

# Creativity and effectiveness in the use of electronic monitoring as an alternative to imprisonment in EU member states

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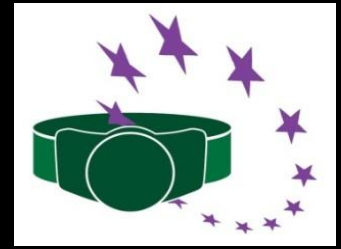
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Co-funded by the Criminal Justice Programme of the European Union

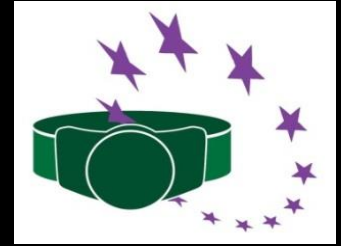
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# Project partners



- Kristel Beyens (Vrije Universiteit, Brussel, Belgium)
- Miranda Boone (Utrecht Universiteit, The Netherlands)
- Frieder Duenkel (Universität Greifswald, Germany)
- Gill McIvor and Hannah Graham (University of Stirling, Scotland)

# Research methodologies



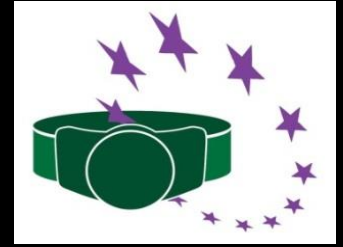
	Observations (days)	Interviews
<b>Belgium</b>	19	29
<b>England and Wales</b>	18	68
<b>Germany</b>	11	30
<b>Netherlands</b>	18	34
<b>Scotland</b>	9	30
<b>Total</b>	<b>75</b>	<b>191</b>

	Belgium		England & Wales		Germany		Netherlands		Scotland	
	RF	GPS	RF	GPS	RF	GPS	RF	GPS	RF	GPS
Pre-trial		✓	✓		✓		✓	✓		
Court order	✓		✓		✓		✓	✓	✓	
Execution/alternative to prison sentence	✓						✓	✓		
Early release			✓	✓	✓		✓	✓	✓	
Post release				✓		✓	✓	✓	✓	
Alcohol monitoring			✓ Pilot				✓ Pilot			
Victim's programme			✓ Pilot							

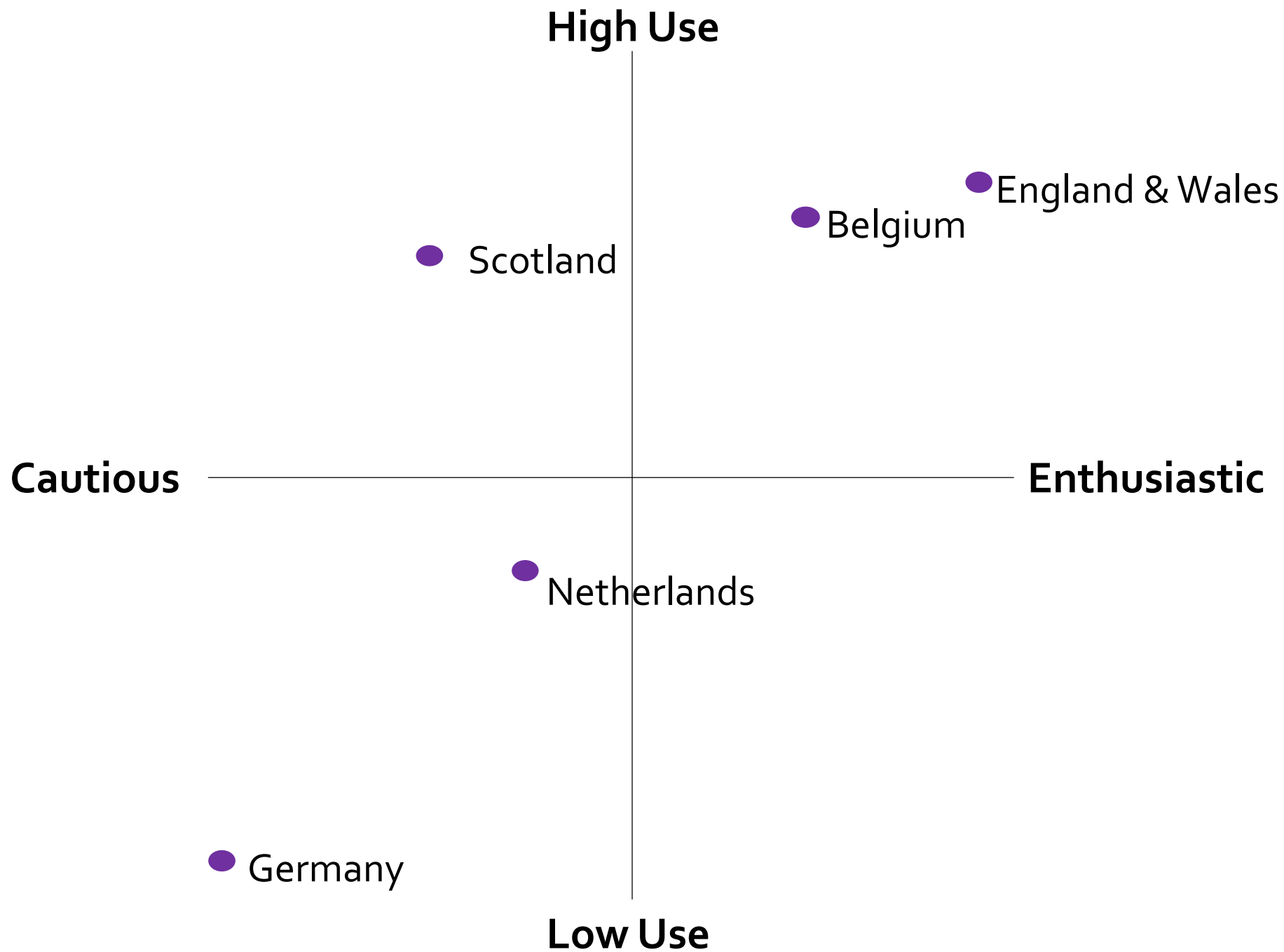
# Electronic monitoring technologies

- Radio-frequency (RF)
  - most utilised technology
    - Confinement/ Freedom (Germany)
  - Will continue to be used despite some criticism of its limitations
- Tracking (GPS)
  - Used in all jurisdictions except Scotland
  - Mainly passive use to monitor exclusion/inclusion zones
  - Small number of high-risk offenders
  - Greater use in the future
- Emerging technologies

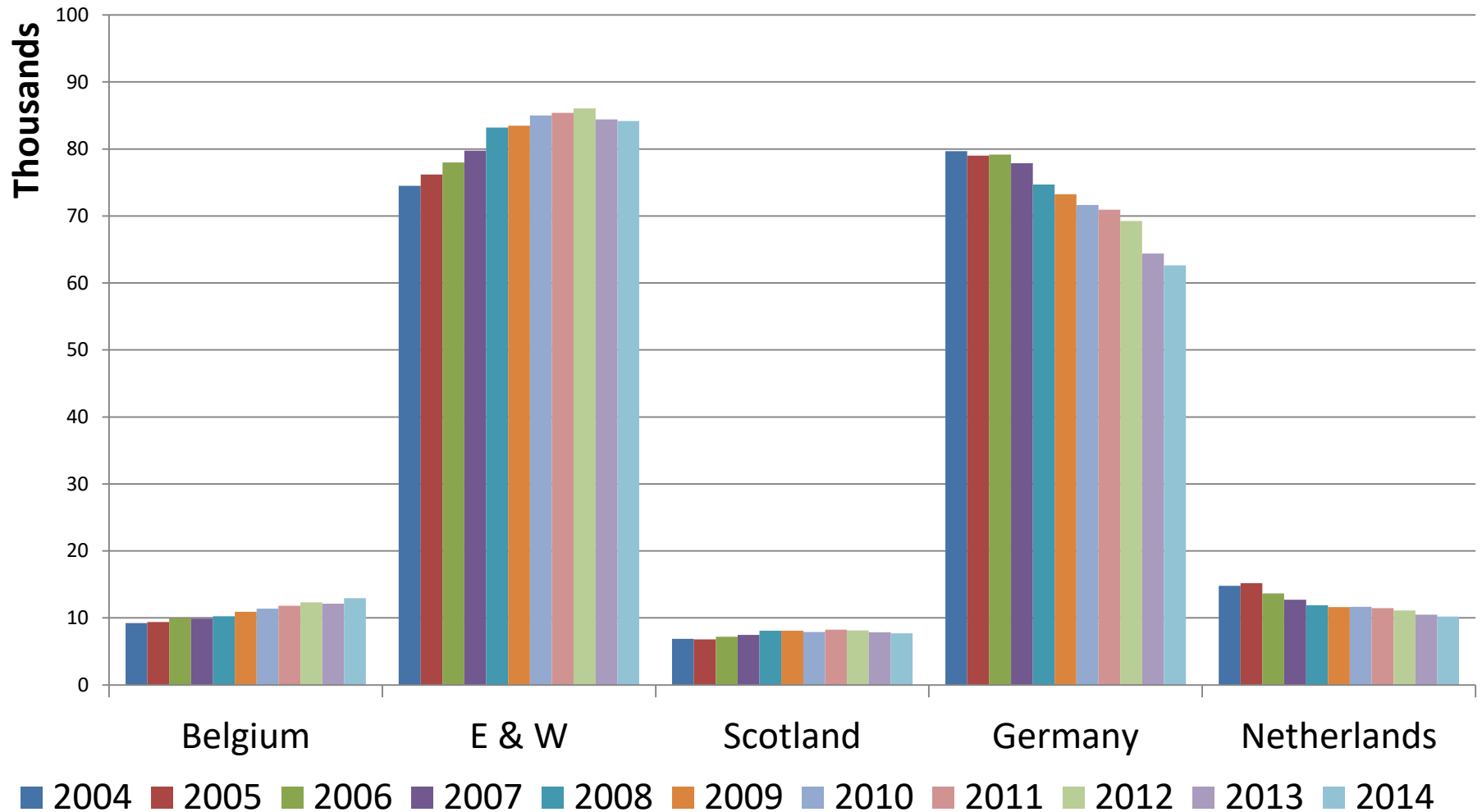
# Caseloads for Adults



	Belgium		England & Wales		Germany		Netherlands		Scotland	
	Day	Year	Day	Year	Day	Year	Day	Year	Day	Year
Pre-trial	73		3617		43		48			
Court order	228		5917				139			1221
Post-custodial	1666		2208		73		136			1672
Total	1697	5011	11742	N/A	113	N/A	367	1562	808	2893

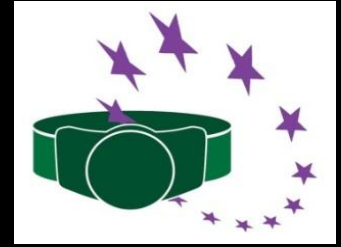


# Prison populations 2004-2014 in partner jurisdictions (SPACE 1: 2012; 2015)





# Objectives of EM

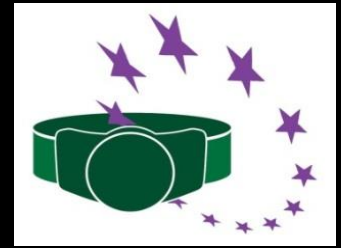


- Many different objectives which were shared in all jurisdictions but their prominence differed and changed over time.
  - Alternative to custody
    - Avoids the harms of incarceration and maintains and potentially builds community ties
  - Unique elements of EM
    - Structures daily life
    - Provides an excuse
    - Adds intensity
    - Assists with the management and completion of other requirements
  - Supports transition from custody aiding reintegration
  - Increases victims' and public safety especially GPS
  - Provides concrete evidence of breach
  - Cost reduction

# Integration of EM with criminal justice agencies

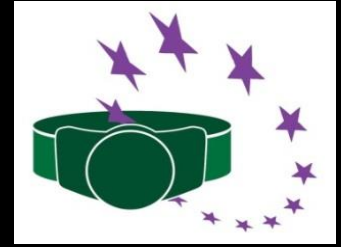
- Two models of private sector involvement
  - Anglo / European models
- The extent of private sector involvement is one of the determinants of EM integration
- Less integration associated with:
  - Greater private sector involvement
  - Greater use and/or number of modalities
  - Pre-trial use of EM
- More highly integrated EM is with probation services the more discretionary decision-making takes place
- Differential awareness of EM amongst criminal justice personnel in Anglo model resulting in differential use

# Duration of EM



- Potential to use EM indefinitely
- Pre-trial
  - No maximums
  - No jurisdiction takes account of periods spent on EM pre-trial during sentencing.
  - Belgium and England: discount sentences once imposed.
- Sentencing
  - Maximums periods are prescribed
- Post-custodial
  - Variable
  - Maximums in England and Scotland for Home Detention Curfew
- Voluntary schemes

# Confinement periods

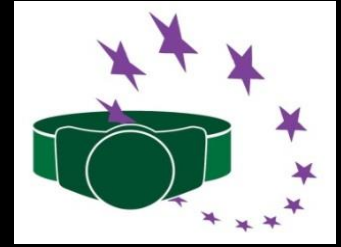


- Mostly RF but GPS in Belgium
- Languages used: confinement/freedom

# Statutory restrictions on daily hours under EM

	Belgium	England & Wales	Germany	Netherlands	Scotland
<b>Pre-trial</b>	24 hour curfew	Up to 24 hour curfew	None specified	2-17 hours freedom	
<b>Sentence</b>		2-16 hour curfew	None specified	2-17 hours freedom	12 hour curfew
<b>Post-custodial</b>	Min. freedom: 4 hours. Max. freedom: 12 hours	9-12 hour curfew		2-17 hours freedom	12 hour curfew

# Creative use of EM

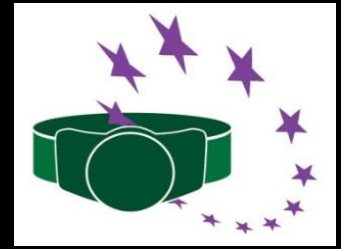


- General Lack of creativity
- Highly structured and uniform use within jurisdictions
  - Hours
  - Intensity
  - Changes to monitoring requirements
- Exit strategies
  - Little use of exit strategies
  - Phased use of hours (the Netherlands)

# Number of hours of free-time in the Netherlands

Risk level	Weekday	Weekend	Total per week
3	12	4	68
2	14	8	86
1	17	17	119

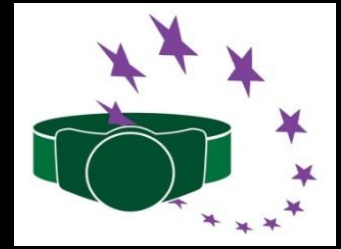
# Fostering creative use



- Tailoring curfew hours to the circumstances of monitored individuals and offences
- Implementing progression and exit strategies including mechanisms to end EM earlier than planned when individuals are compliant
- Developing policies and procedures relating to changes in circumstances to ensure a consistent and flexible graduated response

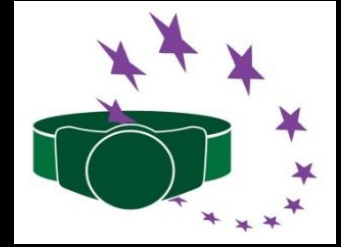


# Informed consent



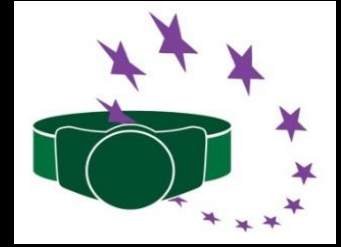
- Variable evidence that informed consent is received from monitored individuals
- 'Voluntary schemes'
  - England and Germany (Hesse)
- Similarly, different mechanisms to gain co-habitees' consent
- Concerns about degree of ability to say no
- Procedures to ensure that informed consent is received from co-habitees independently and prior to the imposition of EM
- The provision of alternative addresses for monitored individuals

# The provision of support



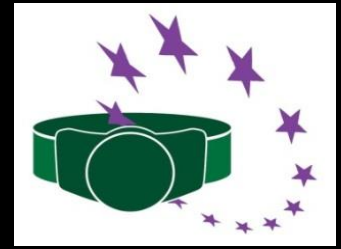
- Important to ensure 24/7 support to monitored individuals because EM generates a lot of questions and calls for support
  - Anglo-model: 24/7 support via control centre by private sector
  - European-model: greater probation involvement but not always 24/7
- Home visits

# Breach policies



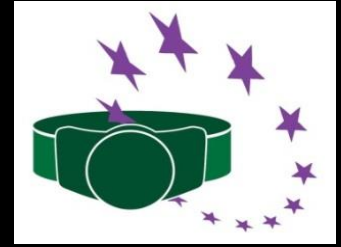
- High degree of convergence of enforcement and breach policies
  - All jurisdictions had leeway in their breach policies but amount of leeway differs
  - High level of concordance in reasons for breach
  - All jurisdictions had graduated approach to violations
- Differential practices
  - Consistency of breach thresholds
  - Dutch system is more discretionary. Belgium, England and Scotland are more routinized
  - Types of violation/risk and priority of individuals
  - Timing of when explanations are sought differs
- Greater probation involvement results in a more discretionary process

# Enforcement



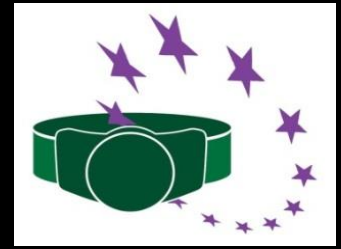
- Concerns about breach decisions
  - Too lenient
  - Inconsistencies
    - Who makes decisions
- Explaining breaches
  - Informal v routinized approaches
- Use of violation reports
  - Supervision sessions
  - Judges
- Enforcement responsibilities
- Review breach policies to ensure a consistent, proportionate approach incorporating a graduated response to violations

# Diversity



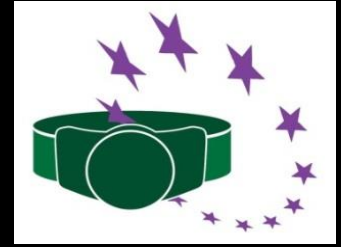
- Urgent need to implement measures to ensure consistent and fair treatment of individuals from diverse populations
  - General lack of awareness of diversity issues except in Scotland
  - Few policies were found relating to diversity and EM
  - Ethnicity and religion were particularly poorly accounted for
  - Most commonly dealt with on an *ad hoc* basis
  - Non-native language speakers

# Electronic monitoring data



- Vast amounts of data collected
- Different approaches to data issues
  - Who stores the data
  - Who has access to it
  - How long data is retained
- Specific concerns
  - Working with contractors outside the EU
- Ensure effective yet restricted data sharing between agencies with reference to data protection protocols.

# Conclusions



- EM is a permanent fixture in criminal justice
- Ideal time to review its use
- Many uses are being promoted at the same time as existing technologies are evolving and new technologies are being created.
- The challenge is ensure that EM is used according to the principles of proportionality and necessity, in the least intrusive way and incorporating support so that it positively influences individuals and assists them to lead meaningful lives