).

- as a direct punishment. Greater Manchester PSRs most commonly proposed curfew orders as a straightforward restriction of liberty where a simple punishment was all that was required. It was often suggested the sentence could demonstrate the seriousness with which the court viewed the offences in question.

Previous offending

Data were also available in Greater Manchester on the offending histories of those made subject to curfew orders, and on those for whom curfew orders were proposed in PSRs. In both categories, offending histories were not significantly different. Seventy-seven per cent of curfew orders were proposed/made for offenders with one or more previous convictions. This was significantly different from other community penalties, where half of proposals and disposals were for offenders with no previous convictions. However, this may reflect the fact that in Greater Manchester, curfew orders were given at the breach of another sentence in 31 per cent of cases.

Over half of offenders with previous convictions for whom curfew orders were proposed and made in Greater Manchester had experienced a supervision or probation order; one-third a community service order; and one-third a combination order. Twenty per cent had previously received a custodial sentence, a similar proportion to those where other community penalties were proposed and made.

Questions of Tariff

Current and previous offending of those for whom curfew orders have been proposed and made following roll-out suggest that criminal justice practitioners view the sentence primarily as a top end community penalty and alternative to custody.

This is supported by data on disposals where a curfew order was proposed in a PSR but not made, and on PSR proposals where a curfew order was ultimately given. In Greater Manchester, the sentence most often given where a curfew order formed the main proposal, but was rejected, was custody in 36 per cent of cases. This was also the most common alternative disposal in the other four sample areas, although numbers here were small. Of remaining curfew order proposals in Greater Manchester, one-fifth resulted in a probation order and 18 per cent in a community service order.

Report writers rarely propose a custodial sentence. In Greater Manchester, probation orders were most commonly offered where a curfew order was given but not proposed, in one-third of cases. Community service was the next most common proposal, comprising 18 per cent. There was no proposal in 23 per cent of cases. Elsewhere proposals were for probation, community service and combination orders, with none dominating.

One of the main reasons given in PSRs against making curfew orders was that the sentence would not reflect the seriousness of the offence(s) under consideration. However, there was little agreement both across and within sample areas as to what offences might be insufficiently serious, or too serious, to attract a curfew.

There was also some debate amongst criminal justice practitioners about the punitive nature of curfew orders. There were fears that proposing curfew orders lower down the sentencing scale might “up-tariff” cases. Further, a few interviewees felt being obliged to stay at home did not constitute a punishment at all. However, in line with previous research (e.g. Mortimer, Pereira and Walter, 1999), the majority saw curfew orders as one step away from imprisonment:

If you're confining somebody to their house it is like a period of detention you know in a way so rightly or wrongly I'm putting it up on that sort of level (YOT Officer).

YOT officers were concerned that the sentence should only be used for young offenders where the case was sufficiently serious and not “willy-nilly as some form of public order control” (YOT Officer). Interviewees noted the variability of curfew orders in terms of use and tariff: *It's a very flexible order and you can tailor it to suit an individual's needs as well as suiting the community's needs (Lay Magistrate).*

Only a couple of curfewees interviewed claimed being tagged was an easy option because they were usually at home anyway during curfew hours. The majority had found the loss of freedom tagging entailed genuinely punitive. This was particularly true of younger offenders, who missed socialising with friends. Some curfewees disliked the infantilising effect of having to be home by a certain time every night. Almost all described having to get home in time for curfew as “stressful”: *“you've always got to be watching the clock” (Curfewee).* Having to wear a tag was universally viewed as a punishment in itself and a constant reminder of their sentence. Further, although most curfewees said they were relieved and pleased to be tagged at first because they had avoided custody, many changed their minds a few weeks into the sentence. There was a common feeling that a prison term would have been both shorter and easier to complete, with no temptations or opportunities to break the order:

You have to do the whole stretch of the four month [curfew order], in prison you only do two and you're out (Curfewee).

Being free during the day made it harder to come to terms with loss of liberty in the evenings¹⁵. Some younger respondents also described the difficulties of responding to pressures from peers to break the curfew and go out with them. Relatives too believed the order represented a real restriction of liberty:

The biggest way to hurt him is his social life... I think it's the best thing that could happen to him (Mother of curfewee).

¹⁵ Most offenders interviewed had received overnight curfews. This is discussed further in Chapter 3.

CHAPTER THREE: TYPES OF CURFEW ORDERS MADE FOLLOWING ROLL-OUT

This chapter looks at the types of curfew orders made in the 13 months following roll-out of the sentence. The first section considers use of curfew orders by different courts. The next details curfew order lengths and schedules, and examines views on appropriate targeting of curfew hours. The chapter ends by exploring the use of curfew orders by the courts as a stand-alone sentence and alongside other community penalties, as well as curfewees' experiences of different kinds of curfew.

Use of curfew orders by different types of court

Use of curfew orders by the Crown Court and Youth Courts has been somewhat higher than in the pilots (see Table 3.1). Greater use of curfew orders by Youth Courts than in the pilots reflects the finding that tagging has been used more often for younger offenders since roll-out.

Table 3.1: Curfew orders made by type of court, December 1st 1999 – December 31st 2000 and in the first two years of the pilots.

Court Type	Curfew orders made Dec 99 – Dec 00 ¹⁶	Curfew orders made first 2 years of pilots ¹⁷
Crown Court	13%	8%
Magistrates' Court (Adults)	71%	83%
Youth Court	16%	9%
Total (cases valid for analysis)	2822	443

Use of curfew orders by different types of court also varied among areas. For example, in South Yorkshire only nine per cent of orders were made at the Crown Court (N=186); in Cheshire this rose to 26 per cent (N=66).

Lengths of orders and hours of curfew

Under the 1991 Criminal Justice Act, curfews with electronic monitoring can be made for between two and 12 hours per day for a period of up to six months. The average length of orders made during the evaluation period was 98 days, or just over three months (4485 cases in total: see Table 3.2 below). This is little different from the average for the second year of the pilots of 100 days. In practice, length of orders ranged from four to 233 days, with nearly half two to four months in length.

¹⁶ Figures from Home Office Court Statistics data.

¹⁷ Data from Mortimer, Pereira and Walter, 1999.

Table 3.2: Length of curfew orders made December 1st 1999 – December 31st 2000, in months.

LENGTH OF ORDER	Number of cases	Proportion of cases
1 month or less	285	6%
> 1 month – 2 months	734	16%
> 2 months – 3 months	1019	23%
> 3 months – 4 months	1117	25%
> 4 months – 5 months	581	13%
> 5 months – 6 months	749	17%
TOTAL (valid cases)	4485	100%

NB. One month has been taken to be 30 days. Source: Contractor data.

Court notifications of curfew orders made in our five sample areas provided information on typical schedules and types of curfew (see Table 3.3 below).

Table 3.3: Data on curfew order schedules and types for orders made December 1st 1999 to December 31st 2000, by sample area¹⁸.

AREA	% of orders with 8-12 hours per curfew period	% of orders for 7 days per week	% of orders with overnight curfews	Total number of valid cases
Greater Manchester	93%	92%	89%	531
Inner London	87%	85%	88%	76
Kent	91%	50%	57%	28
Merseyside	95%	65%	75%	20
West Glamorgan	100%	95%	95%	22
Percentage for all areas	92%	89%	87%	677

NB some percentages have been rounded. Source: Court notifications collected by RDS.

As Table 3.3 shows, there was very little variation in curfew schedules among sample areas. In all five areas, the majority of orders made were for overnight curfews of eight hours or more and for seven days a week. The main exceptions were for curfews that operated solely on Friday and Saturday nights. Only in Kent was there much evidence of more creative or flexible use of curfew timings; examples of these included a sex offender who was curfewed for those hours when children were most likely to be travelling to and from school and over school lunchtimes. In another case, a curfewee's hours were set to be reduced week by week throughout the sentence period.

¹⁸ Total numbers of cases in Table 3.3 do not represent all orders made in sample areas due to missing data.

Chapter 2 noted that many probation and YOT officers interviewed felt curfew hours were not always most effectively targeted by the courts. This view was echoed by electronic monitoring staff. All described cases where they felt the curfew given was too long, too short or insufficiently related to offending times. Some probation officers recalled occasions where an offender's curfew hours had conflicted with probation appointments or work shifts although these commitments had been detailed in pre-sentence reports (PSRs).

Content analysis of PSRs showed considerable variation in the extent to which they explicitly proposed curfew hours. Most restricted themselves to detailing offenders' commitments and anticipated specific hours would be determined by the court. Others made general suggestions as to appropriate curfew times: a few, primarily in Greater Manchester, were specific about these. Although there was debate as to whether specific curfew hours should be outlined in a PSR, most criminal justice practitioners believed this could improve practice.

In interviews, criminal justice practitioners generally felt that for curfew orders to be "workable", curfew hours should be in the evenings or overnight. Further, a few thought the sentence was only available as a night-time curfew. Many queried the value and validity of daytime curfews:

If your aim here is to try and get young people back into education, back into training or whatever and get a job, so if we are then placing restrictions, you've got to make some really good plans to juggle [a daytime curfew] (YOT Officer).

The majority of curfewees interviewed had been given overnight curfews. For some this was a rational sentence whose periods of restriction were clearly related to the times of their offending. Others were unsure why they had received specific curfew hours, or thought them illogical because they failed to relate to offences:

... a bit [...] silly I thought because I was a shoplifter and they gave me a night curfew (Curfewee).

Some believed they had been given an overnight curfew simply because it was the "norm", although this made more sense to offenders who were employed or looking for work. Regardless, most, especially younger respondents disliked the fact that they were unable to go out and socialise in the evenings. Even those who rarely did so had found being tagged overnight restrictive:

When they take something away from you, you always want it, you want it more (Curfewee).

Curfew times had created problems with existing employment or with new employment opportunities for some. However, interviewees were generally reluctant to change their curfew hours because it was "too much messing about" (Curfewee).

Combining curfew orders with other community penalties

A curfew order with electronic monitoring can be imposed

- as a stand-alone order;
- on top of a pre-existing community penalty; or
- jointly with another community penalty.

No data were available on cases where curfew orders were given on top of a pre-existing community penalty. Data on curfew orders imposed jointly with another community penalty were only available for the Northern region¹⁹: Table 3.4 gives details.

Table 3.4: Curfew orders made as a stand-alone sentence and jointly with another community penalty, December 1st 1999 – December 31st 2000 (Northern Region only)

Type of curfew order	Number of cases	Percentage of cases
Stand-alone	1421	74%
Plus probation order	358	19%
Plus community service order	96	5%
Plus combination order	24	1%
Plus supervision order	10	0.5%
Combined but other order unknown	17	1%
Total combined	505	26%
Total valid cases	1926	100%

NB. Percentages total more than 100 due to rounding. Source: Contractor data

In total, just over a quarter of curfew orders were imposed jointly with another community penalty (this compares with 32 per cent of cases during the first two years of the pilots). Two-thirds were made with a probation order, and one in five with a community service order.

Most criminal justice practitioners doubted the value of a fully stand-alone curfew order. They suggested tagging alone could have no impact on offending behaviour. Many also thought community penalties require support from a supervising officer to be effective, which is lacking in a curfew order.

However, some saw benefits in a straight curfew order:

- as a direct punishment where there were no other issues to address. It was also felt stand-alone curfews could punish offenders at the lower end of the scale:
It is a useful proportionate way of dealing with low level offending (Senior Probation Officer).
- to develop structure and discipline in a chaotic offender's lifestyle. Some curfewees found being curfewed had brought responsibilities which helped to put other areas of their lives in order:
It just takes one thing to start you off, I've got this to do so I might as well do this as well and that as well (Curfewee).
- to restrict offending and offer public protection during curfew hours; although practitioners queried whether effects would persist without some form of further intervention work:

¹⁹ Due to Securicor being the only electronic monitoring contractor to record this information consistently.

[Does the effect of the curfew] continue after the order has finished? Because it's not necessarily attached to any cognitive understanding of personal discipline or restructuring your life (Probation Officer).

- to give offenders the chance to reflect on the implications of offending and to think about behavioural changes:

It can give people a breathing space, if they are forced to stay in and behave slightly differently for a period of time, then it forces them to look at different ways of operating (Senior Probation Officer).

PSRs rarely proposed curfew orders as a deterrent to future offending, although some argued the sentence would act as a constant reminder of the disapproval of the court and of the need to remain offence free. Most practitioners were unconvinced that just being tagged could deter offenders unless they had found the curfew particularly punitive or stigmatising. Some curfewees shared this view, but the majority believed being tagged would make them think twice about re-offending:

I find it more of a deterrent [than a custodial sentence], if I committed an offence I'd know I'd go to prison, whereas this time I've been given a chance to stay out and prove myself, it's just better because I know I've been given this chance to stay out of prison (Curfewee).

Many criminal justice practitioners suggested that combining curfew orders with other community penalties could provide offenders with the supportive relationship that characterises other community sentences. Electronic monitoring staff also felt curfewees sometimes needed more support than they could provide: *"You've got to be a bit of a social worker as well" (Monitoring Officer).*

Probation and YOT officers also believed curfew orders would have little long-term impact without complementary work addressing offending behaviour and building on the effects of being tagged:

If they are being given a community penalty, they should be given time to reintegrate back into the community (YOT Officer).

YOT officers were reluctant to propose curfew orders without additional intervention, *"to act on the implications of that young person being restrained" (YOT Officer)* and to develop the positive consequences of being curfewed. Supervising officers more generally had often found it valuable to explore the consequences of being tagged with offenders, and some felt it offered a useful additional punitive weight to their own work. Several had learned that where curfewees saw the tag as a "last chance" before custody, they worked and complied well on other interventions.

It was also recognised that a curfew order could assist work on other community penalties, offering *"two bites of the cherry" (YOT Officer)*. Some supervising officers had found tagging could reduce both offending and offending-related behaviour, which in turn assisted their own interventions. More generally, many had discovered being curfewed could help offenders develop routines and time-keeping skills that improved their attendance on other orders.

Few supervising officers who had worked with tagged offenders felt the curfew had hindered their work. Some magistrates, however, were concerned that compliance would suffer if a curfew order were imposed alongside another community penalty. Both groups thought there would be little other than punitive value in combining a curfew with community service, suggesting this would be *“overegging the pudding”* (District Judge). Many, however, wanted further evidence of how curfew orders might interact with and support other interventions.

Over half of curfewees interviewed were on another community penalty while they were tagged, although the two orders were not always given together. Most commonly the other sentence was a probation order. Curfewees generally saw the two orders as completely separate entities and perceived no link between them. However, some said their supervising officer had offered support around the curfew order. One drug-using offender described how his curfew order had provided him with a more disciplined lifestyle which supported both community-based drug treatment and probation supervision:

It's actually been quite good for me, it's given me a structure back in my life because I used to be a bit chaotic (Curfewee).

For a few curfewees attendance on other orders had improved, due to better time-keeping or a fear of custody if they were breached.

Where they had experience, most felt a curfew order was more demanding than either probation or community service. It was generally agreed that being on a tag rather than an alternative community sentence alongside another order was particularly demanding and restrictive.

CHAPTER FOUR: CURFEW ORDERS IN PRACTICE

This chapter looks at the operation of curfew orders in practice over the 13 months following the roll-out of the sentence across England and Wales. It considers process issues raised by making and monitoring curfew orders, including curfewees' own experiences of the sentence. It then details outcomes of curfew orders, and looks in some depth at cases where orders were revoked and questions raised by bringing action for breach of the order.

Monitoring curfew orders

Interviews with electronic monitoring staff and criminal justice practitioners raised a number of issues around the effective operation of curfew orders:

- installations generally had to be completed in a brief evening timeslot, which created problems for monitoring officers in the field. It also often meant late-night installations that were resented by curfewees and their families. Monitoring officers wanted installation times to be relaxed along the lines of HDC, with the option to install in the afternoon of the curfew start date.
- new curfewees and their families were ill-informed about the sentence. Monitoring officers had found home visits prior to sentence were rare:
They don't know that we're going to take their 'phone line over, they don't know the basics... and sometimes they get very, very aggravated and agitated by it (Monitoring Officer).

In contrast to HDC cases, monitoring staff found those on curfew orders had received little previous information and had sometimes been misinformed. Some monitoring officers favoured joint working on assessments for curfew orders, to ensure premises were suitable for monitoring and give offenders relevant information before sentence.

- other agencies were reluctant to share risk information on offenders with the electronic monitoring companies. Monitoring staff felt this hampered their work unnecessarily:
Police and probation services will have far more information on individuals, but they just don't share it (Monitoring Officer).
- Both monitoring officers and criminal justice practitioners felt that the operation of curfew orders would benefit from more sharing of information, feedback on cases and closer working relationships:
We don't want to take work off them, we don't want to work against them, we want to work with them and I think that will make our life a lot easier and their life a lot easier (Monitoring Officer).

I think that curfew orders will flourish in a justice sort of setting if criminal justice staff and sentencers are working together in an informed and positive way to use them appropriately (Senior Probation Officer).

Many probation and YOT officers favoured a local dedicated liaison officer to provide advice and links as it was often felt the monitoring companies were geographically remote. In some areas liaison between monitoring companies and other relevant agencies, especially at middle

management level, had brought benefits. Those with experience of the pilots noted it takes time to develop relationships locally.

- the protracted and inflexible process of changing curfew hours and address. In practice this requires a return to court each time. Supervising officers knew of curfewees who had waited until the end of their curfew to look for employment because changing their hours to fit with shifts was viewed as too much trouble. Criminal justice practitioners noted that offenders' accommodation is often unstable and felt a less rigid approach to changing address might open up the sentence to a wider range of people.

Curfewees' experience of being electronically monitored

Knowledge and understanding of the order.

Offenders interviewed generally said they already had some understanding of tagging before they received a curfew order, especially those in Greater Manchester. This usually came from friends and relatives with experience of curfew orders or HDC rather than official sources. In most cases a probation officer had discussed the option of a curfew order with offenders before sentence and had usually gained the views and consent of significant others, although home visits were rare. Offenders were more positive about the information, both oral and written, received from contractors at installation. At interview, curfewees were aware of their obligations under the order and understood how the equipment worked. However, they were often unclear about the number and type of violations that would lead to breach action, although most knew a warning letter would come first. Few fully understood how to go about changing curfew hours or address.

Electronic monitoring equipment and staff.

Only a few interviewees had experienced problems with monitoring equipment, either at installation or subsequently, and on the whole these had been resolved promptly. Persistent equipment problems, when they occurred, had proved stressful for offenders and their families. There were, however, general complaints about sharing a telephone line, which had created difficulties for both curfewees and co-residents. In some cases installing a new line had also caused problems for the household.

All curfewees were very positive about the monitoring officers who visited, describing them as friendly, professional and non-authoritarian:

"Quite pleasant actually, talking to them, nice and polite"; "They were brilliant, fantastic" (Curfewees).

Routine visits had not been a problem for curfewees or their families although many disliked the fact that officers turned up unannounced. However, late night calls were often an issue, and particularly for those with young children.

Complaints were more likely about staff manning the monitoring companies' telephones. A minority were described as "unhelpful" and "smug", and some curfewees felt they were treated disrespectfully because they were offenders.

Offenders also complained that the tag was too large and obtrusive and most wanted the option to wear it on their wrists. Some also felt being tagged was socially stigmatising or that it was a barrier to getting work. Many were anxious to conceal the tag from their children, other relatives, friends or colleagues:

If you're trying to pull your life back together and find employment, it's going to be hard anyway because of your criminal record, but then when you have a tag on you and you walk in and it's on show, and they see it, it does put a lot of employers off (Curfewee).

Impact on family.

It was occasionally possible to gather the views of curfewees' relatives or partners about the sentence when they were also present during interviews. Other family members were generally keen on the tag because:

- it kept the curfewee out of prison, preventing them from mixing with more sophisticated criminals and keeping them at home with the family
- they knew the offender was at home and out of trouble during curfew hours
- it provided a genuine restriction of liberty which they hoped might deter future offending.

Both curfewees and their families felt relationships had generally benefited from the stability the curfew had brought to an offender's lifestyle and from increased time spent at home. However, several interviewees mentioned the strain being curfewed could put on relationships. The enforced presence of the curfewee had also put pressure on some families, particularly where offenders had moved back into the parental home to be curfewed. Curfewees sometimes found it hard because they were unable to walk away from arguments. A curfew could also be one more source of friction where relationships were already unsteady. Further, being tagged had made relationships outside the home, such as with ex-partners, more difficult and stressful: as one curfewee put it, *"it's like a barrier between us"*.

Outcomes of orders

Table 4.1 details the outcomes of 4075 curfew orders for which data were available made during the evaluation period, December 1st 1999 – December 31st 2000.

Table 4.1: Outcomes of curfew orders made December 1st 1999 – December 31st 2000.

OUTCOME	Number of cases	Percentage of cases
Completed without breach	2642	65%
Completed with breach	708	17%
Completed – unknown if breach	25	1%
Completed – total	3375	83%
Revoked	597	15%
Ongoing breach	80	2%
Still in force	48	<1%
Total valid cases	4075	100%

NB. Percentages add to more than 100 due to rounding. Source: Contractor data.

Of 3947 orders which had come to an end at the point of data collection, 85 per cent were successfully completed. Excluding those orders still in force, a further 80 cases were recorded as having ongoing breach action. In practice, 57 per cent of first breach hearings led to revocation of the curfew order (see Table 4.2).

Table 4.2: Outcomes of breach hearings (first breach) for curfew orders made December 1st 1999 – December 31st 2000.

Breach hearing outcome	Number of first breach cases	Proportion of breach cases
Revoked	287	57%
Continue	212	42%
Order expired – fine	6	1%
TOTAL	505	100%

Source: Contractor data.

However, 59 of 80 “ongoing breach” cases were at the second breach stage, and 16 at their third breach. No orders were recorded as reaching a fourth breach. Assuming a not unlikely worst case scenario, with all 80 orders revoked, completion rates would fall to 83 per cent.

Even at 83% per cent, the successful completion rate for curfew orders is better than for community service orders (72%) and slightly better than for probation orders (81%)²⁰. However, curfew orders tend to be shorter in length than other orders, on average 98 days (14 weeks at seven days per week) for a curfew order compared with 120.3 hours (25 weeks at five hours per week) for a community service order (1999 figures)²¹. Curfew order completions in year two of the pilots were similar, at 82% per cent. It should also be noted that the figure for curfew order revocations will include a small number which were terminated for reasons other than breach, such as premises unsuitable for monitoring.

Interviews with those who had successfully completed a curfew order, or who were curfewed and yet to breach, suggested that compliance was often underpinned by the belief that any breach would result in a custodial sentence:

It's either lose your freedom at night or lose it altogether (Curfewee).

Being in at eight and having to stay in for 12 hours is nothing compared to being locked up for 23 and seeing my girlfriend and baby every two weeks (Curfewee).

Almost all offenders interviewed saw their curfew as an alternative to custody and this was often how probation officers and solicitors had presented the order. Curfewees described the difficulties of sticking to a curfew when surrounded by the temptations of everyday life, such as meeting up with friends, a night out or family gatherings. Most curfewees had had minor violations to their orders, primarily getting home a few minutes late for curfew.

²⁰ Source: Probation Statistics, England and Wales 1999. The figure for successful probation order completion includes those replaced by a conditional discharge and those terminated early for good progress.

²¹ Ibid. Probation Statistics 1999

With the exception of orders made the northern region, some general data were available on numbers and types of curfew order violations²². Of 2523 cases for which data were available, 59 per cent had some kind of violation. Minor absence violations were most common, recorded for over one-third of offenders curfewed. Twenty per cent of curfewees had recorded an equipment tamper violation.

Offenders interviewed who had thus far complied with their curfew orders had found the curfew less difficult to adhere to as time went on. Their lives settled into a routine around curfew hours and they built in margins of error to avoid returning home late:

It's just normal now, I don't think about it (Curfewee).

Most of them felt they had had enough support around complying with the curfew, mainly from family, partners and friends. Some said monitoring or probation officers had also encouraged them. Only a few found no problems complying, because they felt the curfew had no real impact on their lifestyle.

Breaches and revocations

One third of the 4297 curfew orders made between 1st December 1999 and 31st December 2000 were breached. The vast majority were breached only once, with fewer than one in ten of breach cases reaching a second or third breach. Reasons for first breach, where recorded, are summarised in Table 4.3.

Table 4.3: Reasons for first breaches of curfew orders made December 1st 1999 – December 31st 2000.

Reason for first breach	Number of breach cases	Proportion of breach cases
Accumulated absences	371	35%
Absent whole period (including absconded)	307	29%
Equipment tamper/damage	120	11%
Unable to access premises/curfewee moved address	64	6%
Unable to install monitoring equipment	63	6%
Other	134	13%
TOTAL (valid cases)	1059	100%

Source: Contractor data.

The majority of breaches of curfew order were brought because of absence during curfew hours, whether for accumulated short episodes or an entire curfew period. There was a wide range of “other” reasons for bringing curfew order breach hearings, including inability to install a telephone line within a specified period, lack of power supply for monitoring equipment and curfewees’ withdrawal of consent to be tagged. In only nine cases were breach proceedings brought because of threatening or aggressive behaviour by the curfewee.

²² This is due to differences in data collection among electronic monitoring regions.

Three of the offenders interviewed for the evaluation had breached their curfew orders. In contrast to those who had complied, this group had found it harder, not easier, to come to terms with the sentence over time:

"I didn't expect it to be so hands-on like, there is quite a bit of responsibility to it (Curfewee).

One had pulled off his tag while intoxicated and his order was allowed to continue. He said it had taken him a good while to get used to being tagged. For the other two, the order was difficult to stick to because they had lost some but not all of their freedom. Both felt a custodial sentence would have been the easier option. One had originally thought a curfew would be "a doddle", but claimed he deliberately breached the order for a prison term. He was given a two-month sentence and served 28 days, which he felt was preferable to a further four months on the tag:

"Because [with a curfew] you've just got to change your life or you've got to put everything into a small space of time, a lot harder (Curfewee).

Breach outcomes

Table 4.2 showed that at first breach, 57 per cent of curfew orders were revoked and all but one per cent of the remainder allowed to continue. Table 4.4 gives more detail of breach outcomes. It reveals that where curfew orders were revoked, offenders were most often re-sentenced to custody (45 per cent of revoked cases where the outcome was known). Twenty-three per cent of revoked cases where the outcome was recorded resulted in another curfew order. Of orders continued, nearly one-third had no further action.

Table 4.4: Details of outcomes from first breach hearings for curfew orders made December 1st 1999 – December 31st 2000.

Breach hearing outcome	Number of breach cases	Percentage of breach cases
Revoked – custody	94	19%
Revoked – new curfew order	48	10%
Revoked – community service	22	4%
Revoked – probation order	17	3%
Revoked – other penalty	28	6%
Revoked – re-sentencing unknown	77	15%
Revoked – no further action	1	1%
Continue – fine	128	25%
Continue – no further action	68	13%
Continue – other penalty	16	3%
Order expired – fine	6	1%
TOTAL	505	100%

Source: Contractor data.

Bringing breaches of curfew orders

Magistrates liked the fact that violations for breaches of curfew orders were unambiguous:

It provides clear evidence of compliance because it's the community penalty which has a built-in monitoring facility that ensures breaches are not ignored but registered immediately and automatically (District Judge).

However, bringing breaches of curfew orders presented some concerns for both criminal justice practitioners and electronic monitoring staff interviewed. Some probation and YOT officers felt the curfew order breach process was too lenient. They were surprised when orders had simply been allowed to continue: "it should mean an alternative to custody" (Probation Officer). A number also felt breach cases took too long to be returned to court:

The image I have of curfew orders is that it is going to be swift justice, if somebody breached then they would be brought back to court very quickly. I found that did not occur (YOT Officer).

Conversely, others disliked tagging because its enforcement was too severe, particularly for young offenders. They found the breach process excessively rigid, providing black and white evidence but unable to take good progress into account: "over zealous and not run like any other community sentence" (YOT Officer). They wanted a more flexible approach to bringing breaches of curfew orders that could give credit for achievements to date and be realistic about the possibilities for continuing the sentence:

If a young person does well on it, there should be some incentive and an element of trust showing them that, you know, you've worked really well we are going to reduce [the curfew], even by an hour (YOT Officer).

Electronic monitoring staff described the inconsistent approach to breaches by different courts as a "sort of lottery" (Monitoring Officer), and believed local practice influenced compliance rates.

Courts noted a specific difficulty in bringing breach cases where a curfew order had been given jointly with another community penalty with which the offender was complying. They were unclear whether one or both parts of the order should be revoked and on what basis to re-sentence. Some sentencers had been advised against combining curfew orders with another community option: "the practical difficulties outweighed the benefit of combined orders" (Lay Magistrate). This may in turn have influenced take-up rates of the sentence, particularly where proposals were predominantly for joint orders.

Both monitoring staff and courts said the electronic monitoring companies were not always given sufficient details of when breach cases would be brought by the CPS and police (which would help further inform re-sentencing). This was sometimes attributed to lack of knowledge among criminal justice agencies about the role of monitoring companies. Some supervising officers complained they were not kept informed about breaches of curfew orders running alongside another community penalty. They also felt better liaison might help them to address issues which could lead to breach, such as accommodation problems. However, monitoring staff said they did not always know when a curfewee was on another

community penalty. In some areas there was a mutual exchange of information over breaches of curfews and other community penalties which those involved had found beneficial.

Factors influencing rates of curfew order revocation

The evaluation of the second year of the trials found that longer curfew orders were more likely to be revoked. Table 4.5 shows a similar relationship between length of curfew orders and rates of revocation in the first 13 months after roll-out²³.

Table 4.5: Rates of revocation by length of sentence for curfew orders made 1st December 1999 – 31st December 2000.

LENGTH OF CURFEW ORDER	Number of cases completed	Number of cases revoked	Proportion of cases revoked
Up to 1 month	226	31	12%
> 1 month – 2 months	572	100	15%
> 2 months – 3 months	817	119	13%
> 3 months – 4 months	882	138	14%
> 4 months – 5 months	430	93	18%(*)
> 5 months – 6 months	446	108	19%(*)
TOTAL (valid cases)	3373	589	15%

(*) denotes difference significant at the 5% level. Source: Contractor data.

Curfew orders exceeding four months in length were significantly more likely to be revoked than shorter orders. A similar relationship was observed for rates of breach. As Mortimer and May (1997) note, longer curfew orders have a greater chance of accumulating sufficient absences to warrant breach action. In interviews, criminal justice practitioners felt younger offenders would be less likely to complete a curfew order successfully. Table 4.6 bears out this view.

Table 4.6: Rates of revocation by age of offender for curfew orders made 1st December 1999 – 31st December 2000.

AGE	Number of cases completed	Number of cases revoked	Proportion of cases revoked
16 – 17 years	424	121	22% (*)
18 – 20 years	874	167	16%

²³ The analyses in this section exclude orders still in force or recorded as “ongoing breach” at the point of data collection. The overall completion rate for the base data used (85%) is thus somewhat higher than the likely overall completion rate for orders made in the evaluation period (83%).

21 – 25 years	768	129	14%
26 – 29 years	425	55	12% (*)
30 – 39 years	616	90	13% (*)
40 years and over	251	24	9% (*)
TOTAL	3358	586	15%

(*) denotes difference significant at the 5% level. Source: Contractor data.

Curfewees below the age of 18 were significantly more likely to have their orders revoked. This age group were also more likely to breach a curfew order. Conversely, revocation was less likely for offenders over 25. Results from the pilots similarly found that younger offenders, those sentenced by the Youth Courts, had lower rates of completion than those sentenced at the adult magistrates' courts²⁴.

The current study also found that female offenders were less likely to complete a curfew order successfully. Female curfewees were no younger than their male counterparts, nor were they given significantly longer sentences. Yet 19 per cent of orders for women were revoked, compared to 15 per cent of those given to male offenders²⁵. In contrast, findings from the first two years of the pilots found little difference between completion rates for male and female offenders, although numbers for comparison were low.

There were further differences in completions by main offence (see Table 4.6).

Table 4.6: Completion rates of curfew orders made 1st December 1999 to 31st December 2000, by selected main offence types²⁶.

OFFENCE	Numbers of cases completed	Numbers of cases revoked	Proportion of cases completed
Violent offences	216	23	90%
Burglary	248	41	86%
Theft and handling	550	145	79%
Fraud and forgery	79	5	94%
Criminal damage	120	24	83%
Drugs offences	94	8	92%
TWOC	126	26	83%
Assault	194	27	88%
Public order offences	150	14	92%
Driving whilst disqualified	385	53	88%
Driving whilst unfit	137	14	91%
Breach of sentence	46	5	90%
TOTAL (valid cases)	2345	385	86%

²⁴ See Mortimer, Pereira and Walter, 1999.

²⁵ This difference was significant at the 5% level.

²⁶ Main offence types were selected to include those with sufficient numbers of cases for comparison.

As in the pilots, completion rates were high for those convicted of motoring offences with the exception of TWOC; and for those convicted of offences of dishonesty. However, in contrast to the pilots, they were also high for those convicted of violent offences, including assault cases. Theft and handling, both in the pilots and after roll-out, had below average completion rates. In interviews, some criminal justice practitioners believed that offenders who had breached other community penalties might also be less likely to complete a curfew order. In practice, 90 per cent of this group successfully completed, although numbers for comparison are low.

Again reflecting findings from the pilots, completions for curfew orders made at the Crown Court were relatively high, at 93 per cent²⁷. Although Crown Courts deal with more serious and potentially less compliant offenders, higher completion rates may reflect offenders' fear of custody if they were to breach.

Some magistrates suggested that offenders may have greater difficulty complying with a curfew order combined with or running alongside another community penalty. Certainly during the first two years of the pilots stand-alone curfew orders had the highest rates of completion. In the current study completion rates where curfew orders were imposed jointly with another community penalty were 83 per cent. This is the similar completion rate to stand-alone curfew orders (and therefore unlike the finding in the pilots) and a similar rate to all other orders.

²⁷ Data from northern region only.

CHAPTER FIVE: THE “MARKET SHARE” OF CURFEW ORDERS AND THEIR COSTS AND BENEFITS

In this chapter we look at the sentences that offenders subject to a curfew order might have expected to receive had curfew orders not been available to the court at time of their court appearance. In this way, it is possible to see which other sentences have been displaced by sentencers in favour of curfew orders and therefore to make some calculation of the difference in cost to the Criminal Justice System between the two court outcomes.

Using as a base line the offenders who had received curfew orders from 1st December 1999 to 1st December 2000, a comparison group was drawn from the Offenders Index General Offenders Sample, sentenced in England and Wales during 1999, the year prior to the national roll out. The comparison group of offenders was matched to the base line group using key characteristics. The matching criteria included indexed offence, gender, age and previous offending history, all of which are known to play an important role in predicting likely future offending behaviour. By examining the sentences received by the comparison group, it is possible to see what sentences could have been expected by the offenders who did receive curfew orders had that sentencing option not been available to the courts. Cases that had received curfews as part of the pilot period were excluded from the analysis and after other exclusions, a total comparison group of 2852 offenders was generated.

Whilst just less than a third of the comparison group had received community penalties, nearly 45 per cent had received discharges (either conditional or unconditional) or fines. A fifth received custodial sentences. There would also appear to be some differences between the offender groups in the distribution of these alternative sentences, although the numbers are small for some of the subgroups. Initially this distribution pattern would seem to suggest that sentencers are using curfew orders as alternatives to a range of sentences, from discharges at one end of the severity scale to custody at the other. However, given the findings presented in the previous chapters that sentencers do not regard curfew orders as an alternative to fines or discharges, the sentencing pattern shown here needs to be accounted for with another explanation.

The divergence of alternative sentencing outcomes is most likely explained by the practice of using curfew orders at the re-sentencing of an original offence when a breach of community sentence has been proven. This practice of making a curfew order as an additional sentence at the breach of a community penalty was particularly prevalent in the Greater Manchester area, the area that also accounted for a large proportion of all curfew orders made. The offenders who received custodial or long community sentences were possibly being matched against those who were sentenced for the first time on the indexed offence. On the other hand, those who were receiving fines or discharges were probably being re-sentenced on their original offence following the breach of a community sentence. From the data available for this analysis, it has not been possible to prove this explanation and further research is needed to demonstrate this link.

Comparison of costs

In order to establish the cost of curfews in comparison to the alternative other sentences given, a simple calculation of costs was undertaken. As with other such exercises where precise costs are not known, certain assumptions have been made which may limit the accuracy of the results. For example, the

means of calculating the costs differ slightly between disposals. The data we have used for the cost of all sentences except curfew orders has been generated through an economic model, giving a notional cost for each disposal. On the other hand, for curfew orders it is possible to identify the actual unit costs. Even given these limitations, it is still possible to gain useful insight into the relative costs of the curfew orders in comparison to other disposals.

Curfew orders are monitored by independent companies who operate on a contract to the government rather than acting as a branch of the criminal justice system. The formula agreed with the companies reduces the unit cost of curfews as the number of offenders monitored increases on a stepped basis. The costs of operating curfew orders can therefore be accurately calculated from the total cost of the contract during the period of the research. The unit cost for monitoring curfew orders during the period December 1999 to December 2000 was £1,264.00. The total cost of monitoring 2,852 curfew orders therefore was £3,604,928.00.

In order to measure the cost of the alternative sentences, a calculation of the cost of these sentences needs to be made. The Economics Research Unit within the Research Development and Statistics Directorate of the Home Office has produced an economic model for the Criminal Justice System that produces a unit cost for each sentencing disposal. Using the costs generated by this model and breaking the comparison group down into the separate disposals, it is possible to calculate the total cost of these sentences to the treasury.

Table 5.1; Cost of comparison group sentences (n= 2852)

Sentence given	Number in comparison group	Unit Cost (£) from ERU source	Total cost per sentence
Absolute discharge	15	0	0
Unconditional discharge	369	£0	-
Fine	843	-£135*	-£113,805
Supervision order	91	£1,520	£138,320
Probation Order	293	£2,174	£636,982
Community Service Order	299	£1,135	£339,365
Combination order	151	£3,872	£584,672
Attendance Centre Order	65	£204	£13,260
Youth Custody	147	£5,080	£746,760
Suspended sentence	9	£0	-
Custody	423	£4,832	£2,043,936
Other wise dealt with	147	£0	-
Total valid cases	2852	Total cost	£4,389,490

* Fine is a net gain to the treasury.

The cost of the comparison group sentences was almost £4.4 million as against £3.6 million for the curfew order group²⁸. This approximates to a saving of £275 per curfew order made. Thus over the period of the first year of the evaluation, 1st December 1999 to 1st December 2000, the existence of curfew orders as a sentence would appear therefor to have generated a saving to the Criminal Justice System of approximately £1.2 million.

There are, however, two considerations to be taken into account. Firstly, the overwhelming proportion of this saving comes from those people who would have otherwise gone into custody. Conversely, for offenders who would have otherwise received a fine or a discharge, curfew orders are the more costly option, losing the treasury close to £600,000 in monitoring costs and loss of fine revenue. Secondly, we know that curfews are given jointly with other sentences. Using the case percentages in table 3.4 it has been calculated that the other disposals would amount to an additional £1,512,123. This may be balanced out by the comparison group also having more than one sentence. For cases where the curfew order is a re-sentence, the original sentence may also still continue, also adding to the cost. It is therefore clear that this calculation is very approximate, but nevertheless seems to indicate that curfew orders are likely to result in a cost saving. Further research is needed to establish the exact extent of this saving.

²⁸ Information supplied by the Correctional Policy Unit (Home Office).

CHAPTER SIX: CONCLUSIONS

Use of orders following roll-out

A total of 4600 curfew orders were made in the 13 months following roll-out of the sentence to all courts in England and Wales. Use of the sentence during this period broadly reflected that of the first two years of the pilots, as a top end community penalty and alternative to custody (see Mair and Mortimer, 1996 and Mortimer and May, 1997). The main offences attracting curfew orders were the same and there was a similar breakdown in terms of gender. However, curfew orders have been made for somewhat younger offenders since roll-out.

Most curfew orders were made at adult magistrates' courts, although use of the sentence by the Crown Court (13%) and Youth Courts (16%) has been higher than in the pilots. Lengths of orders reflected the pilots, averaging 98 days, with nearly half two to four months in length. Data from sample areas showed the majority of curfews were overnight, for eight to 12 hours and seven days a week. Just over one-quarter of curfew orders were imposed jointly with another community penalty, normally a probation order.

Curfew orders made after roll-out have had the same high completion rates as those in the second year of the pilots. At 83 per cent, curfew order completions were also considerably better than those for community service orders (72%) and slightly better than for probation orders (81%)²⁹. This may reflect effective targeting of orders, as well as the fact that curfew orders tend to be shorter overall than other community penalties. Interviews with curfewees suggested fear of custody if they breached often underpinned successful compliance. Curfew order breaches were most often brought for accumulated short absences or longer absence violations. In over half of breach cases, the curfew order was revoked and the offender re-sentenced, to imprisonment in 45% per cent of these cases. One-fifth of breached orders were allowed to continue with a fine, and less than one in ten had any further breach. As in the pilots, revocations were most likely with increasing length of curfew and younger offenders, but also for female curfewees. Completion rates varied by main offence type, and remained high for orders imposed at the Crown Court.

Experiences of and views on curfew orders with electronic monitoring

Criminal justice practitioners were generally positive about curfew orders and considered them a penalty with considerable potential. Most could identify a wide range of suitable cases, particularly for pattern offending; as an alternative to custody; and for younger offenders. The majority felt tagging was most constructive when used alongside another community penalty: few could see the value of a fully stand-alone order. Some thought curfew orders useful because they readily made sense to the public and demonstrated the courts had taken a serious view of offending. Many also felt it was a cost-effective sentence, providing a cheaper alternative to prison while offering a genuine restriction of liberty and protection of the public. Even those with few or negative experiences of the order thought it should be used more and more creatively, particularly in supporting other interventions with offenders.

²⁹ 1999 figures: from Probation Statistics, England and Wales, 1999.

Electronic monitoring of curfew orders has become well established, building on considerable experience from the pilots and from the Home Detention Curfew scheme. In recent evaluations equipment problems were considered rare and contractor staff were widely praised by curfewees as helpful, friendly and respectful. Although many felt the operation of curfew orders would benefit further if inter-agency communication were to improve, problems around joint working were in the process of being ironed out in various areas.

Interviews with offenders suggested that curfew orders present a genuine restriction of liberty and are a punitive experience for the majority of those tagged. Curfewees could also see positive benefits to the order, primarily because it avoided custody and so enabled them to remain with and support their families; to access community-based interventions; and to maintain or secure employment. Some had benefited from the structure and stability being tagged brought to their lives. Further, many viewed the sentence as a “last chance” before prison which had prompted them to think seriously about the consequences of continuing to offend. However, tagging could both help and hinder curfewees’ relationships with others and so requires careful assessment. Curfew hours and orders also need to be appropriately targeted (by taking into account offenders’ lifestyles/patterns of offending) to ensure they represent a genuine punishment.

The market share of curfew orders and their costs

Curfew orders appear to be used by sentencers in place of a range of alternative sentences, from discharges and fines to custodial sentences. Given that practitioners and sentencers had clearly identified curfew orders as being a more serious sentencing option, the most likely explanation for this diverse pattern is the practice of using curfew orders in breach cases. Curfew orders made at the re-sentence of an offence which had originally attracted a community sentence and which the offender subsequently breached have probably replaced discharges and fines. The displacement of combination orders and custody by curfew orders is probably for first sentencing occasions of more serious offences. However, more work is needed to establish this link. Curfew orders do, however, seem to produce a modest cost saving, mainly due to the offenders who are curfewed rather than given a custodial sentence.

Implications

Overall findings from the current study largely reflect overall findings from evaluations of the first two years of the pilots. This is despite the fact that, again reflecting the pilots, curfew orders appear to develop specific sentencing niches on a local as well as national level. Although numbers were sometimes small, it seemed tagging was favoured for particular kinds of cases, and by particular kinds of court, in particular areas. Further, since take-up also differs among areas, local variations may disproportionately influence the wider picture. In practice, take-up of curfew orders during the evaluation period has been somewhat lower than the 8,000 orders per year predicted from results of the second year of the pilots. Interviews with criminal justice practitioners suggested a number of reasons for low use of curfew orders, notably that the order had yet to form part of the established repertoire of proposals and disposals, and a lack of knowledge about and confidence in the order. However, although take-up of curfew orders in the year following roll-out was lower than predicted, usage has continued to grow with an average of 435 orders per month during 2001. Furthermore, in the first six months of 2002, 3648

orders have already been made (an average of 608 per month). This indicates an increase of around 40 per cent in take-up of the orders in comparison with the first six months of 2001 (2623). There is no apparent explanation for this rapid increase in use by the courts and the rise is not confined to particular geographical areas. If the take-up rate continues at its present level, the original predictions of around 8,000 curfew orders being made per year (Mortimer and May 1997) will be achieved.

Although curfew orders have been piloted in England and Wales since 1995, they were a new sentence to most areas at roll-out. Those involved in the pilots noted that it takes time for curfew orders to achieve credibility because criminal justice agencies have to learn from their own experiences and judgements. Use of curfew orders increased fourfold in the second year of the pilots and evidence suggests take-up has also grown during the second year after roll-out.

Criminal justice practitioners were agreed, however, that curfew orders were only ever likely to form a small minority of disposals, because they saw so few cases which were sufficiently serious and for which the order was both relevant and practicable. There was a common view that tagging could not directly address offending behaviour, and that its primary use lay with "pattern" offending. Despite this, our evaluation found curfew orders had been used successfully in diverse ways since roll-out: as a deterrent; to protect the public, and offenders themselves; to reduce offending-related behaviour; to bring structure and stability to the lives of chaotic offenders; to avoid custody where there were extenuating circumstances; and to support other interventions.

As a community penalty, curfew orders are unique in some important respects. Criminal justice practitioners noted that tagging may have an impact on others in the curfew household and on the offender's personal and social relationships in a way not seen with other community sentences. This has implications for assessment. Tagging was also viewed as a uniquely passive sentence, requiring no active participation on the offender's part. Further, probation and YOT officers often felt a conflict in proposing curfew orders to the courts, or preparing curfew order breach PSRs, when they had no supervisory involvement in or experience of the sentence. Curfewees interviewed for this study had typically found support from others had helped them comply with the tag; and in practice, supervising officers often thought tagging could assist work on other penalties. From research in Canada, Bonta *et al.* (1999) found that although tagging alone did not influence re-offending, it could support the impact of behavioural programmes. A reconviction study of those tagged in the 13 months following roll-out is planned and may help clarify the effect of tagging on offending behaviour.

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