

INCORPORATING ELECTRONICALLY MONITORED HOUSE ARREST
INTO BRITISH COLUMBIA CORRECTIONS:
THE PROCESSES OF POWER, KNOWLEDGE, AND REGULATION
IN THE DEBUT OF A PUNISHMENT TECHNIQUE

By

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ABSTRACT

Since 1984 in the U.S., electronic monitoring has been gradually incorporated into corrections as a means of verifying offenders' curfew compliance in programs of house arrest or home confinement. Programs of electronically monitored house arrest combine practices of community supervision found in probation, with practices of surveillance and policing found in prisons. Their combination produces a hybrid carceral form. The species of 'intermediate punishment' that is created expands the possibilities of criminal sentencing and classification. These programs have been heralded as humane and cost efficient in managing mainly 'low risk' offenders, and as a potentially effective method of dealing with prison crowding.

The recent inauguration of electronic monitoring in a program of house arrest in the province of British Columbia is the first deployment of this new type of penal form in Canada. The present research investigation focuses on this program run by the B.C. Corrections Branch. Prior to a consideration of this program as the site for the present research, a necessary task in the first part of this dissertation is to review the recent literature describing programs of electronically monitored house arrest. This review describes recent electronic monitoring programs in U.S. criminal justice and correctional spheres where virtually all developments have occurred to date.

After this literature review, the British Columbia research site is described and a summary of the findings of an exploratory research investigation describing the effects of this sanction on offenders is given. Despite methodological limitations of the research sample some important insights are provided about how this sanction works to control, punish, and discipline offenders. The main research question considered in this empirical investigation - how does this sanction affect offenders and their consociates? - is addressed through subjective reports provided

by open-ended interviewing of a cohort of 60 offenders placed on electronically monitored house arrest in the B.C. EMS Pilot Project program.

The second part of the dissertation establishes a social analytic basis, drawing on the work of Michel Foucault, for critically evaluating the local use of this new correctional option. Part II of the dissertation evaluates the disciplinary and organizational or systemic effects of the deployment of this sanction within the correctional enterprise. A framework for assessing the *possibility* of achieving the four penal aims of punishment, incapacitation, deterrence, and rehabilitation is employed in a re-assessment of the sanction's normalizing effects and disciplinary potential. The picture provided of the achievement of these penal objectives is mixed and indicates that more research is required.

Finally, and of more overarching significance, various data sources relating to the local development and implementation of this program in B.C. are examined in order to evaluate the applicability of the hypothesis that penal reforms *expand* the apparatus of deviancy control, a pattern found among many recent studies of 'community-based alternatives to incarceration'. The discursive rationality accompanying the introduction of such programs suggests that costs for social control will be decreased and implies that correctional staffing can be reduced through greater efficiency. Contrary to these claims, evidence from the EMS program points to systemic expansion rather than contraction, a trend sufficiently visible to warrant further study and confirmation. The thesis concludes with a discussion of the larger significances entailed in the adoption of the new information technology, of which electronic monitoring is one pertinent example.

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Part I

Chapter One: Introduction

At the start of the present decade, crowding in U.S. prisons precipitated development and testing of correctional programs involving *electronic monitoring* and *house arrest* (cf. Blomberg et al., 1987). While employment of house arrest is by no means an historical innovation, the utilization of computers and other information technologies to monitor compliance with house arrest and curfew schedules is much more recent by comparison. Their combination permits a higher degree of surveillance and control over offenders in the community.

This dissertation examines this newly developed criminal justice sanction, namely *electronically monitored house arrest*. It provides a sociological investigation of the institutional development and expansion of this new correctional and social control technique within U.S. and Canadian criminal justice systems. As well, the present research investigates the *effects* that this new type of criminal justice sanctioning method has, both on offenders subjected to it and on the criminal justice and correctional apparatus from which it has arisen. The chapters of this work and its two-part division reflect the attempt to address these two fundamental dimensions.

The effects of *electronically monitored house arrest* programs on *offenders* (and those they live and work with) has received little attention to date, something the present investigation seeks to remedy. The research question at the *individual* level can be posed succinctly: how does the penal sanction of *electronically monitored house arrest* affect offenders and those with whom they live?

Before conducting an empirical assessment of this question, a review of programmatic developments involving *electronic monitoring* and *house arrest* will be undertaken in Chapter Two. The content of Chapter Two represents an attempt to provide background knowledge about programmatic developments that leads into the investigations centering on the B.C. program that will follow. Although the review of developments in *electronic monitoring* and *house arrest*

programs represents a delay in getting to the descriptive and analytical focus on the B.C. program, this hiatus will enable the latter program to be located, later, in wider comparative contexts of criminal justice and correctional practice. Thus, the literature review in the second chapter of the thesis serves the objective of locating the B.C. program in a larger framework of political, economic, institutional, technological, informational, ideological, and social forces.

The program in question - the B.C. *Electronic Monitoring System* program (or EMS program)¹ - is the research site for this investigation of offender impacts and is described in Chapter Three. After reporting on the site for the empirical examination in Chapter Three, a research enterprise will be described and findings presented from a 60 case cohort of EMS program participants. These findings, set out in Chapter Four, are based on accounts from offenders that reflect their experiences in being subjected to *electronically monitored house arrest*. The particular dimensions of interest of this research pertain to the *social, psychological, and familial effects* of offenders' subjection to *electronically monitored house arrest*. Together, these first four chapters form Part I of the dissertation.

It is important to be clear about the relationship of Parts I and II of the dissertation. Part II of the dissertation consists of a shift involving a reassessment and reconceptualization of the findings and discussions set out in Part I. This is accomplished by way of addressing some relevant, important ideas derived from Michel Foucault - ideas that are central to the shift in perspective taken in Part II and to the analysis of this particular form of penalty. The introduction of Foucault will be undertaken primarily in Chapters Five and Six, though Chapter Two will also have briefly discussed the employment of his conceptualization of power and knowledge (which will be elucidated in much greater detail in the later chapters).

In essence, two hypotheses derived from Foucault are examined in Part II in light of the findings and the programmatic context of the research site in question (as depicted in Part I). First, rather than examining the concordance of programmatic designs, their institutional embodiments, and subsequent outcomes, Foucault proposes an alternate hypothesis, namely that

there is a non-correspondence of penal designs, practical institutional organizations, and outcomes. The second hypothesis is related to the foregoing in that analysis at the systemic level reveals an expansion of the penal apparatus and the concomitant regulatory bureaucracy. This suggests a correspondence between outcomes (the 'multiplication of power') and the latent objective of the penal system which is that of growth. Ironically, this takes the form of the productivity of punitive power carried out within the practical organization of the discursive reform strategy of 'decarceration'. The policy of electronically monitored house arrest is a species of 'community-based alternatives to incarceration'² and part of that reform strategy.

These two hypotheses are differentially examined in Chapters Six and Seven, respectively. In Chapter Six, on the one hand, a re-assessment of the research findings of the offender effects of this sanction - a re-assessment of the findings of Chapter Four - is undertaken. This is done, not to evaluate the applicability of the 'expansion hypothesis' so much as to assess more rigorously and critically whether this new sanction achieves - or could potentially achieve - the punitive goals that are stated or implied for it (i.e., the penal aims of incapacitation, punishment, deterrence, and rehabilitation). The hypothesis of the non-correspondence of discourse, practices, and effects, in other words, can be evaluated for this sanction by critical re-assessment of the findings. In Foucault's terminology, this analysis focuses on the disciplinary level, the level of the individual.

Chapter Seven, on the other hand, entails the provision of new data and documentary resources in order to assess the expansion hypothesis. Assessment of the fiscal dimension is important here because 'costs savings' - meaning monetary costs - is a discursive truth announced for this penal method and a significant constituent of programmatic legitimacy. Evidence available to date suggests there is a gross discrepancy between the announced goal of reducing correctional expenditures and the programmatic costs associated with an ongoing expansion of the penal apparatus of this local system. Contrary to the penal reform discourses that herald 'cost efficiency' in the introduction of this new penal form, then, Chapter Seven indicates that the expansion hypothesis is confirmed, suggesting that the EMS program in B.C. has or will result in

additional correctional costs and an *expansion* of the deviancy control system (cf. Chan and Ericson, 1981; Cohen, 1985; Foucault, 1979).

The central thesis of this dissertation then, is that, contrary to claims and suggestions by correctional administrators, this new penal policy contributes to the expansion and extension of the carceral form. Moreover, the rational management and control of carceral system expansion involves a concomitant management and control of the conditions under which *house arrest* and *electronic monitoring* is evaluated, a set of practices that will be described and analyzed. The content of this thesis means that this examination must also have a necessarily reflexive dimension, whereby I must pay analytic, descriptive, and critical attention to my own participation in program legitimation and in the expansion of punitive power.

The concluding chapter will review the evidence about offender and system effects relating to this new punishment technique. It will also address questions pertaining to future research and methodological issues, as well as make recommendations about the utilization of this sanctioning option in light of its determinable efficacy at both individual and system levels. It is argued that the correctional policy of *house arrest* with *electronic monitoring* can be employed in a strategy of penal system reduction; however, this is posited as occurring only under circumscribed conditions of caution, and within a broadly-based criminal justice system consensus favouring a master strategy of paring down systems of criminal justice and corrections.

It should be noted that the present investigation could have focused solely on the effects of this sanction on offenders and the methodological issues that the conduct of such research makes evident or implies. Focusing only on offender effects and methodological issues, however, would yield a very parochial examination of this new penal form. Rather than limiting the inquiry in this way, then, an effort has been made to account for the social processes of *power*, *regulation*, and *knowledge production* that have given sustenance and legitimacy to the public policy of this new penal form.³

Foucault's analytic contributions to the analysis of penal practices, power, and knowledge (1972, 1979, 1980, 1983) are influential in the present work. Part II of the dissertation takes up and develops in greater detail Foucault's social analytic conceptions for the study of *electronic monitoring* and *house arrest*. The analytic of power will be put into service to examine the political, bureaucratic, ideological, economic, technological, and social dimensions that could be included under Foucault's rubric 'disciplinary power' and its mechanisms (see Chapters Five to Seven). Indeed, throughout Part II Foucault's important contributions to the study of disciplinary power, discourse, and penal relations are evident.

However, it is important to appreciate that the discourses relating to the penal policy of *electronically monitored house arrest* - reviewed in Chapter Two - are capable of being conceived as features and mechanisms of power relations as well. The initial examination (Part II, Chapter Five) of relevant issues in the social analysis of penalty, as well as brief consideration of some recent social histories of punishment, will help to introduce the utility of Foucault's 'interpretive analytics' or genealogy of power (Dreyfus & Rabinow, 1983) and the ways in which it will be explicated in the present work.

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In beginning, it will help to provide a simple overview of what this new type of sanction entails. To do this I prevail upon the recently inaugurated B.C. program, which is to be the focus of the present research. In that program offenders are screened to determine whether they are suitable. Suitability is assessed by correctional staff through the use of screening criteria. As long as offenders have a telephone, are assessed acceptable by correctional staff according to program criteria (non-violent, no outstanding charges, under 90 day sentence, voluntary participation), and indicate a willingness to cooperate, then they are eligible to be taken into the program. Once

program suitability has been established, a curfew schedule is drawn up that permits offenders to attend work, or educational and/or rehabilitation programs where relevant. The individualized schedule is logged into a computer (and updated or changed as necessary). The curfew schedule gives offenders enough time to travel to and attend *approved* activities (such as work), as well as indicating exactly when confinement to residential space must be observed by them.

An 'electronic bracelet' - a Radio Frequency transmitter - is attached to the offender that cannot be removed without tampers being detected. Communications equipment is hooked up to the offender's home telephone. In the fully automated systems of 'home monitoring' such as is being used in B.C., the ankle-worn bracelet and telephone-attached 'receiver-dialer' operate merely to confirm whether the offender is *arriving home* and *leaving home* according to his or her individualized curfew schedule. The *electronic monitoring* equipment can detect and communicate the presence of the offender's ankle-worn Radio Frequency transmitter only within a limited range of the receiving/sending equipment (approximately 150-200 feet from the receiver-dialer attached to the offender's telephone). This means that once the offender leaves home for work or any other activity approved by correctional personnel, the *electronic monitoring* is no longer functional. It only confirms or 'verifies' whether the offender has left or returned home according to the established curfew schedule. It does not detect alcohol or drug ingestion, nor does it indicate whether the offender has left early *from work* or is driving a car while legally prohibited. These latter activities can only be detected if corrections personnel *directly* contact offenders (or their workplace, educational, or rehabilitative supervisors), either by telephone or by attending their place of work, schooling, or rehabilitation. This verifies, through face-to-face observation, that the offender is in a *known* location, engaging in an *approved* activity.

The regimen that is established means that the offender is provided with enough travel time to attend approved activities such as work, school, or alcohol and drug treatment sessions. Otherwise, the offender is to remain 'at home', which in the B.C. program means remaining restricted within the walls of his or her dwelling-place. If the offender leaves early or returns

home later than the curfew schedule provides, then correctional personnel are soon alerted by the monitoring system. Usually within minutes of an apparent violation, corrections staff telephone the offender's residence to verify whether the computer-indicated violation is correct or not because *sometimes* the electronic equipment makes false violation reports. If telephone contact confirms that equipment error is not responsible for the violation report produced by the computer, then a decision to apprehend the monitored offender can well be made. In the event that apprehension occurs, the offender will usually be detained in a detention facility - usually a jail or prison - until a revocation or disciplinary hearing determines how the infraction(s) are to be dealt with. The offender may be returned to the program of *electronically monitored house arrest* and get added time as a disciplinary measure, or he or she may be incarcerated in a correctional facility for the duration of the sentence.

As mentioned above, one chief interest in the present research work is to determine how this sanction affects those subjected to it. This brief description of the curfew schedule indicates that as long as the offender complies with the curfew schedule by remaining confined at home, then he or she will be permitted to complete the sentence period on the program. There are obvious questions regarding how this form of confinement and surveillance affects offenders. The research findings reported in Chapter Four, then re-analyzed in Chapter Six, address the following kinds of questions. What does being sanctioned in this way mean to offenders? How do they cope with the kinds of restrictions that are entailed for them? Are such programs punishing? Do programs of *electronically monitored house arrest* constitute a deterrent to law-breaking? How intrusive is this penal practice for other persons not under penal sanction, but who nonetheless share the offender's life-space? Are there any untoward or debilitating effects experienced by offenders as a result of wearing the electronic 'bracelet'? Are there conditions under which such programs are (or might be) unduly harsh or harmful to offenders? Does this correctional method produce effects of social discipline? If rehabilitative effects are produced, in what way are these effects relevant, if at all, to the offence committed?

The actual interviewing that was done to produce the data base to answer these questions - to be reported in Chapter Four - began in January, 1988. A preliminary questionnaire schedule was pilot tested with five offenders before being revised into a final interview format. It is noteworthy that the ethnographic dimension of this empirical investigation could, in itself, provide a singular research focus; however, the ethnographic particulars have *not* been emphasized because primary attention is given to the *findings* at this juncture. A brief consideration of the ethnographic dimension now, however, permits a fuller appreciation of some of the conditions and circumstances encountered during the research itself.

In most cases research interviews were conducted in offenders' homes or apartments and this afforded the opportunity to directly view their conditions of confinement. I found offenders to be cooperative, and in some instances, eager to discuss their experiences. Two offenders, in particular, were especially talkative, and these interviews took four hours to complete. It became evident that these two offenders felt lonely and isolated and had a great deal to disclose; so much so that the interview sessions came to take on the tone of therapy sessions in between the asking of research questions. These respondents sought to relieve themselves of the psychological and emotional distresses that had accumulated over the course of their confinement.

The actual conditions of the interview varied greatly between respondents. In most cases offenders were interviewed alone, however in some cases others came and went during the course of the interview. In a few cases, others were present throughout the interview. In one case, many of the offenders family members insisted on being present during the interview and at certain points the researcher had to insist that father and uncle not answer questions for the respondent. In other cases where family members or friends were present, respondents took centre-stage and others' input was helpful in confirming or clarifying answers that were being given.

Many respondents were as eager to ask questions of their own, as much as to give answers to the research questions. Understandably, offender-respondents sought to gain further information about the EMS program and its operation. They were particularly interested in

determining the *range* of the Radio Frequency bracelet they had to wear,⁴ in addition to other aspects of the program they were unclear about.

It was obvious that some respondents were 'smart' about the intentions of the program. That is to say, some offenders articulated an awareness that correctional staff wanted 'successes' and that the program was to some extent predictable in that it took place within a bureaucracy, much like institutions they were familiar with. On the other hand, many offenders adopted a conformist attitude, and it was apparent that these individuals took correctional staff at their word in regard to the program, e.g., that offender spot checks could occur anytime, even though these never occurred after 11 PM because of staff scheduling.

One particularly interesting feature of the EMS program arises from the fact that the practices of punitive sanction are moved into offenders' homes and workplaces. For this reason, I was particularly attentive to how much information offenders provided to others about their participation in the program. Most offenders had 'significant others' or other persons from whom they withheld information about their program status. Program concealment tended to be problematic for them to the extent to which they had contact with those persons. For example, I encountered many offenders who wished to prevent their parents from knowing about their conviction and EMS program status. If only intermittent contact was had with parents and the sentence length was short, then it became relatively easy to conceal their program status. However, if sentence length was longer and more frequent contact was the norm, then offenders either had to face revelation or adopt duplicitous methods in order to maintain significant others' ignorance.

In one extreme case, a mother of two boys felt so ashamed of her criminal status - as signified by the electronic bracelet - that she misled her young sons into believing that the bracelet was a special communications device for her work with multiple sclerosis patients. Needless to say, I sought to assist in whatever concealment appeared to be necessary. This was something that cropped up from time-to-time when interviews were conducted in places of work or when

others entered the interview situation who may have fit into that class of persons from whom the offender wished to conceal his or her program status. Indeed, I became aware of this critical dimension early in the research process, when attempting to contact offenders by phone to explain the research and arrange an interview time. It became apparent that some offenders had the assistance of others in screening phone calls and in providing excuses concerning why the call could not be taken at present.

There are also many encounters with program staff that shed light on the apparent intention to elicit support and collaboration in establishing program 'success'. When first negotiating research access, for example, I presented the research proposal before the citizens' Advisory Committee. A couple of committee members sought to assist me in obtaining maximum research access; this meaning that I would be permitted to attend *all* Advisory Committee meetings. To that end, a heated and vigorous discussion arose in the meeting around the question of researcher access to the Advisory Committee meetings. Some committee members argued that this was a decision that they, as a committee, ought to decide. During the meeting itself, the committee's ability to render this decision was formulated by some as being a kind of litmus test of its supposed 'independence' from the Corrections Branch. No decision was taken at the time. A few days later when I met with the Pilot Project Director to conclude the research contract agreement (see Appendix I), I was informed that the prospect of doing the research was in grave doubt because of what had transpired at the Advisory Committee meeting. I reassured the Pilot Project Director that I was not responsible for what had occurred in the meeting and that I was willing to cooperate with the conditions we had agreed about earlier. The fundamental point here was that my *regular* attendance at Advisory Committee meetings was considered to be a 'conflict of interest', something that puzzled me at the time, but which I dared not query further for fear of being perceived as uncooperative. Subsequently, I attended about half of the Advisory Committee meetings *at the discretion of the Pilot Project Director*. This had the effect of limiting the possibility of an overview perspective, of structuring access to important program summary information via

the Pilot Project Director, and of encouraging the view that privilege and favour were being bestowed when the Director initiated an invitation to attend an Advisory Committee meeting.

It was evident in other ways that Pilot Project staff were inviting my collaboration in 'helping to make the program a success'. The Pilot Project Director asked if I would attend plenary sessions with judges in order to describe the research results. This invitation I initially accepted, believing that it would help to sustain positive relations with the Director. However, I later declined this invitation after discussions with my research supervisor, who persuaded me that this would compromise my neutrality.

From time-to-time correctional staff attached to the program would underscore the importance of interviewing particular offenders who presented unique or interesting circumstances corrections personnel thought I should know about. These offenders were invariably enthusiastic supporters of the program. Program staff were generally very helpful in assisting the research, apart from the subtle and not-so-subtle ways in which program supportiveness was effected.

What many of these ethnographic observations suggest is that there are various ways - both local and more general and pervasive - in which research outcomes are structured and influenced. Moreover, this consideration of the *qualitative* realities of social conduct and experience illuminates some of the conditions that are obscured within a quantitatively oriented research enterprise. The ethnographic dimension also discloses some of the subtle and unique ways in which offenders react and adapt to this sanction, as well as the overall context of supportiveness and collaboration that is sought by program personnel. Ethnographic particulars also indicate that this kind of sanction affects social conduct and experience in ways that are not susceptible to simplistic generalization. These particulars indicate that 'variables' exhibit a gestalt-like form, inasmuch as the conditions and circumstances for any particular offender are unique and contingent.

It is important to consider the development and use of *house arrest* and *electronic monitoring* as a penal form, prior to addressing the research questions of interest which focus on the B.C. EMS program. Chapter Two explores the institutional development and use of the practices of *electronic monitoring* and *house arrest*, as well as proposing some conceptual tools for their analysis. This literature review permits the developments in B.C. to be viewed within a wider criminal justice and correctional purview.

The inaugural use of *electronically monitored home confinement* was in the state of New Mexico in 1983 (*Corrections Magazine*, 1983; Gable, 1986; Timko, 1986).⁵ 'Electronic monitoring', 'electronic monitoring surveillance' or 'telemonitoring' (Gable, 1986) - hereafter referred to as EM - is to be understood (Chapter Two) as an *informational capability* deployed within the social organization of Information Technology (IT) and the corresponding practices of Information Work (IW) (cf. Webster & Robins, 1981; Newman & Newman, 1985). This deployment takes place within correctional and penal practices and administration.

Within this framework, I conceive 'information' as the *reduction of uncertainty*⁶ (cf. Ashby, 1956). Current uses of EM in different *home confinement* or *house arrest* programs indicate that the chief purpose served by EM is the 'reduction of uncertainty' with respect to offenders' *curfew compliance*. Thus far, EM has been used in various ways within the U.S. criminal justice system (in federal, state, county, and city programs) - in widely varying organizational settings designated as 'alternatives to incarceration' - to permit verification of offender compliance with judicially or administratively mandated curfew orders constituting the *home confinement* component of such programs.

Understanding EM as the production of 'information' (within the organizational contexts of *house arrest* or other community supervision programs), is important to any consideration of how

this sanction has developed historically, as well as to understanding how different forms of punishment employing EM affect offenders and their social relations with others.

One way of conceiving EM within current criminal justice system uses is to propose that as 'information capability', EM *automates the method of verifying house arrest compliance*.⁷ EM must be clearly understood as distinct from programs of *house arrest*; however, as Schmidt and Curtis (1987:141) point out: '[t]he literature on home incarceration or house arrest is closely related to electronic surveillance (what I am referring to as EM) because the two are often related programmatically' (see also, Lilly et al., 1987:363).⁸

Blomberg et al. (1987) predict that 'electronic surveillance strategies will likely proliferate' in the years ahead since '[t]here are many potential, if not proven, uses and objectives for electronic surveillance in the criminal justice system, in addition to home confinement' (Ibid.:174, see Blomberg et al., Ibid.: 174-6 for examples of other uses of EM).⁹ During initial introduction, however, attention has been focused on uses of EM in programs of *home confinement*. In this regard, both scholars (e.g. Ball et al., 1988) and professional public policy advocates and research consultants in various jurisdictions of American criminal justice organization (e.g., Petersilia, 1987a; Vaughn, 1987; Friel, Vaughn & del Carmen, 1987) have recommended continued development and deployment of house arrest programs employing EM.

Within 'social control talk' (Cohen, 1983), the term *home confinement* has various other analogous usages: 'home incarceration', 'house arrest', 'home detention' (cf. Ball et al., 1988). The latter scholars caution that

[t]his term is often used very loosely, and it is probably preferable to refer to this correctional policy alternative as *home confinement*, a term that has the virtue of covering more specific practices, such as *home detention* (in which the residence is used as a detention facility) and *home incarceration* (in which the residence replaces a jail or prison as a place of incarceration). The term *house arrest* tends to imply police action without much in the way of judicial due process. Nevertheless, the term may be appropriate in a nontechnical sense because it offers a means of communicating the policy to the general public, a starting point in an effort to communicate more precisely the exact nature of this correctional alternative (Ibid.: 21).¹⁰

As previously indicated, nearly all of these uses, in present contexts of criminal justice system organization at least, make reference to programmatic developments involving the enforcement of curfew restrictions on various classes of offenders who have undergone either formal or informal 'risk classification' or assessment for their prospects of being cooperative and/or 'successful' in EM programs (cf. Petersilia, 1986:55). For purposes of consistency and clarity I will follow Ball et al's usage, which entails referring to the correctional practice of curfew supervision and spatial/mobility/normative restrictions associated therewith as *home confinement* or *house arrest* (cf. Hofer and Meierhoefer, 1987).

It should be born in mind, however, that the use of EM to monitor curfew compliance, as noted above, in no way exhausts the potential or possible uses - the functional extension of EM - to cover the 'reduction of uncertainty' with respect to other forms of individualizing knowledge pertaining to the control and management of offenders. Indeed EM is being employed on a limited basis; apparently, to monitor other conditions of community supervision (such as alcohol/drug monitoring and tracking which permits extra-residential monitoring: see **Journal of Offender Monitoring**). These potential uses would appear to hinge on the extent to which prisoners' rights are diminished through legislative reform and/or judicial precedent and practice¹¹, and on the cost-effectiveness of deploying extant information technologies to accomplish more fine-grained effects of surveillance.¹²

Continued program development efforts indicate that the institutional policy of *house arrest* (employing EM) 'appears to possess all the attributes deemed crucial by the National Advisory Commission on Criminal Justice Standards and Goals for the Criminal Justice System (1973) in determining the actual expectation for adoption of a new criminal or juvenile alternative' (Ball et al., 1988:137). This suggests there will be a continuation of support for programs since they meet a wide range of criteria of operational, economic, political, and social significance (cf. Chan and Ericson, 1981).

House arrest and electronic monitoring are correctional policies that are believed to hold much promise in the future of 'alternatives' options in correctional programming (cf. Ball et al., 1988; Petersilia, 1987a). At present, however, caution in program development and conservatism in offender selection practices appear to be the hallmarks of this early phase of program development for the *house arrest* and EM options. While it seems fairly clear that *house arrest*, in addition to the use of EM, are expanding - both in terms of new programs and quantitative numbers of offenders being processed - it is not yet clear what the extent of future expansion will be, or how EM might also expand functionally to cover other purposes in addition to verifying location compliance within *house arrest* programs.

With a few exceptions (see below) all program development thus far has taken place in the U.S., though criminal justice officials from other nations appear interested and are perhaps about to go the pilot project route as well. For example, criminal justice policy-makers at the British Home Office, while initially disapproving of EM (or 'tagging' as it is termed in Britain) (see *The Economist*, 1985), now view *house arrest* and *electronic monitoring* ('punishment in the community') as a possibly viable sentencing option (*The Economist*, 1988; Parliamentary Command Paper #424, 1988).¹³ Fox (1987:132) reports the release of a discussion paper (April, 1987) by the *Victoria Sentencing Committee*, which mentions possible use of EM in Australia. The B.C. EMS program has achieved an initial foothold and is now expanding (*Vancouver Sun*, Sept. 7, 1989), and the province of Ontario is currently pilot testing EM.

As reported in Chapter Three a pilot project aimed at establishing a viable EM program was inaugurated in spring, 1987, by the Ministry of Solicitor General¹⁴ (Corrections Branch) in the province of British Columbia. British Columbia was the first provincial jurisdiction in Canada to make use of EM with *house arrest* and is presently in the post-pilot project phase of program development. Previous to the EMS program, the Corrections Branch had no stand-alone home confinement program such as is in place in the state of Florida. Hence, both of these methods of

surveillance (EM) and control (*house arrest*) are historically new to this local criminal justice system.

It was during the period of the pilot project that I was able to interview offender/participants in order to learn how the EMS Pilot Project program had affected them in different ways. In addition to directly interviewing offenders in this particular (pilot project) program, I was also able to observe and interview the principal criminal justice system actors responsible - within the Corrections Branch - for organizing and implementing this new correctional technique in their jurisdiction.

As technique, EM combines with home confinement and allows the achievement of more intensive forms of surveillance and social control than would be economically feasible in unenhanced forms of probation supervision or house arrest (Petersilia, 1987a:82-4; Jolin, 1987). EM is a strategic deployment of offenders' and controllers' relationship of communication (Foucault, 1983), which can permit a highly flexible, dynamic, and continuous verification of curfew adherence (as well as other court ordered supervision guidelines). Indeed, *that* such effects are now made possible with the use of EM, is precisely why it is important and relevant to take the apparent detour in Chapter Two of examining the significance of this new deployment of 'information'.

This historically recent possibility for the (social) relationship of communication (cf. Meyrowitz, 1985) serves as a basis for various discursive strategies within the correctional apparatus that aim to secure its adoption within the criminal justice domain in the first place: for example, program administrators can now make a case for having achieved 'adequate containment' of offenders and, therefore, that 'community protection' is being served by this new correctional breakthrough. The automated form of remote surveillance that EM provides, affords correctional innovators the ability to achieve arrangements of social control - due to the configuration of this relationship of communication - that are plainly punitive. But before examining the programmatic case in point - the B.C. EMS program - it is advisable to provide a

more general review of developments in this area of correctional programming, as I do in Chapter Two.

While a central interest of this work is to examine and assess how offenders are affected by this new correctional program (a research focus largely neglected thus far), the vantage-point of investigating offender impacts itself provides for an additional and potentially very fruitful point of departure for theoretical and descriptive analysis of this criminal justice policy. The chapters of Part II represent a fundamental shift in that they endeavour to provide a reflexive investigation; one that grasps the relation of the produced research knowledge to the overarching development and expansion of EM and *house arrest* in this particular criminal justice and correctional system.

Chapter Six re-interprets the research results (from Chapter Four) in light of the various analytic categories Foucault provides to explicate the intelligibility of political, economic, and other social relations. Using Foucault's categories enables an evaluation of the correspondence of announced penal aims, the practices that relate to these announced aims, and the consequences¹⁵ that result from this new penal form, in terms of its effects on offenders and their nearest social relations. This evaluation is conducted by critically reassessing the impact findings in reference to the four basic aims of penalty: namely, *deterrence*, *incapacitation*, *punishment*, and *rehabilitation*. Analysis is focused on the effects of discipline as a result of subjecting offenders to this sanction.

Chapter Seven expands the assessment of the correspondence of discourse-practices-effects to the level of the criminal justice and correctional systems (though it mostly focuses on the latter). It evaluates evidence bearing on the British Columbia EMS program's costs in light of available evidence and provides suggestive evidence in support of the hypothesis - derived from Foucault - that systemic expansion is a built-in feature of deviancy control systems. Findings from investigations of other 'alternatives to incarceration' programs show that new community-based reform policies and program developments eventually function so as to extend disciplinary power by increasing system capacity to control and punish. Chapter Seven incorporates the assumption that such will also be the case in the present context. Evidence is not definitive, though it suggests

confirmation of the expansion hypothesis (in sharp contrast to the discursive tactic of proclaiming the cost efficiency of the program).

Chapters Three through Eight are organized around the conduct of the B.C. Corrections Branch's EMS Pilot Project program - and hence stand together in sequential and thematic cohesion. The next chapter is a helpful preliminary review of literature that is of considerable relevance to those later chapters. Even though it defers taking up the immediate topical concerns of the dissertation, this chapter will be useful for a more general understanding of the B.C. EMS program and the social processes within which it is embedded.

Notes

- ¹ For purposes of consistency I refer throughout this document to 'Electronic Monitoring System...' or EMS as designating the British Columbia Ministry of Solicitor General's (Corrections Branch) Pilot Project program '...for Offender Supervision' (June, 1987 - December, 1988). In accordance with the usage in the main body of the text, EMS is a form of house arrest program involving the use of EM.
- ² The correctional policy of *house arrest* with *electronic monitoring* is generally placed within the category 'alternative to incarceration' (Ball et al., 1988:32-39). However, it is also conceived (or referred to) as an alternative *form* of incarceration. This is how the EMS Pilot Project *Director* referred to the B.C. program.
- ³ It is necessary to be reflexive, to examine the lineage and utility of this research knowledge, and to inquire about its relationship with those forms of knowledge that seek the incorporation of this new method of penalty. Compare Giddens' (1979) notion *duality of structure*.
- ⁴ Program staff would not disclose this information since they wanted offenders to abide by the condition that the latter remain within the walls of their residence (i.e., no going out into the yard, garage, etc.). As a method of gaining respondent rapport and trust, I chose to disclose this information since it is *publicly* available in newspaper, academic, criminal justice, and technical literatures that offenders could access if they elected to make the effort.
- ⁵ This was the first *judicially* sanctioned use of electronic monitoring. Different uses of electronic monitoring with human subjects had been experimented with in the 1960s (Ingraham & Smith, 1970, 1972; Schwitzgebel, 1967, 1968, 1969a). These are discussed in detail in Chapter Two.
- ⁶ This corresponds with the cybernetic definition of 'information' as the *reduction of uncertainty* (Ashby, 1956). See Chapter Two.
- ⁷ As *surveillance*, 'electronic monitoring' glosses the practices involved in organizing, interpreting, and deploying the products of that methodical automation. The 'information work' of EM consists in the detailed organizational work of interpreting and acting upon (or not acting upon) what the electronic instruments provide. The point here is that the term, 'electronic monitoring', summarizes a vast swarm of social activities (organized and ordered) that are implied by the use of this term (cf. Garfinkel & Sacks, 1970, on glossing practices).
- ⁸ It is possible to have home confinement programs *without* EM (as in the state of Florida's 'community control program', see Flynn, 1986a or as in a similar state-wide program in Oklahoma, see Meachum, 1986). On the other hand, the presence of EM usually implies the existence of some sort of house arrest or home confinement program.
- ⁹ Ekstedt and Griffiths (1988:399-404) identify electronic monitoring and the development & use of 'expert systems' as two more recent applications of computer-based technologies within corrections. These criminologists say 'computers and other forms of automation may be used to improve information systems, set up simulations to help determine the effect of decisions, and generally improve administrative efficiency in the processing of human beings in correctional programs' (Ibid.:399).

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- 10 Hofer and Meierhoefer (1987:5-6) prefer the term 'home confinement' as a *general* term encompassing different degrees of restriction: 'Home confinement can range from nighttime curfew conditions, to detention during all nonworking hours, to continuous twenty-four-hour-a-day incarceration. Enforcement techniques can range from random, intermittent contacts by a supervising officer to continuous electronic monitoring'. These researchers assert that '[t]hese differences should be captured in the terminology one uses to describe the types of home confinement'. They propose the following nomenclature: '*Curfew*... is a type of home confinement that requires offenders to be at their residence during limited, specified hours, generally at night... *Home Detention* [is] [m]ore severe than curfew; home detention requires that offenders remain at home at all times, except for employment, education, treatment, or other times specified for the purchase of food or for medical emergencies... *Home Incarceration*... is the most severe form of home confinement; the home substitutes for prison. Offenders are to remain there at all time with very limited exceptions (e.g., religious services or medical treatment). Under this condition, offenders are precluded from shopping, from working, or from having visitors outside prescribed hours'.
- 11 Legislated public policy that would mandate or authorize employee drug testing (in the name of 'public safety') would set an obvious legal precedent for yet deeper intrusions ('voluntarily consented to?') of remote physio-chemical surveillance in correctional practice. This particular example illustrates the likelihood of a common form of power that affects prisoners and 'free citizens' alike. Legally authorized policy of mandatory drug testing in the workplace would further blur the public-private distinction in areas of daily life, as well as contribute an additional surveillance tactic in power relations, one that penetrates further into the social body by way of microscopic penetration into the material body. As much could be said for its application within correctional practice.
- 12 This would appear to be consistent with the 'restraint management' approach identified by observers of the changing dimensions of social and economic restraint within criminal justice administration (cf. Evans, 1981; Ekstedt, 1979)
- 13 Home Office policy administrators have recommended a pilot test in 1989. Remanded offenders have been recommended as the target group for this pilot test (see Parliamentary Command Paper #424, 1988). For a more recent account of the British experience with and reception of 'tagging', see Lilly (1989b) and Russell and Lilly (1989).
- 14 The Ministry of Attorney General of the province of British Columbia has undergone change since the EMS Pilot Project program was started in June, 1987. The Corrections Branch and police administration have since been administratively separated from Courts and Judicial administration. Prior to the change in 1988, administrative organization was covered within the mandate of the Ministry of Attorney General. Administrative organization for corrections and police services now falls within a separate Ministry of Solicitor General, while courts and judicial administration is maintained within the Ministry of Attorney General.
- 15 This is referred to as the problematic correspondence of discourse-practices-effects. The latter refers to discursive and non-discursive *events* (and their effects) and pertains to the relationship between what counts as true discourse, what kinds of institutional organization get put into place, and finally, what effects these have (see Gordon, 1980).

Chapter Two: Electronic Monitoring and House Arrest

1. Introduction

In the opening chapter, above, I asserted that Foucault provides an analytical and conceptual basis for developing an understanding of the emergence and use of electronic monitoring (EM) and house arrest within contemporary correctional practice. Foucault's *The Archaeology of Knowledge* describes a method of studying discursive formations (e.g., the discourses of criminal justice, criminology, social welfare) that can be of use here.¹ *Archaeology's* utility is as a resource for the elucidation of the discursive field in terms of which EM and house arrest are understood and made intelligible;² terms whose use covers considerably varied programmatic operations in different jurisdictions of the juridico-discursive complex of (mostly) American crime control.³ There can be no doubt about the centrality of discourse: for program operations, for policy decision-making, for criminal justice and academic research, and for media representation. It is necessary, then, to enter the vast discursive maze of the criminal justice complex, and while there, display and examine the discourses associated with this newly developing penal form.

Dreyfus & Rabinow (Ibid.:84) characterize the limits of Foucault's archaeological method: '...at this stage he is committed to the view that discursive practices are autonomous and determine their own context.... Foucault cannot look for the regulative power which seems to govern the discursive practices outside of these practices themselves'. Thereafter - since 'The Discourse on Language' (1971) - he has sought to address this by directly taking up the question of power: an analytic of power in knowledge and power through knowledge (power/knowledge); in analysis of the mechanisms of power and their forms of social organization, interconnection and cleavage; in the idea of 'bio-power' (Foucault, 1978) and the two-fold conceptions of 'bio-politics of

the population' and 'political anatomy of the body' (see Foucault, 1978, 1980, 1983; see also, Part II).

Archaeological studies of crime control discourses are insufficient by themselves: they need to be overlaid by studies of the mechanics of power functioning within the mundane ordering of social life, the relations of power in which societal members are caught up; relations of power that include the fine administrative arts of social control: this involving, for purposes here, house arrest and EM program development and management, but also the social, political, technological, ideological, and economic relations on the basis of which implementation of these policies take place.

Foucault (1979) advances the prospect of extending Rusche and Kirchheimer's (1939) project of analyzing the 'concrete systems of punishment'⁴ by examining how punitive power operates in its infinitesimal mechanisms and social practices. It is here where Foucault employs the ideas of the 'techniques', 'functionings' and 'tactics' of power that will be of use to this examination of EM and house arrest (see chapters of Part II for a fuller discussion of Foucault's conception of *power/knowledge*).

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There exists much misunderstanding about how EM works, even among policy analysts themselves (for example, see Ruygrok, 1986). Suffice it to say, EM is thus far not used to 'track' offenders in the community.⁵ Even though offenders wear the bracelet 'in the community', this does not mean it is functioning to ensure they are where they are supposed to be (see Hofer and Meierhoefer, 1987). In most house arrest programs involving use of EM, human surveillance must be deployed when offenders are out for approved activities such as work. Present operation of EM

systems is limited to signalling corrections personnel about an *apparently* anomalous curfew condition (e.g., the offender arrives home late, leaves home early, doesn't leave when s/he should). Depending upon the information system in use, EM either provides continuous or intermittent verification that the offender is 'at home', no more and no less (to date).

It is arguably the case that the inaugural uses of EM in various jurisdictions of American criminal justice involve the tactical use of EM to complement, reinforce and intensify the social control technique of house arrest. In present uses, then, EM is a *tactic* of surveillance, appended to house arrest and functioning more or less exclusively as a method of location compliance verification (i.e., verifying curfew compliance).

It has already been pointed out that the use of EM has been closely associated with community correctional 'house arrest' or 'home confinement' programs (Schmidt & Curtis, 1987:141). Functionally and operationally, house arrest is a *technique* of social control, punishment and discipline.⁶ The technique of house arrest can be deployed with or without EM, as will be described below. The policy of house arrest aims to control, discipline and punish by way of specifically delimiting bodily mobility, the latter having calculable effects in the social field (see Chapter Four).

The distinction between house arrest and EM is important to make and will inform subsequent descriptions and discussion. The crux of the distinction hinges on the construction and fundamental functional purposes of each: house arrest is in some sense primary as a technique of control, whereas EM is an optional tactic or method of surveillance that can be added onto the other methods of surveillance already implied (e.g., physical surveillance 'in the community'). The addition of EM to house arrest, however, provides a basis for formalizing, regulating and making more efficient the house arrest technique since it now becomes possible to remotely (and automatically) verify location compliance of offenders (or pre-trial released, non-adjudicated offenders).

As a possible surveillance tactic within correctional practice, EM provides communications capabilities that are useful to the discursive strategies of correctional administration, namely that 'incapacitation' is assured within a calculus of danger and risk factors or that house arrest is punitive enough (because it can be efficiently verified now with EM) that it is referred to as 'an alternative to prison, not an alternative to probation'.⁷ EM has a political utility.

Needless to say, different possibilities of social control, discipline, and punishment open up in the face of an information resource or observation instrument like EM. In the current political, economic, and social conjuncture, social control has entered an 'era of incapacitation and structured discretion' (O'Leary, 1987:9; see also, Rush, 1987). EM and house arrest have been melded together to achieve these goals within the project of the contemporary reform of crime and criminal control. Advocates of EM and house arrest policies note that as tactics and techniques of surveillance and social control they are inherently advantageous to correctional administration and relatively easy to accommodate therein (Ball & Lilly, 1986a:238-40). Social control organization has only just begun to tap the potential of EM (by deployment within the context of community-based social control programs) and no doubt other uses will be conceived and implemented in the future (cf. Blomberg et al., 1987).

In the present chapter I aim to depict the use of EM and house arrest insofar as the relevant literatures present the discourse in terms of which ideas, policies and concepts of this new penal form are rationalized. One thematic dimension that informs the structuring of the present chapter is the integration of information technologies within the framework of the social organization of community corrections practice and discourse. It is to that task that I now proceed.

2. Electronic Monitoring

Schmidt's (1987a, 1988) surveys of programs employing EM finds virtually all relying on existing (and changing) telephone communications networks (though 'drive-by' systems currently being developed by-pass the need for a ground-link network such as are used in the telephone-

based EM systems). Thus, EM is founded on an infrastructure of telephonic networks (information or communications technologies) developing and put into place in various forms over the course of this century. As noted above, the electronic monitoring capability that is currently available to correctional planning performs essentially a surveillance function.

Digital telephone networks - allowing computer-compatible 'information' to be 'read' - have in the past decade replaced earlier analogue systems. Communications webs and resources have proliferated enormously in the past decade, enabling automated communication between computers and remotely placed receiving and processor units. Costs for computer technologies have also decreased allowing increased use. As well, computer and other types of hardware used in electronic monitoring have become smaller and even more sophisticated.

According to Friel and Vaughn (1986:3), 'it was not until the prison overcrowding problem created an unprecedented demand for diversion that market conditions were attractive enough to encourage the private sector to make the technology commercially available'.⁸ It is therefore not surprising to learn that the introduction of EM into criminal justice and correctional practice is taking place at a particular juncture in American penal history, i.e., when economically prohibitive aspects of penal practice, on the one hand, and the purported cost containment/reduction possibilities of technological developments, on the other hand, produce an affinity for hi-technology experimentation. As Ford & Schmidt (1985:2) point out: '[b]y 1983, workable active monitors had been developed by Michael Goss in Albuquerque, New Mexico, and Thomas Moody in Key Largo, Florida'.

Information technologies that operate by means of computer, electronic and telephone communications networks, and Radio Frequency transmitters and Receiving/Transmitting units, are now being routinely used in the U.S. to monitor adjudicated and non-adjudicated offenders within community-based corrections programs. It is the configuration of these elements that is commonly referred to as 'electronic monitoring' or 'telemonitoring' (cf. Gable, 1986; Friel & del Carmen, 1987). This use is taking place within city, county, state, and federal 'house arrest' (also

termed 'home incarceration' or 'home confinement') programs⁹ in order to verify offenders' curfew restrictions.

Below I will describe the enabling developments in the forms of 'information technology' (Webster & Robins, 1981) currently being used in community-based correctional programming. It is important to grasp the centrality of the information function that is provided by this newly adopted tactical resource. A discussion of 'information technology' (IT) and 'information work' (IW) will follow discussion of technical and program aspects of EM.

The technical developments leading up to the electronic monitoring capability described above are more or less straightforward. It is to a fuller discussion of those developments that I now turn.

2.1 Technical Developments

Technologically and historically, EM is a technical mutation of Radio Telemetry; or, to put it another way, EM is technically describeable within the various discourses pertaining to telemetry. Development of EM must be seen in an historical framework involving the proliferation and penetration, deep into the social field, of communication and surveillance modalities (see Marx, 1985a, 1985b).

Before addressing historical precursors, however, it is important to be aware of various questions, issues and themes that accompany the diffusion and deployment of these technical means directly into the minute tasks of organization, management, and control of human multiplicities in the work of correctional control.

First, there is the ideological basis of 'behavioural electronics' and psychotechnologies; which introduce and legitimize the possibility of an 'electronically' constituted panoptic regime; we

find here the language of benevolence and humanity (cf. Fox, 1987). Moreover, knowledge produced during the experimental phase is evident in current discursive fields where EM program developments are taking place (see Gable, 1986). Ralph K. Schwitzgebel and brother Robert L. Schwitzgebel are prominent names in this literature.¹⁰

An important question arises in considering the Schwitzgebels' telemetric experimentation (between 1966-1970), namely why did 'behavioral electronics' not find a more prominent place in institutional programming after completion? This question is especially salient in the face of the relatively rapid expansion and diffusion, after 1983, of the use of EM in house arrest programs in various jurisdictions of American criminal justice.¹¹ Better than a decade passes - after experimental completion in 1970 (the fallow period mentioned by Lilly & Ball, 1987:363, see below) - before the conjunction of prison overcrowding and fiscal crisis conditions motivates the exploration and opening up of 'intermediate punishments' (see Petersilia, 1987a).

Judge Jack Love is claimed to have made first judicial use of EM and house arrest in April, 1983, in the state of New Mexico (see Lilly & Ball, 1987; Gable, 1986, Timko, 1986). Indeed, Judge Love¹² is credited with zealous advocacy of electronically monitoring curfew restriction and pursued the idea over several years. His inspiration for using EM derives not, however, from the psychotechnologists (see Schwitzgebel & Schwitzgebel, 1973) or National Security Service professionals (Meyer, 1971) of the past decade, but from a 'Spiderman' cartoon that depicted the tactic of electronic surveillance. It has also been suggested that the death of a misdemeanant Judge Love had sentenced to the state prison in Santa Fe - where thirty-three segregation unit prisoners were massacred in the prisoner takeover in 1980 - also highlighted the problem of mixing relatively low risk prisoners with high risk felony offenders in overcrowded prisons (cf. Timko, 1986).

The organization of 'behavioural electronics' within Schwitzgebel's 'behavioural rehabilitation system' - a system of one-to-one observation and communication - must have far exceeded the (probably much) less grandiose requirements of a control system beginning to

articulate and practice the neo-conservative politics of the 'New Justice'. In Schwitzgebel's configuration of technology and social practice the actor in the position of continually watching the 'subject' is conceived as a *therapist*. In effect, Schwitzgebel gave his system a discursive casting at odds with the new ideological winds blowing in judicial and correctional administration. Apart from dubious clinical efficacy, i.e., to achieve rehabilitative goals, probably the more important disqualifier of Schwitzgebel's system is the prohibitive cost: '*client-staff*' ratio is one-to-one, in addition to the necessary costs of the information technology itself. These latter facts make his system unworkable as an 'alternative' to incarceration, as it was proposed at this time (see Schwitzgebel, 1969b).

When the criminal justice apparatus did eventually deploy remote, continuous electronic monitoring on offenders (beginning programmatically in late 1984 in Palm Beach County, Florida), it functioned as surveillance, i.e., in order to verify house arrest curfew compliance. Schwitzgebel's (1969c) patented system is simply not cost-efficient in its existing form to be a realistic program operation within therapeutic or criminal justice contexts. Indeed, there are considerable technical problems that had not been given sufficient attention (cf. R.L. Schwitzgebel & Bird, 1973; these technical problems continue in EM programs, though administrators and equipment suppliers tend to understate their operational significance and effects (see Friel et al. (1987:20)).

In any case, even by 'therapeutic' standards the efficacy of this system is questionable on many counts. Any serious consideration of 'behavioral electronics' would need to articulate treatment goals and plans, address therapist skills (& education), and consider the actual practical use of the system itself. Schwitzgebel simply does not address any of these issues in a convincing fashion, even though his many published papers in the 1967-70 period dealt with describing the system's rehabilitative potential in general and anecdotal terms. One wonders how a 'therapist' could possibly know about the details of social context for the 'subject' so as to effect a 'therapeutic' communication.

Schwitzgebel (1969b:600) believed his behavioral rehabilitation system 'might be particularly helpful in working with chronic recidivists'. While much of his discussion is often vague and even naive as to practical organization and management of such a system (especially with respect to articulating concrete treatment goals), his discussion of the security features of location monitoring has more validity. Probably for these reasons, and even in the face of state and correctional institution(s) encouragement (see Schwitzgebel, 1970:59), no concrete, efficacious or cost-effective system design went into operation for more than brief periods of time (brother Robert Schwitzgebel, for example, used his telemetry system with 'behavior-disordered adolescents' early in the 1970's).

These considerations are perhaps moot in any case because, as noted, the ideological current in the early 1970's was turning against the rehabilitation ideology within corrections administration (Cullen & Gilbert, 1982). Also, Schwitzgebel apparently was unhappy with the prospect of using telemetry strictly in a monitoring fashion for he construed this use as counter-rehabilitative: '[t]he use of equipment by correctional agencies in an impersonal manner only for surveillance may not therefore encourage the development of self-control' (1968a:101). Even though Schwitzgebel's machine did not come into widespread use, he and his colleagues demonstrated that a remote observation machine could be made to work. Schwitzgebel's machine is a variant of bio-medical telemetry designs and applications.

The other main point I want to stress before describing technical developments in greater detail is that the use of EM within criminal justice and corrections organization involves a consideration of the category information. A much fuller discussion will be undertaken later. For now I want to begin that discussion by conceiving the difference that EM - *as information* - establishes or constitutes within (and as) a panoptic regime.

Until introduction of EM into house arrest programs after 1983, computer-based information and surveillance systems had been in use since the 1960's to streamline the organization of crime control within judicial and correctional administration. Computer-based

'information' here is a resource in criminal justice investigation, organization and prosecution, e.g., in that relevant 'case' materials can be cross-referenced (computer matching) or assembled into descriptive reports.¹³ Computer utilization allows the organization and storage of descriptive documentary materials. Intelligence gathered in domestic surveillance (e.g., judicially authorized wire-tapping) has a similar kind of social function, namely an *accountability in ordinary language* of legally prohibited acts, with a view to possible evidentiary use. In both cases this entails the enunciations of discourse, thus forming an accountable understanding of purposeful social actions.

The introduction of EM into criminal justice practice involves a use of 'information' that forms part of the network of individualizing observation (EM certainly functions as an *individualizing tactic* in Foucault's sense of those terms). However, the information function of EM is *directly bound up in* the continuous organization and management of house arrest curfew compliance in programs of offender supervision and control. Moreover, 'information' here refers to the computer program-driven exchange of coded protocols.¹⁴ 'Accountability in ordinary language' only comes in the event of system anomaly or the production of a violation report, i.e., only when information system reports need to be interpreted and/or acted upon. System down-time is minimized if not eliminated, especially in the 'continuous signalling' EM systems. If extended information system down-time occurs too often, uncertainty is reintroduced about offender curfew compliance. This, because the EM verification tactic is disabled.

The design and configuration of information technologies and systems permits automated, continuous, remote observation of adjudicated and non-adjudicated offenders. The image of EM being equivalent to a correctional officer standing at the offender's door is an analogy program administrators fondly construct. Certainly house arrest programs can and do exist without EM, however the latter intensifies surveillance, enabling a more efficient (and politically defensible) basis to assess house arrest compliance. The 'political' relevance of EM is that it provides for more effective offender control and incapacitation.

EM is a hybrid innovation formed by the merging of different information technology (IT): such as computer automation and surveillance technologies like Field Monitoring Devices, Radio Frequency Bracelets, Wristlets & Verifier Boxes. This functional synthesis of computer-based 'information' and surveillance technology is used dynamically - in real-time - to achieve levels of community-based offender supervision deemed to be (politically) sufficient. Computer controlled surveillance functions as a *dynamic operational resource* in the organization of community-based programs of punishment and social control. EM is also an innovation in the techniques of social control and punishment in that offenders are placed in a field of observation, in a grid of information that constitutes their visibility outside of direct human observation or intervention.

It is too early to tell if these developments represent the 'dawning of a new age in corrections'. What appears to be somewhat more clear, however, is that no matter how large or small the scale of future EM applications, the six years of judicial and correctional use of EM in house arrest programs in the US (1983-89) represents one phase of what likely will be a many-phased process of development and use of EM and house arrest. In this regard, Lilly & Ball remark that

this alternative to imprisonment has thus far undergone three distinct stages covering more than 20 years. The first phase saw advocates of electronic monitoring exploring it as an idea that could radically alter the conventional wisdom of traditional imprisonment. This stage began in the early 1960s and concluded in the mid-1970s; it contained little actual electronic monitoring. The second stage, mid-1970 to 1980s, saw little interest expressed in electronic monitoring. The third stage began in 1983 and witnessed an expanded interest in the merits of electronic monitoring, including experimentation, implementation, the creation of legislative guidelines, and evaluative research (1987:footnote, 362).

The following sections can be read as a descriptive overview that expands on Lilly & Ball's observations.

2.1.1 Dr Schwitzgebel's Machine

'Dr Schwitzgebel's Machine', as it has been called (**Harvard Law Review**, 1966; Fox, 1987), appears to be modeled on the medically-based use of a telemetry system (see Appendix IV).

Schwitzgebel's vision expanded the spatial parameters of remote monitoring and tracking beyond the corridors and rooms of the hospital. Between 1966 and 1970 Schwitzgebel designed, experimented with (using 'volunteers') and patented a telemetry system that covered two city blocks (in Boston & Cambridge, Mass.).

In the 'prototype system' (Schwitzgebel, 1968a:99) '[t]he subject wears two small units approximately 6 inches by 3 inches by 1 inch in size, weighing about two pounds' (see also Schwitzgebel, 1967). These devices were removed for sleeping, recreation, bathing, swimming, etc. In addition to battery and Radio Frequency transmitter, Schwitzgebel uses a modified missile tracking device (Fox, 1987). Describing how the system works, he states

As the wearer walks through a prescribed monitored area, his transmitter activates various repeater stations which transmit his signal, with a special location code, to the base station. The repeater stations are so located that at least one is always activated by the wearer's transmitter.

This prototype system as now used extends only a few blocks during street use and covers the inside of one large building. The primary purpose of this system is to demonstrate the feasibility of larger, more complete systems and gather some preliminary data. Through the use of carefully placed repeater stations in each block, the system is theoretically duplicable such that large geographical areas may be covered with a large number of subjects each transmitting a unique signal. The range of the system and the specificity with which a person can be located depend largely upon the number of repeater stations used (1968a.:99).

Schwitzgebel (1969b:600) reports that sixteen volunteers participated: '7 subjects continued for 5 days, 4 subjects continued for 10 days, and 2 subjects continued for over 35 days--one of them continuing for 167 days'. Furthermore, these participants could take the equipment off at any time. Brother Robert Schwitzgebel had developed a similar system and experimented with 'behavior-disordered adolescents' (1969), as well as contributing to the behavior instrumentation literature (1968, 1970; see also Gable, 1986).

Schwitzgebel and his colleagues conceived of the application of electronics to behaviour as occurring, potentially, on or at three different levels:

[t]he use of electronics as an aid to observation is only the first level of potential application. The next level would be the use of electronic instruments in therapy as interventional or prosthetic devices. An even more advanced level of application would be

direct control of behavior by restricting voluntary actions or by eliciting involuntary ones (Schwitzgebel et al., 1964:233).

The widespread implementation potential for behavior rehabilitation systems was certainly limited¹⁵ during the design and experimental phase, as discussed above. However, while there has been no large-scale use of these kinds of behavior telemetry systems, many of the issues addressed and much of the discourse employed during that phase (about 1964-1973) is evident now.

Many of the ethical, legal, and civil liberties issues and discourses extant during this period (see R.K. Schwitzgebel, 1973; **Harvard Law Review**, 1966) are evident or are employed in the context of present EM program developments (see Goldsmith, 1983; del Carmen and Vaughn, 1986; Gable, 1986).

2.1.2 'Continuous Signalling' and 'Programmed Contact' Systems

Schwitzgebel's machine is based on a multiple repeater station grid¹⁶ suitable for real-time 'tracking', providing relative geographical location of 'subjects' or 'targets'. When the latter move beyond the physical range of reception/transmission devices, observation (i.e., tracking) is terminated. The EM systems now being employed are a limited case design of the telemetry system Schwitzgebel developed and tested (cf. Gable, 1986). In EM systems, however, once the individual being monitored moves significantly beyond the boundaries of the home space, the direct observational function of the monitoring is terminated. Schwitzgebel's experimental system could function to verify location outside the home (within a two block square area), a design it is feasible to technically expand to city and urban areas.¹⁷

The present systems¹⁸ are almost all based on a telephone network ground-link to remote, *single field monitoring devices* (FMD).¹⁹ The modern RF continuous signalling EM systems have only one 'repeater station' (the FMD), which is hooked up with individual, in-home telephone units (also called a 'home monitor receiver unit, HMRU, see Renzema, 1989a). Whereas the ground-link for Schwitzgebel was an RF repeater station, triangulated with the monitoring station and the equipment attached to the target. As long as the subject stays within range of the repeater station, then real-time location *tracking* can be accomplished remotely. The contemporary equivalent of this would be the satellite tracking systems (presumably a very expensive process under the current economy of information) that are being or have been tested.²⁰

More detailed program descriptions will be presented below, but for now I will address the kinds of EM systems that have developed since Judge Love's April, 1983 use of EM and house arrest in New Mexico (see Neiderberger & Wagner, 1985). There are many descriptions of the two major categories of EM systems (Petersilia, 1986; Friel et al., 1987; Schmidt, 1986, 1987a; Fox, 1987; Renzema, 1989a). It is important to bear in mind that these EM configurations are limited forms or technical mutations of the classic telemetry system.²¹

In surveys conducted in the U.S. on Feb. 15, 1987 and Feb. 14, 1988, **National Institute of Justice** researcher Schmidt (1987a, 1988) provides what is essentially a snap-shot of EM programs. For the 1987 date the 53 (out of 54) programs (in 21 states) responding to the survey, 'all receive information about monitored offenders transmitted to a computer over telephone lines' (1987a:16). Schmidt's (1988:4) more recent survey 'focuses primarily on states and deemphasizes programs within states because of the difficulty determining what constitutes a program'. In the latter survey Schmidt reports 2,277 offenders²² being monitored in 32 different states. This compares with 826 monitored offenders a year earlier (Feb., 1987). The more recent survey presents a table of program (daily) counts for the above dates, comparing numbers of offenders and types of information systems used.

Table 1

Type of Equipment by Year of Survey

Equipment Type	1987 Number/%	1988 Number/%
<i>Program- med Contact</i>	316/38.3%	957/42%
<i>Continuous Signalling</i>	369/44.7%	1275/56%
<i>Not Verified</i>	141/17.1%	45/2%
TOTAL # Offenders	826	2277

From Schmidt (1988:7)

Schmidt (1988:7) suggests omitting 'unverified' cases, which leads her to conclude 'equipment use was divided similarly in the two years'. Continuously signalling systems account for 53.9% of use for programs where verification is provided in 1987, as compared with 56% of offenders on continuously signalling systems in Feb. 1988. If this trend continues, unverified monitoring systems will eventually disappear entirely.

The basic difference between the two predominantly used EM systems is succinctly described by Schmidt: "continuously signalling devices," constantly monitor the presence of an offender at a particular location'; whereas "programmed contact devices" contact the offender periodically to verify his presence' (1987a.:16).²³

The 'continuous signalling' systems are fully automated and have three major components that operate in the following way:

A **transmitter** is attached to the offender which sends out a continuous signal. Transmitters produced by some manufacturers send an altered signal to alert officials if they are tampered with and others do not. A **receiver-dialer** located in the offender's home is attached to his telephone and detects signals from the transmitter. It reports to the central computer when it stops receiving the signal and when it starts receiving it again. A **central computer** or **receiver** accepts reports from the receiver-dialer over the telephone line, compares them with the offender's curfew schedule, and alerts correctional

officials about any unauthorized absences. The computer also stores information about routine entries and exits of each offender so that a report can be prepared (Ibid.:16).

On the other hand, 'programmed contact' systems

contact the offender at intervals to verify that he is at the location where he is required to be. These devices all use a **computer** programmed to telephone the offender during the monitored hours, either randomly or at specifically selected times. The computer is also programmed to prepare reports on the results of the call. However, each uses a different method to assure that the offender is responding to the call and is in fact at the monitored location as required. One system uses voice verification technology to assure that the telephone is being answered by the offender. Another system requires that the offender wear a wrist watch device which is programmed to provide a number unique to that offender at that time. This number appears when a special button on the watch device is pressed and is entered into a touch tone telephone in response to the call. The third system requires a wristlet, a black plastic module, which is strapped to the offender's arm. When the computer calls, the wristlet is inserted into a verifier box connected to the telephone to verify that the telephone is answered by the monitored offender (Ibid.:16).

A discussion of these systems needs to take account of the problem that all programs experience: information system malfunctioning. Certainly, equipment problems are recognized (see for e.g., Friel et al., 1987; Ball et al., 1988; Jolin, 1987). EM information systems are typically made up of three components (computer, FMD or HMRU, & offender-worn device), interconnected via digital telephone networks, and therefore problems can crop up in more places. Staff must learn to differentiate false positives (offender is home but EM reports an exit) and false negatives (offender is not home but EM reports no violation). Both kinds of false reports are troubling in their own way; the former because frequent occurrence requires staff attention, trouble-shooting, and often, equipment replacement; and the latter because the fundamental validity of the information system to inform corrections officials of offender violations impugns confidence in its ability to do the job adequately.

It would appear that continuous signalling systems are particularly vulnerable to generating false reports about curfew compliance. The Home Monitor Receiver Unit (HMRU) may experience signal loss from the electronic RF transmitter worn by the offender for many reasons. For example, sleeping position may interpose body mass between the receiver unit and the transmitter; idiosyncratic features of building design or construction may interfere with signal

transmission; nearby radio transmission equipment may cause interference leading to false reports.

Lilly & Ball (1987:365) note that the National Institute of Justice is concerned enough about the issue of equipment reliability that funding has been provided (in 1986) in order to assess eight different kinds of EM systems. The Utah Dept. of Corrections (recall, this is where the EM program had much difficulty with equipment), is examining equipment reliability and validity by monitoring paid subjects who keep detailed movement logs that can be checked against monitoring records generated by different EM systems. This research may enable a more accurate description of the problems being experienced.

2.2 Electronic Monitoring as Information Technology and Information Work

Before addressing conceptualization of 'information' as a descriptive and analytic category, it is important to reflect on and analyze the concept 'technology'. Heidegger (1977) can help us here. Heidegger describes the 'current conception of technology', which he calls the 'instrumental and anthropological definition of technology':

We ask the question concerning technology when we ask what it is. Everyone knows the two statements that answer our question. One says: Technology is a means to an end. The other says: Technology is a human activity. The two definitions of technology belong together. For to posit ends and procure and utilize the means to them is a human activity. The manufacture and utilization of equipment, tools, and machines, the manufactured and used things themselves, and the needs and ends that they serve, all belong to what technology is. The whole complex of these contrivances is technology. Technology itself is a contrivance--in Latin, an *instrumentum* (Ibid.:288).

Confusion about what technology is arises when these two conceptions are made to compete. But this is not necessary. Both are evident in social practices, for surely the physical means of technology (i.e., 'equipment, tools, and machines') has no meaning except in a social context of use. Instruments and social practices are deeply embedded, one within the other; it is essential to understand this.

An important observation to note is that Heidegger proposes that *human activities* can form technologies.²⁴ Certainly it follows from this that various kinds of *social practices* display elements corresponding to the *instrumental* definition of technology. It is also evident that the instruments themselves get deeply embedded in social practices and become part of the routine, taken-for-granted grounds of inference and action (cf. Garfinkel, 1967). Inasmuch as instruments condition social practices in some respect(s), the instrumental metaphor operates to describe those practices. The metaphor can be made to operate at both micro- and macro-structural levels.

At the micro-level, the instrument metaphor describes policy and institutional designs and programs: programmatic organization can be described as a 'technology' of control. At the macro-level, 'clusters of relations', more or less organized and more or less co-ordinated (see Foucault, 1980:198), link together into networks of power/knowledge that are formed within strategic envelopes (see Chapter Five). Here the instrument metaphor operates in the macro-structure or ordering of social relations or what Foucault refers to as a 'complex strategical situation'. It transverses and links together otherwise diverse multiplicities within a population. Foucault's *anatomo-politics of the body* and *bio-politics of the population* (1978)²⁵ refers to the technologies of subjectivation and subjection²⁶ (1983) that produce useful bodies, gestures, actions (see also, Foucault, 1979). These are *social technologies* (see Chapter Five).

In Section 2.1 a distinction was made concerning two senses of 'information': as elements of natural language speech acts that become purposefully embedded in the administrative, documentary practices of Weberian bureaucracy (whose potential status could be 'knowledge') and within instrument-structured codes that operate within automated and semi-automated processes (requiring translation and flagging or highlighting protocols). Coded 'information' in automated and semi-automated processes of organization (such as EM information systems) are endlessly being generated, transmitted, and interpreted by other codes and this transpires more or less independently of human interventions. When this kind of 'information' resource becomes embedded

in socially organized projects of purposeful actions (in panoptic regimes of social control, for example), it passes a discursive threshold that provides the basis for human inference and action.

There is one other feature of information and IT that is indispensable to this discussion, namely the essential functional character of EM (to be discussed further below). It is here that the Information Work (IW) of IT is evident. In light of these considerations two questions arise: what is 'information'? and, how does 'information' form part of a social technology?

2.2.1 Information Technology and Information Work

Bearing in mind that technology is both the use of a means to an end (objective capabilities, instrumental means) and a human activity (social organization), we are now ready to situate EM. It is noteworthy that IT and IW roughly correspond to these two dimensions of 'technology', namely the physical instruments & their configurations as 'information systems' (i.e., IT) and the social processes, organizations and purposes in or for which they operate (i.e., IW).

EM functions as a strategic *information* resource in the operations of social control and correctional planning. By employing EM, the development and operations of community correctional programs are afforded an additional resource for decision-making and management in respect to offender 'cases'. EM provides the availability of an informational capability heretofore not at hand.

Newman and Newman (1985) have stated that the concepts Information Technology (IT) and the related notion Information Work (IW) introduced above have some unfortunate consequences that flow from an inadequate conceptualization of 'information' evidenced among some scholars. They point out that conceptualizing 'information' on the input-output model leads to an emphasis on the *mechanisms* of information handling (i.e., excessive preoccupation with the *instrument* metaphor), to the detriment of analysis of the *purposes* of information use. As noted above, though, putting an undue emphasis on 'technology' in IT ignores Heidegger's fundamental

proposals about what technology is or what it involves; it ignores the social context within which IT operates - the *immediate* context being that of Information Work (IW).

These scholars go on to assert: '[t]he social significance of Information Technology cannot be grasped in abstraction from a theory of information in the economy...' (Ibid.:497). In the case at hand, EM needs to pass, first an economic threshold, then political and ideological thresholds, before information system designs are feasible programmatically.²⁷

As these authors argue, an adequate definition of 'information', then, must balance the features of instrumental capabilities, organization and purpose. One definition of information that pays heed to these criteria is that available in cybernetics: information is that which reduces uncertainty (cf. Ashby, 1956). As Newman and Newman put it,

[u]ncertainty exists when there is a decision problem involving alternative actions or judgments. The greater the variety of the system that one is attempting to predict or control, the greater is one's uncertainty, and hence the more information is needed to render prediction accurate or control effective. Since information is defined in relation to decisions, it has the characteristics of an intentional concept: the standing of any message, record or report *as information* depends upon the knowledge and purposes of those who receive it. The selection-power of information depends upon knowledge of alternatives.... It is the growth of uncertainty that drives the growth of information work, and the problems of managing under uncertainty...that consumes the resources of the 'information activity'.... Human capacity for handling information is limited but can be extended by institutions, by knowledge and by technology. The usefulness of the latter prosthesis is dependent on the first two (Ibid.:503-04).

To pick up on Newman and Newman's image, 'technology' (the instrumental conception) is a kind of prosthesis that depends on and is extended by institutions and knowledge (human activity, social organization); 'information' can then be defined as the reduction of uncertainty by the use of technology and knowledge in the organizational contexts of institutions.²⁸

Inasmuch as EM is an instance of IT and IW, it constitutes the purposeful availability and organization of 'information' that *reduces uncertainty* with respect to offenders' compliance with house arrest curfew schedules (i.e., in the context of the politics of social control, the phrasing is

that EM *verifies* curfew compliance). EM is a 'software driven' 'hardware technology' that has been configured to programmatic purposes, enabling the reduction of uncertainty regarding individual offenders and their temporo-spatial dispersion and confinement. More than this though, EM, as an instance of IT and IW, constitutes a tactical functioning of power since it 'induce[s] in the inmate the state of conscious and permanent visibility...' (Foucault, 1979:201).

2.2.2 Social & Spatial Dimensions of 'Information Systems'

EM is an Information Technology operating within a panoptic regime, as part of an institutionally organized technique of control; EM functions automatically, according to functional principles of information production and organization inherent in this means of communication, as described above. EM works on principles very similar to other communications modalities that have penetrated deep into the social fabric of everyday life (cf. Marx, 1985a, 1985b).

Application of EM within the social practices of crime and criminal control is an *intensification* of normalizing properties inherent in those instruments of IT that continue to become embedded in daily life (see, for e.g., Dizard, 1982; Jones, 1980), operating a silent objectification of bodies and space.

One of the 'distinctive attributes of the new surveillance' identified by Marx (1985a,b) is that 'the new technologies conquer distance, darkness, and physical barriers' (1985a:47).²⁹ The communication network that forms the field of EM observation penetrates social relations in various ways (Baumer and Mendelsohn, 1988).³⁰ EM, then, is an instrument that creates the visibility of geographically dispersed subjects; it operates to constitute the asymmetrical gaze of panoptic observation.³¹

In operating across large geographical areas (i.e., state wide in some cases), EM converts 'the most private of realms, the home, into a place that actually *functions* as a correctional facility' (Ball et al., Ibid.:33). Those subject to such surveillance become enmeshed in a geographically disparate matrix of automatic information processing - 'an action upon an action' - where 'non-compliance' ensures an intensification of surveillance and control.

When EM is used in the framework of correctional technologies of subjection (e.g., the technique of house arrest) as a means of ensuring the discipline of punitive restrictions (home confinement under curfew), it operates across a range of social settings, as well as physical distances and boundaries. More generally, though, EM permits the penal mechanism to be broken down into new divisions and orderings (see Section 4).

Spatial and strategic metaphors can be used as methods of describing the 'dispersion of social control' (Foucault, 1980:69-70; Cohen, 1979) by means of EM and house arrest.³² Within the larger strategy of penal reform (i.e., decarceration), prisoner populations can be differentiated using various assessment criteria (see Clear & O'Leary, 1983; Klein, 1988). These sub-populations, in turn, are absorbed within programs (by way of decisions by judicial and/or corrections officials) involving different sorts and levels of ('community') controls and restrictions (such as will be described below). Thus, instead of subjection to the panoptic regime of the concentrated and enclosed 'total institution', offenders enter a panoptic regime that disperses, fixes, and controls their bodies in the social & physical space in which they move daily. They are a socially and geographically dispersed multiplicity, each body inhabiting its own social trajectory and space of confinement.

The economy of information establishes a new domain of observation and a new vector for penetration of the disciplinary gaze. This further partitioning of the penal apparatus into intensive supervision and house arrest programs (cf. McCarthy, 1987) - the 'intermediate punishments' - corresponds with the introduction of this new economy of information within the operational organization of corrections.

3. *Concurrent Developments in Community Corrections: 'community control'*³³

The onset of biomedical telemetric experimentation (middle to late 1950's), corresponds with the 'commercial development of the transistor' which 'progressed rapidly through the 1950's' (Milne, 1980:10).³⁴ What was the shape of penological discourse and policy after the Schwitzgebels had demonstrated their telemetry systems could be used to monitor human subjects? And, what changes have occurred during the course of the decade which saw little or no use of telemetry with human groups? These are questions I have already begun to address, above. This section will expand that discussion.

The approximate completion of telemetric experiments employing location monitoring appears to be sometime early in the 1970's. Ralph Schwitzgebel (1970) claims to still be using the prototype system as of that date, however no further research reports on subjects or experimental projects is forthcoming from him thereafter. His publications take up a discussion of ethical and legal issues in the development of such systems. Schwitzgebel's brother experimented with a similar system about this time as well (1969a, 1969b), but this seems to be as far as he went also.

If we count from 1970 (when the Schwitzgebels' experimentation appears to have been completed) to 1983 (when Judge Love ordered a misdemeanant electronically shackled in New Mexico), it is over a decade. While the occasional sociologist (Lehtinen, 1978), behavioral scientist (Ervin, 1975) or journalist (Rorvik, 1974) might, during this period, warn about or attempt to promote acceptance of behavioural telemetry, the scale of deployment is small.

This time (1970-83) in American (& Canadian) penology is described as a period of 'decarceration' by way of the reform movement 'alternatives to incarceration' (Scull, 1977; Cohen, 1979, 1985; Chan & Ericson, 1981; Hatt, 1985; Hylton, 1982; Greenberg, 1975; Krisberg & Austin, 1982).³⁵ Indeed, within this framework it is possible to distinguish various ideological themes that profoundly condition the development and implementation of 'alternative community-based programs'.

The ideological winds of conservatism blowing under the banner of 'New Justice' form the discursive backdrop for major efforts of sentencing reform (see Cullen & Gilbert, 1982). One legacy of the 'New Justice'³⁶ and its 'deserts' and 'justice' policies was the discrediting of rehabilitation as a goal of corrections and a move to more punitive sanctioning measures. In the American criminal justice system adherence to these doctrines has produced a serious crisis of prison overcrowding: rates and terms of imprisonment are escalating due to harsher sentencing policies (cf. Irwin & Austin, 1987). The full dimensions and seriousness of this crisis became evident toward the end of the 1970's and into the early 1980's.

The confluence of these essentially political, ideological, and economic factors, which produced this second movement of 'alternatives to incarceration' reform, followed on the heels of the earlier reform movement extending from the mid-1960's (that had established programs of community service, restitution, diversion, etc.).

The political-ideological conditions, in this context, surpassed a decisive threshold. This resulted in developments in community-based programs involving *intensive supervision* (Clear & O'Leary, 1983; O'Leary, 1987; Byrne, 1986; Burkhart, 1986; Conrad, 1985) and *house arrest* or *home confinement* (Neiderberger and Wagner, 1985; Petersilia, 1986; Friel & Vaughn, 1986); effectively, the establishment of techniques of punishment, discipline and social control inhabiting a space somewhere between incarceration on the one hand, and probation on the other: the so-called *intermediate punishments* (McCarthy, 1987; Petersilia, 1985, 1987a; Rush, 1987). These programs stress punishment through surveillance and control (see Burkhart, 1986; Flynn, 1986a). Furthermore, development of the 'intermediate punishments' (house arrest being a member of this category) brings changes in the organization and philosophy of 'community control' (cf. Petersilia, 1987a), whose effects are notable in probation in particular (Johnson, Haugen, Maness, and Ross, 1989; O'Leary, 1987; Hatt, 1985; Moran & Lindner, 1985).

Petersilia, a criminal justice researcher at the Rand Corporation, is a leading voice of this criminal justice reform:

The U.S. criminal justice system has never developed a spectrum of sanctions to match the spectrum of criminality. This, we believe, is the challenge now facing criminal justice. We argue that the system must develop intermediate forms of punishment, more restrictive than routine probation but not as severe or expensive as prison (1985:344).

These intermediate punishments are heralded as being the most promising tactic for the relief of prison crowding (Conrad, 1985). Recalling the earlier discussion of the introduction of EM into criminal justice practice, it can be seen that Judge Love and Garrison's efforts *within* the crime control system correspond with the juridico-discursive truths of the correctional-administrative branches that were (and are) on a wave of reform in the face of fiscal and prison crowding crises.

3.1 Historical Uses of 'House Arrest'

Historically, the use of *house arrest* is identified with the abuses of power within the relations of sovereignty³⁷ or as a means of quelling dissent in non-democratic states (Lilly & Ball, 1987). Against the background of these negative connotations, '[t]he term *house arrest* tends to imply police action without much in the way of judicial due process' (Ball et al., 1988:21). This negative connotation is something policy advocates want to reverse. This is done merely by demonstrating that the house arrest technique *can* fit within the overall apparatus of justice and its corresponding judicial due process.

The question to be addressed here is, how did the policy of house arrest become incorporated into the (social) technologies of crime control prior to the widespread endorsement linked to the introduction of EM? Clearly, house arrest had its earlier forms within political and juridical relations of sovereignty and is being used as a means of controlling dissent in non-democratic nation-states. But the correctional use of the house arrest technique to be discussed below - and the administrative sanctioning of this policy - has a more immediate locus.

The history of recent use of house arrest in Western nation-states is dated from about 1970, when judicial administration in France introduced the practice of *control judiciaire* (Gerety,

1980; see also Lilly & Ball, 1987; Ball et al., 1988). The policy of *control giudiciare* involves pre-trial supervision involving a home confinement provision. Also, '[i]n 1975, Italy initiated a policy of *affidamento in provo ai servizio sociale* (trial custody), which may be described as a form of parole following a shock period of three months incarceration' (Lilly & Ball, Ibid.:360; see Bieda & Ferracuti, 1980).³⁸

According to Ball et al. (1988) and Lilly & Ball (1987), the first use made of house arrest in the U.S. was with juveniles.³⁹ The latter report:

[t]hese programs, developed first as a means of dealing with youthful offenders within a context of home and family, were in part a response to wide-spread concern that increasing numbers of juveniles were being unnecessarily and unjustly detained in detention facilities prior to adjudication. In view of these concerns and the traditional use of such practices as curfews in dealing with troublesome youth, home detention seemed an attractive alternative and it had the additional merit of economic appeal. These first detention programs were in essence much like current forms of *intensive supervision* (Lilly & Ball, Ibid.:360).

Thus, the first use of house arrest in U.S. criminal justice organization was as *part* of an overall intensive supervision process that might involve many additional expectations or requirements. The latter type is formed on the principle that control/containment has operational precedence over 'rehabilitation'; there is a proliferation in the means and quantitative extent of observation, thus 'intensive' supervision.

Burkhart (1986) agrees with these authors that intensive supervision in adult probation is modeled on earlier juvenile programs. However, he states:

[t]oday's intensive supervision programs...are considerably different--at least those that have been developed as an alternative to prison. First, the emphasis is on control, with the primary features being curfews, close surveillance (including in some cases use of electronic surveillance devices), and strict rule enforcement. Second, most programs now incorporate a form of retribution or punishment, usually in the form of mandatory community service. And, third, defrayal of program costs through regular client financial contributions may also be required. Counselling, employment services, and other forms of rehabilitative efforts are sometimes provided, but these are secondary to the control and retributive program emphases (Ibid.:75)

'Intensive supervision' in probation (juvenile or adult) may well use the technique of house arrest, but this is in the overall context of correctional control that also maintains a high level of physical surveillance of offenders. Depending specifically on the intensive supervision models used (O'Leary (1986) identifies three), probationers have to meet the demands of restitution and fine or supervision fee payment as well. House arrest, then, has a certain operational affinity to intensive supervision programming.⁴⁰

While it appears that adoption of house arrest or home confinement 'was a consequence of jail and prison overcrowding and the perceived need for more careful supervision of offenders granted probation' (Lilly & Ball, Ibid.:361), programmatic emergence, development, and diffusion of this correctional technique (late 1970's, early 1980's)⁴¹ is connected with the general move to intensify supervision of jail-diverted offenders. The addition of EM, beginning experimentally in 1983 in New Mexico and then programmatically in Palm Beach County, Florida - added considerable impetus to further development of house arrest programs, whether in the context of intensive probation supervision (IPS) programs or as a stand-alone sanction (i.e., house arrest).

4. Introduction and Use of Electronic Monitoring in Community-Based Correctional Practice: marriage of social & information technologies

The foregoing sections have illustrated the social and technical conditions preceding the widespread adoption of house arrest and EM after 1984. As an Information Technology with human subjects, electronic surveillance has been feasible in prototype, demonstration, and experimental guises since the mid-1960's. As I argued above, however, criminal justice system adoption of programs of 'community control' (such as is represented by the new breed of 'intermediate punishments') was impeded due to a change in the ideological climate of reform.

'Justice', 'retribution', and 'deserts' entered penal reform discourse, becoming a new set of truths for the design(s) of social control. Rehabilitation in the prison was dismissed in general as a viable correctional goal and sentencing reform produced greater punitiveness in penal sanctions. Home confinement (without a costly, cumbersome telemetry system) would likely have been

perceived as similar to probation and therefore a molycoddling of offenders. The main point is that there was no significant impetus from *within* criminal justice organization to establish EM-type programs. Crucially, the EM then demonstrated by the Schwitzgebels would require considerably greater expense to implement,⁴² both in terms of hard- and soft-ware technologies of computer control and in supplementing and/or upgrading communication links.

As already indicated, developments in the social organization of community control programs such as house arrest and intensive supervision had their models in juvenile programs through the 1970's (cf. Ball et al., 1988). However, two significant events - one internal and the other external to criminal justice organization - brought about the incorporation of the EM information system into criminal justice practice (i.e., by deploying it within emerging forms of intermediate punishments or 'community control'). Externally, microelectronics and microprocessor developments passed a threshold that made remote monitoring economically feasible (between 1980-83; cf. Timko, 1986) and internally, reform discourse advocated development of 'punishments of the intermediate range' (Petersilia, 1986, 1987; Rush, 1987) in order to alleviate prison crowding, to manage prison and probation populations, and as a prudent cost-management measure (results, thus far, present a mixed picture of success and failure for these latter goals).

These contours of reform fit into a larger historical process. Ball et al. (1988:33), for example, assert: '[d]espite the tendency to cling to and even to accelerate the old policy of exclusion of offenders in walled institutions, it seems clear that North America has entered a fourth phase of punitive policy, a phase that will lay heavy stress upon inclusion of the offender through what is usually termed community-based corrections'. This ostensible metamorphosis of the carceral apparatus is to some extent founded on earlier parole and probation reforms that set policies of community supervision; house arrest with EM and intensive supervision are organizational mutations of parole & probation and policing/surveillance practices (as noted above).

There exists a great deal of evidence from the earlier spate of 'alternatives to incarceration' reform, that differentiation of the carceral apparatus permits the basis for overall systemic expansion (cf. Hylton, 1981a,b; Krisberg & Austin, 1982; Cohen, 1979). In any case, the earlier community-based reforms neither replaced nor displaced the operations of the 'total institutions' as the reform ideology had proclaimed. The 'alternatives to incarceration' came to function as add-ons or supplements to an expanding network of social control (Chan & Ericson, 1981; Hylton, 1981b). It remains to be seen whether the new wave of punitive 'community control' reform will reproduce a similar result, such as by employing house arrest routinely with adjudicated and non-adjudicated offenders who otherwise would not be incarcerated. This is obviously an area for close research scrutiny (see below).

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In modern penal complexes, correctional programming has involved either incarceration on the one hand or some sanction that permits offenders to continue their lives in civil society, on the other hand. The latter might involve restitution, fines, or one of a legion of 'community-based corrections' programs (such as probation, parole, and now home confinement with EM). Programs of intensive supervision and house arrest constitute hybrid techniques of social control, discipline, and punishment that are derived from both prison- and community-based spheres of correctional organization and administration. Home confinement (especially with EM) is like incarceration in terms of the policing, surveillance, and restricting functions that it accomplishes. However, house arrest is operationally structured in a manner similar to probation.⁴³ The expectable result of this is that '[h]ome confinement, particularly full home incarceration, blurs the distinction between imprisonment and probation with conditions' (Hofer and Meierhoefer, 1987:15).

Probation organization itself stands in the headwind of the development, implementation, and diffusion of intermediate punishment' sanctions.⁴⁴ Moran & Lindner (1985) characterize the role of the probation officer as a precarious balance of law enforcement/control and rehabilitative

functions. The penetration of this sphere by hi-technology, however, gives added emphasis to the policing function: 'Probation monitoring devices, more sophisticated drug/alcohol testing instruments, computerized inter-jurisdictional information systems, however, all serve to enhance the surveillance features of probation work. By contrast, the technological revolution has added little to the rehabilitative component' (Ibid.:29). The probation officer role takes on an increasingly clerical and administrative character (Hatt, 1985:299; Moran & Lindner, Ibid.), since relatively less time is given over to direct therapeutic contact and more into ensuring program and supervision order(s) compliance, i.e., into surveillance and policing functions.⁴⁵ Hofer and Meierhoefer (1987:31) comment upon the 'role conflict' inherent in this situation for 'Home Supervision officers':

The work of probation officers has long included checking on offenders to ensure they were at work, at school, or at home if they were so required. But this has usually been in the context of a helping relationship; the officer is a counselor, not a constable. Monitoring compliance with home confinement is widely seen as a different role for probation officers. One put it this way: 'Our role as probation officers tends to go through cycles of being social workers and cops; successful Home Supervision officers tend to have more cop traits.' Some departments faced with this role conflict have created separate staff positions for monitoring and counseling. Some have hired new staff especially for monitoring duty, often choosing former law enforcement officers for the job. Training in self-defense has been part of the preparation of officers in some jurisdictions. There have been calls for the arming of surveillance officers, or at least for providing them with radios.⁴⁶

House arrest, then, can be viewed from the perspective of correctional practices in the areas of probation or prison. It is neither, however, though relying on methods and practices from both. This discursive ambiguity allows a kind of strategic advantage toward legitimizing the technique of house arrest; both liberal and conservative strands of the reform discourse of the 'New Justice' can be and are attached to this new correctional technique.⁴⁷

Just how big a role EM and house arrest will play in the future of social control is not yet clear. Some believe that 'community corrections for the majority of offenders is the way of the future' (Allen & Simonsen, 1986:63). This is already true if we examine the ratio of community

corrections counts and prison counts. It is more a matter of *what kind* of community corrections will be put into practice.

Indications are that occupational spheres like probation are being transformed as these new forms of retribution and incapacitation are absorbed into the arsenal of institutional practices (cf. Moran & Lindner, 1985; Hatt, 1985). On the other hand, the possibility for expansion of house arrest and EM has limits and conditions within any historical conjuncture. As will be described below, the organization and implementation of this carceral technique takes place within a shifting and conflicting balance of power relations that will be decisive to the scope of expansion and development of house arrest and EM.⁴⁸

Experience associated with the earlier 'alternatives to incarceration' reform should introduce caution. The patterns of implementation of house arrest and EM policy within judicial and correctional administration need to be closely observed (cf. Landreville, 1987; Ball et al. 1988). What does not bear disputing is that a new increment of discipline, punishment, and social control has been added to the armamentarium of correctional practice and it bodes to have a significant impact on carceral methods.

Below, descriptions of the varieties of house arrest programs employing EM will be given. This will help to display how house arrest and EM are being used within community-based correctional programs. It will also show the fine sinews of power, knowledge, and social practices that correspond to programs situated in this intermediate zone; practices that provide this new increment of control and individualization beyond the walls of total institutions.

4.1 Programmatic and Operational Developments to Date

In December⁴⁹ 1984 the first use of EM with house arrest programs occurred in Florida. The Florida 'community control' program had begun a year earlier and was already employing house arrest. Monitoring equipment was subsequently used to supplement surveillance on an

estimated 20% of 'community controlees' (cf. Petersilia, 1988 and **House Arrest** Video Tape, 1987). It appears that approximately 10 house arrest programs with EM were begun between this time and the end of 1985 (cf. Schmidt, 1987a, Friel et al., 1987, & Vaughn, 1986). Schmidt's survey results suggest that 43 programs were inaugurated in the 1986-to-Feb. 1987 period.⁵⁰

This phenomenal growth in *programs*, however, should not serve to hide the relatively small numbers of pre-trial detainees and adjudicated offenders involved in house arrest and community control programs in various American criminal justice jurisdictions. Petersilia (**House Arrest** VT, 1987) asserts that no more than 10,000 (prisoners? probationers? controlees?) cases of house arrest had accumulated as of that date (in a national context this is 2% of all incarcerated prisoners in the US). Of these, she estimated no more than 3000 cases had involved EM (no rationale or justification for these figures is provided).⁵¹

Friel et al. (1987) report program data and caseload statistics for 10 house arrest programs employing EM (as of April, 1986). Only seven of these programs report daily count figures (Ibid.:16); excluding the two extreme values we reach a mean of 14 house arrest offenders (daily count range of 5 programs is 10-16 after programs with 20 and 4 offenders are dropped). Intake figures appear low also (dropping the extreme cases (20 and 1 offenders), then averaging the remaining 5 programs' intake per month rates results in a mean monthly intake of 4.6 offenders). In fact, the first two Florida programs processed a total of 110 and 116 offenders respectively in 17 months (i.e., from Dec. 1984 - April, 1986). Small numbers indeed. And the failures in these programs?: three each or about 2.5%.

Schmidt's 1988 survey provides the following breakdown of program size in different states.⁵²

Table 2

*States In Which Monitoring Programs Exist
by Size of Program**

(Parentheses indicate the total number of offenders)

MORE THAN 100 MONITORED

California (188), Florida (667), Indiana (137), Michigan (461), and Oregon (129)

50 TO 99 MONITORED

Colorado (69), Missouri (52), New York (54), Tennessee (73), Texas (52)

25 TO 49 MONITORED

Connecticut (41), Illinois (35), Maryland (39), Nebraska (27), Nevada (30), North Carolina (26), Wisconsin (27)

LESS THAN 25 BEING MONITORED

Arizona (19), Georgia (19), Hawaii (7), Kentucky (15), Massachusetts (15), Montana (4), New Jersey (16), Ohio (21), Pennsylvania (16), Utah (21), Virginia (7), Washington (10).

* Adapted from Schmidt (1988).

Schmidt points out that Florida and Michigan 'account for 49.5% of all reported offenders being monitored'⁵³ (1988:4). Moreover, '[r]esponses were received from more than one locality in almost every state' (Ibid.:6).

Schmidt (1987a) declares, counter to expectations, 'there is no significant relationship between the number of participants in a program and the length of time that the program has been operating' (Ibid.:8). These are some of the indices of caution and conservatism correctional & judicial advocates and program managers are exercising in offender selection for these programs (Petersilia, 1987a,b; **Offender Monitoring**, April/May, 1988:3).

Though the majority of house arrest programs with EM are relatively small (cf. Schmidt, 1987a, 1988), it must not be forgotten that the species of community control house arrest (with EM) programs operated on a state-wide basis are much different in scale. Michigan is a case in point. Michigan has been particularly rapid to expand through the incorporation of EM and house arrest, projecting 1,600 offenders will be subject to curfew and home confinement by year's end (cf. **Offender Monitoring**, April/May, 1988). The latter reports '700 Monitorees under state

supervision' as of late April, 1988 in the Michigan program. This program began monitoring offenders in April, 1986 (Friel, et al., 1987:58) and so expansion has been quite dramatic in the first two years compared to other programs.

In Florida, where the use of house arrest and EM was inaugurated and is being zealously employed state-wide, the impact on prison populations is evident (see Ball et al. Ibid.:90-2). Leonard Flynn, Florida Director of Probation and Parole, has extolled the virtues of house arrest and community control as a good prison crowding management practice (see Flynn, 1986; **House Arrest VT**, 1987). Certainly, there is a great deal of hyperbole concerning what programs can do or are doing. On the other hand, Flynn says that in the first year of the community control program (provided for by the Florida Correctional Reform Act, 1983), 180 offenders per month are being diverted from jail or prison (1986:68). Still, those programs using EM as a surveillance supplement represent a minority or about 1/5 of those on community control in Florida.⁵⁴

Putting matters in a comparative context may help to sort out the significance of the 180 per month figure. Florida corrections figures for 1983 show that more than 100,000 persons were under some kind of correctional supervision (**House Arrest VT**, 1987), with 40% of those (or about 40,000) being incarcerated; using Petersilia's community control daily count estimate (approximately 5,000 offenders) and Flynn's estimate that 76% of community controlees are bona fide diversions means that about 9% of incarcerated offenders are being controlled 'in the community' rather than in prison (Flynn estimates that 1,000-1,200 of these offenders 'are on some kind of electronic monitoring', **House Arrest VT**, 1987).⁵⁵

On the other hand, the majority of programs are much smaller in scale, but are apparently proving their utility in managing crowding in county jails (state prison overflow often results in rerouting offenders to county jails), as well as reducing costs of incarceration.

Comparing daily count statistics reported in the literature (i.e., from Vaughn, Schmidt, del Carmen, Friel) helps to gauge expansion/development of house arrest with EM also. Vaughn's

(1986) earlier program overview (see also Friel et al., 1987) shows a daily count figure of approximately 125 monitored offenders (as of April, 1986) in eight (8) functioning programs. Schmidt's first NIJ-sponsored program survey (Feb. 1987) shows fifty-three (53) programs having started up in twenty-one (21) different states, at state, county, and city levels of criminal justice jurisdiction (Schmidt, 1987a:13). The accumulated daily count figure exceeded 800 as of the latter date. The more recent NIJ program survey (Schmidt, 1988), as noted, shows 2,277 offenders being monitored in thirty-two (32) states as of Feb. 1988 (Schmidt, 1988;cf. Vaughn, 1989:3). Preliminary results from the most recent survey (Renzema, 1989b) indicate 'between 6,500 and 7,000' offenders were being electronically monitored on February 12, 1989.⁵⁶

With programs such as Michigan's - where all house arrest is supplemented with EM and where the state-wide daily count rate now exceeds 1,000 - the overall number of adjudicated and non-adjudicated offenders on EM house arrest programs has trebled in one year. However, as indicated, state-wide programs (Michigan & Florida) account for nearly half of all offenders on EM. Taken as a whole, then, this suggests a steady, but by no means spectacular, growth in the use of EM with house arrest. House arrest *without* EM is likely still predominant.

4.1.1 Different Uses of Electronic Monitoring

It is simply not possible to constitute a comprehensive overview of current programs because developments are occurring very rapidly over many (and disparate) jurisdictions of American criminal justice. It appears that the U.S. and Canada are the only countries presently employing EM and house arrest.⁵⁷

This section, then, will be given over to indicating some of the recurring programmatic forms house arrest with EM takes, mostly in criminal justice practice in U.S. jurisdictions (though I introduce the B.C. Pilot Project program, the only other non-American example of house arrest with EM).

Ball and Lilly (1988:149) have pointed out that house arrest 'offers the possibility of practical use at various *stages* of the correctional process from pretrial detention through parole'. Furthermore, '[h]ome incarceration has a good *degree of fit* to a variety of circumstances in such a way that it could be employed alone or in concert with other programs, tailored to certain hours of the day, and perhaps even combined with incarceration in a traditional jail with home incarceration on weekends in certain cases' (Ibid.:149). These scholars had earlier (1985) pointed out that house arrest displayed practical features that conform closely with criteria set out by the National Advisory Commission on Criminal Justice Standards and Goals (1973). This conformity with the Commission's criteria leads to a high probability of program adoption (Ball et al., Ibid.). The former constitute formulae for criminal justice reform.

The next sub-sections, then, will describe some of those uses, as well as the types of offenders that are involved in programs where house arrest is supplemented with the use of EM.

a) Existing Programs: programmatic 'fit' and offender characteristics/performance

Schmidt (1987a:9) identifies different categories of programs in terms of their *intent*. It is evident from a perusal of her research that EM is employed with house arrest across the range of circumstances and stages Ball and Lilly suggested, namely as a direct sentencing option for the court or as a correctional classification option (e.g., with drunk drivers); as a pre-trial detention/supervision option (e.g., bail supervision); as a 'staged' option within a multi-staged program of gradual release or graduated controls (e.g., after offenders demonstrate success in prison and work release stages); as an option in the face of court-ordered ceilings on prison populations; as an add-on supplement to probation or parole cases deemed to be sufficiently risky to require additional surveillance;⁵⁸ and finally, as an institutionally efficient way of addressing the 'difficulties of handling unusual cases' (see Schmidt, Ibid.:9, 18; Hofer and Meierhoefer, 1987:5; Friel & Vaughn, 1986). It has also been argued that 'weekend sentencing creates a

variety of problems for the jail administrator' that can be alleviated by house arrest (Friel et al., Ibid.:27-8).

In general there are four primary uses made of house arrest with EM: 'front-end' use, where adjudicated offenders are directly sentenced to house arrest with EM; 'back-end' use, where house arrest supplemented by EM is employed within an overall organization of graduated controls; pre-trial detention or bail supervision use; supplementary surveillance so as to enforce strict curfew compliance (i.e., house arrest) within a program of 'Intensive Probation Supervision' (IPS) involving other expectations or restrictions (see also, Friel & Vaughn, 1986). The 'unusual cases' mentioned above would fit into any of these uses. Use of house arrest with EM may be deployed as a supplement to probation or parole supervision (network widening), however this may take front-end, back-end, or IPS forms. Schmidt (Ibid.:7) says: '[p]robation violators are placed on monitors in some jurisdictions to avoid sending these offenders to crowded prisons'.

Four of the ten programs examined by Friel et al. were using house arrest with EM in *two* ways; the Clackamas County, Oregon program was (as of April, 1986) using house arrest with EM in *three* different ways: front-end, back-end, and pre-trial release. The other five programs were using house arrest with EM in *one* way or with a specific kind of offender (e.g., drinking drivers (33.3%) and drug (14.4%) & property offenders (18.2%) predominantly, cf. Schmidt, Ibid.:6). Combine this with the assessment criterion 'non-violence'⁵⁹ and the result is a general assessment focus on 'low risk' offenders.

According to Schmidt's (1988:8) most recent survey, 54.1% of offenders 'had been monitored for 6 weeks or less. At the other extreme, 92 offenders (4.1%) had been monitored for between 6 months and a year and 32 (1.4%) were reported to have been monitored for more than a year'. Females make up 12.7% of offenders being monitored, leaving 87.3% male offenders on monitoring systems. Most available reports on programs suggest that *adults* comprise the predominant offender population for house arrest and EM. There is evidence that some programs

are investigating the possibilities of employing this sanction with *juveniles*, however utilization appears limited to date (see Charles, 1989; Whittington, 1989).

The choice of eligible offenders for programs varies, but as mentioned previously, there is an evident penchant to cautiousness among program administrators and judges in choosing offenders for house arrest with EM. This corresponds with the initial preference for 'angels' (as equipment suppliers would have it) or 'low risk' offenders, as indicated above. The inclusion/exclusion criteria employed by judicial and correctional authorities in the course of choosing adequate program candidates, tend to eliminate transient, mobile, and poor offenders. Petersilia (1987b:8), a close observer and advocate of the intermediate punishments, fears that some program developments 'would seem to validate the very criticisms that opponents of such programs have raised - that they will widen the net of social control, increase the total cost of criminal sentencing and foster a two-track system of justice that favors the haves over the have-nots'.⁶⁰

Many house arrest programs with EM are aided by the use of 'risk classification' instruments,⁶¹ which help to objectify criteria for making inclusion/exclusion decisions; this being one tactic that helps to create the individuality, individualization,⁶² and visibility of an 'offender'. Intake assessment for these programs constitutes one avenue for the individualization of offenders, both in terms of specific moral culpability (i.e., offense category) and in terms of perceived appropriateness for this kind of surveillance (i.e., potential co-operation, malleability, docility).⁶³ Ultimately, the decision rests with the intuitive assessment of judges and correctional staff, both of whom maintain a great deal of discretion as to who comes into these programs (see Friel et al., 1987).

In some programs specific offense categories are criteria for exclusion and this seems to vary between programs according to local circumstances & history, as well as the specific programmatic 'fit' being sought. Oklahoma State Dept. of Corrections, for example, excludes sex offenders and otherwise has five eligibility criteria for diverting *felons* from state prison into the

house arrest program: non-violent offender,⁶⁴ 30 months from release date, served 15% of sentence, not denied parole in last 6 months, violent offender 11 months from release date (Friel et al., Ibid.:13).

In the Palm Beach County Sheriff's Dept. EM house arrest program, the intent is to divert offenders residing in the overcrowded county jail. The program excludes drug offenders/users and those with a history of sex or violent offences. Otherwise, offenders must show success on the work release program and must have a home and a phone before being taken into the program.

The B.C. Electronic Monitoring System (EMS) Pilot Project program (begun August, 1987, ended April, 1989) has screening criteria that exclude violent offenders (or offenders who have a history of violence) and those sentenced to longer than 90 days. The EMS program is employed as a direct sentencing option in the sense that offenders go into the program after sentencing (a species of front-end program). Those sentenced to under 90 days are eligible for 'temporary absence' status, wherein offenders work or attend educational institutions during the week and serve their sentence on weekends (also called an 'intermittent sentence'). Thus, the Corrections Branch (an administrative apparatus within the Provincial Ministry of Solicitor General) has targeted the 'intermittent sentence' population as a possible 'jail count management method' within an overall policy that aims to abandon the old and outmoded Lower Mainland Regional Correctional Centre where intermittent sentences are currently served (offenses describeable as 'major traffic' account for 72.5% of intermittent offenders, cf. Corrections Branch Discussion Paper, 1987). Cost savings are also projected with wider deployment. Most offenders to date fit into the category 'major traffic' offenses, such as impaired driving or driving while prohibited.

Clackamas County, Oregon uses house arrest and EM in three different ways, as noted above. Offenders enter the program where the county judge recommends the program or upon the discretionary assessment of correctional personnel, based on risk classification screening. This program accommodates pre-trial releasees and front-end jail diversions, as well as providing back-end extension of the work release program. Since this program is not a reaction to prison crowding

conditions, it provides a less pressured basis for assessing the utility of house arrest with EM as a carceral technique that functions within an overall economy of punishment. (The same can be said for the B.C. Corrections Branch's EMS Pilot Project and the Oklahoma House Arrest program)

How do those on house arrest with EM do on the programs themselves? According to Schmidt's program survey there is much variation in failure rates for programs: from no (0) failures to over 1/3 of offenders not completing the EM house arrest program. The mean failure rate is 10% for 53 programs (another measure of the cautious screening of offenders, cf. Petersilia, 1987b). Jolin's Clackamas County evaluation shows a 10% failure rate also.

What are offenders doing such that they *do not* complete their house arrest sentence (i.e., are program 'failures')? And why is there such great variation in failure rates? According to Schmidt, '[t]he most frequent causes of failure were absconding and failure to abide by curfew' (Ibid.:11). Some other offenders failed because drug or alcohol testing detected use.⁶⁵ As to the second question, why the considerable failure rate variation, Schmidt has this to say:

While there is no clear explanation of why failure rates vary, selection of participants for the program is clearly important. Some programs have a 'right to refuse' anyone recommended for the program if they feel the person is unsuitable or will be unsuccessful. Other programs feel that they must accept anyone recommended by the judge regardless of their determinations about the suitability or appropriateness of the client. In addition, some programs purposely focus on problem cases and so anticipate higher failure rates (Ibid.:11).

According to Friel et al.'s data for those seven programs reporting, 3 programs average 1 month of monitoring, 3 programs average 2 months of monitoring, and 1 program averages 4 months of monitoring. Schmidt does not provide means for her 1987 data set, though indicates that 53.6% of offenders had been monitored for '6 weeks or less'. On the other hand, a small number of offenders (55/826) in the latter's sample were monitored for longer than 6 months (Ibid.:5). Jolin's (1987) evaluation of the Clackamas County program shows that most offenders (90%) 'completed an average of 33 days (median 29) of electronically monitored house arrest successfully' (Ibid.:55).

This brings us to the question of how offenders and those they live with are affected by this form of community control and surveillance. Thus far, only superficial attention has been paid to questions concerning what this form of control does and means within the social life space of those subjected to this panoptic regime. In a separate sub-section below, I will take up in greater detail the questions involved in an investigation of the social, psychological, and familial impacts that are of interest in the light of the technique of house arrest and the accompanying Information Technology of EM.

4.1.2 Electronically Monitored House Arrest Within the Criminal Justice System

There are many fundamental points of interest in any assessment of house arrest employing EM. Fortunately, in this short time there has been a great deal written about EM and house arrest (see Lilly and Ball, 1987). On the other hand, this material covers a wide range of discourses; moreover, program features are disparate and difficult to compare, except in more general terms (exceptions here would be Ball, Lilly, Friel, Vaughn, del Carmen, and Schmidt, Petersilia).

Reform discourse in this area of programmatic developments, yields questions and issues concerning whether various objectives are being met or served by programs. The following sub-headings are the rubrics under which these questions and issues can be addressed.

a) Program Cost Analyses

'The question of cost-benefit is complex, not simple'. So say Friel & Vaughn (1986:4), who go on to point out:

The assessment of costs and benefits varies depending upon one's point of view--for instance, the sheriff with an overcrowded jail versus the probation department which may have to pay for the technology. In addition to the direct cost of purchasing equipment, there are the indirect costs of operating the system. One should also consider the lost opportunity costs and benefits. What other programs could have been initiated or expanded with the funds used to purchase the monitoring equipment? Finally, there are the non-monetary costs and benefits to be considered.

Leaving aside the question of indirect and social costs⁶⁶ for the moment, house arrest (with and without EM) tends to be more expensive compared to 'regular' probation, but less expensive compared to the direct costs of most kinds of incarceration (cf. Petersilia, 1986, 1987a).

Schmidt & Curtis (1987:146) remark that

[t]he cost of a monitoring program cannot be directly compared to per diem cost of incarceration. The largest component of per diem costs is staff salaries. Therefore, until the number of released inmates is large enough to affect staffing of the facility, the only savings achieved are in marginal categories such as food.

The rigour of this formula would seem to be one of the more stringent tests of whether house arrest with EM can achieve both a displacement of prison/jail bound offenders *and* a reduction in costs of correctional control. Schmidt and Curtis do not believe programs using EM can solve or alleviate prison or jail crowding. While others (e.g., Petersilia, Conrad) believe 'intermediate punishments' can be cost effective and can be employed to manage crowding.⁶⁷

On the other hand, Ball et al.'s analysis of the Palm Beach County, Florida and Kenton County, Kentucky programs seems to run directly counter to Schmidt and Curtis' recommendation to avoid comparing per diem costs. The former researchers adopt a per diem method of assessing costs of programs. Thus, '[b]ased on a \$26 per day cost of jailing, the total of 5,900 days of home incarceration served from November 1984 to September 1986 represented a savings of \$153,000 for Palm Beach County' (Ball et al., Ibid.:93).⁶⁸

In the case of the Kentucky program, Ball et al. illustrate that a small program (only 39 offenders in program) can be added to existing probation organization without hiring more correctional staff. These researchers calculated that house arrest with EM would cost \$27,043 for equipment and training. Ball et al. have not calculated the costs of the added workload for probation, parole, and administrative personnel, excluding these costs because no new staff were hired. Under this procedure of not costing supervision and administration support (which eliminates \$18,618), it costs \$17,444 *less than incarceration* (which costs \$44,512). Since the program also collects supervision fees based on a sliding scale assessment procedure ('more than

\$9,000 in supervision fees'), costs can be put at \$27,043-\$9,000 = **\$18,043** for the house arrest program or **\$26,444** less than the cost of incarceration (Ibid.:81-2). Even if some formula were employed to account for staff processing and supervision work, it is likely the cost of the program would still be less than what local jail space would cost (the margin being provided by the supervision fees).

In any case, this ostensible saving must be viewed in the context of local criminal justice practice and politics. Ball et al.'s (Ibid.:81) assessment of the Kenton County program concludes: '[w]ith only 39 people referred and approved by P.S.I. (Presentence Investigation) for home incarceration, too few people were directed to this alternative to produce a significant change in the jail population or create a positive economic impact on the jail or county budget'. Moreover, the local judges, for the most part, do not view house arrest as an alternative to jail in most cases, if at all.

Let me try to convey a sense of the local context of criminal justice organization in B.C., alluded to above, where a house arrest with EM pilot project has recently been completed. The purpose of the pilot project was to determine whether house arrest with EM constitutes a viable sentencing option as the Corrections Branch (Provincial Ministry of Solicitor General) builds new institutions in anticipation of abandoning the old. In this case the Lower Mainland Region of the province is constructing new prisons to replace an outmoded facility built early in this century. Offenders that the Pilot Project program took would otherwise be completing their sentences on weekends in the prison earmarked for closure (purportedly in 1991). These offenders are part of a growing 'intermittent' prisoner population that will not go to the more specialized facilities now in design and construction phases.

The Discussion Paper (1987) that proposes the 'Electronic Monitoring System' (EMS) Pilot Project program is recommending one means by which to manage these 'intermittent' offenders. The Discussion Paper *suggests* that deploying house arrest with EM might obviate the need to construct a separate minimum security institution ('camp style' centre for a projected 150

'intermittent' offenders), which 'would require an initial capital expenditure in excess of \$4 million dollars'. Moreover, '[i]n addition to start-up costs of approximately \$500,000, such a centre would cost 1.73 million dollars to operate every year' (Corrections Branch, Discussion Paper, April, 1987:22). In this light, a program of house arrest with EM (projected to cost \$400,000 per annum, including long-term lease plus salaries for five officers and operational support), if successful, could avoid the considerable expense of constructing and operating a facility (see Chapters Three and Seven discussions).

Petersilia (1987a) indicates that house arrest with EM verification technology approaches the lower range of costs for incarceration. If house arrest with EM approaches the operational costs of incarceration, it makes sense that poor planning, equipment problems, faulty program design, and other problems, can push operational costs for house arrest beyond the costs of locally utilized prison space.⁶⁹ Thoroughly planned programs with identifiable offender groups and concrete program objectives, as well as support within judicial and correctional administration (all of which generally leads to positive media coverage, presumably securing a positive influence on 'public opinion'),⁷⁰ are more likely to achieve better programmatic fit. IPS and house arrest programs can also defray operational costs through revenues from supervision or monitoring fees (Schmidt found 40% of surveyed programs have such fees).

b) Effects on criminal justice, prison conditions/operations, and technologies of 'community control'

Civil liberties groups are not alone (see Ball et al., *Ibid.*; Petersilia, 1987b) in worrying that some applications of house arrest and EM will produce a 'two-track' system of justice. Ball et al. (*Ibid.*:96-97) reflect on their research in this area and on the lack of meaningful data for adequately assessing problems here:

[M]ost of the studies omitted basic information such as the socioeconomic characteristics of the people sentenced to home confinement. This raises the question of who is being permitted to experience home confinement. From our observations, it appears that most people selected from social and economic circumstances that would pretty well guarantee (1) a successful experience from them, and (2) a profitable one for the sponsoring agency.

Petersilia (1987b) recommends a concerted effort to tackle those cases less likely to succeed so as to get a better sense of the corrective and social control potential of these kinds of programs.

The correctional policy (employing the technique) of home confinement (with and without EM) has thus far not caused reductions in prison or jail budgets (Ball et al., Ibid.:97).⁷¹ It shows varying degrees of efficacy as a prison or jail population management mechanism.⁷² This, of course, very much depends on how the program 'fits' the local control system and on how this sanction is used in reference to particular prison populations.

As mentioned above, the greatest immediate impact will be felt in the organization of probation. Unfortunately, '[n]o research has addressed the potential impact of home incarceration, with or without electronic monitoring, on the status and role of probation and parole officers' (Ibid.:97; but see Moran & Lindner, Ibid.).⁷³

Petersilia (**House Arrest VT**, Ibid.) senses the inherent resistance emanating from probation. Thus, she replies to the question 'what prevents states from embracing house arrest generally?', as follows:

I think it's a philosophical shift. Basically, probation has been engaged historically to provide rehabilitation and this is making probation officers be more like police officers and for many they want to protect at least some services designed to rehabilitate and they aren't willing to abandon that historic role to programs of house arrest which are clearly police surveillance kinds of programs.

In Britain, recently discussed proposals for reorganizing community corrections by intensifying community control and surveillance, have encountered resistance within probation associations⁷⁴ (*The Economist*, July, 1988; Parliamentary Command Paper #424, Session 1987-88; Lilly, 1989a,b; Russell and Lilly, 1989).

Program advocates and administrators would argue that there is no fundamental incompatibility between house arrest and rehabilitation (**House Arrest VT**, 1987).⁷⁵ This creates

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a new discursive context wherein New Justice reform discourse can rehabilitate rehabilitation, as it were. No recanting is necessary. All that is required is a reiteration of the principles of individual responsibility and volition in rehabilitation. This represents a sort of marginal entree for a penal objective (i.e., treatment or rehabilitation) that had previously been swept aside by New Justice discourse. Thus, '[p]rogram personnel will argue that you do combine rehabilitation and house arrest, just that they're not doing as much one-to-one counselling' (Petersilia, **House Arrest** VT, Ibid.).

Furthermore, penalty can now be projected anonymously into everyday life as so many restrictions on conduct achieved through regulation of the body over a period of time. This, in turn, achieved through a *schedule* that provides a spatial map in terms of which that body is placed (the social consequences of which will be reported on later). The added increment of the intermediate punishments permits further latitude and subtlety in the arts of coercion. Whether recidivism studies will show house arrest with EM to be more efficient or effective in achieving 'correction' or normalization, has yet to be determined.⁷⁶ Suffice it to say, what is produced is a special mechanism of discipline that would seem to be designed to shore up the margins of indiscipline of otherwise disciplined bodies and subjects.⁷⁷

c) Expansion of the net of social control?

The idea of 'widening the network of social control' is found in academic and administrative literatures on house arrest and EM (cf. Petersilia, 1986; Blomberg et al., 1987; Ball et al., 1988; Friel & Vaughn, 1986). In the kinds of programs described above, the idea of net widening is interpreted from the two main reference points in corrections administration, namely total institutions (prisons, jails) and community corrections (probation, parole, community supervision). Penal administrators are declaring EM programs to be punishment oriented in that they provide a policing surveillance that provides for incapacitation; as such, they are equated with the harshness of the prison. EM and other *intensive probation supervision* programs are

formulated as an alternate *form* of incarceration. Under this premise, then, the net would be widened if this equivalency were somehow breached as by putting bracelets on probationers or parolees, who until that point in correctional history, had not been subjected to the close scrutiny and restriction that house arrest and EM entail. There are economic markers for the idea of net widening as well, namely the two ideal-typical prospects of *paying less* for the cost of incarceration or *paying more* for the cost of probation. In the former scenario costs are ostensibly reduced, whereas the latter situation implies extra costs are being added to probation.

To adequately address the question of social control network-widening will require detailed analysis of extensive program and sentencing data.⁷⁸ Presumably the benchmark consists in employing intermediate punishments only as 'true' alternatives to incarceration. Hence, according to this conception, social control network-widening occurs when it can be determined that offenders would have received probation instead of prison. But as criminal justice organization absorbs the new sanctions the prison/community corrections dichotomy will break down as a reference point and principle for assessing this question.⁷⁹

In principle, there seems little difficulty in establishing a positive case of prison diversion. A difficulty *will* arise in the future, however, in determining a positive case of probation supervision that has been supplemented with greater surveillance and other kinds of social control, i.e., network-widening. This is because of the inevitable shifting of discursive boundaries as to what constitutes 'probation' in this period of change in community corrections ideology (see Moran & Lindner, 1985; Hatt, 1985). As time passes the legal and normative incorporation of intermediate punishments will occur; in this context of change judicial authorities and correctional administrators will come to define the meaning of terms like probation.

These discursive shifts augur in the strategical favour of judicial and penal administrators, enabling them to exercise great discretion as to application of intermediate punishments within the practical framework of the political, economic, and ideological limits in which they operate. The latter clearly have great power to attach their own meanings to the new sentencing option

reference points now being set down. This is not to say that network-widening cannot *now* be identified (see Flynn, **House Arrest** Video Tape, 1987, who admits that EM and house arrest have been employed on 14% of 'community controlees' who otherwise would have gone into 'normal' probation, but where judges felt greater control was necessary). As probation practices change (perhaps probation generally will shift in the direction of more intensive supervision), though, this sort of assessment will be more difficult to make.

There are many reasons to be concerned about the possibility of network-widening by the use of house arrest and EM (see Chapter Five). In the post-inaugural phase of program development and expansion, rigorous researches will need to be undertaken to assess this very complex question. It is evident from correctional administrators (e.g., Flynn) and from querying judicial sentencing philosophies (Ball et al. *Ibid.*), that network-widening is occurring now, though only minimally. Considering some of the complex legal, classificational, and bureaucratic issues involved here, any future assessment of network-widening will need to take these factors into account if it hopes to adequately evaluate this question.

d) Frameworks of Legality and Co-operation from Judicial Authorities

del Carmen and Vaughn (1986:69) provide an overview of some of the legal issues of constitutional rights involved with, or relevant to, EM programs. These are constitutional issues in the areas of electronic surveillance, federal legislation, constitutionality of probation conditions (in general), privacy rights, right against self-incrimination, payment of costs and equal protection, and warrantless searches. In concluding, they reflect on the future development and use of EM in light of the identified legal issues:

Whatever the future portends, a review of decided cases in probation and parole indicates that while the use of electronic devices raises constitutional issues, its constitutionality will most likely be upheld by the courts, primarily based on the concept of diminished rights. It is important, however, that the use of electronic devices be governed by specific guidelines that comport with state statutes in those states which have applicable laws. Moreover, the issue of device availability to indigents must be addressed so as to remove any possibility of a successful constitutional challenge based on equal protection. It is this article's conclusion that the constitutionality of the use of electronic devices in probation is strongly

defensible. Whether or not such use is cost-effective, politically acceptable, or administratively feasible is an entirely different matter (Ibid.:69).

The 'equal protection' clause of the Fourteenth Admendment would be applicable 'in the event that there is differential handling of offenders by race, ancestry, alien status, gender, illegitimacy, indigence, or some other "suspect class"'(Ball et al., Ibid.:120). This is already occurring in some places (see below for further discussion). This is an area in urgent need of thorough research.

Vaughn (1989:6-7) has provided a more recent summarization of the legal ramifications of EM use in house arrest programs:

Lacking any substantial body of case law agencies are forced to conduct an analysis based on the type of equipment which will be used and conditions of release upheld by the courts in the past. Without providing a protracted examination of all the federal constitutional issues involved, the existing equipment is not foreseen to constitute a violation of an individual's rights. Probation, parole, and other forms of community supervision are generally considered a privilege granted to the offender rather than a right. Conditions imposed are normally considered valid as long as they are reasonably related to the rehabilitation of an offender and/or are protective of society. It is relatively easy to satisfy one or both of these criteria.

Vaughn believes 'the legal issues which arise in the future will center around program operation and introduction of new technologies' (Ibid.:7). Until equipment reliability is established, the use of EM *alone* cannot constitute adequate evidence in revocation hearings. The literature suggests many program staff employ EM as a first order of knowledge (that is sometimes erratically false), that then initiates a staff 'check' operation. Thus, soundly sleeping offenders are awoken at odd hours in the morning or are called to the phone so as to be identified.

The issue of new technology obviously initiates the possible application of many of the laws already examined for their relevance to the continuous signalling and programmed contact forms of EM (see Ball et al. Ibid. and del Carmen & Vaughn, Ibid.). As was described earlier in the chapter, EM functions within house arrest programs only to verify presence or absence of the offender, i.e., providing location verification. New technologies are being developed for remote drug and alcohol testing. This application introduces the use of EM for more intensive supervision of physiological states of offenders, a function that may find its place in some programs of intensive probation supervision.

The crucial distinction suggested by the above is that if EM is used, for example, to monitor the right to speak freely (as by eavesdropping on conversation), then this passes a threshold in the corpus of offenders' diminished rights that cannot be allowed. On the other hand, current (location compliance verification) and foreseeable (remote drug & alcohol testing) applications of EM are directly tied to program-defined specifications of rules and restrictions. The modality of information is not the contents (e.g., linguistic) of the social subject. Rather, the information content of EM reflects the bedrock logic of microprocessor technology: on-off, zero-one, presence-absence. As noted previously, EM Information Technology has various configurations that verify presence/absence in terms of curfew compliance. Drug and alcohol testing would follow this principle also (i.e., testing for presence/absence of a substance). This is the reduction of uncertainty concerning the location and condition of bodies.

The legal framework of EM programs must also take account of the place of judicial authorities. As already noted, judges in different U.S. criminal justice districts have been influential in establishing and supporting programs of house arrest (with and without EM). Hofer and Meierhoefer (1987:11) assert that '[a]side from a few sentence innovators, judges remain largely unfamiliar with the rationale and potential of this new sanction'. This is an area that has been largely neglected in research and criminal justice literatures.

Ball et al. (Ibid.:84-7) suggest that the sentencing philosophies of judges they encountered in their Kentucky research vary (and are inconsistent) and this affects how they use house arrest (with and without EM). Ball et al. (Ibid.:85) conclude that the three judges they interviewed in Kenton County, Kentucky, 'did not seem to use home incarceration as an alternative to jail'.

There would seem to be an inherent political conflict tied to the use of EM, i.e., between judicial authorities and correctional administrators. As Flynn (**House Arrest** VT, 1987) and Ball et al. have already noted, judicial authorities are using house arrest with EM in a way that widens the network of social control (i.e., where it is being added to probation), which presents an *addition* to correctional expenditures. This puts judicial use of house arrest and EM on a collision

course with correctional administrators, whose goal is prison and jail depopulation or more cost-efficient management of a specific offender group. Drafting and implementing state (or provincial) level legislation (cf. Ball et al., *Ibid.*:Appendix H), may or may not resolve this conflict. It doubtless acts as a means of better co-ordinating judicial and correctional administration, perhaps being a tactical maneuver augmenting state power in both correctional and judicial administration. Here again, more research is necessary.

4.1.3. Offender Impacts of EM and House Arrest: a neglected concern

With the exception of a recent, but incomplete, empirical assessment of the effects of home confinement with (and without) EM on offenders and their families (Baumer and Mendelsohn, 1988) and the very brief entry and exit surveys reporting 'family' members' perceptions of 'electronically monitored house arrest' (cf. Jolin, 1987; **Offender Monitoring**, 1988: Vol. 1(#6), p. 3), no research has been reported concerning whether and how the house arrest and EM sentencing option affects those offenders subjected to it. The descriptive social research reported below (Chapter Four) endeavours to begin to address questions concerning the impact this form of correctional organization has on offenders; as such it marks out a set of questions and interests that future work may extend and/or reformulate.

While development and expansion of home confinement or house arrest programs for adult offenders has occurred rapidly in the U.S. since approximately 1983 (cf. Ball et al., 1988:34-35), little is known about how offenders are affected by deployment of this sentencing option (Ball et al., 1988:97, 133), nor do we know what effects home confinement has on other persons who share the life space of offenders on such programs (i.e., either at 'home' or 'work').

The additional component of electronic monitoring introduces another set of questions that have also not been addressed, namely does the bracelet or electronic monitoring system itself have any significant effects on offenders or the persons with whom they live? Further, does the fact of

monitored curfew/confinement affect other spheres of conduct, notably occupational or work contexts? Do offenders feel stigmatized by having to wear the electronic 'bracelet'? These kinds of questions have been largely ignored, I believe, because the early-phase development of electronic monitoring and house arrest policy has been mainly concentrating attention on operational pragmatics in implementation of programs within local and regional crime control/criminal justice systems (cf. Friel & Vaughn, 1986; Petersilia, 1986).

The questions of interest to this research centre on whether home confinement or the wearing of the electronic monitoring bracelet have any effects on the mood, behaviour and psychology of offenders. Furthermore, this research addresses whether and how the home confinement program and the wearing of the bracelet affects offenders' families (family dynamics) and other social relationships, as well as offenders' work relations and activities. The domain(s) of interest here are offenders' daily life conduct and the webs of social relationships within which each offender lives.

The main body of evidence is what offenders themselves reported when interviewed about their experiences while on the EMS Pilot Project program (see Chapters Three and Four). Over the course of a ten month period 60 offenders on the EMS Pilot Project Program were interviewed by the researcher using an open-ended questionnaire schedule (see Appendix II). After the completion of interviewing, post hoc coding categories were generated and interview responses recorded at the time of the interview were coded into these more general categories. The dominant thrust of this research is *descriptive* and involves reporting of the systematically collected and coded responses given by EMS program offender-respondents to interview questions (systematic post hoc coding enables the research to enumerate frequencies for categorized responses).

In its most general terms the research question can be stated as follows: how does the regulation and control of bodies (in a community-based electronically monitored house arrest program) affect social, psychological and familial relations of those subject to this kind of social control (i.e., home confinement) using 'electronic monitoring' as a means to verify (or help to

verify) curfew compliance. In a very real sense it is a *body* that is regulated and controlled according to quite concrete specifications i.e., program rules and expectations that provide for temporal and spatial restriction of that body. While it is clear that it is the material body that is controlled and regulated, it is the repercussions registering in social consciousness that are chiefly of interest. How is this kind of restriction perceived and experienced? How is it reacted to, how is it masked? How is it resisted?

The task now is to describe the research setting and methods that permit these questions to be addressed. Before proceeding to that task, however, a few cautionary remarks need to be stated. First, despite the difference between American and Canadian regional crime control systems, the Canadian case replicates many of the features identified above. The question of systemic and juridico-discursive difference is always present and must be assessed by way of *relevant* criteria. Hence, with suitable care and qualification, the case of the Canadian province of British Columbia's (Ministry of Solicitor General, Corrections Branch) Electronic Monitoring System (EMS) Pilot Project Program can be situated within some or many of the administrative, political, economic, and ideological contexts and categories the present chapter has reviewed.

The second point to be stressed is that the present chapter and the two chapters that follow it (Chapters Three & Four), constitute the discursive field in terms of which Foucault's concepts and analyses (relating to discipline and punishment or penalty) will be brought to bear in Part II (Chapters Five through Seven). At the present stage (Part I, Chapters Two to Four) the field of punishment - rationales and practices - is being displayed and described in its own terms. Part II will then involve the *analysis* of what has been presented in the chapters of Part I.

The research questions relating to how offenders (and others) are affected by this regulation and control (i.e., EM and house arrest) will be addressed, first by a description of the B.C. EMS Pilot Project Program, including research access and methodology (Chapter Three); and second by a review and preliminary analysis of research findings (Chapter Four). We turn, then, to a discussion of the B.C. EMS Pilot Project Program.

Notes

- 1 For a discussion of the limits of *archaeology* see Dreyfus and Rabinow (1983).
- 2 See Schurmann (1985) for a balanced, cogent discussion of what seems doable in an archaeological-genealogical history. Of Foucault's historical method, Schurmann says: 'Foucault's own narrative is meant to trace the *'problematizations* through which being gives itself as capable of being thought,' as well as 'the reflected and voluntary *practices* by which people seek to transform themselves... Having reframed his earlier archaeology, he now assigns it as its subject-matter proper those problematizations or issues; and having reframed genealogy, he retains as its subject-matter those practices' (Ibid.:542). Further discussion of the difference between this type of history and the social analysis of Part II will be discussed later.
- 3 However, the research reported later illustrates use of EM and house arrest in a Canadian *provincial* criminal justice jurisdiction. Fox (1987) indicates Australia and Britain are seriously discussing use of EM and house arrest. The references to EM and house arrest in the main body of the text are primarily from the American literature, except where specifically noted otherwise.
- 4 Foucault (1979) notes that methods of punishment have not been studied and cites Rusche and Kirchheimer's *Punishment and Social Structure* as an exception: 'Foucault does not accept their analysis as such - and indeed his own undermine any attempt to deduce regimes of punishment from the modes of production. None the less, he singles out their book for praise because they choose as the object of analysis the techniques of punishment themselves. This praise points to a general stance Foucault adopts towards the analysis of the regimes of punishment. In a round-table discussion on *Discipline and Punish*, he remarks that in order to understand who is punished and why individuals are punished, one should ask the question, "how are individuals punished"'(Cousins and Hussain, 1984:175-6).
- 5 'Tracking' is technically feasible now, but is not in general use. However, the EM design in the proposed British system would provide for tracking or extra-residential, real-time place verification. Offenders could be tracked and their mobility restricted to specific geographical regions in a given urban area (see Stacey, 1989; Frost and Stephenson, 1989).
- 6 Compare Foucault's different uses of the term 'technique' and 'tactic' in *Discipline and Punish* (P. 26, 28, 141, 167, 177, 211, 215). For example, "There can be no question here of writing the history of the different disciplinary institutions, with all their individual differences. I simply intend to map on a series of examples of some of the essential techniques that most easily spread from one to another. These were always meticulous, often minute, techniques, but they had their importance: because they defined a certain mode of detailed political investment of the body, a "new micro-physics" of power' (Ibid.:139). He states earlier that 'the study of this micro-physics of power presupposes that the power exercised on the body is conceived not as a property, but as a strategy, that its effects of domination are attributed not to "appropriation", but to dispositions, manoeuvres, tactics, techniques, functionings' (Ibid.:26). The ideas 'panoptic regime' and 'panoptic schema' make reference to forms of concrete institutional organization, i.e., programmatic.

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- 7 In this sense EM meets very well the 'holy trinity of penal reform: cost efficiency, effectiveness, and humanity' (Chan & Ericson, 1981:6). Use of EM with house arrest permits a certain discursive strategy, namely that it is politically acceptable (e.g., in terms of cost efficiency, social approbation, community protection (in terms of offender risk), prison crowding crisis management, less stigma and social debilitation).
 - 8 Blomberg et al. (1987:171) assert: '[i]t is from this context of extremes--prison and jail overcrowding, growing fiscal crisis, and a simultaneous acceleration in the public's mandate to get tough on criminals and reduce taxes--that home confinement and electronic surveillance programs have emerged'. See also Hofer and Meierhoefer (1987).
 - 9 Schmidt's (1987a, 1988) EM program reviews are helpful and will be discussed at greater length below.
 - 10 According to Schmidt & Curtis (1987), Ralph K. Gable is formerly Ralph K. Schwitzgebel. Gable's (1986) paper essentially enunciates the lineage of contemporary use of EM back to his work beginning in 1964.
 - 11 Some clues are provided by R.K. Schwitzgebel. In the course of discussing his 'electronic rehabilitation system' he states: 'Acceptance of such a system might be a condition of parole, but I have been hesitant to place the system in use, because of economic factors and the still unresolved social and legal aspects of the situation' (1970:59). There is also some evidence that Schwitzgebel was ideologically opposed to using his telemetry system 'only for surveillance' (1968a: 101).
 - 12 There is an interesting relationship between the development of EM and house arrest and judicial encouragement and support. Another example here would be Palm Beach County, Florida Judge Edward Garrison, who Friel et al. (1987:51) identify as instrumental in one of the first programs developed.
 - 13 There is large and growing literature concerning computers in criminal justice. For more recent discussions of the practical issues and applications of computers see Archambeault (1987); Archambeault & Archambeault (1984), and Waldron, Sutton and Buss (1983).
 - 14 The use of the cybernetic idea of information as 'the reduction of uncertainty' is appropriate and useful.
 - 15 Gable (1986:170) reports that '[t]he original monitoring system has been used on a limited basis for nearly twenty years as a condition of release into the community for persons who otherwise would have been incarcerated'. Unfortunately, no descriptions of these uses is provided. Hence it is difficult to specify what 'limited basis' means.
 - 16 See Meyer (1971), a Department of Defence analyst of computers and communications. Meyer envisioned mapping out whole cities. Here is another telemetry design plan, however, that far exceeded the political, economic, legal, technological, and ideological possibilities of full scale implementation. Of course, Meyer's crime control utopia would be easier, from a technical standpoint, to put into place now compared to when it was initially proposed. However, Meyer's ideas are premised on a faulty understanding of legal strictures and crime control administration.
 - 17 Hofer and Meierhoefer (1987:2) report: "Transmitters that emit signals over a larger area, permitting offenders to be tracked throughout a city, are under development".

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- ¹⁸ Rapid change in IT design is now under way. Descriptions of the components of IT in programs of house arrest and EM in April, 1986 (Vaughn, 1986; Friel et al., 1987) are now outdated. According to **Offender Monitoring** editor Renzema (1989a:12) '[f]our of the nine lines of equipment described by Friel et al. are no longer available, and some of the remaining lines have gone through up to three major design changes since then; new vendors have appeared'. It should be no surprise that product reliability problems, technical innovations, and market demand converge to bring this about.
- ¹⁹ Exceptions here are the 'drive by' systems that Renzema (1989a:13) describes as 'a mixed marriage between the continuous signalling and programmed contact concepts'.
- ²⁰ This testing was suggested by the Pilot Project Director, who inhabited a position where much contact with other programs occurred, she being exposed to a rich current of knowledge about monitoring and programmatic developments in corrections.
- ²¹ Foucault proposed that Bentham's Panopticon design represented an architectural figure of disciplinary power; telemetry design is a technical apparatus of observation and control, the means by which to effect remote surveillance. Classic telemetry design is a technical mutation of panoptic techniques (cf. Foucault, 1979) and cybernetics is the modern theoretical discipline that corresponds to telemetry design.
- ²² Compare this with Renzema's recent compilation: 'Aggregating manufacturers' claims it appears that as of December 1988 about 11,000 monitoring units have been manufactured of which 3,500 are straight programmed contact, about 1,000 are hybrids, and 6500 are continuous signalling' (1989a:18).
- ²³ Information links of a similar design are now finding a more general use: in one case the remote unit or location can signal or communicate with a human or automated control centre, as in the telephone attached devices that can be made to signal in the event of medical emergencies; on the other hand, communication can be initiated by the computer controlled location, as in the local development of computer software that is being used to automatically telephone parents informing them that their high school aged sons or daughters are truant (BCTV News, Jan. 9/89). The story reported a significant drop in truancy as a result of this measure.
- ²⁴ Foucault (1978, 1979, 1983, 1985, 1986; see also Martin et al., 1988) has investigated 'political technologies of the body', providing interpretive descriptions of technologies of subjectivation and subjection (see Schurmann, 1985).
- ²⁵ *Anatomo-politics of the body* and *bio-politics of the population* will be discussed in greater detail in Part II of the dissertation (see Chapters Five, Six, and Seven).

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- 26 Foucault (1983:212) says '[t]here are two meanings of the word *subject*: subject to someone else by control and dependence, and tied to his own identity by a conscience or self-knowledge'. Schurmann (1985:544) formulates Foucault's distinction as modes of other-formation (subjection) and self-formation (subjectivation). The former goes on to say: '[a]ll forces of subjection are not imposed from outside the self, as are social domination and economic exploitation. To be sure, these have not disappeared from the Western world. But new forms of inner, although heteronomous modes of subjection have appeared as urgent targets in today's struggles. These are the heteronomous voices that tell us our identity. To learn from the soft sciences who and what we are, and to recognize ourselves in their dicta, is to interiorize power in the form of knowledge. Indeed, in saying--in acknowledging, confessing--"This is what I am," the subject objectivates itself within itself.... "Self-identity," endlessly invoked, thus results from interiorized, although heteronomous, subjection. Self-identity is self-objectivation accepted and enforced as self-subjection' (Ibid.:544). See also Bernauer (1988:52).
- 27 This harkens back to the previous discussion of the technical feasibility of EM, which extends back at least until the mid-1960's. Yet economic-political circumstances were not, until recently, conducive to larger scale use.
- 28 UNESCO prefers a more loose, general and benign definition for IT, which though not adequately specified, nonetheless would appear to cover the dimensions noted above. IT involves: 'the scientific technological and engineering disciplines and the management techniques used in information handling and processing; their applications; computers and their interaction with men and machines; and associated social, economic and cultural matters' (quoted in Webster and Robins, 1981:268).
- 29 Other attributes of the new surveillance that EM's use shares are as follows: 'The new surveillance technologies (NST) are chiefly concerned with preventing violations and reducing risk and uncertainty' and 'those watched by the new surveillance techniques often become active partners in their own monitoring'; NST's: 'broaden the base of surveillance...., transcend time, yielding records that can easily be stored, retrieved, combined, analyzed, and communicated....', and 'have low visibility or are invisible, and they are increasingly depersonalized' (Marx, 1985a:47).
- 30 See Meyrowitz (1985) for a discussion of issues concerning the relation of 'media' (IT & IW for our purposes) and situated conduct. 'The social' is transformed by the availability and use of various kinds of media(tion) that come to penetrate and become part of social conduct.
- 31 In effect constituting a relationship of power in Foucault's sense: 'what defines a relationship of power is that it is a mode of action which does not act directly and immediately on others. Instead it acts upon their actions: an action upon an action, on existing actions or on those which may arise in the present or the future' (1983:220; cf. Chapters 2 & 3 in Part Three of *Discipline and Punish*). Use of EM also exhibits features of hierarchical observation that Foucault has identified in panoptic regimes that train and control (see Chapter Five below).
- 32 'Once knowledge can be analysed in terms of region, domain, implantation, displacement, transposition, one is able to capture the process by which knowledge functions as a form of power and disseminates the effects of power' (Foucault, 1980:69).
- 33 Following Cohen (1979:343) 'I shall take the term "community control" to cover almost any form of formal social control outside the walls of traditional adult and juvenile institutions'.

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- 34 R.L. Schwitzgebel and Bird (1973:61) report: 'The development of transistors made remote monitoring units markedly more feasible. Numerous studies have reported the telemetering of physical location in animal ecology'. They refer to Mackay & Jacobson's (1957) paper describing the construction and use of 'endoradiosonde' devices, which permitted remote measurement of internal physiological processes. Elsewhere, Mackay (1961:1197) calls the apparatus and technique 'probably the first method tried'. These and many other techniques, based on active and passive Radio Frequency transmitters, were quickly absorbed into medical practice (see Holaday, 1961; Mackay, 1968; Caceres, 1965).
- 35 One might expect telemetry to take off in such an environment; however, as noted earlier, the Information Technology itself failed to pass the crucial economic threshold required for development and marketing.
- 36 See Aaronson et al., (1977) for the principles and design of this reform. Fogel (1975), Morris (1974), and von Hirsch (1976) provide a 'liberal' casting to the essentially conservative principles of crime control inherent in the New Justice; for the conservative discourse see Wilson (1975) and van den Haag (1975).
- 37 Examples here being the *lettres de cache* of the ancien regime (Sade) and papal sovereignty (Galileo).
- 38 These are models, respectively, of 'front-end' and 'back-end' uses of more intensive methods of community supervision. See below.
- 39 'Home detention' was employed as early as 1971 in St. Louis (cf. Rubin, 1985). 'By 1977, such programs for youth had been put in place in Washington, D.C.; Baltimore, Maryland; Newport News, Virginia; Panama City, Florida; St. Joseph-Benton Harbor, Michigan; San Jose, California; Louisville, Kentucky; and Tuscaloosa County, Alabama' (Lilly & Ball, *Ibid.*:360). Klein (1988:90, 238) reports the case of an adult California woman who was, as part of her sentence, given a one year house arrest sentence for manslaughter in 1979. The judge in the case claimed that this sentence 'was the first house arrest in the nation's history' (*Ibid.*:90).
- 40 New Jersey's Intensive Supervision Program - one of the first such programs - was inaugurated in the 'latter part of 1983' and has since incorporated the use of EM for some offenders (Friel et al., 1987). Likewise, Florida's 'community control' program involves use of EM for some classes of risk-assessed offenders (Flynn, 1986a).
- 41 Byrne (1986) identifies IPS programs going back to 1973 (Nevada) and 1978 (New York), however it is the early 1980's when considerable proliferation of such programs occurs. Conrad (1985) identifies the state of Georgia's IPS as the first such program (begun in 1982).
- 42 Ide (1982) provides a good overview of major microelectronics developments. He says: 'the power of computers has increased during the past fifteen years by almost 10,000 times, while the price of each unit of performance has decreased 100,000 times' (*Ibid.*:54).
- 43 Indeed, it is a common strategy of EM and house arrest advocates to compare surveillance and incapacitation to the prison model when seeking to establish the punitiveness of this sanction. However, when the question of recidivism and technical violations arise, the reference point is probation (cf. Petersilia, 1987, **House Arrest** VT, 1987), which tends to make this sentencing option look more successful, but which undermines the claim that house arrest is 'a prison program'.

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- 44 House arrest with EM is like **Incarceration** because: it represents a spatial restriction or *confinement* that is punitive in intent; correctional officer role is based on the *surveillance* model of supervision ('active' security); restricts potential to cause social harm/better degree of societal protection through incapacitation.
House arrest with EM is like **Probation** because: offenders are in the community; offenders are subject to program revocation with return to prison as the outcome ('conditional liberty'); correctional officer role is based on 'case management' or 'team approach' probation supervision models (electronic monitoring is a *supplemental* mode of surveillance ('passive' security)); offenders have better opportunity to maintain community social ties and relationships; is conceived as an antecedent to the rehabilitative ideal of 'accountability and responsibility'.
- 45 The possibility of 'rehabilitation' is given a new discursive context. In this view, then, spatio-temporal discipline provides a kind of prerequisite basis for any therapeutic work the *offender chooses* to engage in (cf. Flynn, 1986a; **House Arrest**, NIJ Video Taped program, 1987); another view conceives the maintenance of social ties permitted by community control as rehabilitative in itself or applauds the humanitarian aspects of house arrest (e.g., escaping the debilitating effects of incarceration).
- 46 These same justice system researchers reflect on some elements that would, for them, make the correctional officer role more ideal, in addition to reflecting on the much deeper penetration of these mechanisms of control: 'Yet in some case the intensive contacts between officer and offender under home confinement programs can foster a helping relationship of greater depth than is possible under normal probation supervision. If officers have reduced caseloads so they have the time for short (though frequent) counseling, if they work with the offender to develop plans for self-improvement as well as schedules of confinement, and if they adopt a firm but concerned attitude toward the offender, great strides toward rehabilitation are possible. If they are given discretion to grant occasional time off, or reduce the level of supervision, the rewards at their disposal to encourage good behavior are much greater than in normal probation' (Ibid.:32).
- 47 Burtch (1988) says: '[e]lectronic monitoring...incorporates elements of liberal correctional discourse (rehabilitation and humaneness of treatment), while introducing a new, correctional technique that follows conservative correctional ideology'.
- 48 As mentioned elsewhere in the chapter, there is a discursive play of forces that finds its focus in *limiting* use so as to keep the threshold of potential 'community risk' as low as possible (to accord with the New Justice reform discourse of retribution and community protection through incapacitation). Petersilia (**House Arrest** VT, Ibid.) says 'we are selecting those people who are likely to succeed under house arrest'; she believes that as house arrest expands 'the issue of public safety and the effect on the offender's recidivism will resurface'. These ideologically based tenets could produce a leveling off in use and/or expansion of both house arrest and EM. See Footnotes #49 and #50.
- 49 Ball et al. (1988:79) and Friel et al. (1987:51) disagree on whether it was Palm Beach County Sheriff's Department or PRIDE, Incorporated, Palm Beach County, who began the first use of EM with house arrest in fall, 1984. Ball et al. (Ibid.:93) give more details and hence seem more credible. According to them the first offenders on house arrest with EM were supervised by PRIDE, Incorp. in Monroe County, in late 1983 (sentenced by Judge Allison DeFoor). The first program to employ EM was PRIDE's West Palm Beach program; the first offenders were sentenced to this program by Judge Edward Garrison in late November, 1984.

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- 50 Referring to house arrest programs with EM, Ball et al. (1988) report: '[t]oday, more than 50 different home incarceration sites are operating in the United States' (1988:79).
- 51 Schmidt (1987a:11) agrees with this figure: '[a]s of February 15, 1987 at least 3,000 offenders have participated in monitoring programs'.
- 52 Data presented for Feb. 1987 program offender counts on p. 4 of the NIJ draft (Schmidt, 1987a) are ambiguous, but show only 9/53 (17%) programs using EM verification with more than 20 offenders on Feb. 15, 1987. The large scale, community control programs such as are in place in Michigan and Florida, account for these programs it would seem (cf. Schmidt, 1988). The remainder of the programs (44/53, 83%) have daily counts of less than 20 offenders; of these programs, over half (24/44, 54%) have daily counts between 1-5. Compare this with 1988 findings reported in the main text.
- 53 'The monitoring activities in the two states are structured quite differently. Almost all (87.8%) monitored offenders in Michigan are monitored by the Michigan Department of Corrections, with the remainder monitored by a local court, a sheriff and private agencies. In contrast, there is greater diversity in Florida. 57.8% of the monitored inmates were in programs sponsored by the Department of Corrections but 23.9% were monitored by city or county agencies, including Sheriffs' offices, local Departments of Corrections, and police departments. Sixteen and nine-tenth percent (16.9%) are monitored by one of the several private agencies which offer monitoring services and 1.2% by a federal demonstration project' (Schmidt, 1988:4).
- 54 Says Schmidt (1988:6): 'Florida might be viewed as a microcosm of the county as a whole in that monitoring activities are found in large metropolitan areas, medium-sized cities, small towns and rural areas. Monitoring is a service provided by private entrepreneurs who contract with governmental agencies or with offenders directly. In addition, monitoring programs have been established by all levels of government -- federal, state, county and city -- who may provide the service with their own staff or contract for it. These public agencies represent all elements of the criminal justice system, including police departments, sheriffs, courst, correctional systems and probation and parole agencies'.
- 55 But note, Flynn (Director of Probation and Parole Programs, Florida Dept. of Corrections) reportedly stated in a speech given in Orlando, Florida (March, 1988) that 850 of 7000 community controlees are being monitored by EM also (**Offender Monitoring**, Vol. 1 (#4), 1988). This represents an apparent *drop* from the earlier estimate of 1,000-1,200 'controlees' (cf. **House Arrest**, VT, 1987).
- 56 In the Fall Issue of the *Journal of Offender Monitoring*, Renzema (1989b:20) provides a 'progress report' on the 1989 survey. He states, '[a]lthough final results are some months away because of delay in obtaining National Institute of Justice funding for completion of the 1989 survey, responses from the 169 agencies which have returned questionnaires show 5,473 offenders being monitored in 39 states on February 12, 1989. Although the study continues, preliminary estimates indicate the final count for February 1989 will be between 6,500 and 7,000; approximately triple the previous year's number. Conversations with vendors suggest use of monitoring is continuing to mushroom and that by February 1990 the daily monitored population will be at least twice that of February 1989'.
- 57 Recently published proposals from the British Home Office show that criminal justice authorities will employ 'tagging' with remanded offenders sometime beginning in 1989 (see House of Parliament, Parliamentary Papers (Command Paper #424, 1987-88, 'Punishment, Custody and The Community').

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- 58 Friel et al. (Ibid.:11) found that 7 of the 10 programs examined involved prison or jail crowding as the precipitating reason for use of EM. The remaining programs were not driven by crisis, but by the spirit of experimentation and innovation.
- 59 An exclusion criterion which many of the programs have. It is a point of reform policy that offenders 'in the community' are effectively incapacitated and otherwise controlled. Public safety is stressed in reform rhetoric.
- 60 Future potential for expansion of programs would seem to hinge on political and judicial accommodation via the correctional and social control complex. There is a fear among program administrators and judges that significant negative publicity over one program 'failure' might jeopardize programs (Schmidt, 1987b). Caution in offender selection, then, constitutes a boundary on program expansion and therefore on the potential impact on easing jail or prison crowding (if the latter happens to be one of the goals of adopting house arrest as correctional policy). To make inclusion/exclusion criteria less limiting opens up the possibility of an obvious reform ideology contradiction, namely that higher risk offenders are 'in the community' and threaten public safety.
- 61 Hofer and Meierhoefer (1987:19) state that '[a]ll of the programs that include home confinement screen offenders with some method of risk assessment. Sometimes only first-time offenders are eligible, or certain categories of repeat or serious offenders are excluded. Candidates for the program - or even spouses, housemates, or parents - may be interviewed to gauge their willingness to abide by program rules. Occasionally a more formal, objective risk-scoring system is used... In general, probation officers and judges seem to look at the whole picture of prior record, age, health, substance abuse, circumstances of the current offense, home life, employment, and the attitude of the offender to decide if home confinement is a "good bet" '.
- 62 See Chapter Five and Six for more detail discussion of the terms *individuality* and *individualization*.
- 63 This is another feature of house arrest (with and without EM) that may act to limit program expansion. Loosening intake criteria risks not only backlash against the program, but will likely also increase overall costs because more revocations will likely result. This involves reprocessing costs (revocation hearing, prison intake), as well as prison or jail costs. Moreover, length of incarceration in this circumstance, may well be otherwise longer than it might have been (e.g., loss of 'good time' or 'earned remission').
- 64 A charge involving violence and/or a violent offender history is probably the most common exclusion criterion (cf. Friel et al., Ibid.)

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- 65 Vaughn (1989:3, 6) makes some interesting remarks in connection with failure rates: 'Determining an acceptable failure rate in the program will depend to a great extent on the client population and rationale for the program. If the agency has not carefully considered and publicized this issue prior to implementation they may be subjected to unwarranted criticism. Common sense would dictate that "high risk" offenders would have a higher rate of failing to complete the program than "low risk" offenders. Risk factors are sometimes improperly determined solely by the type of offense. While the type of offense is a valid consideration, the limited experience to date indicates it may not be the best indicator. If one looks at only the offense for which the person was convicted, programs with "high risk" offenders do not appear to be significantly different from those restricted to "low risk" populations. Other factors such as employment skills, education level, drug and alcohol abuse, and stability of the home environment appear to have a greater influence on the success or failure of a client. In designing selection criteria, a multi-factor approach appears to produce better results'.
- 66 Vaughn (1989) argues that '[t]o truly determine the benefits of electronic monitoring it would be necessary to factor in the secondary costs of incarceration'. There are many other types of costs (such as 'social' costs & 'indirect' costs) that will not be addressed in this section. This section, then, focuses on concrete, direct monetary costs.
- 67 Petersilia states the '[t]he financial appeal of intermediate and middle-range sentencing programs is seen by many as the primary reason for the surge of interest in such programs. If the program participants are truly the prison-bound, they also reduce the pressure to build new prisons. Also, the state may save the welfare costs required to support the offender's family while he is incarcerated. And since the offender continues to be employed, he pays state and local taxes and can be ordered to pay probation supervision fees as well' (1987a:ix).
- 68 PRIDE, Inc. ran this program and charges a \$20 'supervisory fee' plus \$7 per day for EM. Ball et al. report 144 offenders, mainly caucasian (95%) and blue-collar construction workers, who have experienced a total of 5,900 days of incarceration for Drunk Driving and Driving Under Licence Suspension.
- 69 In one program (without electronics) that shut down - in Contra Costa, California - 'it turned out that it costs more to keep them in home detention than in jail' (Petersilia, 1986:52). Furthermore, recurring problems with equipment functioning are experienced by nearly all programs (see Friel et al., 1987; Schmidt, 1987a), at some cost to staff to check/fix/exchange equipment. Utah Dept. of Corrections, for example, apparently experienced so much trouble with the EM equipment that the program had to be shut down for a period of time until the problems were ironed out. B.C. Pilot Project program staff reported equipment problems that were subsequently largely remedied by replacement of out-of-date batteries and faulty bracelet straps. Prior to this adjustment, one Correctional Officer on-call for a weekend ended up responding to 21 calls, most or all of which were false tamper or false leave violation reports. Needless to say, equipment problems were the source of much aggravation for EMS Pilot Project staff.
- 70 One tentative hypothesis from this is that the greater the consensus about the meaning and use of house arrest and EM, the more likely will the disparate fractions of criminal justice organization create a niche where it can work.

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- 71 Vaughn (1989:3) states: 'There is no known instance of significant reductions in prisoner populations because of electronic monitoring. While agencies feel they are using limited bed space more efficiently, most are still operating at capacity. The problem of overcrowding is too complex to be resolved by electronic monitoring alone. Even if a reduction in the number of persons incarcerated were theoretically possible, it is still doubtful that institutional cost could be significantly reduced. The majority of an agency's budget is generally devoted to fixed costs (buildings, utilities, etc.) and personnel, neither of which can be significantly reduced even if the population is lowered. The saving to be achieved in reduced food costs, medical expenses and the like would most likely be minimal. To reduce institutional spending from its current level, a significant number of personnel positions would have to be eliminated or the number of institutions decreased, neither of which is likely to occur'. Hofer and Meierhoefer (1987:54) assert, '[w]e know of no programs... that have enabled a jurisdiction to close prisons or lay off prison employees because of the saving created by home confinement'.
- 72 Success in actually *reducing* prison populations can be achieved in the larger programs (e.g., Michigan, Florida, New Jersey): 'data from Florida and New Jersey... indicate that with a concerted effort, home confinement can reduce prison populations' (Hofer and Meierhoefer, 1987:22).
- 73 Say Hofer and Meierhoefer (1987:11): 'Probation officers in a handful of districts have taken the initiative and approached judges with recommendations of programs or home confinement sentences for particular offenders. But probation office staffing levels have not been adjusted to take account of this option, and general policies and procedures have not yet been promulgated. One probation officer, reviewing evidence of the growing use of home confinement, has asked, 'Are we ready?' (see Muttart, 1987 and Thomson, 1984).
- 74 Evidence from the B.C. EMS program indicates that there is some reticence among Lower Mainland Region probation personnel also (see Chapter Seven).
- 75 Flynn (1986a:66) asserts: 'It is felt that punishment is an integral part of rehabilitation or habilitation. The punishment and reward system has been the backbone of democracy in development of American society. It is even applicable to the free enterprise system. Self-improvement results in better jobs, pay, and benefits. Failure results in lower profits and loss of jobs. The work ethic, along with cultivation of accountability and responsibility, is constructive enough to motivate people in general society. The same principle should apply to offenders'. Cf. Chapter Five discussion of the body, labour, and discipline in production relations of capitalist society.
- 76 Before rigorous statistical analyses can be accomplished for these programs, various methodological flaws will need to be managed or resolved (see Ball et al., Ibid.:96-8). However, the validity of such measures is problematic even given increased methodological rigour, as will be argued in Chapter Four. Reduced recidivism among offenders can be accounted for by program selection criteria and procedures, rather than the effects of the sanction per se.

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- 77 One senior policy analyst I spoke with emphasized that a prior minimum level of discipline and self-control was a necessary prerequisite for EMS offenders. The choice of otherwise 'inappropriate' program candidates means an administrative process of revocation that defeats the diversionary objective of the program. Burtch (1988) asserts: 'electronic monitoring narrows the role of community or neighbourhood, while reinforcing the control functions of the nuclear household. This highlights the return to Positive Criminology and to Control or Bond theory... It also continues the tendency to separate individual offenders from their communities, and to attach them directly to their offending behaviour and to the punishment that needs to be meted out to them'. This development is also consistent with 'back to behaviourism' (Cohen, 1985); the original 'behaviour rehabilitation system' envisioned by Schwitzgebel, it might be noted, was based on principles of behaviour analysis and control.
- 78 Ball et al. (Ibid.:144-5) say, 'the evaluation research, which has attempted to assess the effectiveness of home confinement, has been troubled by many problems, including a lack of random assignment of cases, the necessity of relying upon judges' opinions as to whether, for example, they would have sentenced a given offender to jail had home incarceration not been available as an "alternative"; and a host of other difficulties that call its validity into question. This is the product of circumstances rather than the fault of the researchers, but the need for more systematic work is clear'.
- 79 A recent experimental study simulating sentencing decision-making with and without the possibility of EM produced some relevant results. Frost and Stephenson (1989:99) conclude that their 'findings do suggest that the introduction of electronic tagging or some such "tracking" procedure would have important consequences for the pattern of sentencing. First, it is likely that if tagging were to be introduced and used to any great extent, it would substitute for both custodial and non-custodial sentences, and in particular those non-custodial sentences like probation with a supervisory, intrusive component... Secondly, and perhaps more importantly, the results of the experimental manipulation when applied to those awaiting trial, indicate another principle: that tagging will substitute for the otherwise most favoured option'. The second point refers to the fact that '[s]ome people might thereby escape prison, but others would be subject to tagging who might otherwise have been given less intrusive alternatives to imprisonment' (Ibid.:99).

Chapter Three: Research Site, B.C. Corrections Branch's EMS Pilot Project

1. Introduction

After a period of investigation and reporting,¹ the Attorney General of the province of British Columbia announced the inauguration of the Electronic Monitoring System (EMS) Pilot Project² program in March 1987 (**Corrections Information**, May, 1987:16). In making his announcement the Attorney General said: 'Electronic monitoring systems impress me as a humane, safe, and cost-effective alternative to imprisonment. For non-violent offenders, (EMS) offers us a way to deliver a sanction against criminal behaviour and, at the same time, to forego the expense of building prison space for offenders who can function safely in the community' (Ibid.:16).

The EMS Pilot Project program officially began in June (**Corrections Information**, March, 1988:20) when a Pilot Project Director and a Correctional Officer were funded for and appointed to implement the recommendations and organizational intentions contained in the final draft of the Corrections Branch's **Discussion Paper** (May, 1987). After an initial period (approx. three months) of planning, equipment testing, and criminal justice system liaising, the first offender to be electronically monitored was put on the system on September 11, 1987. Officially, the pilot project period extended over the next nineteen months, finishing in April, 1989, with the final project evaluation report tendered to an executive Corrections Branch committee in early February, 1989. Expansion and further development of the EMS program beyond the pilot project stage has now been sanctioned by the province's Corrections Branch.

What follows is a description of the above research site/program context, then an overview of research question(s) and methods employed in the investigation of the effects of house arrest and EM on offenders (reported in Chapter Four). The program descriptions constructed in the next

section turn on a consideration of the *purposes* evinced as the rational basis (cf. Garland and Young, 1983; Cohen, 1983) for use of house arrest and EM *in this case*. Moreover, these discursive understandings must be related to descriptions of the *organization* of this EM house arrest program. Evidence here comes from ethnographic observations, offender and staff interviews, and documentary materials connected with the program.

2. Purposes and Organization of the British Columbia Electronic Monitoring System (EMS) Pilot Project program

2.1 Purposes

In May, 1987, the British Columbia Ministry of Attorney General (Corrections Branch) completed the second draft of a Discussion Paper entitled, 'Electronic Monitoring System for Offender Supervision'. This twenty-three page document summarizes knowledge and information relevant to the proposed implementation of a pilot project aimed at testing electronic monitoring technology within the Lower Mainland Region of B.C. Corrections Branch jurisdiction.

The Discussion Paper formulates the 'specific objectives of this pilot project' as follows:

- a) to test Electronic Monitoring Systems as a means of safely supervising a portion of the current prison population in the community;
- b) to establish a viable sanction to serve as an alternative to conventional imprisonment;
- c) to establish one strategy by which to forestall and possibly avoid some of the capital costs of housing offenders who will be displaced with the phasing-out of the Lower Mainland Regional Correctional Centre;
- d) to become familiar with the technology and to determine the incidence, if any, of technical problems including means of responding to problems quickly and efficiently;
- e) to observe and report on the effects of the technology upon offender behaviour;
- f) to determine effective and efficient staffing patterns for wider implementation of EMS;
- g) to identify suitable categories of offenders to which the technology may be applied;
- h) to provide information regarding EMS to the Corrections Branch, the balance of the Criminal Justice System and the general community; and

i) to assess the extent of receptiveness and support for EMS throughout the Corrections Branch, in the balance of the Criminal Justice System and the general community (Discussion Paper, Ibid.:6-7).

A 'time-limited test of this technology' (9-12 months)³ is suggested, and 'the most suitable target group for this initiative consists of offenders serving intermittent prison sentences'(Ibid.:8). Intermittent Sentencing provisions of the provincial penal code allow some offenders sentenced to less than 90 days to serve their prison sentence during part of the week, typically 2 days (week-ends usually).⁴

Interviews with Corrections Branch policy analysts reinforce the impression left by the Discussion Paper that pilot testing of house arrest and EM is taking place within a context of organizational change associated with the construction of new correctional facilities.⁵ The latter intended to replace the prison housing the more serious provincial (& some federal) offenders in the existing Lower Mainland Regional Correctional Centre (LMRCC, Oakalla Prison) by 1991 (Discussion Paper, Ibid.:22): 'with the pending phase-out of this centre, alternatives for managing these sentences must be found' (Ibid.:12). Furthermore, '[i]t is timely to examine this option for managing the intermittent population. Should EMS fail to meet the Branch's expectations, sufficient lead time remains to seek out other cost-effective options' (Ibid.:12). One senior policy analyst in the Corrections Branch formulated EMS as a 'jail count management strategy' (interview: Aug., 1988).

The Corrections Branch, then, is in a position of moving out of the LMRCC (Oakalla) and is facing a decision as to how and where the week-end sentences served by 'intermittent' offenders will be managed. The Discussion Paper reports that planning decisions ought to be based on a 150 'intermittent' offender figure, a number representing the maximum count faced recently in the present facility.⁶

The Discussion Paper implies that if EMS is not the 'jail count management strategy' of choice, then additional allocation of capital costs (in excess of \$4 million) for construction of 'a low security, camp-style centre to house 150 offenders' (Ibid.:21) will be required. The 'success' of the

EMS program would seem to point to the forestalling or avoidance⁷ of capital costs of housing these large numbers of intermittent offenders,⁸ however, in addition the Discussion Paper depicts the operational costs of EMS to be significantly less than comparable institutional operating costs.⁹

2.2 Organization

In order to fulfill the objectives set down in the Discussion Paper a project Director and a Correctional Officer (familiar with computer operations) were funded and appointed by the Corrections Branch. The period of the EMS Pilot Project program has been one of considerable activity on the part of the project Director and the Corrections Branch staff managing the program, as the above list of objectives would suggest. The project Director was initially involved in *all* the organizational tasks corresponding to the pilot project objectives. Later, she became less directly involved in client surveillance,¹⁰ as surveillance operations were established and the idiosyncrasies of the new EM technology dealt with. The addition of correctional staff permitted the project Director to concentrate on community and criminal justice system liaison and, later, on overall project evaluation. These tasks constitute the communicational, educative, and evaluative functions corresponding to the pilot project objectives.

By the end of 1987 another Correctional Officer was added on a part-time basis to the EMS program staff. In April, 1988 this officer became a full-time member of the program staff. It is noteworthy that as of the latter date - after eight months of active monitoring - the Advisory Committee minutes state that '25 people have successfully completed the EMS program'. This represents an average of 3 offender sentence completions on the EMS program per month over this period.

Staff training occurred in the spring. Third and fourth Correctional Officers were added to the program after this in the spring and summer. The senior Correctional Officer who began the project with the Director, moved into part-time involvement with the pilot project, yet remained in charge of access to computer operations.¹¹

By summer, 1988 the role and tasks of the newest Correctional Officers in operating the EMS program were coalescing into more definite organizational forms. Correctional Officer role structures became more defined and organized.¹² At about this time the project Director became less directly involved in program operations and surveillance as was necessary initially when working with one or two Correctional Officers.

In fall (1988) the project Director moved over to the Corrections Branch office in Victoria, B.C. (whereas the pilot project program was based across the Strait of Juan de Fuca in the Corrections Branch's Lower Mainland Region) and an Operations Director was temporarily appointed (as of Sept. 1, 1988) to supervise day-to-day EMS program operations. Thus, in the concluding period of the pilot project (fall/winter, 1988) there were six staff involved in organizing and implementing the EMS program.¹³

Meetings and discussions with EMS staff suggest that a significant conflict arose between various members of the pilot project staff in the fall of 1988 (the latter part of the pilot project). This conflict apparently had a quite harmful effect on staff morale at that time. All of the Correctional Officers making up the program (four in all) reportedly signed a letter of complaint to their immediate superiors in the Lower Mainland Region. The thrust of this letter was that the project Director and senior Correctional Officer had been interfering with the ability of program staff to act as a team and unless this was resolved then all the signatories requested transfers back into secure institutional settings.¹⁴ The regional Director of Corrections conducted his own independent investigation with these staff and facilitated a series of meetings to resolve the issues.

These intra-Corrections Branch conflicts in the organization and administration of the EMS program have not proved fatal to the program. The apparent shoring up of organizational and jurisdictional power in the operation of the EMS program (by regional correctional administration) now awaits two major events: allocation of additional staff and resources for program expansion, as well as the fruition of an imminent Corrections Branch policy that would require alcohol

rehabilitation programs for offenders convicted of impaired driving. Obviously, the latter has much salience to the organization of the EMS program.

Another matter of organizational importance to the EMS Pilot Project program is the idea of incorporating a citizens' 'Advisory Committee'. One Corrections Branch policy analyst who had been connected with early development of the pilot project said those seriously entertaining the house arrest with EM program policy predicted negative ('big brother') criticism would accompany the conduct of the pilot project. Therefore, it was decided that a policy of openness and communication was essential.¹⁵ The Advisory Committee was to be composed by various 'non-government' groups and organizations 'to observe and comment upon this initiative' (Discussion Paper, Ibid.:23).¹⁶ The Advisory Committee is certainly much more than merely a symptom of the Corrections Branch's caution in programmatic adoption of the policy.¹⁷ It is, nonetheless, an index of the theme of caution identified above in Chapter Two (see also Chapter Four).

Caution was expressed in another way also, namely by the meticulous application of offender selection criteria. The following list of offender selection criteria is only half the story concerning how offenders were chosen for this pilot project program:

- a) Offenders whose participation in this program will not cause public alarm, undermine the intent of sentence or otherwise bring the administration of justice into doubt in the community.
- b) Offenders whose current offence and previous convictions do not indicate to the courts or Corrections Branch that participation in the EMS program will endanger the public.
- c) Offenders who are employed, have a realistic expectation of pending employment or who are participating in a full-time educational program (or some combination of two or more of these factors).
- d) Offenders with a regular, bona fide residence with a telephone.
- e) Offenders whose continued presence in their residence during all times other than for approved work, school or treatment program related absences will not cause an undue hardship for families or other tenants of the residence.
- f) Offenders who consent to participate in the program (P. 14-5).

The other half of the story resides at the level of the actual interpretive and decisional use made of these 'guidelines'. Application or use of these criteria constitute the practice of risk assessment. Clearly, there is a great deal of latitude in how these criteria might get applied (especially a,b,c, and e). Field observations, revocation data (6/114 or 5% failed as of Oct., 1988),¹⁸ and offender interviews tend to confirm the general sense that staff were being very cautious in the application of these criteria (see also Chapter Four).¹⁹ Note that this pattern of caution and conservatism in program-offender selection is similar to that displayed in the literature on American programs (cf. Friel et al., 1987)²⁰ covered in the previous chapter.

From April, 1988 (25 offenders completed to date) to October, 1988 (114 offenders completed to date) - with the addition of three full-time staff after April - the EMS Pilot Project program supervised 89 more offenders or two and a half times as many offenders as supervised in the first eight months of the Pilot Project program. The offender sentence completion rate rises from 3 per month for the first eight months to over 13 per month for the April-October period.²¹ At the October, 1988 Advisory Committee meeting the pilot project Director reported the highest daily count under EMS supervision to date (16 offenders), but indicated a 'concern about staffing with higher numbers'. The Director said that the situation was 'workable', but 'pressured' with three Correctional Officers, the Operational Director and the senior Correctional Officer (part-time).

3. Research Setting: Access, Questions, and Methods

The agreed upon research access to offenders participating in the EMS Pilot Project program - in order to do interviewing - meant having limited access to the organization of the pilot project as a whole.²² The proposal that the researcher be allowed to regularly attend Advisory Committee meetings was specifically disallowed by the pilot project Director, the two primary reasons given being 1) the researcher represented no citizen group, and 2) researcher presence

implied a potentially competing basis of evaluation (already provided under the auspices of the Director's role).

Nonetheless, pilot project Director and staff co-operated fully with the research in question. Below, a fuller description of research access, including an overview of questions and methods, will be entertained. Of course, it should be born in mind that this research takes place against the backdrop of the circumstances and within some of the conditions described above.

3.1 Research Access

Contacts with EMS Pilot Project staff were made through the help of a friend and colleague who was the **British Columbia Civil Liberties Association** representative on the EMS Pilot Project Advisory Committee. The committee, as noted above, is made up of representatives from the Corrections Branch and 'non-government' community groups: its mandate is 'to observe and comment upon both the conduct of the project and the development of post-project policy and implementation strategy' (Ibid.:23).²³

The Pilot Project Director and Advisory Committee members welcomed a research proposal that would help to achieve one of the pilot project objectives, namely to 'observe and report on the effects of the technology upon offender behaviour' (Ibid.:6). After various meetings designed to establish common understanding and purpose, the project Director (as representative of the Corrections Branch) agreed to allow research access to address questions relating to the 'social, psychological and familial impacts of EMS', in exchange for effective possession of research results (excluding dissertation publication & defense). A contract was drawn up and signed to that effect (See Appendix I).²⁴

Within the framework of the contractual agreement, EMS Pilot Project staff co-operated fully with the research. Offenders either agreed to (60 respondents) or declined (17 offenders) the interview with 'a UBC student who is independent of the Corrections Branch'. EMS Pilot Project

staff solicited prospective interview candidates and this typically occurred in the course of routine exchanges with offenders after being assessed as falling within the bounds of Pilot Project selection criteria or while being fitted with the electronic bracelet. Offenders were shown a copy of the 'Interview Consent Form' (See Appendix III) and asked if they would agree to participate in this voluntary interview. Pilot Project staff passed on to the researcher the names, phone numbers, and offense categories of offenders consenting to be interviewed. Subsequent followup with offenders sought to clarify researcher status (affirm independence from Corrections Branch) and emphasize confidentiality of interview data.

The period of research itself spanned ten months (Jan. to Oct., 1988) and produced extensive interview data (both quantitative and qualitative) for 60 respondents.²⁵ A review of the findings (see Chapter Four) was submitted to the Corrections Branch (Nov. 28/88). This report is based on subjective accounts given in response to interview questions (see Appendix II). Program access has been maintained by periodic informal meetings and contacts with current Director of Operations, previous Pilot Project Director, program staff, and other ministry personnel.

3.2 Questions and Methods

Research involving an assessment of the effects on offenders of EM programs can be organized within the rubrics of 'rehabilitation', 'incapacitation', 'deterrence', and 'punishment' (cf. Baumer and Mendelsohn, 1988).²⁶ Use of these conceptual schemes is either explicit or implicit in the present research.

Recall the research problem that forms the focus of this investigation was specified at the end of Chapter Two: how does the regulation and control of bodies (in community-based, electronically monitored house arrest) affect social, psychological, and familial relations of those subject to this kind of social control, where 'electronic monitoring' is used as a means to verify (or help verify) curfew compliance? The interview schedule of questions (Appendix II) was designed to elicit self and other reports that are relevant to the experience of offenders subjected by the EMS

Pilot Project program (and consenting to be interviewed). Two general areas of interest within the main research question (covered by the interview-questionnaire) focus on how offenders (and relevant & significant others) respond to or experience the restrictions related to *home confinement*, on the one hand, and *wearing the electronic bracelet*, on the other hand. The two hour (average) interviews with consenting EMS program offenders explore how this sanction affects home life, work life, and activities, as well as social ties and relations. Interviewed offenders were asked to reflect on whether (and if so, how) wearing the bracelet was treated as a social impediment, deficit, or stigma.

A central question that falls within the more general research question identified above concerns 'rehabilitation'.²⁷ Many proponents of electronically monitored home confinement policy claim that programs promote rehabilitation and normalization (Petersilia, 1988; Ball et al., 1988; Ackerman, 1987; Corbett and Fersch, 1985; Friel and Vaughn, 1986). There are two chief ways to address this question. One obvious way is to assess recidivism rates. However, with one exception²⁸ (reported by Renzema, 1989a:8-9), the problem of non-randomness²⁹ has prevented adequate methodological rigor in this particular area (see also Ball et al., 1988). The other manner of addressing rehabilitation - the one employed in this research - is through interview materials.³⁰ Research results reported in the next chapter are based on lengthy face-to-face interviews (non-random sample) with monitored offenders in the B.C. Pilot Project program. They will be contrasted with Baumer and Mendelsohn's findings³¹ and conclusions in the next chapter.

With the exception of Baumer and Mendelsohn's recent research, evidence of behavioural and/or subjective changes associated with house arrest and EM has tended to be anecdotal and sketchy (*Offender Monitoring* 1988: Vol. 1 (#6), P. 3); cf. Jolin, 1987). The research results reported in Chapter Four represent an effort to systematically gauge offenders' experience of this sanction and thus add to the preliminary evidence (Baumer and Mendelsohn, 1988) bearing on this and related questions.

The literature on incarceration - and house arrest employing EM is certainly a kind of incarceration - has had a substantial interest in labelling and the *negative* consequences of incarceration (cf. Goffman, 1961; Schur, 1980). This concern has already been expressed for Impaired Driving offenders (Ball and Lilly, 1986), who, it is feared, may unleash aggression within the family nexus. If the EM information technology or its use is indeed 'deviantizing' (to borrow Schur's phrase), then it becomes important to address how this occurs. Current thinking about this intermediate sanction appears to assume that house arrest with EM *reduces* the effects of prison stigma associated with traditional forms of incarceration (Griffiths, 1987:5).

As mentioned above, a further area of interest consists in defining or describing how this form of sanction constitutes a *punishment* for offenders. Since, as noted earlier, house arrest with EM is considered to be an 'intermediate punishment' it is important to elucidate what this means in terms of the degree of punishment that is made possible. In other words, exactly how or under what conditions is house arrest with EM punishing for the offender (and perhaps others as well)?

A collateral area of interest is whether EM presents a kind of sanction whose effects or consequences are easily mitigated by offenders. From the perspective of offenders, this is the question of resistance to domination. From the perspective of corrections organization this is the question of incapacitation or controlled subjection. Put simply, the question in this area of the research is, do offenders undermine or effectively resist this sanction in some manner and if so how? From offenders' perspective this is a question concerning how they react to the effects of EM. Corrections administration, on the other hand, wants to know how effectively this sanction controls offenders.

3.3 Assessing Organizational Motives and Practices

In the next chapter the effects of deviantization and normalization³² in this EMS program sample cohort will be examined. This examination is undertaken through a quantitative and qualitative organization of accounts by offenders subjected to this sanction.³³ It is important in

doing this, however, to recognize that this kind of reform of correctional practice takes place within a wider network of social relations, both 'outside' and 'inside' the coercive apparatuses of criminal justice organization.

It is evident that various internal struggles (within the Corrections Branch) are going on, or have gone on, in relation to the adoption of EM and house arrest in this criminal justice jurisdiction (to be considered in more detail in Chapter Seven, Part II). For now it is sufficient to note that a consideration of these relations needs to be recognized as part of the framework of research at the outset. It is here where Foucault's insights can prove fruitful in understanding the historical changes in techniques of control and correction represented by the introduction and diffusion of house arrest and EM. At the risk of prematurely getting into the problematic of Part II, I now introduce the application of a Foucaultian analysis and consider what it might mean for the research process and the setting where it takes place.

But first let me preface my comments about this use of Foucault, by making some comments and observations about the EMS Pilot Project program, as I have witnessed and experienced it thus far. It appears fairly clear that the B.C. Ministry of Solicitor General, via its agents (in Corrections Branch), has constructed a Pilot Project program that *will* be extended, eventually, to fuller forms of programmatic operationalization. This is the current recommendation. Moreover, the pilot project criteria of participant selection (discussed above) provide the formal basis to construct the Pilot Project program so that 'bad risk' offenders are eliminated. My general experience of the Corrections Branch EMS staff is that they maintain a considerable sensitivity to any possibilities that might bring EMS into public disrepute.

Having said this, I believe the deeper use that can be made of Foucault operates as follows. Foucault's analysis of disciplinary mechanisms contains the observation that, not only is there a process of differentiation and elaboration of forms of social discipline, there is as well - and has been since about the beginning of the 19th century - a continuing diffusion and expansion of disciplinary mechanisms, both within institutions in carceral systems, and beyond, in the fabric of

the societal relations of everyday life (i.e., workplace, school, health care settings, etc.). Now given that the State is a means of propagating various forms of discipline, it should come as no surprise that the outcome, in the case at hand, is to some extent fixed before the actual playing out of the 'test' in the form of the EMS Pilot Project program. Expansion of community-based forms of carceral systems are clearly occurring (cf. Hylton, 1981a, 1982; Cohen, 1985). The point here is that this element of inevitability needs to be built in to the observational technique of the dissertation project itself (e.g., in the interview schedule itself), as well as being taken into consideration in the course of EMS Pilot Project program description and analysis. There are some fairly subtle aspects to this that I will now consider.

In light of the inevitability of expansion, the controlled testing of the EMS requires the selection of persons from the offender population who will co-operate readily and within margins of tolerance acceptable for the purposes of gaining wider public acceptance of a new and controversial means of punishment and social control. The research itself disclosed that a tacit (and sometimes quite explicit) pact is entered into by EMS Pilot Project staff and offenders who are chosen for Pilot Project participation. This pact or bargain, I believe, will be constituted in a principally two-fold manner: first, by the criteria and practices of inclusion/exclusion that go to make up the Pilot Project offender group from the broader category of 'low risk' offenders, and secondly, the ongoing management of this 'client' group in the Pilot Project program by EMS Corrections Branch personnel. A noteworthy phenomenon, then, is the forms of awareness and acknowledgement/non-acknowledgement concerning the tacit pact that offenders agree to enter into.

What all of this brings to light is that the usefulness of Foucault's analysis of mechanisms of discipline must be extended beyond the somewhat superficial level of judging the extent to which subjects are deviantized or normalized by an institutionally organized means of social control and discipline (*penalty*). Foucault's claims about the differentiation and expansion of disciplinary mechanisms can be elaborated and extended to show the fine details of *how* the organizational

motives of expansion become incorporated at the initial stages of programmatic inception. As well, this deeper use of Foucault would show how the organizational motivation of expansion creates a context of positions (one of which this researcher inhabits) that embody *practices* that further organizational goals, in this case to ensure the initial success of program development, followed by the expansion and further differentiation and diffusion of this form of penalty will occur.

The central thesis of this project, then, is that the rational management and control of carceral system expansion involves a concomitant management and control of the conditions of EMS testing, which this dissertation project will descriptively unearth. Short of the unlikely possibility that research will show that EMS has clear and extreme deleterious effects - and this remote prospect is itself easily predictable prior to Pilot Project commencement (hence, providing for the possibility of my positional inclusion) - all other research results of EMS offender impacts can be readily incorporated into the forms of rational legitimation of programmatic development and expansion (e.g., EMS has: only mild negative effects, demonstrated rehabilitative effects, negligible effects, etc.) Moreover, the possibility of doing this research in the first place is conditioned by the organizationally perceived need to obtain an 'unbiased' or 'independent'³⁴ assessment of harm/benefit and other effects at the level of offender-subjects in this highly selected sample of Criminal Code offenders. Thus, the dissertation project has a necessarily reflexive dimension, whereby I must pay analytic and descriptive attention to my own participation in the organizationally motivated aim of carceral system expansion.

Finally, the research must pay attention to the tactical dimensions of the *organization* of the pilot project itself insofar as interviewed subjects provide a refracted view of those social processes and relation. Recognizing that the knowledge produced by the EMS Pilot Project program must be understood (and to some extent framed) in the context of the organizational purposes of correctional administration and politics (some elements of which have been indicated above), an additional set of questions were asked of offender-participants. These questions relate to the organization of correctional surveillance and the treatment of offenders by EMS staff during

the pilot project. It was felt that offenders' experiences and perceptions relating to the organization of the program could help to illuminate the overall organizational inauguration of this new correctional policy (see Appendix II, Interview Schedule-Questionnaire, sections 'Selection Process' and 'Organizational Goals').

In the next chapter (ending Part I) attention will be paid to assessing the evidence from the research that bears on the extent to which the EMS program is deviantizing (debilitating, stigmatizing, degrading), normalizing, or inert in its effects. The overall results, then, will be placed within a general evaluative framework allowing for assessment of the balance of positive and negative consequences associated with this type of correctional program.

Beyond this, as mentioned above, Part II will begin to address issues that are entailed in producing a social analysis of this new form of penalty (Chapter Five), followed by a much expanded consideration of how Foucault's analytic of power and knowledge can be employed to understand both the empirical findings themselves and the relations of power and knowledge within which they are produced and made to work.

Notes

- ¹ Summer, 1986 to Spring, 1987 (interview: Corrections Branch Policy Analyst, Nov. 3/88).
- ² In Canada, the Correctional Service of Canada decided against using EM (*Laison*, July-August, 1987:18), even though a CSC Discussion Paper (April, 1986) recommends setting up a pilot project in co-operation with the Province of Alberta and limited pilot testing by CSC. A year and a half after inauguration of the B.C. EMS Pilot Project program, Ontario began an EM pilot project in Winter, 1988.
- ³ Actual time taken for the 'pilot project' stage can either be the official period specified (June, 1987 to April, 1989) or the period (from June, 1987) up to submission of the pilot project evaluation (February, 1989). As of February, 1989, approximately 175 offenders had completed their sentences in the EMS Pilot Project program. It should be noted that the Discussion Paper estimated a period of nine to twelve months for pilot testing.
- ⁴ Referring to LMRCC (Oakalla prison) and the 'target group' (intermittent offenders) for the pilot project program, the Discussion Paper reports '[a] study of this population over a 4 month period in 1986 indicated that 31.4% of all admissions (86 offenders) received on intermittent sentences at LMRCC came from Vancouver City Courts. Other results indicated that 52% of admissions during the same period were for drinking and driving offenses, with an additional 20.5% admitted on intermittent sentences for other driving offenses' (Ibid.:13-14). Thus, a total of 72.5% of intermittent offenders are convicted of driving related offenses. The pilot project data base (N=93) selected 67.7% of cases from 'drinking and driving offenses' and 22.6% of cases from the 'other driving offenses' category. This makes a total of 90.3% of pilot project offenders who have been convicted of driving related offenses. These data suggest the pilot project is differentially selecting from offenders earmarked for the Oakalla intermittent target group, in particular by choosing proportionately more impaired driving offenders.
- ⁵ In referring to the 'intermittent population' of offenders targeted for the EMS Pilot Project program, the Discussion Paper states: 'This intermittent population has, in recent years, grown significantly. While this population is growing, the Corrections Branch faces the loss of the flexible capacity at Lower Mainland Regional Correctional Centre (Oakalla) early in the next decade. In the face of increasing demand for bed-space, it is timely to seek alternatives for managing this large and generally non-dangerous population' (Ibid.:8).
- ⁶ 'During the full calendar year 1985, LMRCC housed an average of 105.5 inmates serving intermittent sentences on weekends. Through the first 43 weeks of 1986, the average rose to 115.6, with a high of 150 and a low of 86 reported. (Through the first 43 weeks of 1985, LMRCC's average weekend intermittent count was 106.2. Therefore, through identical reporting periods, an average growth of 9.4 offenders or 8.8% was reported' (Ibid.:13). There are generally three Correctional Officers supervising this group of offenders (another staff is added should the count exceed 120 prisoners and only two staff work graveyard).

- 7 This was also confirmed in an interview with a Corrections Branch senior research analyst who in our interview emphasized the overall context of change in correctional facilities and cost factors that are of relevance to an EMS program. First, EMS is displacing some of the bed space currently leased by the government (at Oakalla), which will no longer be available after 1991. Second, and taking this situation into account, it is the incremental or marginal costs (e.g., food services) that are more significant than, say, per diem costs, and 3) 'we're trying to avoid downstream capital costs' (e.g., construction of facilities for low risk 'intermittents').
- 8 This begs the question of what will be done with 'intermittent' offenders who choose not to go on EMS. Practically speaking, this may imply expansion or upgrading of existing institutions whose costs are not yet calculable with any precision. Alternatively, the adoption of the EMS program could lead to changes in judicial decision-making, provincial corrections legislation, and/or correctional classification such that intermittent sentencing is bypassed or extinguished: the options then being a 'straight time' sentence or EMS. Note, however, that offender compliance with program rules is likely to be high where two conditions prevail: first, where the offender perceives him or herself as avoiding prison (EMS is a 'break') and values that highly, and second, where the subjective conditions of discipline of the offender (evidence being presence of job, productive activities, family, community involvements, social responsibilities, etc.) reach a limit which indicates the likelihood of compliance.
- 9 'Leaving aside the initial capital costs of a new institution to house offenders serving intermittent sentences, the contrast in costs is remarkable - a projected 1.73 million dollars for institutional housing compared with \$400,000 for managing the same offender population through EMS' (Discussion Paper, Ibid.:22). Heading into the evaluation period (Nov., 1988), the project Director investigated costs and provided estimates to the Advisory Committee. The estimate is based on a per diem method of calculation (recall the Chapter Two critique of per diem method) and compares costs of incarceration for various regional and community correctional centres. Institutional per diem costs for the five institutions cited are \$55.94, \$80.78, \$88.57, \$88.84, and \$134.29. Estimation of EMS program costs ('based on *equipment lease* (\$10 per day per offender), *staffing*, *benefits* and *operating costs*', Nov. 1, 1988 memo to Advisory Committee) is as follows:

ELECTRONIC MONITORING COSTS:

AVERAGE UTILIZATION (based on bed days)	18	28	48
PER DIEM	\$35.12	\$32.59	\$25.65

- 10 The EMS Pilot Project Evaluation report makes the following distinction between *surveillance* and *monitoring*: 'Differentiation should be made between simple monitoring and intrusive surveillance. Monitoring can be construed as a form of intense supervision without eavesdropping or tracking while intrusive surveillance (which is not employed in the program) could be construed as including one or both of the above' (EMS Evaluation Report, 1989:26). This usage is to be contrasted with the more general conception of surveillance employed throughout the dissertation (cf. Foucault, 1979; Cohen, 1985).
- 11 The newer Correctional Officers in the program were clearly peeved about their inability to have full access to the computer, a vital part of their work. This is one aspect of the conflict that arose between program staff in the fall and discussed further below.

12 Corrections staff perform some of the following tasks as part of their EMS program work: enter new program offenders into the computer data base (including specification of curfew schedule after determining durations for work and travel time and obtaining contract signatures); communication of explicit program rules and expectations to offenders and relevant others; assess (by interview) potential program participants; attach bracelet and do battery checks; accompany offenders to their residences and activate in-home receiver units so that monitoring begins; court appearances either to speak on behalf of an offender who has been screened as eligible for the program or to communicate to (i.e., solicit) offenders likely to be eligible for the program; perform community surveillance 'spot checks' (random work and home visits) and other necessary telephone contacts; and provide general information about program goals and structure (pre-screening) to others in the local criminal justice system (as well as potential program candidates). The project Director's tasks included representation of the program in local, national, and international (BBC produced a program about the EMS program) media; education of judges through direct contacts and plenary sessions, getting word out among defense and crown counsel about the program and its acceptance criteria, training staff, Corrections Branch representative on the Advisory Committee, and collation of materials for program assessment. The Operational Director's role is to supervise day-to-day program operations, interview and possibly counsel offenders, and conduct the necessary contacts to facilitate employment of the EMS program within the specified region(s) of the provincial criminal justice system.

13 It is noteworthy that the Discussion Paper itself arrived at the rather glowing estimates of costs savings based on allocation of just over two staff to the pilot project: '2.25 full time positions (F.T.E.s) and approximately \$70,000 in salary will be dedicated to the project' (Ibid.:20). This projection misses the mark by half: not counting the project Director and Operational Director (whose combined salaries would approximate this salary estimate), twice the number of Correctional Officers have been required to staff the pilot project compared to what the Discussion Paper projected. As for 'long term' projections, the Discussion Paper estimates '[s]taffing a long-term EMS capacity would require five officers' (Ibid.:21). How many more staff are to be added to expand the program remains an open, albeit focal, question in assessment of program costs. A second point about costing raises concerns: one Correctional Officer (fall, 1988) disputed the project Director's staff salary estimates (see footnote #9 also), saying that they were not based on pay for overtime (i.e., overtime pay specifications provided in correctional officers' union contract were not being followed) and thus did not accurately reflect the true costs to staff the program. Whatever the case may actually be [I have yet to interview Linda Neville on this], these apparent anomalies make clear that interpreting program costs must be done with great caution. Perhaps, adopting another tack, it could be demonstrated that the \$55.94 institutional per diem cost noted in the previous footnote might indeed be matched or exceeded by EMS program costs (by employing more rigorous costing methods). A senior research analyst in the Corrections Branch appeared to downplay the question of per diem costing. He emphasized that the EMS program will permit the forestalling of capital construction costs, however he was cautiously concerned that it may take a 'few years before an EMS program is providing true cost savings' due to the need to go slowly with its introduction. 'You've got to build the program up slowly. The program may have low numbers for a number of years. You have to start conservatively'.

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- ¹⁴ This cleavage may also be accounted for by the the dispersal of (and ambiguity about) program authority. The project Director's (fall, 1988) move and the addition of a new Operations Director meant that two groups were constituted. The pilot project Director's (now across the water in Victoria, B.C.) administrative auspices and locus was out of a faction of senior policy officials in the main office of the Corrections Branch. The senior Correctional Officer with the program (working out of the Pretrial Services Centre and Probation Services offices in Vancouver, B.C.) maintained an independent communication with the project Director (in order to do program evaluation). These two actors represent one coalition. On the other hand, the new Operations Director and newer correctional staff form another coalition. According to one staff informant, conflict arose because newer staff were at odds with the operational style and disposition of the senior correctional officer (and recall, the latter maintained direct contact with the pilot project Director and was not reporting through the Operations Director). Informant accounts suggested another dimension to this cleavage, one that relates to differences in the power to affect operations policy or program management between the direct regional administration of community programs (represented by the the authority of the affected regional Director of Corrections) and development and implementation of correctional policies in the Corrections Branch's Victoria-based policy and program analysis areas. A more benign interpretation would be that the emphasis on 'protective launching' of the EMS program came into conflict with the pragmatic demands of day-to-day program operations as they were coming to be given the stamp of the regional organization and implementation of the program.
- ¹⁵ A policy suggested in the corrections literature on EM programs. The result is corrections agencies adopting an active media policy, giving reporters and other media full access to operations personnel (if not soliciting media attention). Such a policy permits correctional/administrative discourse to accomplish a number of objectives. One important objective would seem to be that the depiction of EM permits or constitutes the legitimacy of state apparatuses in the face of prospective demands for public accountability: control of the depiction and display of EM in corrections shows that house arrest and EM is a rational correctional policy, open for all to see. This is not surprising for recall Ball et al.'s (1988) observation that house arrest with and without EM fulfills most of the criteria set down by the National Advisory Committee on Standards and Goals for the Criminal Justice (1973). One element of the overall strategy of depicting EM and house arrest policies is to frame discussion as a demystification of the technology and how it works. Control of access by media to operational organization permits administrative control of corrections 'public relations' (and permits further evidence of the rationality of administrative reason). With a few exceptions, media coverage of EM programs has been positive (cf. Friel et al., 1987). In the B.C. Pilot Project, seven offenders 'failing' to complete their sentence on the program were revoked in an internal revocation hearing which news media personnel would not have knowledge about or access to.
- ¹⁶ One Corrections Branch policy analyst told me that the tack of openness would prevent potential critics of the program from 'sniping at the program through the media' (interview: Oct. 1988). Advisory Committee representation involved the following organizations: B.C. Criminal Justice Assn., B.C. Civil Liberties Assn., Elizabeth Fry Society, Mothers Against Drunk Drivers, John Howard Society, Salvation Army. The Pilot Project Director and other ministry personnel represented the Corrections Branch at the monthly meetings. A Chairperson for the Advisory Committee meetings was established (B.C. Criminal Justice Assn.) and an overall model of report-writing was decided upon, then enacted. The existence and functioning of this committee would seem to be a precedent in (the development of) electronically monitored house arrest programs. See Appendix IV, the 'Terms of Reference' of the Advisory Committee.

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- 17 Furthermore, the Advisory Committee has the potential of acting as an important ongoing constituent of the EMS program. The complexion and mandate of future guises of the Advisory Committee is important to consider and will be addressed at greater length in later chapters.
- 18 First revocation did not occur until summer, 1988. For whatever reasons, five more offenders were revoked from August to October because of technical violations. These program 'failures' reportedly brought a very angry response from the Victoria-based Director who upbraided program staff. Subsequent to which - as noted above - a crisis in staff morale was experienced.
- 19 The project Director's high public relations profile involved many interviews and considerable media attention. She estimated that she had had about one hundred and thirty media contacts. With such an inordinate amount of attention to a correctional program (that is perceived to entail the stakes that have been noted), it is little wonder that caution was a hallmark of the program as a whole. Interestingly, indirect accounts from offenders indicates that in some cases program staff employed this 'high media profile' depiction as a means of coercion: five different offenders (early in the research interviewing) informed this researcher that EMS program staff told them that 'the media is waiting for program failures' (implying or meaning there will be a lot of public attention if the offender breaches the EMS program contract).
- 20 One Corrections Branch analyst said Friel had been consulted and his views were influential in designing the EMS Pilot Project program. The fall (1988) Presidential campaign issue of Willie Horton, the furloughed felon who murdered while on release, could only heighten sensitivity to the vulnerability of such programs (see also Schmidt, 1987b, for a recommended strategy for how best to manage potentially program threatening scenarios).
- 21 See Chapter Seven for a more detailed breakdown and interpretation of changes in program offender daily counts.
- 22 Though regular attendance at Advisory Committee meetings was refused, the project Director sanctioned the researcher's periodic attendance at meetings. In all, I attended seven (or approximately half) of the Advisory Committee meetings from October, 1987 (introduction to committee) until November, 1988 (presentation of research results) and so was able to gain access to aspects of the pilot project's organization that otherwise would be unavailable.
- 23 See also Appendix IV, 'Terms of Reference', which conceives the Advisory Committee as follows: 'the Corrections Branch is establishing an Advisory Committee to observe and comment upon the conduct of the project and its results, and to advise upon any post-project policy and implementation strategy'. This document states that the Advisory Committee 'is mandated to offer advice to the Corrections Branch on any matter relating to the use of electronic monitoring systems within the project or potential use beyond the project'.

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- 24 After initial research proposal presentation (Nov. 1987) at the monthly Advisory Committee meeting, the pilot project Director specifically restricted the scope of research to the investigation of offender and social impacts. It was indicated categorically that Corrections Branch sanctioned the research only insofar or inasmuch as it was narrowly conceived as an investigation of how EMS affected offenders and other relevant persons and not as a program evaluation, which is the program Director's responsibility. The Director stated directly (Dec. 7/87) that the research would not be supported if it was framed as a Pilot Project evaluation. This was agreed to and a research contract (Appendix I) was signed in January 1988.
- 25 There are two data bases that will be referred to throughout the remainder of this document and they will be designated as follows: the research data base, consisting of the 60 offenders interviewed by this researcher, and the pilot project data base, consisting of 93 offenders making up the data base employed by the project Director to evaluate the project.
- 26 But note, rehabilitation and deterrence overlap in contemporary correctional discourse: demonstrated reduction in recidivism rates resulting from EM programs (deterrence), can be interpreted as meaning offenders have been effectively normalized (rehabilitation). Cf. Chapter Two discussion of the discursive shift involved in combining punitive community sanctions (e.g., IPS or house arrest with EM) and 'rehabilitation'.
- 27 Asking whether this kind of sanction promotes rehabilitation is another way of employing that familiar discursive framework 'normalization', one that along with 'normalizing practices', is well known to most historians of penology (cf. Foucault, 1979).
- 28 Renzema (1989a:8-9) summarizes Baumer and Mendelsohn's (1988) recent empirical assessment. Renzema says '[a]lthough recidivism rates were not reported in the ASC paper, they will be reported in the final study'. Baumer and Mendelsohn adopt the following procedure to constitute their data: '[d]ata were collected from court records, intake interviews, and exit interviews on 126 misdemeanor and lower felony offenders who had been randomly assigned to the two enforcement approaches' (Renzema; Ibid.:8).
- 29 The same methodological problem Ball et al. (1988) identify (non-random selection & consignment of offenders) is present in this research. Alas, the politics of criminal justice and the management of pilot testing EM do not favour rigorous research.
- 30 Unfortunately, various methodological deficiencies, inherent in the conditions present for research, mean these data are exploratory at best. The character of the sample cannot escape the charge that a systematic filtration is culling a sample tending to be co-operative, to overstate the 'positives' of the program, and understate the 'negatives' of same.
- 31 Paraphrasing Baumer and Mendelsohn's conclusions in this area, Renzema (Ibid.:8-9) reports that 'interview data parallels that of most other monitoring reports. Some offenders became closer to their families and puttered about fixing up their houses. A minority reported strain from the enforced proximity and dependency. As in other studies, job attendance improved and offenders tended to work longer hours, presumably to extend time away from home. Another benefit was that home detention helped offenders resist peer pressure, especially concerning partying or drinking .
- 32 Including the related effects of 'punishment', 'rehabilitation', 'incapacitation', and 'deterrence'.

³³ A report reviewing these findings was submitted (Nov. 25, 1988) to the senior Correctional Officer (who then conveyed it to the project Director). See Mainprize (1988).

³⁴ I heard many references suggesting that my research would be more 'objective' than what a Ministry-employed researcher would produce.

Chapter Four: Social, Psychological, and Familial Impacts of Home Confinement and Electronic Monitoring

1. Introduction

To date, only one empirical investigation has reported findings about the effects of electronically monitored home confinement on offenders (Baumer and Mendelsohn, 1988).¹ The descriptive social research reported below conducts a similar examination that, in the final section of this chapter, will be compared with Baumer and Mendelsohn's findings.

Not surprisingly, while development and expansion of *home confinement* or *house arrest* programs for adult offenders has occurred rapidly in the U.S. since approximately 1983, as noted in Chapter Two (cf. Ball et al., 1988:34-35), little is known about how offenders are affected by deployment of this option for criminal sentencing (Ball et al., 1988:97, 133; cf. Petersilia, 1987). Nor is it known what effects home confinement has on other persons who share the life space of offenders on such programs. A further set of questions arise concerning whether monitored curfew/confinement affects other spheres of conduct, notably occupational or work contexts.

The additional component of electronic monitoring introduces another set of questions that have also not been addressed, namely does the bracelet or electronic monitoring system itself have any significant effects on offenders or the persons with whom they live? Do offenders feel stigmatized by having to wear the electronic 'bracelet'? These kinds of questions have been largely ignored in the research undertaken to date. This is probably because the early-phase development of electronic monitoring and house arrest policy has been mainly attending to operational pragmatics in implementation of programs within local and regional crime control/criminal justice systems (cf. Friel & Vaughn, 1986; Petersilia, 1986).

The following chapter addresses questions concerning social, psychological, and familial impacts that correspond to the *home confinement* and *electronic monitoring* components of this

newly introduced criminal justice system sentencing option.² Home confinement constitutes a means of social control, punishment and discipline, whereas electronic monitoring is an *information resource*, heretofore not available, that intensifies surveillance by way of verification of curfew compliance. The essential distinction here is that home confinement is a method of institutionally organized control; electronic monitoring complements, intensifies, and verifies this institutionalized control technique (see Chapter Two).

For purposes of brevity, I refer to the research site, the pilot project program - 'Electronic Monitoring System (EMS) Pilot Project Program' - as the *EMS program*, which I believe is in accordance with the Corrections Branch's designation (see B.C. **Corrections Branch** Discussion Paper, 'Electronic Monitoring System for Offender Supervision', April, 1987). The EMS program began in August, 1987, and officially ended April, 1989.

1.1 Questions: Experiences and Impacts

Before examining the questions concerning offender experiences and impacts, it is important to understand what the curfew restriction involves for offenders. The EMS program in question establishes a set of restrictions (on offender conduct and movement). Offender regulation and control is operationalized by correctional staff, based on the imposition and enforcement of a set of rules specifying behavioural expectations³ to be observed and practiced by offenders while on the EMS Pilot Project Program.

The electronic monitoring feature of the program is made up of three elements: central computer, Field Monitoring Device (FMD) or Receiver-Dialer (telephone-connected in-home), and Radio Frequency electronic 'bracelet'. 'Electronic monitoring' is a term applied to the integration of these components into an information system that, when operating reliably, verifies offenders' home confinement curfew compliance. A black plastic bracelet attaches to the small Radio Frequency transmitter and battery (weighing about 4 1/2 oz.) and is worn around the ankle. Since the bracelets have a 150 foot range to the in-home FMD, scheduled 'out' time (e.g., for work or

approved activities such as AA meetings) means human surveillance must take over from the three-component information system. Curfew scheduling is individualized to offenders' work schedules (where applicable) and approved activities. Working offenders are given enough transportation time to and from work, but otherwise confined within the walls of their residence - as are all offenders, except where out for approved activities.

The main questions of interest to this research centre on whether home confinement or the wearing of the electronic monitoring bracelet have any effects on the mood, behaviour and psychology of offenders. Furthermore, this research addresses whether and how the home confinement program and the wearing of the bracelet affects offenders' families (family dynamics) and other social relationships, as well as offenders' work relations and activities. The domain(s) of interest here are offenders' daily life conduct and the webs of social relationships within which each offender lives. The main body of evidence is what offenders themselves reported when interviewed about their experiences while on the EMS Pilot Project Program.

In its most general terms the research question can be stated as follows: how does the regulation and control of bodies (in a community-based electronically monitored house arrest program) affect social, psychological and familial relations of those subject to this kind of social control (i.e., home confinement) using 'electronic monitoring' as a means to verify (or help to verify) curfew compliance. In a very real sense, it is a body that is regulated and controlled according to quite concrete specifications i.e., program rules and expectations that provide for temporal and spatial restriction of that body. While it is clear that it is the material body that is controlled and regulated, it is the consequentialities registering in social consciousness that are chiefly of interest. How is this kind of restriction perceived and experienced? How is it reacted to, how is it masked?

Over the course of a ten month period 60 offenders on the EMS Pilot Project Program were interviewed by the researcher using an open-ended questionnaire schedule (see Appendix II). After the completion of interviewing, post hoc coding categories were generated and interview

responses recorded at the time of the interview were coded into these more general categories. The dominant thrust of this research is descriptive and involves reporting of the systematically collected and coded responses given by EMS program offender-respondents to interview questions. Systematic post hoc coding enables the research to enumerate frequencies for categorized responses.

Obtaining these first-hand accounts constitute an important first step in assessing whether and how offenders (and others in their lives) are affected by electronic monitoring and home confinement. Supplementary or follow-up research may endeavour to answer these or similar questions by way of interviews with others who are significant to the offender in question (e.g., spouses, employers, co-workers). While I did accumulate a body of field notes concerning what some others said when I happened to encounter them and they were amenable to questions (about either their own experience or that of the subject in question), this was not built into the descriptive categories to be summarized below.

1.2 Deviantizing and Normalizing Effects

Sociologists have long known about the deleterious effects of incarceration (Goffman, 1961), whose consequences - of social segregation and control - are palpably 'deviantizing' (Schur, 1980:12-17). The extent of status degradation, stigma, or deviantization brought about by a form of segregative social control such as *electronically monitored home confinement*, however, is not yet clear. On the other hand, many proponents of electronically monitored home confinement policy claim that programs promote rehabilitation and normalization (Petersilia, 1988; Ball et al., 1988; Ackerman, 1987; Corbett and Fersch, 1985; Friel and Vaughn, 1986).

The general framework for conceiving the effects of this new penal sanction overarches the moral and practical criteria of deterrence, incapacitation, rehabilitation, and punishment. Any punitive practice enunciating a claim to one or all of these principles can be assessed concerning whether it produces or reproduces deviation, on the one hand, or normalization, on the other hand.

In the last section of the present chapter a comparison of the research reported below with Baumer and Mendelsohn's findings will help to conclude and summarize the evidence about the effects of deviantization/normalization of this sanction on offenders. The conclusions that arise from this will be discussed again in Chapter Six, where they will be situated in Foucault's strategical-relational model of power (Smart, 1983, see Chapter Five) and judged in terms of the efficacy of this form of punitive power.

2. The Sample

The data base is a 60 case sample drawn from the approximately 140 offenders who had participated in the EMS program (as of Oct., 1988). For 10 months during the course of the EMS Pilot Project Program, prospective interview respondents among the offenders were asked by corrections staff if they would consent to be interviewed by a university-based researcher. Subsequent followup by the researcher clarified confidentiality of offenders' reports and reiterated researcher independence from B.C. Corrections Branch and personnel.

The researcher is aware of 17 offenders who declined to be interviewed. Also, many offenders serving less than 14 days on the EMS program were passed over both for practical reasons and so as to increase numbers of offenders in the sample who had served lengthier periods on the EMS program. In any case, the sample itself is a self-selected group of the total number of offenders participating in the program (which up until the completion of interviewing in fall, 1988, had processed more than 100 sentenced offenders). It is not entirely clear what effect self-selection has on findings, however common sense suggests a bias toward relatively more cooperative respondents and, in the context of this research, those 'who want to help the program' (without solicitation, 14 respondents (23.3% of sample) stated as much during interviews). Also not clear is whether and how this research sample differs from the overall sample. I presume data comparisons involving this research sample and the overall pilot project cohort will shed light on the extent to which they are different or the same.

The sample of 60 offender-respondents answered questions based on an open-ended interview format that, on average, took two hours to complete (see Appendix II). Most interviews were conducted in offenders' residences, although a few were undertaken elsewhere (e.g., workplace, restaurant). In 26 interviews (43.3%) there were no other persons present; 28 interviews (46.7%) involved others being present during the interview, at least part of the time; 6 interviews (10%) involved the constant presence of others, usually a spouse or other family member.

Answers given during the interview were subsequently coded into more general response categories derived from the responses given by offenders. For example, Question #2 - 'Has being on the EMS in any way affected, changed, improved, or worsened your relationships with persons with whom you live? (explain)' (see Appendix II) - was subsequently coded as the variable 'House Relations' in the following way: 1) 'no effect', 2) 'improved relations', 3) 'worsened relations', 4) 'N/A (lives alone)' 5) 'challenged relationship(s): positive and negative consequences'. If respondents indicated 'negative' *and* 'positive' consequences to relations as a result of program participation, they were coded as 'challenged relationship(s)'. Relationship consequences enumerated by respondents for Question #2 were then put into general categories (derived post hoc) corresponding to 'worsened relations' and 'improved relations'. Respondents could very well give *more than one* answer describing how relations are 'improved' and/or 'worsened'.

Thus, in general the description of offenders' experience(s) relating to the EMS program is based primarily on aggregation of variable categories (post hoc coded) by way of frequency distributions and, in some cases, cross-tabulations.

2.1 Cautionary Remarks Concerning Description & Interpretation of the Data

There are some rather obvious shortcomings associated with the data in this research. In the first place, it must be recognized from the outset that '[b]ecause house arrest programs are in

the experimental stage, administrators are being extremely cautious in selecting participants' (Petersilia, 1986:54). EMS program staff are operating cautiously and this posture undoubtedly affects risk assessment and program screening, which in turn likely means choosing co-operative, amenable and, in some cases, highly motivated offender-participants. As mentioned, self-selection for the research sample itself, may screen again for co-operativeness and hence it may be that the results reported below are substantially weighted in the direction of favourableness, understatement of aversive effects, etc.

There is also another consideration that comes into play. The 10 month experience of interviewing offender-respondents leads this researcher to conclude that offenders' EMS program participation and relationship with corrections personnel is ordered by the existence of a tacit (and in some cases quite explicit) bargain. The content of this bargain is essentially as follows: offenders avoid prison and in exchange for being given this 'break' will co-operate in 'helping to make the program a success'. A significant question here is, to what extent is the bargain agenda relevant for how offenders relate their experience of having been on the EMS program? It is very likely that the relevance of the bargain varies for different interview questions. In the concluding section this question will be taken up again as the findings are assessed.

It may be that more reliable findings on the main questions of offender impacts will have to wait until firm establishment of programs, thus mitigating the biasing effects of experimental-phase screening. While continuing to bear in mind the validity and reliability problems associated with the data sample and its interpretation (see below), the results tendered below shed light on questions that until now have relied on anecdotal evidence or narrowly based entry/exit interviews.

3. Findings

Because the questionnaire allows (in many questions) for 'multiple' responses by interview respondents, I have opted to report both the frequency of such responses (i.e., number of

respondents coded to have given the response in question) and the percentage of the total sample that this represents (i.e., of 60 cases) or the percentage of a relevant sub-group (e.g., 'employed offenders'). An important point to bear in mind for 'multiple' response questions is that frequencies refer to the fact that individual respondents provided more than one 'answer' in many cases. Aggregation of these responses provides an indication of what proportion of the sample (or relevant sub-group within the sample) responded in the manner indicated by the coded responses.

Bearing in mind the above observations and qualifications regarding the limits to generalization of the sample, I now describe the results obtained from the interviews. What follows is, first a descriptive overview of the sample of offenders interviewed for this research and next a delineation of how offenders reported the effects of home confinement and wearing the EMS bracelet.

3.1 Overview of sample

With the exception of 11 respondents (18.3%), most offenders (49, 81.6%) in the sample for this research were on the monitoring system when interviewed. Of those off the program when interviewed, one respondent had been off for 140 days, while the remaining 10 had been off the program for an average of 9.3 days before being interviewed. Hence, the great majority of respondents were interviewed while they were on the program or not long away from it.

The sex composition of the sample is 53 males (88.3%) and 7 females (11.7%), hence comparisons by sex are not feasible. Four of the women had experienced marked impact as a result of being on the EMS program, however this is probably as much due to the nature of the charge (2 narcotics trafficking, 1 fraud) and tendency toward concealment, as it may be due to gender-related response or coping patterns.

In terms of the living circumstances of offenders, 12 (20%) live alone, 10 (16.7%) live with one or more room-mates and the remaining 38 (63.3%) offenders live in various combinations of

circumstances involving 'family' members. Thus, 8 offenders (13.4%) live with parents or parents and siblings, 21 offenders (35%) live with spouse (12, 20%) or spouse and children (9, 15%), and 5 offenders (8.3%) live with a brother, sister or some other relation. Over half the sample of offenders either live with one other person (20, 33.3%) or with two persons (13, 21.7%). There were 13 (23.3%) offenders living with three or more persons. A little over 1/3 of the sample is either married (18, 30%) or living common-law (4, 6.7%) and only 11 offenders (18.3%) reported that their children were living with them.

The following table reports the Age Ranges of offenders in the sample. More than half the sample (35, 58.4%) are between the ages of 18 - 31 years of age.

Table 3
Age Range of Offenders in the Research Sample

Age Ranges	# Sample	% Sample
18-24 Yrs	16	26.7%
25-31 Yrs	19	31.7%
32-38 Yrs	11	18.3%
39-45 Yrs	5	8.3%
46-52 Yrs	4	6.7%
53-59 Yrs	2	3.3%
67 + Yrs	3	5%

The Educational Level of the sample is as follows: 20 offenders (33.3%) had not completed high school, 21 offenders (35%) had high school graduation and the remaining 19 offenders (31.7%) had taken some post-secondary training, had a trade diploma/degree, specific occupational training or had a university undergraduate degree.

Economic status of offenders is based on combined income where relevant (19 offenders, 31.7% of sample), however the majority (41, 68.3%) of respondents have single incomes. The breakdown of the sample shows that 15 offenders (25%) earn less than \$15,000 per annum, 12 offenders (20%) earn between \$15-\$25,000 per annum, 18 offenders (30%) earn between \$25-

\$40,000 per annum, and 15 offenders (25%) earn more than \$40,000 per annum. There is only a slight tendency, then, for program criteria and selection screening to cull out more affluent offenders. However, self-selection in the constitution of the research sample may account for this marginal bias in favour of higher income offenders.

As far as employment status is concerned, 6 offenders (10%) were unemployed during the time they were on EMS and 3 offenders (5%) were retired. Of the remaining 51 offenders, 18 (35.3% of employed offenders) had been working at their present occupation for less than two years, while the remainder (32, 62.7% of employed offenders) had been employed in their present occupation for three years or more.

Fully 2/3 of the sample (41, 68.3%) have lived in B.C. for more than twenty years. When asked about religious adherence, 31 respondents (51.7%) said they had no particular religious convictions ('no religion'). Of the remainder, 14 (23.3%) admitted to being religious but 'not practicing' and 15 respondents (25%) said they attended religious functions associated with their faith. Racial composition is 54 (90%) Caucasian, 2 (3.3%) Native Indian and East Indian respectively. Also interviewed were offenders of Filipino (1) and Portugese (1) descent.

For 10 respondents (16.7%) this was their first conviction for a criminal code violation. For most offenders the present conviction was either their second (22, 36.7%) or third (17, 28.3%) conviction for a criminal code offense. There are 7 offenders (11.7%) for whom the present conviction is their fourth, 2 (3.3%) offenders where it is their fifth, and 2 (3.3%) offenders for whom the present conviction is their sixth.

The offenses for which intermittent sentences were given were predominantly alcohol and driving related (42, 70%, involving Impaired Driving or Failure to Blow charges) or convictions for Driving While Prohibited (12, 20%). Two female offenders (3.3%) were on the EMS Program due to conviction for Trafficking Narcotics. Other offenses involved one (1.7%) conviction each for Theft, Cultivation and Possession of a Control Substance (Marijuana), Fraud and Robbery. Only

16 (26.7%) offenders in the sample said that they had been imprisoned previously. So 44 (73.3%) offenders in the sample had had no previous experience of being incarcerated (other than the relatively brief period of time spent in lock-up after sentencing).

This researcher's general sense of respondents is that they tended to be highly cooperative, many more than willing to continue talking about their experiences well beyond the time necessary to do the interview itself. The average interview took approximately two hours to complete, with a rare few exceeding four hours and a few also taking 1 to 1 1/2 hrs. I rated the credibility of each offender I interviewed, giving a 'good' rating to 37 (61.7%), a 'poor' to 5 (8.3%) and an 'uncertain' to 18 (30%) respondents (in addition to interview documentation, extensive field notes were kept regarding the interviews themselves).

It should be noted in closing that while offenders in the sample ranged from 5 days to 60 days⁴ in time actually served for sentences, the majority of offenders (36, 60%) served from 5 to 14 days on the EMS program. Mean days served for the sample is 22.7, however this reflects the tendency of diminishing numbers of offenders on the EMS program serving longer 'intermittent' sentences. Thus, there are 15 offenders (25%) serving 16 to 40 days and 9 offenders (15%) serving 60 days on the EMS program.

3.2 Areas of Impact⁵

3.2.1 Home Confinement

The following results express the responses offenders gave during the interview when asked about their experiences related to the EMS Pilot Project Program (see Interview Schedule, Appendix II).

When respondents were asked whether being on the EMS program 'had in any way affected, changed, improved or worsened relationships with persons with whom you live', 25

respondents (41.7% of total sample or 52% of offenders co-residing with others) replied that EMS had 'no effect' on household relations. Ten respondents (16.7% of total sample or 20.8% of offenders co-residing with others) indicated that EMS had 'improved' household relations in some sense. When asked how this occurred respondents replied that the home confinement had 'brought us closer', indicated that positive use of home confinement time was positive for relations, alcohol abstinence was positive for relations or co-residents' sympathy and helpfulness had improved relations. Only 3 respondents (5% of total sample or 6.2% of offenders co-residing with others) explicitly stated that EMS had in some sense 'worsened' relations. The remainder (12, 20%) live alone.

It is probably an indication of respondents' concern to co-operate and 'help to make the program a success' that they tend to understate the negative effects experienced as a result of home confinement, as noted above. I found repeatedly that even though respondents initially said 'no affect' when asked this question, subsequently indication was given that they had in fact experienced home confinement as in some sense having a negative impact on social relations. For this reason I coded these remarks so as to reflect this fact. Results show that 7 respondents (11.6% of total sample or 14.5% of offenders co-residing with others) felt the home confinement had a negative impact on their parental or spouse role: the most cogent examples here are cases where respondents could not participate with other family members - especially small children - outside the home. One respondent said he felt he was 'missing out on family life' as a result of his participation in the EMS program and another said 'it's punishing my kids more than it's punishing me' not to be able to take them to their weekly community swim or play with them in the back yard (the latter is a male who is very active in child care responsibilities with his three young (under 6 yrs.) children and whose shift work meant spending four days at a stretch at home).

A small number of respondents (5, 8.3%/10.4% of offenders co-residing with others) indicated that frustrations associated with confinement had resulted in conflicts with cohabitants

and 3 respondents (5%/6.2%) noted their inability to adopt the usual strategy of flight when conflicts arose. For example, one respondent was living with his parents and sisters, one of whom is schizophrenic. Periodic psychotic episodes made the respondent very anxious and his usual way of dealing with this was to flee the physical space itself, which he could not now do. Apparently, those subjected to these forms of conflict from which they could not flee, adapted to this newly introduced constraint. Perhaps interviews with those revoked (three thus far) from the EMS program will indicate otherwise.

A small number of respondents (4, 6%/8.3%) felt as though they were intruding on others because they were unable to leave the house or apartment. In these cases, it seems as though the respondents in question did not tend to spend much time at home before participation in the EMS program and their involvement in the program affected implicit or unacknowledged claims to residential space.

In a follow-up question I asked respondents whether the EMS program had affected home life in any other ways. Respondents overwhelmingly (45, 75%) indicated there were no other effects provoked by EMS program participation. Seven respondents (11.6%) indicated that the EMS Pilot Project Program had created a degree of dependence on other cohabitants; in many cases, as mentioned earlier, this apparently acts as an element of social cohesion, however some respondents viewed this 'dependency' as negative. Seven respondents (11.6%) indicated that the EMS program had introduced a certain amount of frustration and/or anxiety for them, either due to the confinement restriction or because of pressures relating to program concealment. Forty-seven respondents (76%) reported they anticipated no other effects in the future as a result of their participation in the EMS program. Nine respondents (15%) predicted either that they would appreciate freedom more in the future or that the positive consequences of the program would continue after they had finished their sentence.

Nine respondents (15%) indicated that the program had meant that other family members were restricted also because the respondent was on the program: this ranged from tolerable (for

short periods) restrictions (e.g., on telephone use), to the case of an entire family (including two children and spouse) maintaining a kind of curfew restriction parallel to their East Indian father. The latter case illustrates the possibilities of ethnic variation in response to this sanction, a phenomenon for which the limited number of cases does not permit adequate analysis. It seems that in nearly all cases, other family members or co-residents were willing to adapt to the kinds of restrictions that they too had to endure (in light of the alternative sanction of incarceration that the respondent in question (and perhaps they) would have to endure). This, at least, is what respondents suggested, though no direct evidence from others was systematically collected to shed light here.

When asked whether their 'home' had become like a jail (question #4 in the interview schedule) the majority of respondents (47, 78.3%) said 'no'. Only 3 respondents (5%) said 'yes' and 7 respondents (11.7%) felt their 'home' felt different than usual, though not like jail. Two respondents indicated that for them the residence was just temporary, suggesting that it did not feel like 'home' in the first place. Only one respondent said he actually felt associations that were negative enough that he was seriously considering moving after completion of his EMS sentence. This offender spent 60 days on the EMS program. Generally, then, it seems that program experience does not lead offenders in the sample to experience lingering aversive feelings or associations about their home living space.

As a composite measure I collated respondents' 'reactions to home confinement' as I had documented them over the course of the interview. The most frequent reaction to home confinement, expressed by 44 respondents (73.3%), was the feeling of 'being confined'. Thus, the majority of offenders experienced the program as in some degree restricting or confining. Many (27, 45%) indicated that they 'felt punished' by the EMS program. Whereas 23 respondents (38.3%) said that they had adapted easily to the EMS program. Many (17, 28.3%) respondents said that they had kept busy through activities while on the EMS program. Whereas 12

respondents (20%) felt frustrated by the confinement and 9 respondents (15%) reported feeling anxious or 'edgy' as a result of being on the EMS program.

When respondents were asked to describe how their social relationships had been affected, more than 1/3 of the sample (21, 35%) reported perceiving 'no effects' due to the EMS program. The most significant effect on social relationships of the EMS program was reported to be a general reduction in social contacts (30, 50%) and restriction on outside (social and other) activities (28, 46.6%). Ten respondents (16.6%) indicated feelings of social isolation due to being on the EMS program.

Running in the opposite direction of this general trend of diminished socialization while on EMS is the tendency for respondents to feel some relationships had been enhanced in the course of their EMS program participation (14, 23.3%). In some cases EMS program participation reinvigorated family, spousal or friendship ties and this occurred because of a felt sense of support. Some married males (or men living in common-law relationships) in particular reported feeling 'closer' to their spouse. A few respondents (3, 5%) explicitly indicated that their spouse carried a greater burden of domestic responsibilities because of their own participation in the program. I suspect that this figure is slightly under-reported, though it is also clear that negotiation and exchange occurred for some co-habitants (whether spouses or not) around the issue of doing domestic chores; many respondents, in fact, said that they were doing more domestic chores while on the EMS program (19, 31.6%).

When asked what activities had been curtailed by their participation in the EMS program, respondents predominantly reported that physical activities (with others or alone) (45, 75%) and social and recreational activities with friends and co-workers (44, 73.3%) were among those that were most affected by their EMS program participation. Seventeen respondents (28.3%) indicated they were not engaging in social and recreational activities with family members as before. Thirteen respondents (21.6%) reported 'missing exercise'; a small number adapted by exercising

in-home. Five respondents (8.3%) reported they were not doing outdoor chores while on the EMS program.

Respondents were also asked whether their 'community involvements' (defined as organized involvements of more or less routine occurrence) had been affected by their EMS program involvement. The majority (43, 71.7%) claimed not to have such ongoing involvements to begin with and therefore were unaffected. However, 13 respondents (21.7%) indicated that they had curtailed these kinds of activities (e.g., baseball league play, coaching) due to EMS program participation. Two respondents (3.3%) said they had reduced involvements prior to EMS program participation.

Only 5 respondents (8.3%) reported 'no change' when asked what activities they found themselves doing more of while confined to home during participation in the EMS program. However, the great majority of respondents indicated doing more of various activities - which respondents enumerated - while confined at home. The predominant activities engaged in by respondents while on the EMS program are as follows: 'more TV' (37, 61.6%), 'more activities involving concentration' (such as work tasks, puzzles, guitar practice, etc.) (21, 35%), 'more domestic chores' (19, 31.6%), 'more reading' (17, 28.3%), 'more sleep' (11, 18.3%) and 'more thinking' (10, 16.6%). Four respondents (6.6%) reported 'eating more' and gaining weight as a result of inactivity and 6 respondents (10%) reported 'smoking more' while on the EMS program (generally 1/2 to 1 pack more per day). Six male offenders (10%) reported engaging in projects involving house/apartment renovations or additions while on the EMS program, activities many said would otherwise have been put off.

The impact of home confinement clearly reinforces passive, escapist and sedentary activities on the one hand, however there is also a clear tendency for the home confinement restriction to set individuals in motion, in some cases alleviating boredom and in others providing a sense of accomplishing productive goals. It is also quite evident that some (10, 16.6%) offenders recede into social isolation as a way of managing concealment of program status from others. This

tends to become problematic for offenders serving longer sentences compared to those serving short terms. The latter merely resigned themselves to short-term isolation (e.g., loss of social and recreational activities for a weekend), whereas the former expressed feelings of loneliness, boredom and isolation.

When asked whether the EMS program resulted in any pressures on respondents, 15 (25%) said that they had experienced 'no pressures'. Just over half the sample (31, 51.6%) reported pressures coded as 'minor pressures'. Typically, respondents in this category are referring to routinely manageable day-to-day pressures usually associated with meeting curfew schedules in light of their travel circumstances (many had to rely on multiple buses or rides from others due to loss of license). Many also felt some pressures relating to concealment of the electronic bracelet around their ankle.

I included a 'moderate pressure' category if respondents typified their experience as involving the above pressures, and in addition, other pressures that were proving to be more than routinely troublesome (as is the case for 'minor pressure'). These would include added pressures of concealment, phone/business interruption or unanticipated difficulties in adapting to EMS program requirements for self-discipline. Five respondents (8.3%) were placed in the 'moderate pressure' category.

Seven (11.6%) respondents were placed in the 'major pressure' category when it became clear from the interview that the EMS program had been especially troublesome, where respondents had undergone significant ordeals of concealment in particular. These latter cases will be taken up shortly.

When respondents were asked to enumerate and typify the kinds of pressures they had experienced, the following categorical responses were generated: 28 respondents (46.6%) designated their pressures as those 'minor pressures' identified above and associated with curfew compliance and transportation pressures; 12 respondents (20%) indicated that managing program

or bracelet concealment constituted a pressure (this, perhaps, is somewhat under-reported: see below), 10 respondents (16.6%) said that confinement itself was a kind of pressure that produced frustrations, 6 respondents (10%) actually felt a sense of loss of control and panic (many of these would fit into the 'major pressure' category above); others felt varying degrees of pressure because of the temptation to break rules (6, 10%); moral guilt over lies necessary to maintain concealment (5, 8.3%); loss of normal privacy from physical (random spot checks) and electronic monitoring intrusions (6, 10%); and some respondents (3, 5%) felt pressure from the fact of having to rely on others (e.g., for rides, tasks they cannot do, etc.) and that this constituted a form of pressure for these other persons.

In most cases (24, 40%) respondents reported they adapted to the pressures they experienced as best they could under the circumstances. A few respondents reported planning ahead as much as possible in order to avoid pressures (4, 6.6%) and some reported they engaged in 'escapist' activities (6, 10%) as a way of handling pressures. Seven respondents (11.6%) reported explicitly deciding to keep busy with activities as a way of dealing with the felt pressures of confinement. In a few cases (4, 6.6%) respondents reported 'talking about it' as a way of dealing with some of the felt pressures, especially those resulting in interpersonal conflicts.

3.2.2 Work

When respondents were asked if participation in the EMS program had affected their work in any way, 22 (43.1% of employed offenders) reported 'no effect'. Six respondents (10%) were not employed while on the EMS program and 3 respondents (5%) were retired. Twenty-five respondents (49% of employed offenders) indicated 'minor effects' that were adapted to fairly readily and did not constitute significant impediments or intrusions into their work setting, e.g., such as awareness of time constraints, concern to maintain concealment of the bracelet, manageable changes in work schedule due to program involvement.

Five respondents (9.8% of employed offenders) reported that their EMS program participation had 'significant effects' within their work setting. In one case the respondent said that the EMS program curfew schedule had given him a greatly improved appreciation of his work; whereas previously he would rush through his maintenance work (managing an apartment building), now, he claimed, he could do a thorough job and appreciate fully the value of his work (this particular respondent was a zealous program advocate who had spent 9 days on the EMS program). The other offenders whose work was 'significantly' affected by EMS participation served either 60 days (2 respondents) or 20 days (2 respondents) on the program.

One offender was coded 'significant' because he reported having quit his job as a result of the chemicals he was breathing at work; chemicals he claimed were exacerbating his feelings of anxiety at being confined. He claimed he would not work at a job he felt was unsafe in any case, however he was not wanting to aggravate his mental state because he was already having conflicts with his wife and these seemed to him to be due to his 'confinement frustrations'.

Two other offenders were significantly affected in their work situation, mainly due to their occupational positions (one, a restaurant manager and the other a waitress) and great concern to conceal EMS status. The waitress said she was a different person than she normally is at work; on the EMS program she said she curtailed her sociability with co-workers and customers at work considerably, saying her program status, including the curfew and wearing of the bracelet, made her feel uncomfortable around others and unable to relax. She expressed much guilt about the charge (cocaine trafficking) and took great pains to conceal her EMS status from everyone, especially her family (this case illustrates the difficulty, sometimes, of culling out the 'social influence' of the EMS program per se and offender's moral self-reproval for the offense in question, in this case trafficking cocaine).

Though much less remorseful, the male restaurant manager had much difficulty fitting his work routines to the fixed schedule requirements of the EMS program; he said his work regimen meant, often, that he would need to work overtime to finish up with an employee or do a task that

would come up. He claimed that he and one of the EMS correctional staff had a personality conflict which resulted in staff generally not trusting him so that he found he could not easily have his hours extended when the need arose (as it did apparently quite often, thus eliciting and sustaining EMS staff distrust). The motivation to conceal his EMS status from the employer and his staff was also paramount and so some of his actions, he feared, were perceived by others as inappropriate (e.g., he might be perceived as not showing job commitment appropriate to his station if he had to run off, not being able to finish the task and not giving an adequate account concerning his hasty departure). The last offender coded 'significant effects' reported feeling stigmatized by his employer as well as by co-workers and felt that his EMS status was an ongoing basis for others to deride him. This respondent appeared to me to be quite unstable and indicated he felt 'loss of control' with respect to various aspects of the EMS program.

When asked to specify what effects the EMS program had on work or work setting, many respondents said that in more or less manageable, and usually relatively minor ways, work schedules needed to be changed. In some cases this meant working fewer hours (9, 17.6% of employed offenders) or less overtime (7, 13.7% of employed offenders) and in others, respondents reported working more (5, 9.8% of employed offenders); a few of the latter responses were due to the chance correlation of EMS sentence and usual seasonal upturn in work, while others consciously scheduled more work so as to mitigate feelings of confinement or a sense that 'home' time was unproductive.

The most frequently cited (11, 21.5% of employed offenders) effect of the EMS program on work/work setting is the added pressure of completing work and leaving on time. Where offenders had made employer and/or co-workers aware of the importance of their curfew, this appeared to not be a major problem. However, when respondents were 'concealers' the problem of leaving work so as to arrive home on schedule could become the source of much stress. Many respondents told me that in this situation, the latter part of the day became a time when they had a much greater awareness of time and the impact of time on the organization of their work. One

respondent (a mechanic), for example, said he had to gauge the length of a job more precisely and that he would not begin a job he did not feel he could finish in the remaining time. Another respondent (New Car Sales & Lease) said that he had the policy of not taking on any customers past a certain point in the afternoon since he knew that he could not complete the 'closing' paper work and other tasks involved in a sale (this respondent said he 'gave away seven or eight sales' to some of his salesman colleagues, which he estimated as an income loss of about \$2000).

Eight respondents (15.6% of employed offenders) explicitly identified 'pressures of concealment' as affecting their experience in their work situations. I suspect that many more offenders in the sample would have specified this category had the interview been closed-ended rather than open-ended. The examples of the excessive consequences of concealment noted above are perhaps the extreme end of a more general concern to conceal in the workplace: 17 respondents (33.3% of employed offenders) reported to me they had not informed employers of their EMS status and 27 respondents (52.9% of employed offenders) said they either told no co-workers (12, 23.5% of employed offenders) or only a select few co-workers (15, 29.4% of employed offenders). Only 3 respondents (5.8% of employed offenders) indicated feeling stigmatized at work, but here again it is difficult to distinguish whether others' perception of the charge or EMS status or bracelet per se constitutes the locus of the scorn reported by offenders.

Finally, I included an 'other' category in which I coded responses that did not seem to otherwise fit the areas covered above. Eleven respondents (21.5% of employed offenders) reported effects at work that were coded in this way, some of which I will briefly mention: one respondent said her schedule made others' co-operation more imperative (e.g., coming back from their breaks so she could leave on time); another respondent 'missed a union meeting as shop steward representative' because 'I didn't want to rock the boat' in asking for an extension on his curfew schedule; another respondent, an apartment manager, did not do his evening 'building checks' due to his 6AM to 6PM curfew schedule (this was viewed as a minor issue); a number of respondents

indicated a general self-consciousness about wearing the bracelet at work (but few, except as indicated above, thought it had any effect on their work).

When I asked offenders if their EMS program participation had actually affected their work habits, 30 respondents (58.8% of employed offenders) reported experiencing 'no effects' on their work habits. Nine respondents (17.6% of employed offenders) reported showing 'improved work habits' such as 'doesn't leave early from work as usually', 'more punctual' and 'can't spontaneously take the day off work'. Six respondents (11.7% of employed offenders) said that EMS program participation contributed to an improvement in their view of work. For many here, 'work' represents a kind of 'freedom' in that the home-based experience of confinement/restriction was somehow alleviated or diminished. In some cases 'work' is seen as a respite from confinement, thus establishing positive associations for work among these offenders (at least for the time they were on the EMS program).

Seven respondents (13.7% of employed offenders) reported feeling more conscious of time while at work during the EMS program, though I believe the general awareness of time was under-reported by respondents, probably (again) due to the open-ended structure of the questionnaire. The 'time awareness', as suggested above, can affect the actual organization of work in some cases. Others appear to orient to time so as to create stress for themselves. Others seem less explicitly oriented to time, at least in the initial portion of their work day; it is only in the latter part of the day that time structure becomes relevant to the practical tasks of disengaging from work and beginning the trip home (recall, many offenders are without driver's license and so must take public transit or rely on others for rides). Some respondents claimed they turned into virtual 'clock watchers'.

Finally, and perhaps expectedly, 7 respondents (13.7% of employed offenders) reported that their EMS program participation had in a small measure impaired their work performance: these respondents reported not doing as thorough a job as they might otherwise do, or said jobs were more hastily completed and with less care than usual. So, while the EMS program curfew

restrictions appear to have positive effects for work habits, consequences may be negative as well. Indeed, the various degrees of workplace 'pressure' or stress occasioned by participation in the EMS program can also be viewed as somewhat negative (insofar as any causal factor of 'stress' is conceived as psychologically 'negative' or detrimental).

The reinforcement of workplace discipline and improvement in perceptions of and attitudes toward work ('positives') on the one hand, and the apparently tolerable intrusions of the EMS program into workplace habits (including concealment-related stress) ('negatives') on the other hand, can conceivably be viewed as offsetting each other when viewed in the aggregate. This balancing out of 'positives' and 'negatives' is further suggested when we consider that approximately half the sample reports 'no effects' of EMS program participation on work setting or work habits.

3.2.3 Bracelet and Concealment

When asked, offenders stated that EMS program participation is less of a stigma than incarceration. Regardless of this perception, program status (and all that this entails) and wearing the bracelet (a potentially visible symbol of that status) mean they are under State sanction and control. This is a disreputable status - a potential source of stigma - the knowledge of which offenders, as described above, seek to manage or control in various ways. This can and does also involve explicit collaboration with EMS correctional staff in many cases.

As already suggested, the perception of the consequences of revelation varies as between intimates, strangers, work associates and others. The problematics of information control⁶ becomes significant precisely when offenders need to comply with EMS program rules and expectations (e.g., curfews, acquiescence to spot checks), but where social demands and obligations (from work, family, friends) require deception in order to maintain concealment. Short of the public visibility of the bracelet - and this is something over which offenders maintain much control

- offenders can manage and/or control EMS program status fairly readily in most cases. Of course this depends a great deal on how important the goal of concealment is, for how long it must be kept up, from which persons concealment is sought (the more regular and frequent the contact, the more difficult the concealment) and so on.

Where concealment of EMS program status is concerned, the problematics of information control is conceivable as being a revelation/concealment continuum, with offenders stretching to both ends: some respondents said they had withheld EMS status from no one, whereas I interviewed a few respondents who shared their EMS status with only one or two people in all.⁷ Maintaining this latter kind of concealment for periods of up to 2 months can be a substantial feat of social skill and discipline, especially in the face of pressing social and workplace obligations. Of course, most respondents fall somewhere between these two extremes on the revelation/concealment continuum. It is evident that the concerns for and consequences of concealment vary a great deal. Moreover, how offenders tend to control or manage information regarding their EMS program status, I believe, reveals or reflects much about the sorts of impacts they experience as a result of participation in the disciplinary regimen of electronically monitored home confinement.

When respondents were asked whether or not they conceal their EMS status at all, 48 (80%) said they did engage in some degree of concealment. The remaining 12 respondents (20%) claimed not to be concealing their status, however many of these offenders admitted to keeping the bracelet covered in public settings. Had a more fine-grained distinction been employed in the interview as to kinds of concealment, it would likely have brought the 80% figure up much higher. I spoke with only one offender who reported going out in shorts where the bracelet was publicly visible. He refrained from doing this again after getting 'strange looks'.

As indicated in the section above, 1/3 of the sample who worked while on the EMS program kept knowledge of their EMS status from employers. Moreover, respondents tended to want to limit knowledge of their EMS status to only a few co-workers (15, 29.4% of employed

offenders) or none at all (12, 23.5% of employed offenders). Eighteen respondents (35.2% of employed offenders) reported an inclination to inform co-workers generally as to their EMS status.

Crosstabulation tables show a systematic variation in revelation/concealment as a function of socio-economic status. There is a definite tendency among white collar and professionally employed offenders to conceal their EMS status in the workplace. Whereas blue collar, unskilled and semi-skilled offenders tend to be less concerned about knowledge of their EMS status in the workplace.

Table 4

***Crosstabulation of Revelation/Concealment
by Socio-Economic Status***

<i>Occupational Status</i>	<i>Employer Awareness</i>	
	<i>Yes</i>	<i>No</i>
Unskilled/ Unempl.	(#) 7	2
	(Row) 53.8	15.4
	(Col.) 25.0	11.8
	(Total) 11.7	3.3
Semi-Skilled, Off.	16	4
	64.0	16.0
	57.1	23.5
	26.7	6.7
Skilled/Sm. Bus/Semi. Prof.	5	5
	45.5	45.5
	17.9	29.4
	8.3	8.3
Manag./Prof./Priv.		6
		75.0
		35.3
		10.0

Note: Chi-square test is significant to .0043

For example, of the 8 offenders coded 'Management/Professional/Private Business' in the Occupational Status variable, none of the 6 relevant offenders in that category informed their

employers as to their EMS status (2 offenders in this category are self-employed and hence were coded 'N/A' for 'informs employer'). As we move to the next Occupational Status level ('Skilled Labour/Small Business/Semi-Professional'), 1 in 2 offenders do not inform employer of EMS status. For 'Semi-skilled Labour/Office/Clerical' and 'Unskilled Labour' categories (the next two Occupational Status categories) 4 respondents inform their employer for every 1 respondent who withholds this information (roughly a similar, though somewhat less pronounced, trend holds for revelation and concealment from 'co-workers').

The reasons for this systematic variation in tendency to reveal or conceal EMS status from employers is clearly related to perception of the consequences such knowledge might have for work-related reputation (and hence threat to job and income). In the cases where employers were aware of respondents' EMS status (generally those offenders in the bottom two occupational statuses), 29 offenders (56.8% of employed offenders) indicated employers gave what was viewed as a 'supportive' response to this knowledge (many, offenders said, reportedly saying such things as 'good for you', 'it's better than jail' or 'no problem'). In the case of blue collar offenders Impaired Driving and other Motorvehicle type charges are not perceived as especially troublesome to employers (there are exceptions here of course), whereas offenders of higher socio-economic status view criminal charges as anomalous to their social status and hence put a higher premium on concealment because of the perceived threat to reputation and the potential threat to their work.

Patterns of revelation to or concealment from 'family' members is somewhat different again. Nearly 1/2 the offender sample (29, 48.3%) said 'most family members' know about their EMS program status. Eleven respondents (18.3%) reported 'no family members know' about their EMS status and a further 11 (18.3%) indicated telling only one or two persons in their family. Twelve respondents (20%) reported telling 'selected family members' about their EMS status. Some respondents (10, 16.6%) had 'no local family' to inform (even if inclined toward revelation).

Crosstabulation tables show that where information about EMS program status is withheld completely from family members (11 respondents), 8 of these respondents also withhold EMS program status from employers in addition. As well, in the 22 relevant cases of 'most family members know', 19 offenders inform their employer also (Chi-Square is significant to .01). What this apparent correlation means is not exactly clear. Fifteen respondents (25% of sample) reported 'generally concealing' EMS program status; this means that, with the exception of a few trusted confidants (I met no offenders achieving total concealment), offenders opted not to reveal their EMS program status to anyone else. The positive correlation may merely reflect this general concealment phenomenon.

There is a distinct tendency, also, to compartmentalize revelation and concealment of program status. For example, some offenders will selectively reveal program status to specific classes of individuals and withhold such information from others (as noted above), as is the case for offenders who are concerned about jeopardizing their work, but who are otherwise comfortable in revealing program status to family or friends. I also encountered many offenders who sought to limit knowledge of their program status from specific persons, such as a father, mother, co-workers, certain friends, etc., the reasons here typically being fear of moral reproof or 'hurting' loved ones. Successfully achieving the sorts of information control implied in these cases is feasible because of a considerable degree of insulation offenders maintain from 'work' and 'leisure' domains of social life, as well as from various 'family' members who do not share their immediate life space.

When offenders were asked to identify those persons who they conceal EMS status from, 22 respondents (36.6%) reported 'co-workers' as the most frequent. While white collar and professional respondents tend generally to conceal more in the workplace, offenders having blue collar and unskilled occupational status are also concerned about diffusion of this knowledge in the workplace. Many such offenders reported that they would inform co-workers (usually workplace

intimates), but were concerned about being objects of gossip or felt general knowledge constituted an invasion of their privacy.

Employers, family members and specific persons or groups constitute the next most frequent categories of persons from whom offenders seek to conceal their EMS status. As reported, fifteen respondents (25%) were coded 'general concealment'.

In response to the question as to why offenders conceal their EMS status, the most frequent reply (24, 40%) given by respondents was that they did not want people asking questions, that their EMS status is a private matter and no one else's business. Twenty-two respondents (36.6%) felt that revelation might jeopardize their work in some way or that detrimental consequences might somehow be provoked. Twenty respondents (33.3%) reported feeling embarrassed, either because of the charge/conviction or at being on the EMS program per se. Seventeen respondents (28.8%) felt revelation would lead to some sort of stigma.

When respondents were asked whether wearing the bracelet had affected their self-image in any way, 49 (81.7%) said there were no effects. Six offenders (10%) reported that wearing the bracelet made them feel bad or indicated a generally negative reaction to wearing it. Four respondents (6.7%) coded as 'other' said the bracelet: 'is a reminder of what I did', 'reminds me I'm on the program', 'reminds me I did a stupid thing' and 'one co-worker harassed me in a "joking" way about the bracelet'.

When asked what their reactions were to wearing the bracelet, 14 respondents (23.3%) said they did not like wearing it; as mentioned, 6 offenders (10%) had negative associations in connection with the bracelet. One offender admitted that wearing the bracelet had inhibited sexual relations between he and his wife. Nine (15%) offenders said that the bracelet represented a 'reminder' of their offense. Twenty-two respondents (36.6%) reported feeling some discomfort at wearing the bracelet. Mostly, offenders took appropriate measures to secure it so as not to irritate their leg, however a few offenders had to somehow adapt to the discomfort of the bracelet due to

the necessity of wearing workboots and thus tended to have more troubles. Ten respondents (16.6%) reported having some disturbance in sleep periodically and this seems to have been due to the bracelet hitting the other leg (or some other object) while sleeping. No offenders reported chronic or significant sleep problems due to the bracelet's presence. Only 6 respondents (10%) reported being more or less constantly aware of the bracelet.

The most frequent response to the question of reactions to the bracelet was offenders (26, 43.3%) indicating an initial awareness of the bracelet which then transformed into forgetting about it. This 'getting used to' or adaptation period apparently takes anywhere from a day to a week to occur. Another 18 respondents (30%) reported only being aware of the bracelet 'at certain times' (e.g., at work, when changing or showering, when achieving a comfortable sitting or sleeping position). Fourteen respondents (23.3%) said the bracelet was 'not a problem'.

Many of the respondents said that the bracelet is too 'bulky' or asked, 'can't they make it smaller?' A few offenders who work on construction sites suggested the potential for accidents because of the bracelet. Another offender, a mechanic, said he would be constantly hitting the bracelet when crawling under cars and this was a minor but continuing annoyance to him.

When the self-reports concerning effects on self-image and the various reactions are considered together, it appears that wearing the bracelet constitutes a significant problem for about 6 offenders or 10% of the sample. The rubbing and chafing seemed, for most, to be a manageable by-product of being on the EMS program.

3.2.4 Violations

When respondents were asked whether or not they had violated EMS program rules or expectations in any way, 31 respondents (51.7% of sample) reported committing no violations. A further 17 respondents (28.3%) reported having committed what I came to refer to as 'normal' violations. These are violations that, after some amount of inquiry on the part of EMS program

staff, were excused, albeit usually with cautions, warnings or reiterations of program rules to offenders. Examples here are 1) when offenders left home early or arrived late because their own time pieces were not synchronized with the computer's time register, 2) plausible misunderstandings of program rules/expectations, 3) plausible excuses as to lateness (e.g., a transit breakdown). 'Normal' violations, then, are breaches that do not result in revocation from the program.

There are good reasons to suspect the 51.7% figure for 'no violations' understates actual numbers. In the first place, it is likely that many offenders will not employ the notion of 'program violations' with any concerted precision, as program staff or researchers might tend to do. In any case, based on experience of ten months of interviewing, I am inclined to believe that the implicit bargain offenders have struck with program staff, leads them to answer this question (and others like it) in a way that would connote the 'success' rather than the 'failure' of the program.

The other class of violations reported are those termed 'hidden' violations. 'Hidden' violations are when offenders consciously engage in breaking program rules they know, or have good cause to assume, are not acceptable to program staff, who in many cases may either state openly or suggest program revocation will result upon discovery. The no alcohol rule and outright or flagrant curfew violations are clear examples here. Other outright program violations that fit the 'hidden' category would be if an offender claimed to be somewhere (e.g., at work, an authorized family hospital visit, an Alcoholics Anonymous meeting) but in fact was not.

Eleven respondents (18.3% of the sample) reported engaging in these kinds of violations and 1 offender (1.7%) was not sure if what he had done constituted a violation. I suspect such violations are under-reported as well, for the above reasons also, but as well because many respondents tended to view the researcher as 'part of the program' even though the independent role of the researcher and confidentiality were emphasized.

Among offenders admitting to 'hidden' violations, 10 reported that their work circumstances permit minor kinds of 'fudging': one offender reported taking two hours for lunch instead of the usual one hour; many said they might do banking, shopping or other activities on lunch hours or breaks and sometimes offenders would leave early from work in order to do these activities (activities many felt unclear about in terms of their status as violations). Four offenders (6.6% of sample) had changes in their work hours initiated by their employer (which they did not report) or made changes themselves and did not report these changes. What did these offenders do during this time? For one offender it was his last day on the EMS program and coincidentally his employer had changed his work hours so that instead of beginning work at 7AM, he was to begin at 10AM: he and his wife went to a restaurant for a long Sunday morning breakfast. Another offender said he had been given about 4 hours to seek employment on a particular day. He said he had slept in and decided to take the remaining hour to visit his mother. Another offender left early from work and spent an hour 'visiting my ladyfriend'. The other offender reported taking the afternoon off from work and went to the PNE fair, hoping that this diversion would ease his overall anxiety (which he attributed to being on the EMS program). He said that the paranoia that resulted only made him feel worse and he didn't take a whole block of time like that again, though he did leave work slightly early on a number of occasions. On these occasions he had arranged a ride home (he usually took the bus, taking well over an hour to get home) and was able to relax and have a meal in a restaurant near his home.

Two offenders (3.3%) admitted to drinking alcohol while on the EMS program and two (3.3%) admitted to engaging in illegal acts while on EMS: one had smoked marijuana once and another had driven a car while being under license suspension. Only 5 respondents (8.3%) reported violating the home confinement rule by transgressing the 'house' boundaries indicated by corrections staff (no balcony or yard). Again the problem of the reliability of offenders' accounts arises. The persistent assertion that 'it wouldn't be worth it' (to violate EMS program rules and expectations) suggests that offenders invoke their own personal calculation of cost and benefit at the prospect of violating program rules and behavioural expectations. Common sense and this

admittedly weak evidence suggest to me that if the violation rate is higher, it is likely only slightly so (correctional staff running the EMS program are perhaps best placed to comment knowledgeably about violation rate frequencies).

To pursue another line on the question of under-reporting, the low number here may indicate general ignorance about the informational capabilities of the continuous signaling (Radio Frequency) electronic monitoring system, which program staff gave very little (functional) knowledge about to offenders. Some offenders however, through talking with others, from their own program experience and/or by using common sense, realized that going out on balconies, verandas or even into their yards would not necessarily be detected by the system. And yet they were expected to remain inside the dwelling itself. Many reported collaborating with cohabitants in attempting to discern the range of the Radio Frequency transmitter they wore: a red light saying 'unit in' goes on when the bracelet is within range of the receiver-dialer. Upon drawing exactly this conclusion, one offender in particular told me he virtually agonized over precisely this point. He characterized it as an inner battle where he felt that only the random spot checks would detect him if he were to go out on his large sundeck-porch - which he very much wanted to do because he found the confinement (40 days on EMS program) very exasperating - however, he risked 'being in prison when my baby is born', something he was vehement would not happen. He said he would sit on a chair, perched at the doorway out onto the porch, and mull over the elements of desire and constraint (his own cost-benefit calculus). He had not transgressed the house boundary in that way up until when interviewed on the 37th day of his sentence on the EMS program (though he reported 'taking the garbage out, just to prove I could do it'). This in itself says alot: the possibility of human surveillance limits technical violations of this sort.

When respondents were asked if it was possible to violate the program in any way without detection, 37 (61.6%) either said that the electronic monitoring system was 'failsafe' or indicated they had not bothered to think about it. As noted above, 14 offenders (23.3%) said there was 'too much to lose' to spend much time thinking about it (crosstabulations show that of these, 8

offenders are serving 14 days or under and 6 offenders are serving 20-60 days). A few respondents had concrete suggestions categorized as 'other': one said 'knock the phone off the hook and pop down to the store for some smokes'; while another reckoned offenders could embellish on the time it takes to get home so as to have extra time; one respondent thought that 'making a bogus doctor's appointment' would allow a respite from confinement. Five respondents (8.3%) felt that the spot checks were predictable and that one could suppose that EMS program staff would not return soon again after a check, hence one offender 'drank a couple beers' just after a weekend home spot check and another suggested one could 'leave work early', presumably with less likelihood of being caught (14 respondents (23.3% of sample) volunteered that they had been expecting greater frequency of contact with EMS program staff than they actually received).

When respondents were asked what they thought EMS staff ought to do to prevent violations, 28 (47% of sample) either said they 'hadn't thought about it' or 'don't know'. Twenty respondents (33.3%) thought that 'more random spot checks' would prevent violations; another 9 (15%) suggested greater vigilance around work times. Some other notable suggestions include: 'be clearer about what can and can't be done, what about a checklist'; 'staff could be more specific to offenders about when they expect them to leave work'; 'know where people are supposed to be'; 'don't be so predictable in spot checks'.

3.2.5 Sentence Length & Feelings about the EMS Program

How do offenders feel about their sentence length? How would they feel about being on EMS for longer or shorter periods of time? Would either of these prospects alter their behaviour in any way?

When respondents were asked about how they felt about their sentence length, 20 (33.3%) indicated their period of electronically monitored home confinement was completed with relative ease. Eighteen of the offenders who gave this response had served 9 days or less on the EMS program and the remaining two had been on for 20 days. Further, 15 respondents (25%) reported

feeling lucky or happy about the length of the sentence and about being able to serve their time on the EMS program rather than in prison. Ten offenders (16.6%) stated that EMS was 'hard to do' or expressed feeling confined and punished. Two respondents (3.3%) indicated feeling 'bored or lonely'. Twelve (20%) resigned themselves to their sentence length, with half this number reporting a certain dissatisfaction about the conditions of arrest or the charge, but nonetheless deciding to acquiesce to the EMS program.

When respondents were asked to contemplate being on the EMS program for a longer period of time than they had experienced and to imagine how this might affect them, the following responses were forthcoming. Thirty-one offenders (52% of sample) reported that they would make the necessary adjustments. One respondent in particular said, 'If you have EMS as an option there's really no choice, you'd have to get used to a longer sentence'. Many respondents (35, 58.3% of sample) added that a lengthier sentence would be harder to bear. Twelve respondents (20%) predicted various effects of psychological discomfort ('I'd get depressed', 'go stir-crazy') and a further 17 offenders (28%) said they would likely make efforts to beat the system in some way or not be as co-operative as they were now being. Eleven respondents (18.3%) either cited the disciplinary benefits of being on the EMS program or predicted that a lengthier time on the program would require them to adopt a more productive routine at home when confined ('bring more work home', this from an insurance executive). Responses coded as 'other' include the following: 'I could deal with it under conditions of trust', 'I'd work more so as to be out of the house', 'be more aware of time' (on a continuing basis), 'I'd become more reclusive', 'I'd be less likely to be positive about the program', 'likely have more conflicts with my wife', 'need more support from the staff', 'more people would know about my being on EMS', 'there would be a greater cost to my social life', 'I'd have to tell more people (compared to now) and arrange my lifestyle very differently'. Many respondents anticipated various kinds of lifestyle adjustments.

In an earlier question respondents had been asked whether being on the EMS program made them 'feel better, worse or had not changed' how they felt about themselves: fully 36

respondents (60%) said 'better'. When asked to elaborate respondents explained feeling better 'due to getting EMS', 'EMS allows faster completion of sanction', 'felt grateful to get EMS', 'able to keep job', 'EMS is a more productive sanction' and 'able to avoid incarceration'. Twenty-one offenders (35%) felt 'no change'. Three respondents (5%) reported feeling worse. One example here being the female offender, mentioned earlier, who felt great discomfort wearing the bracelet, this having significant effects on her ability to be at ease and comfortable in her work situation.

This generally positive disposition resurfaced when respondents were asked if they would choose the EMS program again if they were convicted in the future for a similar offense. Fifty offenders (83.3%) were either 'emphatic' or 'enthusiastic' in asserting EMS as their choice and a further 5 (8.3%) concurred in a more subdued and matter-of-fact manner. The remaining four (6.7%) for which data was available either replied it would 'depend on future circumstances' (2 cases) or expressed being 'unsure' (2 cases).

Before this question was asked, however, respondents were queried as to whether or not they thought EMS might exist as a possibility for them: 32 offenders (53.3%) surmised that 'next time it would be jail' or 'they'll think it didn't work' (suggesting 'stronger measures' are indicated); 12 respondents (20%) said 'didn't know' here. In all, 13 offenders (21.6%) reckoned they might be eligible again. Of these number, 5 (8.3%) thought they would be eligible because they thought, as one offender put it, 'EMS is for offenders like me' (these offenders do not conceive themselves as being 'like the criminals in jail', who say that, except for the offense in question, they otherwise obey the law, work & pay taxes). Two others (3.3%) thought they would be eligible after having met offenders (in post-sentence lockup) who were about to go on EMS for considerably longer periods. Six offenders (10%) thought they would be eligible, but qualified that this would depend on future circumstances.

When respondents were asked why they would choose the EMS program rather than prison, 20 (33.3%) indicated wanting to avoid prison, 16 (26.6%) stated there were 'more freedoms' in the EMS program, 13 (21.6%) reported perceiving the EMS program as 'easier' or

'less harsh' compared to prison. Seven offenders (11.6%) said the EMS program helped keep their family together, 9 (15%) said the EMS program helped them keep their job, 4 (6.6%) said they would feel less stigmatized by the EMS program, and 3 respondents (5%) felt the EMS program was a 'more productive sanction'. 'Other' responses included: one respondent saying he did not belong in jail considering the nature of his offense (Driving While Prohibited); another said prison would have meant he would lose his home; a third said the EMS program would 'preserve my mental stability'.

3.2.6 EMS Intrusions on Others

One important question about electronically monitored home confinement programming is whether others associated with participating offenders tend to be affected, whether adversely or otherwise, by the program. The evidence available from the research for addressing this question is indirect and anecdotal.

The indirect evidence suggests that EMS program status has largely minor (and mostly manageable) effects on the work setting of offenders. When respondents anticipated negative effects, they would simply invoke their capacities - within the 'information control' constraints inherent in their work setting⁸ - to selectively or completely conceal their EMS status. Thus, in a great number of cases others are not even aware their work associate is on the EMS program. Even when co-workers and employers do know about offenders' EMS status, it has little other effect than that individuals generally respond by showing curiosity, humour or supportive gestures. I received no indication from offenders that others were adversely affected in any way in their work because of offenders' EMS status.

Also, where negative effects on others are evident, offenders were inclined to say that matters would have been far worse had the offender been required to go to prison, suggesting significant others and co-residents are willing to endure the problems associated with offenders' program participation. Other evidence (Jolin, 1987) supports this as well, however more thorough

investigation of others' response to offenders' electronically monitoring home confinement is required here.

The effects on social relations - among cohabitants of program participants, as described by offenders previously - suggest: if respondents reported effects at all (approximately half the sampled offenders reported 'no effects'), they tended to report positive effects. As mentioned, only 3 respondents perceived that the EMS program had contributed to a worsening of relations. A minority of respondents indicated that confinement evoked anxiety or frustration and this found its point of ventilation in others close at hand, i.e., verbal conflicts.

Another effect of EMS program participation relevant to this question is the reports in interviews (7, 10% of sample) that EMS intrudes on spouse or parental roles. Crosstabulation shows that of the 7 respondents who reported this, 1 offender served 9 days on the EMS program, 3 offenders served 20 days and 2 offenders served 60 days.⁹ This suggests a positive correlation between the perception of the EMS program as an intrusion on spouse/parental roles and sentence length. Perception that spouse role is adversely affected derives mainly from reports of not being able to participate with the spouse in social and leisure activities beyond the home, e.g., one man said he felt guilty that he could not 'take my wife out to dinner' and another reported feeling he was 'missing out on family life' because of not being out and about in the community with his wife and small daughter. The perception that parental role is adversely affected receives its most striking example in the case cited above, i.e., the father of three small children with daily child care responsibilities.

The application of the argument that 'things would be worse if a prison sentence is the alternative' are not as clearly applicable to the above cases. The alternative of weekends in prison means that offenders are not as intensively supervised and controlled under the conditions of their temporary absence from jail during the week and hence could participate with family members outside the home during that time (when they were not working). This illustrates an interesting tendency evident for the EMS program: over longer periods of time, the EMS program can

actually function as a more pervasive form of control compared to the circumstances of an 'intermittent sentence' (i.e., served on weekends).

One final point concerning intrusions on others as a result of offenders' EMS program participation. It became clear from interviews that effects on telephone receivers and/or service¹⁰, as a result of offenders' participation in the EMS program, constitutes the part of the EMS program that proved most troublesome to others, at least according to the accounts of offenders. Only 4 respondents reported 'no effects' on telephone use (their own or others) while on the EMS program. Many of those present for part or all of the interview were clearly irritated about the problems associated with the telephone.

A majority of respondents (37, 61.6%) felt the telephone interruptions should be designated as a 'minor inconvenience' to themselves and/or others. Many of these respondents had informed others as to what the 'clicking over-dial' meant and the call would be completed at the point of interruption or continued later (after 5 minutes, see footnote 10). On the other hand, concealers typically portrayed the meaning of the over-dial as either 'phone troubles' or a 'call alert' signal indicating they had another call coming in which meant termination of the call. While experiencing the interruptions as essentially benign for themselves and their cohabitants, the range of problems identified by offenders extends from only a few calls interrupted, to continuing but manageable interruptions.

Eight offenders (13.3%) were coded as 'moderately annoyed' by interruptions of telephone service or problems. These respondents reported that others in the household or offenders themselves were affected by the electronic monitoring system attached to their phones. Some examples here are when long distance telephone calls must be terminated due to initiation of the over-dial signal, offenders or others being dissuaded from doing business over the phone or business being negatively affected, not being able to use a phone answering machine, periodic night-time phone 'half-rings' that might awaken those sleeping in the dwelling. Usually the respondents coded 'moderately annoyed' had said the phone problems were notable in some way or

they indicated they had not expected the level of problems with the phone they actually experienced. In some cases respondents said they did not use the phone much and hence were not affected greatly, however cohabitants were annoyed and frustrated by the inconvenience, saying this had caused some conflict or friction.

Four respondents (6.7%) specifically indicated the phone as a 'major complaint' about the EMS program as a whole. When asked, one offender in this category estimated that 7 out of 10 calls were interrupted, his wife could not do business as a result of probable phone interruptions and long distance calls had been affected on a number of occasions. This problem also lessened his confidence in being able to call an ambulance in the event his wife (in 3rd trimester of pregnancy) needed to go to the hospital.

Twenty-three (38.3%) respondents reported 'changes in phone use' while on the EMS program. It was also clear that 'changes in phone use' occurred for other cohabitants as well. In a lot of cases this meant keeping calls short or avoiding using the phone unless necessary. For concealers, the phone introduces problems of information control since two troublesome possibilities arise: dealing with the prospect of either accounting for the over-dial (and hangup) interruption or calls represent the possibility of a social invitation it will be necessary to put off somehow. It is not surprising to find that offenders enlist family members in screening calls or in adopting common accounts that help to mask their EMS program participation. This also leads to adoption of social isolation as a preferred home confinement management strategy, as noted above.

Eight (13.3%) respondents specifically reported that the electronic monitoring 'affects others' use' of the phone in specific ways, e.g., a number of spouses were doing business over the phone and found this was not easy with the interruptions, 5 respondents complained about not being able to use phone answering machines (either for business or to stay in contact with others).

There are two main ways, then, that the EMS program affects others (in the view of offenders). The first, as mentioned, is that it is perceived to be an impediment to spouse and parental roles in a relatively small number of cases (where the combination of intra-familial social arrangements and longer period of EMS program sentence means intrusion on routine arrangements). The second effect on others arises by way of the interruptions in telephone contacts in social and business affairs experienced by those who live with the offender. While just over 60% of the sample reported having only minor problems with the phone, the tone of offenders from about 1/3 of the sample on the 'phone problem' issue suggests it constitutes a point of general irritation that affects others besides the offender in question.

3.2.7 Deterrence and Rehabilitation

A major concern about electronically monitored home confinement programs is whether the restrictions they impose are aversive enough to offenders to deter future reoffense. The implicit assumption here seems to be that the harsher the penalty, the more effective the deterrence. However, recent evidence reporting recidivism rates for different sanctions given to Drunk Drivers shows that incarceration is no more effective compared to other sanctions in deterring this kind of offense (Wheeler & Hissong, 1988).

Whether or not the EMS program in question acts as a deterrent to future offending cannot be satisfactorily answered at this, the sanctioning stage. At best, we must allow time to pass and have accumulated a body of data that can be brought to bear on the question of deterrent effectiveness. Even facing the possibility of evidence of lower recidivism for EMS cohorts, does not in itself constitute *prima facie* confirmation that this correctional method deters reoffending: risk classification and assessment screening may be the decisive factors in producing empirical and/or statistical variation in examined cohorts.

Nonetheless, offenders' ostensible beliefs about the deterrent capacity of the EMS program (by way of accounts and claims in the interview), while of perhaps dubious reliability, are interesting to examine all the same. What do offenders say when asked whether this program constitutes a deterrent for them? And what could their responses mean?

When respondents were asked, 'do you view EMS as the kind of punishment that would deter you from offending again? (explain)', 43 (71.7%) said 'yes', 9 (15%) said 'no' and 7 (11.7%) replied 'don't know'. Some of the offenders who said the EMS program is not a deterrent reported not feeling punished for the length they had been on it (5-9 days) or said other sanctions (like license loss) have a greater impact on them or felt that an external threat (like EMS or imprisonment) would not affect their choices or behaviour.

Offenders in some cases gave a number of rationales for affirming the deterrent value of the EMS program. Forty respondents (93% of offenders claiming the EMS program will deter them) either said that the EMS program itself was felt to be punishment or was an experience they wished to avoid in the future. Respondents typically referred to such items as restrictions, confinement and surveillance as punishing in themselves. Fourteen respondents (32.5% of offenders claiming the EMS program is deterring) felt the EMS program would promote their conformity to the law. Another similar number (14, 32.5%) said they now take their offense 'more seriously'.

Interestingly, 13 offenders (30.2% of offenders claiming the EMS program is deterring) asserted that the EMS program experience was not necessarily deterring in itself, but rather was a portent of future imprisonment should the offense reoccur. As many as 11 respondents formulated the EMS program as a 'break' (some referred to the program as a 'privilege' also) that would not be given again: next time it would be jail for sure (recall that for 39 offenders (65% of sample) this is 2nd or 3rd conviction and many face the prospect of jail for the first time). Some of these respondents were saying that they would do what was necessary to avoid being incarcerated. Recall again that 44 respondents (73.3% of sample) had not been incarcerated

before and virtually all of the remainder (16, 26.6%) had only experienced relatively brief periods of incarceration previously. I was impressed throughout the period of interviewing with the degree of aversiveness that incarceration represents to these particular offenders.

Some offenders lumped the EMS program into the entire judicial process, preferring to see it as one element among the many aspects of being sanctioned (i.e., along with the economic cost being faced (lawyer's fees, lost wages), for many, loss of driver's license (which many said was very difficult to adjust to), potential or actual stigma (due to the offense) coming in the wake of public denunciation, etc).

Related to the above was a recurring assertion that the EMS program was perceived as a 'privilege' and a 'break', as mentioned earlier. Many offenders felt obliged to show well in the program because of having been spared from prison. Also encountered were some respondents who expressed that the 'break' the EMS program was perceived to be, increased their respect for 'the system' as a whole, rather than making them angry and vindictive, which is the reaction anticipated or predicted for a prison sentence.

Two respondents confided to the researcher their suicidal ideation at the prospect of prison. One such offender - a somewhat nervous and histrionic individual - claimed he had been expecting a prison sentence and had actually travelled down to the skid row district (before sentencing) 'to see what I would be living like' after release from prison 'if I didn't kill myself first in Oakalla'. This offender thought he would either drink himself to death after having lost his job and house or he would commit suicide in prison. Needless to say, he had managed to avoid this scenario and was continuing to deal with his alcohol problem. The other offender expressing suicidal ideation was an East Indian man who said that he would not be able to deal with the dishonor visited upon his family within his ethnic community. There is, of course, no way to tell if these suicidal thoughts would have been acted upon in either case.

Since 42 respondents (70%) had been convicted on the basis of alcohol and driving related charges it was expected that a proportion of these would be seeking alcohol treatment in some form or other. Of this number, ten offenders (23.8% of the alcohol and driving sub-sample) reported being involved in alcohol treatment programs: 7 offenders were in Alcoholics Anonymous (16.6% of the alcohol and driving sub-sample), 5 (11.9%) indicated participation in a drug and alcohol program and 1 (2.3%) reported being in counselling. Most offenders were in one program; however, a few were in two such programs. Thirty-two offenders (76.1% of the alcohol and driving sub-sample) were not involved in alcohol programs of any kind. These latter offenders typically denied having any chronic drinking problems or conceded poor judgment (that they had opted to drive under the circumstances).

When respondents were asked whether or not they thought they had a drinking problem, 13 offenders (30.9% of alcohol and driving sub-sample) said 'yes'. These figures suggest that while most offenders admitting alcohol-related problems (10/13) have taken it upon themselves to deal with their problem, nonetheless a small portion (3/13, 23%) have gone so far as to admit their difficulties but have not yet taken the step to engage in a treatment or rehabilitation program.

When the 10 respondents involved in treatment programs were asked how the EMS program had affected their rehabilitative involvement, 4 offenders reported the EMS program had no effect on their involvement and 4 others formulated the EMS program as 'facilitating' their therapeutic involvement. One offender conceived the EMS program itself as being therapeutic insofar as alcohol abstinence and social discipline are concerned. The other remaining offender claimed that EMS staff had limited his involvement to one evening per week instead of the three he had been doing.

The larger question of the rehabilitative potential of EMS-type programs is interesting and certainly relevant for this research. Future comparative research should help to shed further light on the extent to which EMS programming constitutes an effective means of combining punishment and behavioural change. The accumulated results of this research suggest that community-based

punishment and social control affects a range of daily activities and behaviour. For many offenders, maintaining program status requires and indeed, results in, the reinforcement and extension of social discipline (in some manner or degree). In some cases offenders indicate a kind of surprised satisfaction at the effects of alcohol abstinence and curfew/confinement, such as avoiding adverse social (e.g., interpersonal conflicts) and physiological (e.g., hangovers) effects of alcohol consumption or realizing various other benefits (e.g., saving money, learning to appreciate 'freedom').

An interesting observation was made by a number of offenders who had experienced prison, when asked to compare their experiences on EMS with those of being in prison. The observation was that prison essentially disempowered them in that prison regulation dictates their actions, whereas the EMS program had made them responsible for regulating their own conduct. Many respondents alluded in one way or another to how their EMS program experience had established or reinforced elements of everyday social discipline. Certainly, many were 'program advocates' who were intent on fulfilling their part of the bargain and showing their gratefulness. However, offenders' recurrent enumeration of concrete examples indicates responses are grounded beyond the 'demand conditions' of an interview situation that requires them to display a fulfillment of their part of the bargain.

4. Summary and Conclusions

This chapter is concluded by a comparison of findings from the present research with the only other research available, recently reported by Baumer and Mendelsohn (1988). Before entering into that discussion, though, it is important to address the issue of the validity and reliability of the data in the present research. This will be followed by a general summary and concluding comments pertaining to this research. Baumer and Mendelsohn's findings will be discussed in the final section of the chapter.

By now it should be clear that assessment of the data requires caution. Caution because 60% of the sample interviewed spent less than 2 weeks on the EMS program and due to the series of filtering mechanisms (identified above) that probably end up establishing a research sample cohort tending to overstate positive and understate negative consequences of the program. This turned up time and again (and in different ways) during interviews. These factors do not invalidate the findings; they *do* augur for caution in interpreting the research results and underscore the need for more research on lengthier sentence periods.

Evidence shows that offenders (and their families and co-residents) largely *adapted to* the change in their lives brought about by the EMS program. For some, of course, this was more problematic than for others and this seemed to depend on such factors as sentence length (the longer, the more difficult), motivation to conceal EMS program status (the greater the motivation to conceal, the more difficult), configurations of existing social networks (allowing for social support), and extant psychological and social psychological tendencies exhibited by offenders (offenders' differing capacities to adapt to and manage the EMS program, including general psychological and emotional stability).

Where offenders did serve relatively longer sentences (e.g., 1-2 months), there were evident stresses and strains that needed management or addressing.¹¹ One general observation arising from the experience of interviewing the offenders in the sample is that being in the EMS program can either solidify the bonds of closeness and cohesiveness, or its panoptic regimen can produce frustration and conflict with cohabitants. For obvious reasons, these latter possibilities bear correctional staff attention where appropriate.

Effects on work and work setting as a result of offenders' EMS program participation would appear to be minimal in most cases. Any substantial effects experienced in work activities or in the work setting are mainly due to managing and dealing with consequences of concealing EMS program status. Because of relatively higher concealment motivation, Middle and Upper-

middle income offenders tend to experience these kinds of problems more acutely than do Lower and Lower-middle income offenders.

Offenders may not directly experience social disapproval because of their EMS program status: much potential is available to hide this status. However, pressures are experienced by offenders in attempts to avoid or forestall the stigma, denunciation, and disapproval expected in the wake of EMS program status revelation.

Others may be affected by offenders' EMS program status or by effects of the FMD on phone use (telephone interruptions, disturbance of sleep). Others' and offenders' business calls may be curtailed or adversely affected or frequent phone use by others can lead to frustration and displeasure. Troublesome restrictions on enactment of parental roles are evident for some.

The accounts of offenders on the EMS program indicate the perception of this sanction as 'more just' and 'more humane' than the prison alternative. It was common to hear offenders report positive attitudes toward the justice system as a result of being able to serve their sentence in the EMS program rather than in prison.

Some offenders report enhanced rehabilitation and/or social discipline while on the EMS program. As well, many interviewed offenders reported that alcohol abstinence is positive for social relations and income savings, that continued abstinence is supported by the EMS program (whereas intermittent weekend sentences served in jail are not perceived as abstinence-supportive), some aspects of workplace discipline are enhanced, and work is viewed more positively or is seen as a welcome respite from confinement.

With the particular class of offender predominating in the sample (Drunk Driving offense), the question concerning rehabilitation ought to be, is the program facilitating the subjective practice of alcohol abstinence or drinking control? Clearly, for some this is indeed the case. This question, in turn, is tied to a programmatic question, namely what can be done to link the programmatic feature of monitoring and community supervision and the ostensible goal of

offenders' rehabilitation from alcohol (or other drug) addiction? This, apparently, is an issue that is currently of concern to Corrections Branch policy makers.

It remains to be seen whether this program might, in addition, affect the very complex circumstances and social conditions of choice involved in, for example, electing to drive while impaired by alcohol (deterrence, rehabilitation). This is the question about the *specific* deterrence aspect of this penal technique. As with rehabilitation, it is also not clear at this juncture how significant (or enduring) this relatively brief period of home confinement (or even longer sentence periods for that matter) will be in deterring further offending. Assessing both deterrence and rehabilitation are certainly areas for which followup research is necessary in order to shed more light on what remain outstanding concerns.

It appears that the EMS program has some potential as a rehabilitative tool, however this very much depends on how it is deployed in relation to or in the context of programmatic purposes, i.e., its *programmatic fit*. That the new penal technique is an improvement over the weekend sentence cannot be in doubt. However, this is not saying very much. On the other hand, and bearing in mind the weakness of this comparison, it is generally clear that EMS has a much greater potential of providing alcohol abstinence support than as at present, when offenders freely consume alcohol during the period of their 'temporary absence' (Sunday evening to Friday evening), a period where there is no supervision whatsoever.

It would appear that the EMS program in question avoids or reduces such harmful effects of imprisonment as stigma. Offenders perceive the EMS program as less stigmatizing compared to imprisonment and report enhanced respect for the judicial and correctional systems. As noted, the actual tendency for EMS program participation to change offenders' behaviour in the area of their offence is not clear. However, evidence in some areas of behaviour indicates that program participation *does*, in a few cases, enhance workplace attitudes and discipline *while offenders are on the monitoring program*. In some cases offenders tend to opt to work excessively as an adaptation to the *confinement* restriction they undergo in the program.

On balance, then, the research supports a favourable overall view of the effects of this EMS program on offenders. Owing to problems of sampling, the evident interview 'demand characteristics' relating to bargain conditions, and inadequate numbers of lengthier sentence cases - all cited and discussed above - this appraisal is extended with caution and the inevitable call for further research.

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The only other research comparable to the above reported research is that conducted by Baumer and Mendelsohn (1988). The latter are conducting a 'field experiment involving the random assignment of subjects to manual and electronic methods of monitoring home detention... The study, which is still in progress, began in September 1986 and was designed to provide both process and impact data' (Ibid.:3). The Marion County Indiana Community Corrections Agency runs the home detention program these researchers investigated. Two groups are made up of offenders ('convicted misdemeanants and minor felons') either assigned to continuously signalling or programmed contact monitoring. Another group was 'manually' monitored, meaning no electronic monitor, but otherwise subject to similar forms of community supervision. Offenders were interviewed by 'independent' researchers in entry and exit interview formats.

Baumer and Mendelsohn state that a common approach to evaluate correctional programs 'focuses on their ability to achieve the traditional correctional goals of deterrence, incapacitation, punishment, and rehabilitation' (Ibid.:2). This is the approach they adopt. The preliminary findings they report under these rubrics are largely consistent with that which has been reported above, i.e., in terms of results of the process and impact of home confinement and electronic monitoring on the offenders (and significant others).

Baumer and Mendelsohn also recognize the social symbolic or ideological importance of the representation of this kind of sanction (see Chapters Two and Five).¹² They point out that 'low

risk' offenders are also the focus of the program they are examining (as in most programs), but add that '[i]n most cases this means that they were convicted of minor offenses and the assumption is not that they are low risks for additional offenses, but rather that if they did commit another act, it would be similar to the one for which they were convicted' (Ibid.:4). This observation is particularly true for the above research cohort, which are mostly impaired drivers who generally only have previous alcohol or driving offences.

They also propose that 'most of the mechanisms designed to incapacitate the offender rely on a deterrent model: A high certainty of detection combined with a swift response and more severe sanctions than those already received' (Ibid.:4). These researchers found higher frequencies of reported program violations than were reported in the present research: 'preliminary responses indicated that 42.1 percent of the 126 respondents did report leaving their home without permission' (Ibid.:6). Interestingly, they report 'that the electronic system does not significantly enhance either perceptions of risk or compliance with the home detention order'. Whereas only 18% of the B.C. EMS program offenders reported 'legal or technical' violations, but many predicted they would engage in more violations if they spent longer periods of time on the program. Probably lengthier period of sentence (6 months according to Baumer and Mendelsohn, Ibid.:6) accounts for the greater levels of program violations in their research.

In a sub-section entitled 'Incapacitative Side Effects', they report 'both positive and negative consequences of being incapacitated at home' (Ibid.:7). They go on: '[m]ost of the negative consequences revolve around needs and commitments which require absence from home'. As well, 'many offenders learned to "cheat" on travel time and hours worked in order to run short errands such as grocery purchases' (Ibid.:7). They found a similar result to that found in this area in the B.C. research and propose a rationale that accounts for it:

On the positive side, many offenders reported that relationships with their family and work attendance had significantly improved while on home detention. We have covered these effects in the 'rehabilitative' section, but it should be noted here that *these improvements are at least partly due to the incapacitative element of home detention*. They were at home with their family more and work was the one thing that got them out (emphasis added, Ibid.:7).

In their discussion of the punishment aspects of home detention, Baumer and Mendelsohn review some of the punitive consequences encountered. Their offenders, like those reported about above, expressed a 'loss of freedom'. This is consistent with other reports (e.g., Friel et al., 1987) that have found similar offender reports about 'restrictions' of the sanction. As Baumer and Mendelsohn rightly point out, Friel et al. are correct in supposing that offenders' 'sense of loss is the result of the curfew restrictions typically imposed on a home detention program and is not directly the result of monitoring' (Ibid.:9).

In a section entitled 'Punitive Aspects of Electronic Monitors' the authors discuss some of the ways in which the programmed contact systems differ from the continuous signalling systems. Recall from Chapter Two and from the findings of the present chapter that the latter type of EM system does intrude into the living space of monitorees (and families, housemates, etc.) by requiring termination of telephone calls sometimes, intermittent 'half rings' of the telephone that may wake others up, etc. However, the programmed contact systems require offenders to interact with them by performing a set of functions as part of the verification procedure (this, of course, is structured by the type and configuration of the micro-processor hardware of the system). The Marion County program also phones during early morning sleeping times for some offenders. Baumer and Mendelsohn found that offenders 'generally preferred the continuous signalling system to the programmed contact device... and if they had their choice, they wouldn't want to answer the phone all the time' (Ibid.:10).

These researchers' findings match the present research's findings in respect to 'embarrassment' associated with wearing the bracelet. Embarrassment about wearing the bracelet is inversely related to socio-economic status. Apparently, Baumer and Mendelsohn's offenders had some choice about where they might be able to wear the bracelet. It was found offenders tend to prefer the ankle as the location of placement. Judging from many comments made to this researcher concerning concealment - especially among offenders in higher socio-economic levels - it

is no surprise that the ankle is the preferred location: it is much easier to hide its noticability when attached to the ankle than when affixed on the wrist.

I concur with many of the observations these researchers make in the area of deterrence. Their observations suggest the rationales for a possible deterrent effect or a lack of one. First, Baumer and Mendelsohn point out that to the extent that offenders find home confinement with EM to be 'better than jail' (assuming it is used as an alternative to incarceration) and '[t]o the extent that the option might be available for subsequent violations, specific deterrence is not likely for these offenders' (Ibid.:14). Second,

specific deterrence may occur to the extent that the offenders find the sanction to be punitive or believe subsequent convictions will result in 'jail.' From this perspective home detention might be viewed as a 'close call.' This effect is somewhat more likely in states like Indiana where the second unrelated felony conviction carries a mandatory prison or jail term. In this sense home detention may serve to 'get their attention.' (Ibid.:14).

Finally, there is the evidence from offenders who convey in one way or another that home detention is found to be punitive in itself. Some offenders even voluntarily leave the program, preferring incarceration instead. All of this suggests that 'especially for electronically monitored home detention, a specific deterrent effect may be present for some offenders' (Ibid.:15).

Baumer and Mendelsohn conclude their discussion of the processes and impact of electronically monitored home detention by considering the rehabilitative effects evidenced from their data. They note that family relationships are affected. They note the incidence of pro-social domestic activities, something also found in the B.C. sample. A number of offenders in Baumer and Mendelsohn's Indiana sample

talked about getting some things done their wife had been after them to do, or that they had intended to do for some time. Another spoke of developing new hobbies and indicated that for the first time reading was a hobby he could enjoy (Ibid.:16).

Others perceived an improvement in parenting skills. Some offenders in the Indiana sample

indicated that the restrictions gave them the time to talk about problems. Others indicated the restrictive nature of the program forced them to talk (Ibid.:16).

All of these effects are evident in the B.C. sample also. I concur when Baumer and Mendelsohn again praise Friel et al. and propose that the latter,

in commenting on family relations suggest the house bound character of home detention forces offenders to become more dependent on others, including family, for ordinary conveniences such as a needed pack of cigarettes or a trip to the laundry. They suggest the dependency may strengthen the relationships. Some respondents certainly supported this view. They indicated how dependent they were on wives or children (or friends). They also suggested they felt guilty about not being able to do something so basic as taking the car to the garage and how much they appreciated the extra steps their wife, for example, was taking for them (Ibid.:17).

There are also examples that go in the other direction. Thus, 'there were instances in which the strain of home detention came close to disrupting relationships' (Ibid.:17). These two rather opposite possibilities illustrate the common sense proposal that the effects of home confinement on relationships must be viewed within the context of changes that take place in social relations, in particular the social dynamics of adjustment, accommodation, negotiation, symbiosis, bonding, etc. (between spouses, family members, or other co-residents) that precedes offenders' participation in the respective programs.

Some other similar results relate to what Baumer and Mendelsohn discuss under the heading 'Restructuring Life'. All of the following reports are evident in the B.C. sample as well:

In casual conversation, one mother indicated she hoped home detention would be what she needed to get her son in line and indicated she also hoped it would get him to do what he ought to do (with his time). A number of respondents indicated that home detention forced them to better structure their time and life. They frequently related this to improved performance on the job. One reported he "was better goin' to work" while on home detention. He also reported he missed fewer days and was late less often. Many respondents reported that the program restrictions forced them to plan ahead and use what time they had available more efficiently (Ibid.:18).

It seems that '[a] number of offenders found that home detention served as an acceptable defense against peer pressure and helped them avoid activities that would get them in trouble', something reported by a number of offenders in the B.C. sample. The effects of monitoring and curfew restriction on work is difficult to interpret, especially among those who adapted by exclusively focussing on work activities. Thus,

[w]ork served an interesting role in this regard. Some... reported improved job performance. Others reported working more hours or taking a second job. It was apparent that some of the offenders found that more hours or another job (or any job) was a legitimate way to get out of the house more often. What the long run impact of this type of evasive behavior is on the rehabilitative effect of the program is difficult to say. Extending acceptable work involvement might add to the program, or alternately, it could undercut the program by demonstrating to offenders that if you use your head, a system can always be beaten (Ibid.:18).

It is fitting to conclude this chapter by citing the closing remarks of Baumer and Mendelsohn in making general assessment commentary on their results in terms of the four goals of correctional organization: punishment, incapacitation, deterrence, and rehabilitation. In drawing to a close they say:

These preliminary results suggest that home detention may contribute to all four goals. Although many offenders think home detention is 'better than jail', they clearly viewed it as punitive; some even 'checked out.' It also substantially incapacitated the offenders. Even though over 40 percent reported unauthorized absences, most would agree that they had been 'incapacitated.' The low frequency of such absences would tend to support such a contention. We were most impressed with the somewhat unanticipated rehabilitative effects apparently experienced by some offenders. However, it is yet to be established whether these positive changes will stand the test of time. Perhaps the least positive, but not unanticipated, indications were found for deterrence (Ibid.:19-20).

These results will be revisited in the second part of the dissertation, where they will be situated within the Foucauldian analytic of disciplinary power (Chapter Six). The course necessary to proceed to that analytic task will require a shifting of plane, from an empirical and descriptive endeavour - the chapters of Part I - to a stance of interpretive social analysis (Part II). I proceed, then, to Chapter Five - the beginning chapter of Part II, and a discussion of the issues that this shift will entail.

Notes

- 1 The exception being the very brief entry and exit surveys reporting 'family' members' perceptions of electronically monitored house arrest (cf. Jolin, 1987; Rogers and Jolin, 1989; **Offender Monitoring**, 1988: Vol. 1(#6), p. 3). Baumer and Mendelsohn's results, presented at the Nov. 1988 *American Society of Criminology* meetings, are incomplete as of the date of this writing. Final results and analysis are forthcoming shortly.
- 2 It should be clarified that 'sentencing option' here refers to electronically monitored home confinement being used as the means of administering a sanction after the due process of a judicial finding of guilt. The Pilot Project Director pointed out that the idea of *sentencing option* carries the meaning that the EMS program has been prescribed by judicial authorities, which is not the case in the local correctional system. In this jurisdiction, the EMS program is a *classification option*, which means that personnel working within correctional administration and operations make decisions about offenders' program inclusion.
- 3 Principally a curfew schedule individualized to each offender and providing for spatial restrictions when not at work or doing an activity previously approved by correctional staff running the EMS program. Offenders in the program are also expected to remain 'inside' the domicile itself (even though the Boulding Industries Inc. equipment cannot reliably determine whether this behavioural expectation is being adhered to). Offenders on the program are also expected to be in a designated and verifiable work place, be in an otherwise approved location (verifiable by phone or 'spot check'), or doing an activity previously approved by EMS staff. There is also a 'no alcohol' rule while on the EMS program.
- 4 Sentences served represent the judicially stipulated term minus one third off the sentence for 'good time'. Since the EMS Pilot Project Program has been directed at the 'intermittent' prison population of the Lower Mainland Correctional Region of the province, the maximum sentence length for those on the program is 90 days minus 1/3 off for 'good time' (30 days), or 60 days actually served. The minimum sentence served by offenders on the program is 7 days minus 1/3 off for 'good time' (2 days), or 5 days. Thus, sentences actually served on the EMS Pilot Project Program range from 5 days to 60 days.
- 5 Because the interview schedule is based on open-ended questions, many of the 'multiple' response categories add up to more than 60, the number of cases in the sample. Of course, each respondent can be counted only once on a categorical item. Respondent counts and percentages indicate the aggregate tendency to respond in the specified (categorical) manner.
- 6 Some variations of the interpersonal 'techniques of information control' identified by Goffman (1963) are in evidence for offenders in how they deal with the problem of concealment.
- 7 Probably the most extreme case of concealment is a woman convicted of fraud. Only her brother knew about her EMS program status, even though her two sons, 9 and 16 years old, lived with her. She told her sons that the bracelet was part of a communications system involving she and a Multiple Sclerosis patient they knew she had worked with. During her first week on the EMS program she said 'got sick' as a way of adapting to the pressures she felt from concealment.

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- 8 EMS staff sought to determine from offenders, at the outset of the program, the extent to which they (correctional personnel) ought to collaborate in perpetuating the desired level of concealment. Thus, EMS staff will and do collaborate with offenders' interests of mitigating workplace stigma by concealing their status when entering the workplace to do a spot check. The existence of this phenomenon is further evidence of the bargain struck between corrections personnel and offenders on the program and that there is an ongoing social management of that bargain.
 - 9 Chi-Square is significant to .018 on crosstabulation of 'Days spent of EMS program' and 'House Relations' (see p. 4 above). This suggests that there are less effects on household relations for offenders on the EMS program for fewer days served and more effects (good and bad) for those serving longer home confinement sentences.
 - 10 The 'receiver-dialer' (also called a Field Monitoring Device or FMD) attached to offenders' home telephone receives the coded Radio Frequency transmission from the ankle-worn bracelet on a constant basis. The 'dialer' component of the FMD 'dials out' to the Corrections Branch computer, on a random basis at a rate of 22 times per 24 hour period I am told. The dial-out procedure is accompanied often, but not always, by an audible half ring of the telephone. The telephone connection of FMD units to the computer requires an open line during dial-out periods and this in turn means an interruption of phone calls in progress. A distinct, audible clicking occurs if the phone is in use while the FMD attempts dial outs to the monitoring computer; offenders are instructed to hang up the phone (or ensure others hang the phone up) as quickly as possible and allow a brief period (around 5 minutes) for computer interface and information exchange before phone use again.
 - 11 This is an area for staff training. It is important that correctional officers be able to identify and deal with potential conflicts as they might arise over the course of the sentence period.
 - 12 Under the heading of *incapacitation*, for example, they state: 'In order to gain public acceptance for such programs, correctional officials must promise that mechanisms are in place to adequately ensure public safety' (Ibid.:4).

Part II

Chapter Five: Locating Home Confinement and Electronic Monitoring Within the Sociology of Penalty

1. Introduction

The preceding chapters - comprising Part I - displayed some of the discourses/practices associated with the development and diffusion of electronically monitored house arrest. Chapter Two sought to convey a sense of the correlative development and diffusion of relevant programs by locating this correctional technique (and its modality of surveillance, EM) in terms of its relevant discourses, conditions of the correctional system, and the exigencies of information economy. Chapters Three and Four extended this interest into the organization and workings of a pilot project designed to provide a test of the operation of house arrest and EM, with a view to their incorporation into correctional organization¹. These chapters have also reviewed a research process aimed at shedding light on a set of questions that have been largely neglected thus far, namely an effort to determine the effects of this correctional technique on those subjected to it.

It should be clear from these descriptions that the research itself is bound up in the process of the administrative introduction of house arrest and EM. So much so, as shown in the last chapter, that the research process itself is affected, producing 'findings' tending to reflect the cautionary posture² of correctional officials introducing and developing this program.³

The social scientist with a penchant for quantitative and methodological purity will rightly point out that sampling deficiencies - extant as part of the conditions of the research - systematically affect the results. The preceding chapter has already explored the likely limitations of the findings in light of the circumstances entailed in generating the research cohort. However, it did *not* explore some fundamental questions implicit in the research process itself and which reflect the essentially *political* domain it entered and now operates within.

Describing the effects on offenders of the sanctioning practices of house arrest and EM (Chapter Two) becomes a constituent of the knowledge of - or *about* - this new penal sanction. Presumably, this knowledge can be used or traded on in various ways to promote or resist this particular program. Needless to say, this line of thought produces a different set of questions compared to those addressed in Part I. These questions require a closer examination of the organization and management of the program within the correctional bureaucracy (Chapters Six and Seven).

For sociological purposes it is desirable to have a descriptive accounting of the administrative structuring and functioning of the EMS program; this from principal actors involved in organizing and administering necessary elements and procedures of the program. After completion of the initial offender impacts research, a request was made to be allowed to interview specific administrative and policy personnel within the Corrections Branch and, in particular, those involved in Branch policy making in respect to this new program.⁴ Interview access was restricted, however, to operational personnel⁵ working in the Pilot Project program during the period of data collection (Jan.-Oct., 1988).

Descriptions of some aspects of the administration of the program are available from field notes, observations, and records of Advisory Committee meetings attended, position and assessment documents (associated with the program), program staff accounts, monitorees' references to correctional practices, etc. Corrections Branch reports (the Discussion Paper, final draft of Pilot Project Evaluation) furnish program descriptions in as much as these discourses of government policy provide a general administrative assessment - the rationalization and legitimation - of this new correctional policy (see also Chapters Three and Seven).

The Pilot Project period (June, 1987 - April, 1989) dealt with the nuts and bolts issues in the practical implementation of this new program,⁶ within a complex web of social, political, and legal relations constituting one area⁷ of this regional (i.e., provincial) criminal justice system. The Pilot Project program took place within a political process that began with the enthusiastic support

of the Minister of Attorney General who saw to it that a framework for implementing this correctional program was established and begun. Subsequently, the program rode through some momentous changes that were occurring, not the least of which was a ministerial resignation and a major reorganization of the A.G. ministry itself. Police and correctional services became part of the new Ministry of Solicitor General not long into the period of the Pilot Project program (which began August, 1987).

It must be recognized, of course, that the organization and implementation of the EMS Pilot Project program takes place within the provincial Corrections Branch bureaucracy on many levels, hence a *complete* 'administrative account' would require a thorough documentation of all relevant administrative discourses and policy voices relating to the inauguration of this new form of penalty. Unhappily, the Commissioner of Corrections, as noted, would not permit the sort of wide-ranging inquiry into these Corrections Branch networks as would be required to adequately reproduce and analyze the various administrative discourses that form the inaugural process. Not only would such descriptions illuminate the discourses and practices of correctional change in this area, they would as well, help to make visible the networks of power within which research (as well as other) knowledge about this sanction might be transformed into a discursive operator of political (and bureaucratic) power, within a strategy of correctional reform.⁸

The research enterprise described in the preceding chapters follows the principle that methodical investigation and questioning can bring into view and clarify a range of phenomena concerning offender response to the conditions of this sanction. The chapters in Part II follow the principle that in order to fully appreciate the status and utility of this produced knowledge, it is necessary to consider the constituents of a social analysis of penalty in terms of which descriptions of program management and administration (Chapters Six and Seven) can be analyzed.

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It is clear from this overall shift in interest that the 'findings' produced from an assessment of the data are to be seen in a different light or treated in a much different fashion than they were in their empirical guise (Chapter Four). Assuming Foucault's *power/knowledge* analytic suggests that the findings themselves are embedded in networks⁹ of power: a series of questions from the research requiring critical analysis follow from this and these questions turn on the issues of the *status* and *utility* of the knowledge (cf. Cohen, 1983; Foucault, 1979, 1980) that has been produced (e.g., how does that knowledge fit into and function in the power network?).¹⁰ What is the political and strategic significance of this research knowledge? How is this knowledge represented in the discourse of correctional reform policy? How is the research used to endorse or justify this new form of penalty? Are the research findings in any way consequential for the organization and administration of the program? Using the strategic metaphor: how are these research results *tactically* deployed in this instance of correctional reform? There are questions concerning knowledge that are more general of course. Such as, how does 'knowledge about' (i.e., or 'representation' concerning) this new penal form function (as an instrument of purpose) in different spheres of correctional organization. The media representation of house arrest and EM is a question of selected 'knowledge about' (house arrest and EM) being deployed in order to represent this sanction to a wider and more general social audience.

Continuing to anticipate the eventual interest in and use of Foucault, one of the main thematic thrusts of Part II is to explore the use or employment of his *strategic* metaphor (in addition to the *power/knowledge* formulation) for the analysis of this concrete form of penalty. From this vantage-point the research can be conceived as a kind of 'political' act in itself. The strategic metaphor suggests that the knowledge that is produced can and does become part of the tactical field in the phase of inaugurating house arrest and EM into the criminal justice system.¹¹ The strategic metaphor also presents a means to examine closely and critically the discourses

associated with the introduction of this new penal form. If, as proposed by Foucault, the elements of strategy fall within a more general diagram¹² of power, then the question arises: what is the relationship of this new disciplinary mutation - that is, the correctional technique of *electronically monitored home confinement* - to that diagram?

Garland and Young have (following Smart (1983), same volume) questioned 'whether Foucault's solution amounts to a general one for social analysis, or whether it is restricted to the internal coherence of his original scheme' (Ibid.:8). It is the presumption of the present analysis that Foucault's *archaeological-genealogical history* (or 'interpretive analytics', see Dreyfus and Rabinow, 1983) has a more general utility, namely for the social analysis of this new penal form. While there are certainly other theoretical means available to conduct such an inquiry, Foucault provides analytical and conceptual tools - discipline, power, panopticism, strategy, technique, social function - that seem eminently suited to an examination of EM and house arrest. The insights and analytic recommendations offered by Foucault about the operation of punitive power are contained throughout this chapter; the final section of this chapter, however, will involve a more concentrated exploration of his analytic of penalty.

Electronically monitored house arrest is a correctional technique whose rationality¹³ is a terminal effect¹⁴ of relations of power, the symptoms of which are readily open to view in some instances and in others not so evident. House arrest with EM has come to *make sense* (i.e., seen to be a rational penal form) at a particular historical conjuncture (see Chapter Two). This form of penalty also makes sense against the background of the disciplinary requirements of late capitalism and within the political-economic and ideological exigencies of this evolving, regional social control and correctional complex. One of the ideological or representational significances (cf. Garland & Young, 1983:17-20) of this correctional technique is that the intensified community surveillance and residential confinement and curfew accomplishes the 'semio-technique'¹⁵ of incapacitation and punitiveness; the latter, of course, according well with current correctional

reform ideologies (see Chapter Two). The technique itself also resonates with the (social relations) requirements of the production apparatus.¹⁶

The rationality of this new penal form - the 'regimes of truth' in terms of which it becomes formulated - has its locus in administrative, social, economic, political, and ideological *forces*; these forces constitute how this correctional technique is to be interpreted and assessed. However, it would seem that some of these forces are more decisive to the definition, construction, and incorporation of this penal technique than are others (e.g., the forces vying for administrative authority and control within the state apparatus). The chapters of Part II address the *organization* of the pilot project program and the research results (and their use) in an effort to provide a critical assessment of the local use of this correctional technique, one that takes these wider social and institutional forces into account.

It should be clear now that this shift in focus involves a change in objectives from Part I to Part II: from the concrete to the abstract, from the descriptive to the analytic, from the manifest to the latent, from the overt to the covert, and from the surface to the subterranean. Part II seeks to establish an appreciation of the multiplicity of social relations and forces in which this correctional technique is caught up, but which have not been taken into account or given explicit consideration thus far.

The present chapter aims to locate this newly deployed correctional technique within the much broader framework of a *social analysis of penalty* (cf. Garland and Young, 1983). As the latter authors suggest, the movement from penology to the social analysis of penalty entails a movement from the limited discursive fields of the pragmatic disciplines (e.g., criminology, penology, psychology, sociology) and their concrete understanding(s), to the recognition that research and theorizing in the human sciences takes the 'form of a political analysis and calculation' (Ibid.:8). Since the research itself is part of the network of power, then a social analysis must take account of this reflexive dimension, of the place of the agency of research knowledge and practice.

Further elaboration of the theoretical recommendations of this social analysis will be addressed at greater length below. Suffice it to say for now, the conduct of such an analysis in the case at hand will involve further consideration of the ideological, political, economic, and administrative features corresponding to the correctional technique of electronically monitored house arrest. In the next section some issues that are relevant to the analysis of this new penal form will be discussed, followed by a consideration of some recent social histories of punishment. The latter focus will help to introduce a more detailed discussion of Foucault and the contribution his work can make to this study.

2. Issues in the Social Analysis of Penalty

In sociology labeling theory has contributed to the understanding of organizational and discursive processes within deviancy control systems. It was the labeling theorists' position that societal reaction (for our purposes, the carceral milieu) *produces* the deviancy and the delinquent every bit as much as the impulses or socially conditioned tendencies (what Lemert called 'primary deviation') that had been believed to be responsible before the advent of labeling theory. For the analysis of penalty, this view shifts attention to the social organization or regulation of sanctioning practices that provide the concrete specificity of sanctions,¹⁷ including how punitive representations condition and produce deviance.

The labeling perspective, however, remains of restricted theoretical significance so long as attention stays fixed at the level of the deviant & the deviant act and the corresponding forms of societal reaction. The forms of societal reaction (policing, corrections, punishment) that stand as responses to crime and criminality have a locus that transcends the immediately apparent conditions and circumstances associated with particular instances of deviance and crime.

To understand the social processes corresponding to the organization of societal reaction it is necessary to focus attention on the 'wider origins' (Taylor et al. 1973) of crime and deviance.

Accomplishing this goal entails the *politicization* of the societal reaction to crime; to put it in other terms, it is necessary to recognize that crime and the responses it evokes take place within 'rapidly changing economic and political contingencies of advanced industrial society' (Taylor et al., 1973:270).

The *state* and *economy* become important analytical categories in terms of which crime and the processes of societal reaction - the dynamics of criminal justice organization - need to be situated and understood (cf. Scull, 1977; Lowman and Menzies, 1987; MacLean, 1986; Chan and Ericson, 1981; Ratner and McMullan, 1985; Ratner, 1986; Lowman, Menzies, and Palys, 1987; Young, 1983; Garland and Young, 1983). According to Young (1983:85), '[i]t is the capitalist state, operating in historically specific conditions, which is perceived as the prime mover in explanations of penal relations'. Furthermore, '[t]he state is ascribed both the function of political legitimation and also, on occasions, the significant one of reproducing the conditions of existence of capitalist society; the state appears as political, legal and economic guarantor'. Penalty is inscribed in the institutional apparatuses of the state, yet its ideological determinants are difficult to separate from how the political and bureaucratic processes of the state operate. Thus,

[t]he penal system is conceived of as part of the apparatuses of the state and is viewed also as an essential arena both within which differing political ideologies are condensed as well as being a crucial legitimating process in its own right. A dual thesis thus is developed, in which politics, ideology and the state figure large; penal relations are to be explained by the activities of the state, yet these very relations are conceived of as ideological determinants and effects of the precise manner in which the state is structured and by which it works (Ibid.:84-5).

State and economy are not, however, the only analytical categories that need to be taken into account in theorizing this concrete form of punishment. Garland and Young (Ibid.) have earmarked some important general issues and questions concerning the social analysis of penalty. Their observations and proposals in theorizing penalty are worth reviewing for purposes of analysis of this new form of punishment.

First of all, it needs to be clarified that ideologies of punishment are more often than not 'distant modes of legitimation' that are secondary to the more primary concerns of 'efficiency' in

the administrative management of staffing, finance, and other resources (Ibid.:4). In other words, the principled rationales for house arrest and EM (e.g., cost-effective, humane) are, strictly speaking, not germane to the day-to-day operational organization and administration of the program,¹⁸ though this does not in itself preclude assessment of the 'service delivery unit' in terms of the aims or rationales that are espoused for it.

This point underscores a primary analytical distinction that needs to be made between *sanctions* on the one hand and *representations* (or signification) on the other hand. These authors propose that 'the realm of representation should be regarded not as the "theory" of the practical level, nor as its ideational reflection, but rather as a separate realm of penal discourse composed of policy statements, political rhetorics, penal philosophies and institutional propaganda' (Ibid.:18). It follows from this that

[t]he form of analysis appropriate to this realm is consequently a form of *reading*. It requires that its elements (texts, utterances, theoretical discourse, rhetorics, signs) be differentiated and analysed in terms of their structures, their chains of reference and social meaning, and their ideological effects... This reading would involve analysis of a number of different kinds of text... in relation to a number of different audiences (Ibid.:18).¹⁹

'In other words, the discursive and ideological elements of the penal complex must become objects of analysis in their own right' (Ibid.:17), rather than treated as taken-for-granted signifiers of penal organization. Of course, it must be recognized at the same time that this social analysis is itself a form of 'political analysis and calculation'. It remains to be explicated how (conceivably or actually) this social analysis stands or *could* stand in relation to the discursive and ideological aims of correctional administration with respect to this new correctional technique. That is an issue to be taken up in the concluding chapter.

'Punishment', as a theoretical object is different than the 'formal characterisation of "legal punishment", the latter being a kind of literal, prescriptive, and concrete representation of 'punishment'. As Garland and Young point out: 'the field of study is already clearly demarcated... in this formal-legal sense' (Ibid.:9). It is here where problems can arise:

The real difficulty arises when formal description gives way to redescription, explanation and analysis - at the point where the search for the social meaning and significance, or for

the 'determinants' and 'conditions of existence', of these legal institutions begins. At this point, the agreed formal description is often quietly displaced in the analysis by a much more contentious conception which rethinks the phenomenon in its own theoretical terms (Ibid.:9).

The business of critical social analysis entails moving into this problematic area of redescription, explanation and analysis - in this case examining *electronically monitored house arrest* and its determinants and conditions of existence. Chapter Two reviewed some of the *general* social, economic, material, and ideological determinants and conditions of existence of this new penal form. The present chapter considers the theoretical categories that could assist in constructing an explanatory or explicative account of this particular exemplar of the new penal form.

The possibility of producing the kind of displaced analysis cited by Garland and Young is, I believe, reduced with the use of Foucault. As noted at the beginning of Chapter Two, with Foucault it is possible to bracket the 'regimes of truth' surrounding and constituting this punishment to begin with; that is, treat them as discursive rationalities that function in social relations and networks of power. The 'truths' (representation) of this sanction are effects, as well as constituents, of networks of power.

Garland and Young propose the following conception of 'penalty's relation to its "outside" ' (and this, presumably, would apply to the analysis of a concrete form of punishment like an EM and house arrest program):

[W]e would conceive of penalty as a specific *institutional site* which is traversed by a series of different social relations. Political, ideological, economic, legal and other social relations do not merely, 'influence' or 'shape' or 'put pressure upon' penalty - they *operate through it* and are materially inscribed in its practices. Penalty is thus an over-determined site which relays and condenses a whole series of social relations within the specific terms of its own practices (Ibid.:21).

The caution here, of course, being that the *institutional site of punishment* does not constitute the sole limit or specificity of the penal form under consideration. Rather, penalty is 'tranversed by a series of different social relations'. Furthermore, 'specific institutions depend for their effects upon other institutions and practices which operate alongside them' (Ibid.:10). Even though the *state* may be a primary locus of punitive power, the sinews of social relations of the *state* are complexly interconnected with vast and variegated societal processes and structures²⁰ that may constitute resistance and might entail autonomous (potential) counter-knowledge, counter-strategies, and counter-power.²¹

The analytical orientation suggested above indicates a significant recasting of the theory-practice dualism. Garland and Young argue that the distinction between 'theory and practice as two ontologically separate forms of activity' is unfounded (cf. Cohen, 1983). Instead,

the theoretical and the practical must be seen as inseparable, as ontologically equivalent. In other words, analysis, evaluation and theorising are properly understood as inherent, necessary and irremovable elements in any social practice - whether these practices conserve existing social arrangements (as in the case of technicist penologies), or revolutionize them (Ibid.:32).

Even though of course 'there can be no privileges given to "science" as a vehicle of the truth' (Ibid.:32), nonetheless, critical social inquiry can first seek to identify the domain of knowledge as a site of the strategical operation of power. And next, it can design its own tactics and manoeuvres commensurate with its findings.

Once *punishment* is conceived as a 'serious object of theoretical and political analysis' it is then necessary to explore 'how to conceive of this object':

What are the concepts and categories which will allow a knowledge of this phenomenon to be produced? Equally, what kind of knowledge will allow political interventions in this area to be promoted (Ibid.:9)?

One important consideration in any analysis of punishment or penalty is the different forms it takes. Garland and Young recommend '[i]n any analysis of penalty... it is of the first importance that the internal *differentiation* of the penal realm should be acknowledged and

respected' (Ibid.:15). It has already been pointed out (in Chapter Two) that house arrest and EM as penal policy bring about a further differentiation of penalty: mainly, a differentiation/individualization of 'clients' or inmates and differentiation in and refinement of the means of surveillance and incapacitation. One of Garland and Young's points in emphasizing the significance of 'internal differentiation' is that

[t]he penal realm is not a singular, coherent unit. It is a complex network composed of a variety of different institutions, practices and relations supported by a number of agencies, capacities and discourses. This complex is made up of a multiplicity of different institutions... each of which has differential access to legal, jurisdictional, financial and other resources and each of which produces differential penal and social effects. Each one of these institutions is, in turn, composed of a variety of different internal practices and procedures (Ibid.:15).

How, then, does *knowledge* fit into this pattern of internal differentiation?:

[O]perating throughout these institutional differentiations is a diverse variety of discourses and ideologies (operational languages of classification and categorisation, ideologies of rehabilitation and reform, of 'just deserts' and retribution, of 'less eligibility' and legality, conceptions of 'man management' as well as psychological and criminological discourses, social work knowledge, 'law and order' ideologies, etc.), which overlay the penal network and find concrete expression in the practices of institutions as well as in judicial decisions, government policy documents, official reports and parliamentary rhetoric (Ibid.:15).

The regimes of truth can operate at many levels. For example, they can operate as constituents of the rationality or sensibility of the sanction; as part of the semio-technique of punishment. However, it is clear that concrete penal forms open up onto wider political territories (e.g., liberty abridgment via residential confinement = 'incapacitation'). This discursive connection points to how correctional reform ideologies become embedded in complex processes of historical and social change (cf. Scull, 1977).²² The social histories of punishment described below show that correctional ideologies undergo different mutations as they both constitute and respond to social change.²³

Significant among the recent histories of punishment are those that have sought to describe and explain the emergence of imprisonment (late 18th and early 19th century) as the chief sanction for transgressions, breaches of law, and other illegalities (see Rothman, 1971, 1980; Ignatieff, 1978, 1983; Foucault, 1979). Though a thorough critical, comparative overview of these

latter social histories of punishment is beyond the scope of the present work, a selective treatment of various issues and questions that arise in examining them closer, will help to show their relevance for understanding the development and use of the new form of penalty under consideration here.

There are a number of reasons for considering these social histories of punishment in the present context. First of all, they permit the identification of 'master patterns' of social control (Cohen, 1985), within which presumably, EM and house arrest can be located. It is also clear from these studies of punishment that *representation* (see Cohen, 1983; Garland and Young, 1983) or the 'semio-techniques of punishment' (Foucault, 1979:103) is an important element or force in the constitution of penalty. If, for instance, penal sanctions are a 'complex condensation of a whole series of relations' (Garland & Young, *Ibid.*:23), then we should expect to be able to 'read' the different forms and levels of representation, rhetoric, ideology, and rationalization. 'Reading' with the strategical metaphor²⁴ suggests that the discursive products of penal relations can be viewed as *symptoms* of strategical relations and objectives (cf. Garland, 1985). This is the power of knowledge (cf. Foucault, 1980).

Later I will focus more directly on examining how Foucault's (1978, 1979, 1980, 1983) analysis of power, knowledge, and discipline can be usefully employed as a means of making sense of this newly deployed form of penalty. It will help in leading into that discussion to review some work in the social analysis of punishment by other scholars.

2.1 Some Recent Histories of Punishment & Social Control

According to Cohen 'two master correctional changes in western industrialised societies can be detected':

The first, which took place between the end of the eighteenth and the beginning of the nineteenth centuries, laid the foundations of all subsequent deviancy-control systems. The second, which is supposed to be happening now, is thought to represent a questioning and a partial reversal of that earlier transformation (1983:102-3).

While the development of the new penal form under consideration here is more directly linked to the second major correctional change indicated by Cohen, it is necessary also to give some consideration to that historical change involving the birth of the prison.

The discussions of Chapter Two indicate that this new penal technique is an organizational mutation that operates by the surveillance principle -namely, Bentham's 'inspection principle' or panopticism - embodied in imprisonment, in the context of mobile squads of community corrections officials.²⁵ However, the penal reforms initiated in the first two decades of the twentieth century - forms of penalty involving 'conditional liberty', e.g., parole, probation (Garland; 1985; Rothman, 1980) - constitute the historical conditions and practices of penalty that are more immediately relevant to the penal form in question here. Notwithstanding this latter point, I begin by discussing the birth of the prison,²⁶ then consider the period of reform (Garland, 1985) that laid the foundations of modern penal forms.

2.2 The Emergence of Imprisonment

In describing the 'revolution in punishment between 1780 and 1850', Ignatieff (1983) compares his own account (1978) with those of Rothman (1971, 1980) and Foucault (1979). He concludes that their respective works 'may differ about explanation, but we do agree about what happened' (Ibid.:79). The 'key developments' during this period were:

- (1) *The decline of punishments involving the public infliction of physical pain to the body...*
- (2) *The emergence of imprisonment as the pre-eminent penalty for most serious offences...*
- (3) *The penitentiary came to be the bearer of reformers' hopes for a punishment capable of reconciling deterrence and reform, terror and humanity...*
- (4) *As systems of authority, the new prisons substituted the pains of intention for the pains of neglect...*
- (5) *The new prisons substituted the rule of rules for the rule of custom and put an end to the old division of power between the inmate community and the keepers...*
- (6) *The new institutions enforced a markedly greater social distance between the confined and the outside world... (Ibid.:79-82).²⁷*

Ignatieff agrees with Foucault that 'the penitentiary formed part of a new strategy of power' (1983:86). Prior to the emergence of the prison as a reconstructed and dominant form of

penalty, a new disciplinary ideology arose forming part of - but also *sustaining* - that punitive strategy. Ignatieff describes the historical trajectory of this ideology in England as follows:

[T]he first bearers of the new disciplinary ideology were the reforming county magistrates and the Dissenting professional classes of the provinces - reformist in politics, scientific in mental outlook, rational and improving in their management of labour, county finance and personal estates. The new asylums, prisons, workhouses and schools which they built appealed to their residual religious asceticism, to their scientific and rationalist outlook, and to their impatience with the administrative incompetence and political corruption of the *ancien regime*. In the crisis years of early industrialization after 1815, the disciplinary ideology was taken up by the evangelized professional, mercantile and industrial classes seeking to cope with the dissolution of a society of ranks and orders and the emergence of a society of strangers. The philanthropic campaigns to reform old institutions and to build new asylums, workhouses, prisons and hospitals gave expression to a new strategy of class relations. In return for the humanity of minimal institutional provision, the disobedient poor were drawn into a circle of asceticism, industriousness and obedience (Ibid.:87).

This new strategy of class relations is based on examination of 'identifiable social constituencies of individuals who managed to secure political approval for penal change through a process of debate and argument in the society's sites of power' (Ibid.:94). The idea of a 'ruling class' being represented by these 'social constituencies of individuals' is restricted to the 'sense that access to strategic levers of power was systematically restricted according to wealth and inheritance, but one cannot speak of its acting or thinking as a collective historical subject' (Ibid.:94). Furthermore,

[i]t would be wrong to think of these constituencies of institutional reformers as acting for their class or expressing the logic of its strategic imperatives. This would make them into ventriloquists for a clairvoyant and unanimous social consensus. In fact, they managed to secure only the most grudging and limited kind of approval for their programme. The penitentiary continued to be criticized from multiple and contradictory points of view: it was inhumanly severe; it was lenient; it was too expensive; it could not reconcile deterrence and reform; the reformation of criminals was a sentimental delusion; and so on (Ibid.:94; see also Foucault, 1979).

Cohen (1983) describes Ignatieff's historical account of correctional change as being primarily founded on the hypothesis that '[s]tated intentions are assumed a priori to conceal the real interests and motives behind the system' (Ibid.:106); in other words, the rhetorics and ideologies - the stated intentions of correctional reform - *mystify* the real interests. The real interests within these complex political and ideological processes are the productive and reproductive requirements of the emerging capitalist social order.

The 'social control' model of the prison's function that informs Ignatieff's work assumes 'that capitalist society was systematically incapable of reproducing itself without the constant interposition of state agencies of control and repression' (1983:96).²⁸ Ignatieff is not promulgating an economic determinist position; he emphasizes and insists on the 'complex and autonomous structure of religious and philosophical beliefs' (cited in Cohen, 1985:23-4) leading to the conceptualization, then implementation of the penitentiary technique. In comparing his orientation to Foucault's, Ignatieff says '[m]y model of the reform of character is one of symbolic persuasion; Foucault's is of disciplinary routinization' (Ignatieff, 1983:88). Ignatieff's account fits into a materialist, political economy model of change in historical patterns of deviancy control (Cohen, 1985:21-7).²⁹

On the surface, it would appear that the inauguration of the penitentiary system in England was a response by state authorities to social crises³⁰ after 1815. Ignatieff argues that 'the fact of crisis itself would not explain why authorities chose the particular remedies they did' (1983:89). In order to appreciate why mass imprisonment became the dominant and central punitive strategy it is necessary to look to the 'complex and autonomous structures of beliefs' of reformers (e.g., John Howard) who antedate the social crisis period of 1815-1848, but who were clearly an ideological vanguard of punitive policy.

Garland identifies an important later period of reform (1895-1914) that was to substantially alter important ideological and institutional underpinnings of the growing British penal apparatus. The late Victorian penal complex (1865-1895) is distinguishable from the modern penal complex (dating from 1895) by reference to major changes in such variables as the range and deployment of sanctions, patterns of organization and control of institutions, and administrative objectives, both general & detailed (practices and techniques) (Garland, 1985). Early in this century these reforms laid the foundations - both practical and ideological - for the proliferation in 'community corrections' that has occurred more recently. It will be helpful to examine more closely these changes in penality.

2.3 Reforms of Victorian Penalty

Garland shows that the prison reforms for the 1895-1914 period provide much insight into both Victorian and modern forms of penalty. The reforms of this period reconfigured and transformed the prison, the administration of penalty, and forms of ideology and representation accompanying this change. A review of some of the features of this historical change will be helpful here.

In comparing Victorian and modern penal strategies Garland states, '[t]here has been a move from a *calibrated, hierarchical structure* (of fines, prison terms, death), into which offenders were inserted according to the severity of their offense, to an *extended grid of non-equivalent and diverse dispositions*, into which the offender is inscribed according to the diagnosis of his or her condition and the treatment appropriate to it' (Ibid.:28).

For Victorian penalty the prison is central. However, the emerging systems of classification and categorization (part of the administrative rationalization of penalty) described by Foucault had little functional utility once the sanction of imprisonment was prescribed. As Garland notes for the Victorian period,

[p]risoners were differentiated according to age, sex, sentence length, and even from 1879 onwards, according to the presence or absence of previous sentences of penal servitude. There were also separate categories for the unconvicted, for debtors, and for 'first-class' misdemeanants guilty of sedition, all of whom were accorded modified treatment on account of their ambiguous legal status. However, these differentiations were mainly administrative and segregational, carrying little importance in terms of treatment or conditions. The main classification system categorised each prisoner as one more individual to be subjected to the uniform and universal regime. It was thus a system which recognised *individuals*, but *not individuality* (Ibid.:14).

The recognition of the individual was so that he (or she) could be subjected to the uniformities of the penal regime, which according to the Benthamite rationality aimed to 'grind rogues honest' (deterrence and retribution being primary elements of penal practice and representation (semio-technique) constitutive of Victorian justice). According to this utilitarian rationality all prison-bound offenders are conceived as themselves elements of uniformity within a 'scheme of metaphysical equality' (Ibid.:28). This was one of the main points of critique for the late century reformers. The recognition of individuals, in other words, had only a limited significance and application in the deployment of Victorian penalty. 'Individualization', then, can be viewed as an extension and elaboration of processes of classification that achieved 'individuality' in the late Victorian period. This multiplication itself went hand in hand with the proliferation in 'parallel judges' (psychiatrists, social workers, psychologists, counsellors, etc.).

The reforms of the period in question (1895-1914) nearly doubled the available sanctioning options (in England) and many of these were 'alternatives to imprisonment'. The reforms of this period brought about refinements of the deviancy control system that produced 'a greater diversification in the field of penal practice, the development of a more complex language of differentiations (between types of offender, classifications, characters, treatments, etc.) and the possibility of greater discrimination and refinement in sentencing' (Ibid.:28). Indeed, classification itself plays a much more significant role in the modern period:

For Victorian penalty there was no attempt to adopt the sanction to fit the peculiarities of the offender, and consequently no need to 'know' or recognize these peculiarities - hence the absence of formalised procedures of social inquiry or penological assessment. The law's categories were uniformly applied without seeking any special knowledge of the offender (Ibid.:29).

Garland claims that this period marked the change from *individualism* to *individualisation*, 'which alters the penal field fundamentally' (Ibid.:28).

Raymond Saleilles (1913), a reformer of this period, characterized the change in modes of sanctioning 'as a shift from *Vergeltungsstrafe* - a mechanical and exact retribution - to *Zweckstrafe*

- a form of sanctioning characterised by its instrumental or utilitarian purposes' (Garland, *Ibid.*:29). 'Mechanical and exact retribution' ('grinding rogues') based on 'forms of legal *prohibition and penalty*' was being abandoned in favour of a 'new mode of *normalisation* which specified more detailed normative requirements and sought to bring offenders into line with them through positive techniques of intervention' (*Ibid.*:29).

Evidence from historical reviews of the Canadian corrections (e.g., Ekstedt and Griffiths, 1984) indicate that some similar reforms of penal policy took place during the period that Garland identifies as ushering in modern penalty in England. However, in the case of Canada it was not until after World War II that the treatment model becomes prevalent within corrections (Ekstedt and Griffiths, *Ibid.*:49).³¹ For example, though probation was formally established in 1889, it was 1921 before subsequent legislation mandated 'supervision of probationers in the community'.³² It appears that the respective penal apparatuses (in England and Canada) have followed a similar systemic and ideological trajectory. However, Canadian corrections (federal and provincial) has taken longer to achieve the reforms (i.e., emphasis on normalization and treatment) compared to England. On the other hand, in the contemporary period 'hi-tech' applications within corrections have been established in Canada (with the program in question) prior to pilot testing in Britain.

It is clear that the recent developments involving house arrest and EM are continuous with the reforms that ushered in modern forms of penalty (probation orders, licensed supervision), which also, of course, gave the state a new kind of surveillance and control spanning entire local communities. House arrest and EM are refinements of the practices of community supervision and incarceration (liberty abridgment).³³ Moreover, their use is founded on refinements of classification (one further differentiation of the offender group) and would seem to rely on judicial approval. The obvious concern about the normalizing properties of house arrest and EM represents testimony to their *continuity* with the 'new mode of normalisation'.

Comparing and contrasting the grinding retributive penalty of Victorian England as against the new mode of *normalization* also poses the issue of the relation penal forms have to the

wider society of which they are a part. According to the materialist, political economy model, '[n]ew systems of domination and discipline are needed to socialize production: to create a submissive, well-regimented work-force'. Cohen goes on (1985:22-3):

This is what the reformed prison does. It renders docile the recalcitrant members of the working class, it deters others, it teaches habits of discipline and order, it reproduces the lost hierarchy. It repairs defective humans to compete in the market place.

These, at least, are the ostensible intentions of the Victorian penal complex. Ignatieff's (1983) observations on the sites of crisis in England indicates that the new punitive measure of imprisonment was primarily a 'divide and rule' tactic (see also Foucault, 1979) in a new strategic conjuncture of class relations (corresponding to the early development of capitalist social relations of production). Grinding (recalcitrant working class) rogues was a crude and massively coercive practice. Crude, but nonetheless rational to the architects and reformers of Victorian penality, especially when *basic* disciplinary and social relations requirements necessary for capital accumulation were yet to be firmly established.

Modern penality bears its own correspondence with contemporary production relations, manifesting diversification, dispersion, and refinement of sanctioning practices. This diversification, dispersion and refinement in the 'positive techniques of intervention' also reflects the specialization of sanctions to disciplinary requirements, as well as to systemic changes within the apparatus of social control.³⁴ House arrest and EM represent considerable refinements in the organization and application of penality. At this juncture at least, house arrest and EM *presuppose* the existence of the prison.³⁵ It is a technique - within the prison-centred³⁶ system - of differentiating, then managing a penal sub-population. House arrest with EM is a punishment technique that has arisen out of (but which also *constitutes*) a highly differentiated 'transcerceral system' (Lowman et al., 1987) of deviancy control.

This technique relies on a process of culling program monitorrees on the basis of detailed classification and individualization of the assessed pool of offenders prior to reclassification as 'low risk', thus warranting 'diversion' from jail or prison. Apart from the inherent efficacy of this

penal technique (see Chapters Two and Four), the 'grooming for success' of the EMS client population serves the obvious representational aim of enhancing the chances that monitorees will not be troublesome, thus securing a discursive space in which to represent this technique as an effective means of incapacitation (a 'successful' test program that demonstrates the efficiency and utility of this new form of penalty). Targeted offenders are not otherwise 'recalcitrant members of the working class', rather they are delinquent drivers and first time offenders who are, in general, 'law abiding' (and not 'dangerous')³⁷ citizens.

As far as the social analysis of penalty is concerned, the work of Foucault, Ignatieff, and Garland shows that the matrix of power and interest that constitutes and deploys the rhetorics and ideologies of penal reform (as well as constituting the structures of punishment so named by those rhetorics and ideologies), though differing between historical periods, nonetheless takes place within a political process out of which arise the designs and administrative intentions of penalty.

The case in point can be viewed as an instance or specimen of administrative politics which is linked to other strategic sites and networks of power (cf. Garland, 1985).

2.4 The Dispersal of Discipline and the Penal Expansion Hypothesis

This new penal form, as noted above, is tied historically and organizationally to the general practices and ideologies & rhetorics of the punitive policies of incarceration and community control. Clearly, the punitive policy of house arrest and EM can be made to fit into the current conjuncture of social, political, economic, technological, and ideological relations. The argument made here is that this new form of penalty conforms to the 'dispersal of discipline' thesis expounded by Foucault (1979) and Cohen (1979).

Previous discussions should make it clear that the history of punishment since the early nineteenth century is being interpreted as a history of the institutionally based expansion and diversification of the means of punitive power³⁸ (cf. Cohen, 1979, 1985; Foucault, 1979). EM and

house arrest, then, are but the most recent innovations in the differentiation and expansion of the penal apparatus (cf. Blomberg, 1987).

Does the policy of house arrest with EM 'represent a questioning and a partial reversal' of the method of imprisonment, as suggested by Cohen? The answer to this question very much depends upon *how the sanction of home confinement with EM is used within the local system*. Consider also that it is arguable that home confinement is another form of incarceration; certainly that is what advocates are proposing. This murky issue and the hybrid form of this new penal technique make this a question that is not so easily answered. The questions that are central here are: how does this new kind of sanctioning technique operate within an overall expansionary design? and, how *might* it be made to operate in a strategy of systemic reduction (cf. Rutherford, 1984)?

The discussion in Chapter Two ('Expansion of the net of social control?') should make clear that this area is one of great complexity. The materials introduced in the chapters of the present work demonstrate that this particular 'alternative to incarceration' is no less formal than, and in many respects a more thorough form of control compared to, imprisonment. This is hardly a case of 'de-institutionalization' for the structuring and operation of the *service delivery unit* is pre-eminently an 'institutional' process. Neither can it be *unequivocally* claimed that house arrest with EM is an instance of decarceration. It is a new form of incarceration, a flexible, mobile form of panopticism that fixes bodies in spatio-temporal and social grids. Surveillance with EM is the means of confirming this regulation of human multiplicities in the penal order and economy.

There seems little doubt that house arrest and EM are located squarely within the pattern and trend of the systemic expansion and dispersal of discipline as outlined by Cohen and Foucault. The reforms outlined by Garland lay the ideological and practical foundations for the further differentiation, expansion, and dispersal of penalty, of which house arrest and EM are more recent instances.

A distinction needs to be made in this area that typically is not. The question of systemic expansion necessitates that its two fundamental guises be taken into account. First, expansion implies that (a) *more offenders* are being subjected to correctional sanction or that other sanctions are being *supplemented* by this new correctional technique. The focus here is offenders. Second, and correlatively, expansion implies (b) a quantitative proliferation of *correctional personnel*, including possible additional administrative support, research and policy analysts, probation and parole personnel, program directors, correctional line staff, and perhaps added police services. The focus here is on criminal justice and correctional system personnel. As applied to *offenders*, the idea of 'net-widening' is best captured by the fish 'net' metaphor. As applied to *correctional personnel*, the idea of 'net-widening' is best captured by the spatial metaphor of *social networks* of, or within, correctional organization. These are two very different sorts of 'nets'.³⁹ Expansion in (a) would seem to imply expansion in (b), whereas expansion in (b) would not necessarily indicate that (a) is occurring, only that penal mechanisms are more efficient in their functioning (e.g., by having lower staff-to-prisoner ratios, implying more thorough supervision).

The voices of correctional administration consistently emphasize the *offender* side of expansion, but neglect to thoroughly address the *correctional personnel* side. Thus, it is formulated that prison bound offenders are being *diverted* from the specter of prison confinement. Home confinement with EM is an 'alternate form of incarceration' (B.C. EMS Pilot Project Evaluation, 1989). As suggested, the 'fishing' metaphor (see Cohen, 1985) is appropriate here to describe the correctional perspective: the 'net' has had a 'thinning of the mesh' but has not been widened to catch those who otherwise would not be going to prison or jail, at least not yet at any rate.⁴⁰ If anything, the 'net' is being limited. The administrative discourse about the 'net widening' issue interlocks nicely with the overall pilot project design and allows Corrections Branch officials to defend against the evident fear that excessive use will be made of this new form of penalty, that the 'net' will be widened⁴¹ by use of this sanction.

Foucault, however, does not employ a fish-net metaphor to formulate the expansion and dispersal of discipline. His model is that of 'social networks' involved in the constitution of disciplinary power. It is here that a brief digression is necessary, for the question of the State and State apparatuses arises. It is clear that agencies of the State take on considerable prominence in the operational organization of punitive power. Foucault has tended to down-play the emphasis on the power of State apparatuses,⁴² however later work suggests this position is too strict and is certainly modifiable by other scholars' subsequent explications.

And what does Foucault say about the State? Here are two separate statements that, for the sociological imagination, virtually incite examination of State apparatuses, even in the face of his protest:

It is certain that in contemporary societies the state is not simply one of the forms or specific situations of the exercise of power--even if it is the most important--but that in a certain way all other forms of power relation must refer to it. But this is not because they are derived from it; it is rather because power relations have come more and more under state control (although this state control has not taken the same form in pedagogical, judicial, economic, or family systems). In referring here to the restricted sense of the word *government*, one could say that power relations have been progressively governmentalized, that is to say, elaborated, rationalized, and centralized in the form of, or under the auspices of, state institutions.⁴³

For Foucault, 'power relations have come more and more under state control' and as far as the systems of deviancy control are concerned this has resulted in the multiplication and 'swarming' of the means (disciplinary techniques) of intervention and control (cf. Foucault, 1979:195-228). The disciplinary mechanisms are adapted for use and reach deep into the social body. They are growing, not diminishing.

In applying Foucault's account here, no amount of administrative rationalization can refute that a new network of punitive power has been designed and put into place. This new instrument of punitive power requires - in the case being considered - the organization and management of a 'service delivery unit', itself made up of correctional staff trained in policy and procedures and operating under the auspices of regional state authorities and their associated

social-political-bureaucratic networks. A new sub-unit has been grafted onto the penal apparatus as a whole and this entails program directors, provision of correctional officers, training expenditures, research and policy analysis, etc.. Unless the *social networks* of deviancy control that have been added by the inauguration of home confinement and EM have been offset in some other area of the system by staff layoffs or prison closures⁴⁴ (in others words, a concomitant reduction in social networks of control elsewhere), then the only conclusion to be drawn must be that *expansion* is occurring in the system of punishment⁴⁵ (In the chapters that follow, this issue and the questions associated with it will be revisited in the context of documentary materials available for assessment from this pilot project).

Arguing from the administratively narrow conception of 'net widening' (described above) puts the emphasis and focus on what is or is not happening to *offenders* ('monitorees', 'inmates' or 'clients').⁴⁶ Clearly, while both aspects are important to consider in order to assess the extent of expansion, the strategical processes entailed in differentiating and expanding the penal apparatus in the area of *correctional personnel* (as well as other direct program costs) is more fundamental in the inaugural phase at any rate. Programmatic inauguration involves *programmatic development* and *testing*, followed by *integration* and possibly *expansion*.

For some sociologists the situation described above displays significant disparities between rhetoric and reality (cf. Cohen, 1985; Hylton, 1982; Chan and Ericson, 1981, 1985). For example, the 'decarcerative' option is often presented as a cost efficient '*alternative to incarceration*', when in reality many such programs *function* as an addition or supplement, hence constituting an overall expansion - social network widening - of the apparatus of social control (as discussed in Chapter Two). This also means they represent an *added* cost as well. Certainly, evidence of a 'questioning and partial reversal' of the policy of incarceration can be found,⁴⁷ however such arguments seem weak, ill-placed or just beside the point in the face of a penal formation still dominated by the architectural fortress of the prison; albeit, within a local system where three new closed facilities are currently in design and construction phases.

However, another issue comes up concerning the seeming disjunction between 'rhetoric and reality' or between 'intentions and consequences': the validity of these dichotomies is itself problematical, thus calling into question whether they are useful conceptual aids to our understanding of crime control administration (cf. Chan, 1987:58-9). As suggested above by Garland and Young, these dualities need to be ontologically collapsed.⁴⁸ Garland (1985:261-2) concludes from other research about *penal discourse* that it 'should be regarded as partly constitutive of penal practice, and partly its ideological representation'. One analytical recommendation Chan takes from this is that '[t]he emphasis then is to direct the "reading" of penal ideologies towards discovering their relations with penal practices and other social and historical conditions' (Ibid.:58). That is a task that Foucault took up and it is to him that attention is now turned for detailed consideration.⁴⁹

3. Foucault's Analytics of Power and Disciplinary Strategy

Let me now take up a more focused discussion of Foucault, principally with a concern to examine how his analytic recommendations and proposals can contribute to a critical social analysis of this new penal form. Chapters One & Two and the sections above in the present chapter have already introduced some of his ideas and indicated their relevance for the present work. For example, the strategic metaphor has already been introduced and will be an evident sub-text in what follows. It will also be evident in what follows that issues of concern to a social analysis of penalty discussed above - including the historical contextualization of penal forms - are central considerations for Foucault.

For practical purposes a review of Foucault's analysis of penalty must of necessity be abbreviated. Moreover, as Smart (1983:62-3) comments, '[c]onstructing an overview or summary of Foucault's work is no easy matter, for it has a somewhat fragmentary character and spans a variety of topics...'

Consideration of Foucault's corpus will be restricted to relevant work published since 1975 (the French publication date of *Discipline and Punish*). Those familiar with Foucault will recognize this period as one in which he explicitly and concertedly sought to examine the operation of power as a feature in everyday life or 'the social' (see Dreyfus and Rabinow, 1983; Donzelot, 1979). His 'analytics of power'⁵⁰ (1980:198; see also 1978) is central to the explanation of this new form of penalty.

In the ensuing discussion, the following objectives will be addressed. I want to describe categories and themes of Foucauldian analysis that bear on the evolving use of electronic monitoring in community correctional programs. As is evident from a review of his corpus, Foucault has had a particular interest in discourse/practice, in techniques of subjugation, in analysis of power, and in the socio-cultural dimensions of disciplinary practices and forms. He is principally interested in the constitution of the modern subject (cf. Foucault, 1983). These interests and the theoretical ground he has broken are of considerable importance for analysis of the evolving disciplinary complex, particularly as it involves the deployment of highly sophisticated information technology (IT) to control and punish penal code offenders.

Electronic monitored house arrest, in this context, is continuous with already established practices of correctional community supervision and surveillance & policing practices, as already noted. Programs of house arrest and EM expand the systems of classification, providing for further systemic differentiations that refine and rationalize the practices of punishing/controlling offenders.⁵¹ At the level of the offender, even though this new penal form provides only 'place' data (meaning it only reports presence/absence from the residence) (Clear, ND), it is nonetheless highly adaptable to individual circumstances for which the surveillance capacities of EM permit the production of detailed knowledge⁵² about supervised offenders. Punitive practices in the modern period provide for the individualization of offenders.⁵³

I begin by discussing Foucault's analysis of power, a topic that opens up to many other related areas.

3.1 Analytics of Power

For Foucault (1978:139) the 'power over life' is the most general of objectives in the modern diagram of power. Foucault proposes that the 'power over life' evolved historically in the West in two forms:

these forms were not antithetical, however; they constituted rather two poles of development linked together by a whole intermediary cluster of relations. One of these poles--the first to be formed, it seems--centered on the body as a machine: its disciplining, the optimization of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, its integration into systems of efficient and economic controls, all this was ensured by the procedures of power that characterized the *disciplines*: an *anatomo-politics of the human body*. The second, formed somewhat later, focused on the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births and mortality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary. Their supervision was effected through an entire series of interventions and *regulatory controls*: a *bio-politics of the population*. The disciplines of the body and the regulations of the population constituted the two poles around which the organization of power over life was deployed.

The analytic of power contains the proposal that 'it is in discourse that power and knowledge are joined together'⁵⁴ (1978:100); this involves questions of discourse at two levels. The first level of questioning put to discourses concerns what Foucault refers to as their *tactical productivity*, which means an inquiry about 'what reciprocal effects of power and knowledge they ensure'.⁵⁵ This is the anatomo-political dimension.

The second level of inquiry concerns the *strategical integration* of this sanctioning method within the sphere of penalty: this means an inquiry about 'what conjunction and what force relationship make their utilization necessary in a given episode of the various confrontations that occur' (Ibid.:102). Development and expansion of this sanction must be conceived as an *effect* of power relations within a play of forces: this is what Foucault refers to as the *complex strategical situation* (1978).⁵⁶ It is the confluence of relations and forces that produces the complex strategical situation (see Chapter Seven).

One central question here is, how does this sanction fit into the overall complexion of social forces and relations that are tied to its sustenance - in particular in its form of development and use as encompassed within current political, economic, social, ideological, administrative-

bureaucratic, and technological forces? (this is the subject-matter of Chapter Seven).⁵⁷ Certainly one question that has been addressed in the dissertation has centred generally on what accounts for the *inauguration* of this new correctional technique based on its apparent productivity of punitive power, however the notion of *strategical integration* more particularly concerns its *endurance* as an institutional form, as an adopted technology of control and regulation. This is the bio-political dimension.

Foucault is a materialist, but not in the same sense as Ignatieff (or other marxian scholars). The former borrows Nietzsche's formulation that the body is the medium upon which history becomes inscribed. He proposes that

the systems of punishment are to be situated in a certain 'political economy' of the body: even if they do not make use of violent or bloody punishment, even when they use 'lenient' methods involving confinement or correction, it is always the body that is at issue - the body and its forces, their utility and their docility, their distribution and their submission... the body is also directly involved in a political field; power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs. This political investment of the body is bound up, in accordance with complex reciprocal relations, with its economic use; it is largely as a force of production that the body is invested with relations of power and domination; but, on the other hand, its constitution as labour power is possible only if it is caught up in a system of subjection (in which need is also a political instrument meticulously prepared, calculated and used); the body becomes a useful force only if it is both a productive body and a subjected body (1979:25-6).

Hence, the kinds of practices and programs of subjection that come to form part of the deviancy control apparatus, are connected at many levels with other societal relations of power.

The relations of power corresponding to feudal order, for example - the 'relations of sovereignty' - produce a *punitive* power that enacts a ceremonialized vengeance against those who would attack the sovereign (either literally, by plotting regicide, or figuratively, by breaching the sovereign's laws). Thus the continuum of penalty is: fine, torture, death. The relations of discipline corresponding to *laissez faire* economies (capitalism) - about the time of the emergence of the prison as the chief technique of penalty - produces a punitive power that seeks to discipline and *requalify* errant subjects through 'positive techniques of intervention' that aim to accomplish a

'normalization' of conduct. This is a punitive power that operates on the 'soul' of the offender-subject, but access is still provided by control of the body.

Foucault opposes his views about power to the prevailing 'juridico-discursive' conception of power where law and power are equated. The juridico-discursive conception sees power as essentially negative: power prohibits, subjugates, represses. Employing this conception of power means that the ideal of 'truth' is realizable only when power is gotten rid of. For Foucault, the absence of power relations is inconceivable. To adopt the juridico-discursive model of the operation of power is to systematically obscure how power operates in its 'infinitesimal mechanisms'. However, Foucault's 'strategical-relational model of power' is based on a 'positive and productive conception of power and a radically different mode of analysis which examines the power-knowledge relations that invest human bodies and constitute them as objects of knowledge and domination' (Smart, *Ibid.*:67).⁵⁸ A central conception that emerges from Foucault's analysis of punitive power is the 'panopticon'.

3.2 Panopticism

Foucault proposes that J. Bentham's 'panopticon' constitutes an 'architectural figure' of a fundamental, contemporary disciplinary mechanism.⁵⁹ But, Foucault (1979:205) cautions, 'the Panopticon must not be understood as a dream building: it is the diagram of a mechanism of power reduced to its ideal form; its functioning, abstracted from any obstacle, resistance or friction, must be represented as a pure architectural and optical system; it is in fact a figure of political technology that may and must be detached from any specific use'. For Bentham, the panopticon was a carceral edifice designed to establish a constant gaze over the prisoner:

[t]he Panopticon is a machine for dissociating the see/being seen dyad: in the peripheric ring, one is totally seen, without ever seeing; in the central tower, one sees everything without ever being seen. It is an important mechanism, for it automatizes and disindividualizes power. Power has its principle not so much in a person as in a certain concerted distribution of bodies, surfaces, lights, gazes; in an arrangement whose internal mechanisms produce the relation in which individuals are caught up (1979:201-02).

According to Foucault, 'the major effect of the Panopticon' is to 'induce in the inmate the state of conscious and permanent visibility that assures the automatic functioning of power' (Ibid.:201). In the panoptic regime, 'inmates should be caught up in a power situation of which they are themselves the bearers' (Ibid.:201). And of course, 'power should be visible and unverifiable' (Ibid.:201). Foucault goes on to say, 'one finds in the programme of the Panopticon a similar concern with individualizing observation, with characterization and classification, with the analytical arrangement of space' (Ibid.:203). Needless to say, panopticism makes more efficient the exercise of power:

[t]he panopticon makes it possible to perfect the exercise of power. It does this in several ways: because it can reduce the number of those who exercise it, while increasing the number of those on whom it is exercised. Because it is possible to intervene at any moment, and because the constant pressure acts even before the offences, mistakes or crimes have been committed... The panoptic scheme makes any apparatus of power more intense: it assures its economy... it assures its efficacy (Ibid.:206).

The *Panopticon* is a species of *disciplinary mechanism* that has many variants with different degrees of intensity. It is indefinitely generalizable. In this respect, EM fulfills very nearly all of the criteria of the panoptic schema noted by Fine (1979:85):

[a]t the heart of the disciplines, Foucault argues, lies a distinctive organisation of observation. Discipline is based on the perpetual surveillance of its subjects, as well as on its own administrators: on a surveillance that is public in the sense that everyone knows of their constant subjection to its gaze; on a surveillance that is non-reciprocal, in that its subjects can neither know nor influence when they are being observed, or what the content and effect of their observation is; on a surveillance that is asymmetrical, in that its subjects are not in a position themselves to survey their surveyors.

This 'distinctive organisation of observation' (Bentham's *inspection principle*) is permitted a new application and deployment now with EM. Information Technology becomes incorporated into a network of disciplinary power. It constitutes a grid of visibility and control.

3.3 Power and 'Information'

Poster (1984) makes the point that Foucault's category 'discourse/practice' is important for analyzing what the former terms the 'mode of information', by which is meant, 'forms of

linguistic experience that have emerged in the course of the twentieth century' (Ibid.:164). Poster argues that contemporary social theory must embrace Foucault's categories and especially that of discourse/practice as 'the best interpretive framework for the analysis of the mode of information' (Ibid.:164), in contrast to Marx's categories in the analysis of labour, which constitute the favoured basis for investigating the mode of production. Poster says that '[i]f one is convinced that a new social formation is emerging in the advanced societies (the mode of information) in which knowledge is increasingly implicated in modes of domination and in which protest has shifted its focus away from the process of production, then Foucault's schema is the urgent item on the historiographical agenda' (Ibid.:91).

The deployment of information is an important manoeuvre of power in contemporary culture and Foucault wants to distinguish the variety of social relations that are important to take into account. Thus, he asserts that '[i]t is necessary also to distinguish power relations from *relationships of communication* which transmit information by means of language, a system of signs, or *any other symbolic medium*' (emphasis added, 1983:217). (This harkens back to the distinctions (Chapter Two) - purposive social conduct on the one hand, and the instrumental means of achieving objectives on the other hand - that need to be borne in mind).

Elsewhere in the same paper Foucault formulates *relationships of power* as modes of action upon other actions: 'what defines a relationship of power is that it is a mode of action which does not act directly and immediately on others. Instead it acts upon their actions: an action upon an action, on existing actions or on those which may arise in the present or future' (Ibid.:220).⁶⁰

Foucault (1983:218) goes on to state:

No doubt communicating is always a certain way of acting upon another person or persons. But the production and circulation of elements of meaning can have as their objective or as their consequence certain results in the realm of power; the latter are not simply an aspect of the former. Whether or not they pass through systems of communication, power relations have a specific nature. Power relations, relationships of communication, objective capacities should not therefore be confused. This is not to say that there is a question of three separate domains. Nor that there is on one hand the field of things, of perfected technique, work, and the transformation of the real; on the other that of signs, communication, reciprocity, and the production of meaning; finally that of the domination of the means of constraint, of inequality and the action of men upon other

men. It is a question of three types of relationships which in fact always overlap one another, support one another reciprocally, and use each other mutually as means to an end. The application of objective capacities in their most elementary forms implies relationships of communication (whether in the form of previously acquired information or of shared work); it is tied also to power relations (whether they consist of obligatory tasks, of gestures imposed by tradition or apprenticeship, of subdivisions and the more or less obligatory distribution of labor). Relationships of communication imply finalized activities (even if only the correct putting into operation of elements of meaning) and, by virtue of the modifying the field of information between partners, produce effects of power.

So relationships of power and of communication do not form an identity, are not synonymous. Relationships of power, of communication and objective capacities, interpenetrate each other in various ways; in places converging to produce effects of normalization, incorporation, investiture, colonization, or in others, as places of resistance, conflict, rebellion, and cleavage.

Relationships of power are, of course, subject to modulations of intensity in different locations in social space. 'It is Foucault's claim...that the discipline of a prison...represents a continuation and intensification of what goes on in more ordinary places - and wouldn't be possible if it didn't' (Walzer, 1986:58). In the same respect, electronic information technologies used to foster social control (via surveillance) in criminal justice institutions, are continuous with conventional disciplinary mechanisms (cf. Marx, 1985). Poster says that

[w]hen the Panopticon was introduced in the early nineteenth century the bureaucracy and the computer had not yet been invented. Foucault does not mention that they both foster the principles of disciplinary control. Indeed they expand its scope to a new level. With the mechanisms of information processing (the bureaucracy using people; the computer using machines), the ability to monitor behavior is extended considerably. The techniques of discipline no longer need rely on methods of regulating bodies in space as Foucault thinks. In the electronic age, spatial limitations are bypassed as restraints on the controlling hierarchies. All that is needed are traces of behavior; credit card activity, traffic tickets, telephone bills, loan applications, welfare files, fingerprints, income transactions, library records, and so forth. On the basis of these traces, a computer can gather information that yields a surprisingly full picture of an individual's life (Poster, *Ibid.*:103).

Poster's claim about spatial limitations being bypassed by electronic technologies (cf. Marx, 1985a, b), while no doubt true in the senses he refers to, overlooks the profound ways in which IT penetrates and changes spatial features relating, for example, to work organization (the cellular telephone, fax machine, and systems of 'paging' communication being obvious examples here). The use of EM makes clear that computers and electronic technology are being made usable to control and program the spatial attributes and potentials of bodies.

3.4 Two Uses of Foucault

The next two chapters, respectively, will address two identifiable ways in which Foucault's analysis of penalty and his analytic of power are applicable to home confinement and EM in general, and to the present case - the B.C. EMS program - in particular. The analytic recommendations provided above - by Foucault and others - will form the framework for this social analysis.

In these chapters I engage in a more pointed assessment of what will be referred to as the *problematics of the correspondence of discourse-practices-effects* (cf. Smart, 1983; Gordon, 1980). At the anatomo-political level (or the disciplinary level), this problematic refers to whether the designs of correctional policy and their operational implementation produce the kinds of bodies that are intended, i.e., disciplined, compliant, law abiding, normalized (see Chapter Six). At the bio-political level (at the level of the penal apparatus) this problematic refers to whether the designs of correctional policy and their operational implementation produce the kinds of consequences, *systemically*, that are intended. That is to say, whether or not home confinement and EM expand the 'net' or networks of social control, providing for the maintenance and regulation of system power in the matters of social and deviancy control (see Chapter Seven).

This assessment of the problematics of correspondence overarches both chapters and is translated into the reference points of the B.C. Corrections Branch's EMS Pilot Project program -

in terms of design-operationalization-outcome - with special interest in effects on offenders and the operational organization of penalty (Chapter Six), as well as on the prospects of development and expansion of the correctional apparatus (Chapter Seven).

In Chapter Six it is shown that Foucault's analytics of power and discipline is usable to formulate the elements of control, resistance, and other effects of this new panoptic regime. Employment of his analytic categories - relating to discipline and its techniques, tactics, and functionings - are used to comprehend this new form of discipline and social control at the level of its *tactical productivity* of power, its ability to punish and control at the level of the materiality of the body and its functioning. The latter refers to the intended aim of reproducing 'normal' discipline (i.e., socially and legally prescribed conduct) through offenders' subjection to the conditions of 'special' discipline in this panoptic regime. It is a functioning of power aiming at no less a task than the creation of forms of subjectivity that will operate within the modern diagram of power, within disciplinary society (cf. Foucault, 1979, 1983).

The second level of analysis where Foucault can be deeply illuminating represents a more wholistic perspective and concerns the extent to which the political, economic, bureaucratic, and ideological forces that constitute this new punitive power are explicable within his strategical-relational model of the operation of power. This is the level of *bio-political analysis* of power (see above section, *Analytics of Power*). The focus here is the 'system' or 'apparatus' and how it either lines up, or fails to line up, in roughly co-ordinated conjunction with the *anatomo-political* dimension.⁶¹ It is here where mechanisms of political, bureaucratic, legal, and administrative power - the locus of possible reproductive expansion of the penal apparatus - are evident. The problematics of correspondence of discourse-practices-effects are examined here also.

This vantage-point - the organizational level - makes up the sites of interconnected institutional and administrative relations that relay and condense series of 'external' social relations and schemata into its practices of punishment and control (cf. Garland and Young, *Ibid.*). These relations interconnect with other power relations that, all taken together, constitutes the

'complex strategical situation'⁶² out of which have arisen the designs and operational developments of this new correctional policy (see Chapter Two).

This vantage-point will be explored in greater depth in Chapter Seven where the prospects and realities of overall expansion of the penal apparatus will be assessed, particularly within the regional criminal justice system under consideration. This is also the level where this research discourse (and the general correctional discourses relating to this technique of punishment and control) will be assessed in terms mainly of their *strategical integration* (see *Analytics of Power* section above) within the apparatus of penalty (the main question here being, what are the conditions of the present social conjuncture that favour or support the deployment of this penal technique?).

Having said this, I believe the deeper use that can be made of Foucault operates as follows. Foucault's analysis of disciplinary mechanisms contains the observation that, not only is there a process of differentiation and elaboration of forms of social discipline, there is as well - and has been since about the beginning of the 19th century - a continuing diffusion and expansion of disciplinary mechanisms, both within institutions in carceral systems, and beyond, in the fabric of the societal relations of everyday life (i.e., workplace, school, health care settings, etc.). What all of this brings to light is that the usefulness of Foucault's analysis of mechanisms of discipline must be extended beyond the individualistic level (see Chapter Six) of judging the extent to which subjects are deviantized or normalized (or left unaffected) by an institutionally organized means of social control and correction.

Foucault's claims about the expansion and dispersal of disciplinary mechanisms, and the sociological evidence regarding the *supplementary* (i.e., expansionary) functional status of 'alternatives to incarceration' supporting his view (e.g., Cohen, 1979, 1985; Hylton, 1981b, 1982; Chan and Ericson, 1981), can be heuristically extended to assess the prospects for expansion in this regional crime control system. Even though it is too early to pronounce any definitive judgment on the question of expansion concerning the particular deviancy control system that

forms the focus of the present research,⁶³ speculative analysis can help to identify how this system might be susceptible to expansion, and propose ways in which this can be resisted or reversed.

In Chapter Eight, the final chapter, the likelihood of systemic expansion is assessed or estimated based on an examination of various factors, many of which will have been considered in preceding chapters (particularly Chapter Seven). For now it suffices to acknowledge that it cannot be *assumed* that systemic expansion is inevitable: this would contradict Foucault's injunctions against teleological analysis and extinguish all prospects for constituting manoeuvres or tactics resisting an expansionary trajectory.

However, many applications of EM and home confinement in U.S. jurisdictions already show signs of drifting in a new spiral of systemic expansion. The application of EM and home confinement there, as noted earlier, has been driven by overcrowding crises. Deployed in this way, home confinement and EM are aimed at meeting judicial rulings which mandate the enforcement of crowding reduction to specified levels or so that prison beds are occupied by offenders in higher risk categories (Blomberg, 1987). On the other hand, the Canadian experience⁶⁴ with EM and home confinement - in particular, the B.C. EMS program - shows that it is not being employed as a crowding management tactic within penal administration. As shall be demonstrated, its planned regional use illustrates some of the conditions of a 'complex strategical situation' that, depending on the play of forces, could push EMS development into an expansionary drift as well. These possibilities will be examined and assessed in the next and final chapter.

As well, this deeper use of Foucault also shows that within the relevant networks of power is created a context of positions⁶⁵ (one of which I, as 'independent researcher', inhabit) that embody *practices* that further organizational goals, in this case to inaugurate, develop, legitimize, then expand this new means of punishment, discipline, and social control.

Finally, it is evident that the two-fold thrust of this work has been to display and examine the discourses of the correctional complex in respect to this new penal technique and to grasp these correctionalist truths within a social analysis of penalty inspired by Foucault's vision of disciplinary organization. In the last chapter of the dissertation an overall synthesis is proposed. This synthesis entails the question: which regime of truth - the correctionalist or the Foucauldian - has primacy? The final chapter will, thus, explore the implications of privileging the Foucauldian discourse on power and disciplinary technique as against the discursive products of the correctionalist formation of power/knowledge.

Accompanying this discussion will be a practical consideration of the question of expansion of the penal apparatus. Assuming that expansion is not inevitable, as noted above, then some assessment of the conditions of the social field needs to be undertaken, in order to discover the means to arrest, reduce, or reverse systemic tendencies toward expansion.

Notes

- ¹ In terms of the political and bureaucratic organization of correctional administration, this pilot project program is being conducted in one provincial region of a multi-regioned administration of corrections.
- ² There are various indices of this. Many offenders interviewed spontaneously identified program staff as being 'careful'; these offenders enunciated a perception that the program staff required compliance and co-operation because 'the program needs to be a success'. When interviewed, the program staff conveyed the sense that they were fully aware of the need for great care at the assessment and intake stages. One major conflict between the Pilot Project Director and the operational staff revolved precisely around this issue: the promotional objectives in the P.P. Director's agenda (ideally: 'no failures') was perceived (by program staff) as excessive or unrealistic in the face of the practical realities of operations.
- ³ That is, the findings tend to reflect (or are conceivable as 'artifacts' of) the bargain tacitly struck between EMS correctional staff and monitorees in the Pilot Project program. The Pilot Project Director agreed, but added that all line staff-inmate relations contain some bargaining or bargain. While this is no doubt true in some senses, the observation alone does not negate that the particular form the bargain took in this case was and is consequential for the truths that scientific research can produce.
- ⁴ A formal request for further interviews (including all pilot project personnel, ministry analysts and Regional Correctional & Deputy Directors who have had some association with the development and implementation of this pilot project program) was submitted. This request was turned down by the Commissioner of Corrections. At the suggestion of the former Pilot Project Director, it was recommended that further interviews would likely be permitted if the focus was more or less restricted to pilot project personnel and did not encompass an analysis of administrative decision-making (keeping a narrow focus as with the investigation of offender impacts agreed in the initial research, see Chapter Four). This kind of control over, or management of, this researcher's discourse is, I assume, tactically advantageous since the discourse of administrative power must predominate as the legitimate voice of public policy. This power network has little to gain and much to lose by opening itself up to non-governmental researchers examining its administrative practices. Power protects itself by hiding, disguising or mystifying its locus in interests - however laudable, arbitrary, petty or 'irrational' those interests might turn out to be. One way of accomplishing this in the given circumstances is by not allowing 'officially sanctioned access' to administrative personnel outside of the service delivery unit itself, thus effectively hiding the dynamic strategical dimensions of the operation of power as a real social, political, and bureaucratic-administrative-organizational process. The Pilot Project Director permitted *intermittent* participant observational access to the *Advisory Committee* (I was invited intermittently, at the discretion of the Pilot Project Director, to about half the Advisory Committee meetings during the Pilot Project phase) and this was accompanied with the rationale that it would be a *conflict of interest* to be a *consistent* attendee. I received no specification as to what interests were in conflict. The curtailment of this researcher's access to the Pilot Project *Advisory Committee*, is consistent with the above in that it performs a similar tactical function of limiting the purview of the operation of power. This would seem to be consistent with Rutherford's observations: 'Prison systems have remained largely immuned from academic research and other external enquiries' and '[b]ecause of difficulties of access, prison research is usually effectively regulated by prison system administrators' (1984:106).

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- 5 Six persons: the Pilot Project *Director*, the *Operational Director* (referred to as *Local Director* now), and four *Correctional Officers*.
- 6 Or, 'service delivery unit', as the pilot project *Director* described it. This phrase, I take it, refers to an organizational entity which is the product of a Weberian bureaucracy. The political mandate to pilot test the EM equipment in the Lower Mainland Region of the province established the necessary resources and monies to accomplish the working design set out in the Discussion Paper (see Chapter Three). The service delivery unit, then, is the organizational structuring of ministry personnel who directly assess and monitor offenders. For organizational purposes it is a 'unit'. This organizational structuring takes the form of, but also relies upon and is constituted by, procedures, rules, guidelines, and occupational knowledge (the ideal presumably being 'competency' or 'mastery'). Programmatic classification, common spatial boundaries, common purpose, agreed upon rules or procedures, and frequency of social contact promote the identification of staff with program in this service delivery unit.
- 7 The business of conceiving and administering correctional programs falls within the provincial purview of the Corrections Branch within the Ministry of Solicitor General.
- 8 There are, for example, various potential uses and relevances that this research might have in the inaugural phase. Broadly speaking, though, there are two possibilities in terms of which these research findings might be deployed: to *legitimize* this penal technique, its use, and the state apparatus that conceived it or to *criticize* its use or illuminate its contradictions (thereby also introducing problems of legitimacy).

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- 9 The networks of power here being focussed upon are the state apparatuses involved in the administration of criminal justice within the sphere of corrections. However, it is also clear that public 'opinion' and criminal justice system reception of this new correctional technique is a salient factor to consider in the husbandry of this new correctional technique (from the point of view of corrections administration). Recall that one program analyst I spoke with explicitly indicated that the design of the project must take account of this factor by instituting an 'Advisory Committee'. The Pilot Project Director referred to the Advisory Committee as 'an excellent strategy' (Meeting, April 11, 1989). This provides a framework for assessment, critique, and recommendations from different groups representing various 'public interests' (such as MADD, John Howard Society, BCCLA, etc.) concerning this technology and its incorporation as a correctional method. I bring this up as a way of pointing out that one feature of networks of power is that they are not confined within the ambit of state organization. Had the Advisory Committee not been planned for, the program analyst's prediction - of vocal opposition haphazardly directed through the media at the pilot project program - may well have arisen. Either way (with or without such an oversight committee), some opposition will arise and these potential forces of opposition can be said to be 'outside' the immediate nexus of state administration of corrections, and from the latter's perspective needing some tactical assessment with a view, presumably, to efficacious manoeuvre in managing and/or placating dissent in the inauguration phase (and beyond). I assume from the program analyst's statements that the issue, in policy councils, becomes how best to manage those 'outside' forces that can help or hinder policy and programmatic proposals. The decision in this case has been to constitute the Advisory Committee. This is only one way in which power relations are not confined within the ambit of state-sponsored correctional administration. The networks of power, as well, reach down into the very fibre of the individual being monitored; at that level an elaborate dance is engaged in by monitorees and program correctional officers: an explicit (and tacit) contract or bargain is entered into, the violation of which results in imprisonment in a provincial correctional facility. Compliance is formally required, but cannot be completely verified and in fact minimal residual deviance can occur and remain undetected. Some resistance is possible in the face of the conditions and means of surveillance, which otherwise elicits co-operation and compliance. So, program 'success' to a great extent turns on the ability of the assessing staff to choose 'the right clients', i.e., those offenders whose probable cost-benefit calculus leads them to demonstrate a likelihood of program compliance.
- 10 Cohen (1983:109) says that '[k]nowledge is its own form of power - whether or not the knowledge is self-deceptive. In the hands of the state intelligentsia, ideas obviously served purposes other than those stated or accessible. But they must still be seen as lived-through solutions to certain moral demands'. He goes on to recommend 'the study of social-control talk in terms of its actual working functions'.
- 11 It was indicated to me by the pilot project Director, the Operational Director, and by some members of the Advisory Committee that some importance and value was attached to this researcher's status as an ostensibly 'independent' and 'objective' observer. Research access itself connotes that the Corrections Branch has nothing to hide and is willing to be open to tolerable and controlled levels of 'outside' scrutiny (thereby countering the 'Orwellian' concerns anticipated among policy analysts and decision-makers). Another feature of 'independent' research access to this program is worth mentioning. Common sense suggests that the presiding agency (namely, B.C. Corrections Branch) must be confident that nothing untoward or threatening to the program will arise out of such research, else it would not be allowed to proceed in the first place (cf. also 'Research Contract', Appendix I). It is important, therefore, to stay attuned to the possibility that the research itself is construable or usable to increase or enhance the power of state control (cf. Lowman et al., 1987:8).

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- 12 Deleuze (1988:72-3) explains Foucault's idea of the *diagram* of disciplinary power as follows: 'it is the presentation of the relations between forces unique to a particular formation; it is the distribution of the power to affect and the power to be affected; it is the mixing of non-formalized pure functions and unformed pure matter'. Foucault (1979:228) alludes to the diagram of disciplinary power when he asks: 'Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?' The question concerning the relationship of this new correctional technique implies a further question, namely: what is the place of research knowledge in relation to the diagram of disciplinary power and knowledge? How does the latter augment or impede the emplacement and functioning of disciplinary technology? Note also that in *technicist penology* (i.e., in correctionalism) research knowledge informs the organization and administration of control and punishment without explicit reference to or analysis of the political, economic, and ideological conditions in which it operates (except in the narrow sense of these terms).
- 13 Following Foucault's usage: 'I think that we must limit the sense of the word "rationalisation" to an instrumental and relative use...and to see how forms of rationalisation become embodied in practices, or systems of practices' (quoted in Dreyfus and Rabinow, *Ibid.*:133).
- 14 The idea of 'terminal effect' derives from the Foucauldian idea that there are many interconnected social relations and forces constituting 'a complex strategical situation' (1978:93) (in other words, a concrete manifestation within the diagram of power). The truths of this new penal form are generated and deployed within this nexus of power. These truths, then, are effects, signs, or symptoms of power.
- 15 See Foucault (1979:93-101) for a more detailed discussion of this conception. Foucault states: '[t]he semio-technique' with which one tried to arm the power to punish rested on five or six rules'.
- 16 '[T]he functioning of the instruments of sequestration (factory, prison, bank, asylum, etc.) was not the guarantee of a mode of production, but precisely the constitution of a mode of production. In fact the primary aim of sequestration consisted in subjection of time to this time of production... The problem of industrial society consists in achieving the aim of integrating the time of individuals into the production-apparatus as different types of labour-power' (Foucault, 1979, in Patton & Morris, 1979:61). Elsewhere Foucault states: 'the economic system that promotes the accumulation of capital and the system of power that ordains the accumulation of men are, from the seventeenth century on, correlated and inseparable phenomena' (1980:125). The 'aim of integrating the time of individuals into the production-apparatus as different types of labour-power' illustrates a 'capillary form' of power that reaches into the bio-political population by way of the material body and its functioning. 'The disciplines of the body and the regulations of the population constituted the two poles around which the organization of power over life was deployed' (Foucault, 1978:139). See discussion of Foucault later in this chapter.
- 17 One early work in this area is Garfinkel's (1956) analysis of 'degradation ceremonies' within judicial formats.

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- 18 Garland and Young hold that it is 'unhelpful to analyse penal practices solely on the basis of what these practices say about themselves' (Ibid.:17). They go on: 'The public presentation of the prison in terms of 'rehabilitation' or 'training' or even 'humane containment'; of probation in terms of 'welfare' and 'caring supervision'; of detention centre in terms of 'physical discipline' and 'short sharp shocks', etc. should be treated first of all as precisely that - a *public (re)presentation*. Far from disregarding this, or else using it unquestioningly as a basis for analysis, analyses should scrutinise these representations, asking how they operate at the ideological level, how they function to shape political and public consciousness, and what effects they have in structuring the available social knowledge of penal affairs' (Ibid.:17). In the operational sphere of punishment (the institutions, practices, and practical discourses) the task is to 'describe the concrete, detailed nature of these practices in order to allow a reading of their social effects' (Ibid.:18).
- 19 'The form of analysis appropriate to the realm of actual sanctions is also a form of reading, but of course its materials are quite different. This realm is the sphere of institutions, practices and practical discourses and the initial problem is to describe the concrete, detailed nature of these practices in order to allow a reading of their social effects' (Garland and Young, Ibid.:18). Chapters Two and Three, in part, constitute this goal. There is also an area of popular public discourse (via local news media justice system reporting) about EM and house arrest (cf. Lilly & Ball, 1987; Friel et al., 1987) that has been important in attenuating opposition to this correctional policy.
- 20 See sections on *Analytics of Power* and *Two Uses of Foucault* below for further discussion about social networks and processes.
- 21 The situation in Britain comes to mind (cf. *The Economist*, 1985, 1988). Recall that British probation personnel are adamantly opposed - ideologically - to 'community punishment' reforms the Home Office intends to implement (Parliamentary Paper, 1988). Obviously, a much different 'complex strategical situation' is implied here compared to the conditions and circumstances of either American or Canadian criminal justice and correctional organization (see Chapter Two), where adoption and development have proceeded apace, albeit mostly under the sign of caution (especially in Canada). This kind of correctional programming may yet be vulnerable in the future; however, at present, equipment sales and programs show an ascending curve of growth.
- 22 Garland (1985:30) sees ideologies in a similar fashion and comments on ideological change: 'Representational figures of this kind - 'ideologies' - are deeply embedded in the practices and discourses of institutions and public knowledge; they are not singular images which can be totally repainted or rewritten at will. Rather, the transformation of these complex ideological configurations comes about through the discursive revision of signifiers, the gradual production of new connotations and the restructuring of the existing representational practices'. The discussion (Chapter Two) about changing conceptions of therapeutic intervention is relevant here.
- 23 This occurs in the face of changing conditions of information economies, administrative and judicial policy and objectives, and in the context of the challenges of counter-ideologies and other penal reform discourses. This, in part, makes up a field of forces that overlaps, relays, and communicates in various ways, constituting in the process a *complex strategical situation* (see final section of present chapter and remaining chapters for further explication of this conception; see also Foucault, 1978, 1980).

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- 24 Garland and Young (Ibid.:16) point out some of the questions that are presented: 'if... it is to be claimed that certain *strategies* are operative within the penal realm (see Foucault and Garland), then it becomes crucial to demonstrate how the various agencies and practices relate to the strategy's logic, how this is made compatible with the different forms of calculation and objectives which are present, and how the overall strategic effect is achieved and reproduced'. The rationalization (and legitimation) of this technique of social control and surveillance is a discursive accomplishment made up of artful manoeuvres, tactics, and positionings.
- 25 And hence represents a *continuity* with the practices of incarceration and community supervision.
- 26 Referring to England, Garland locates the 'actual formation of the present system in the brief period between the Gladstone Committee Report of 1895 and the start of the First World War in 1914' (1985:5). He points out that historical periodisation of penalty depends on different assumptions: 'the conventional penological understanding of the modern era as the "epoch of rehabilitation" puts its starting point just after the Second World War, when evangelical reform and paternalism gave way to a more technical form of social engineering... Sociological writers such as Durkheim and Foucault, on the other hand, locate the origins of the modern system - for both of them an origin signalled by the birth of the prison - much earlier, at the beginnings of industrialised urban society; whereas Marxist writers such as Rusche and Kirchheimer or Melossi and Pavarini equate the period of modern penalty with that of the capitalist mode of production. Other commentators such as Cohen, Scull, and Mathiesen suggest a more recent origin, in as much as they argue that the developments which have occurred over the last decade or so, especially the new "hidden discipline" of community corrections, amount to a qualitatively new and different pattern of penalty' (Ibid.:4-5).
- 27 Cohen (1983:102-3) describes the associated developments as follows: 'The original change was marked by the following key elements: (1) the decline of punishment involving the public infliction of physical pain - the mind replaces the body as the object of penal repression; (2) the development of a centralised state apparatus for the control and punishment of crime and delinquency and the care or cure of other types of deviants; (3) the increasing differentiation of these groups into separate types, each with its own body of scientific knowledge and eventually accredited experts and professionals; (4) the increased segregation of deviants in asylums, penitentiaries and other closed purpose-built institutions: the prison emerges as the dominant instrument of behaviour modification and as the favoured form of punishment'.
- 28 Ignatieff's own (1978) work 'on the expansion of vagrancy, trespass, and petty larceny statutes in the 1820s and 1830s suggested that state penal sanctions were required by employers, especially in the agricultural counties, to prevent their chronically underemployed casual labour force from passing out of the wage system into theft and vagrancy' (1983:97).

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- 29 Various other explanations of social change in deviancy control systems are more resolutely Marxist (cf. Melossi and Pavarini, 1981; Melossi, 1979; Lea, 1979; Spitzer, 1979). For example, Melossi - following in the footsteps of Rusche and Kirchheimer (1939) - states flatly: 'the entire system of social control is modelled on the relations of production' (Melossi, 1979:98). There are many senses - empirically and analytically - wherein a qualified version of this proposition may be conceived as true. The danger of reductionism is ever present however and therefore it is important that a defensible specification of this proposition is achieved (see discussion of Foucault below). In general, this sort of economism is insufficient by itself in accounting for penal forms (Garland and Young, 1983:23-9). Indeed, if as Cohen states, 'stated intentions are more or less irrelevant or only of derivative status' (Cohen, *Ibid.*:23) to this social analytic orthodoxy, then it would seem that such an approach can shed little light on how discursive relations or discourse is more directly 'productive' of the form of penal relations. On the issue of the 'productivity of power' Foucault (1978:102) suggests that the discourses of disciplinary power can be examined at two levels: 'their tactical productivity (what reciprocal effects of power and knowledge they ensure) and their strategical integration (what conjunction and what force relationship make their utilization necessary in a given episode of the various confrontations that occur)'. See discussion later in this chapter.
- 30 Ignatieff (1983:88-9) identifies 'three major sites of crisis': 'The first was the breakdown of social relations in the agricultural counties of the south-east between 1815 and 1831 as a result of the casualization of the agricultural proletariat. Rising rates of vagrancy, pauperism and petty crime through the 1820s and the explosion of the Swing Riots in 1831 are the symptoms of this crisis in rural social relations. The second site of crisis was in London, where the Anti-Corn Law Riots of 1815, the Spa Field disturbances of 1816 and the riots attendant upon Queen Caroline's trial proved that the existing parish constabulary was hopelessly outdated in coping with urban crowd control while the soldiery brought in upon these occasions was a clumsy, brutal, and therefore alienating instrument of terror... The third site of crisis lay in the new northern industrial towns, where regional labour markets tied to single industries like cotton proved extremely vulnerable to cycles of demand in the international economy'.
- 31 Gosselin (1982:74) says '[t]here were intensive studies made throughout the period 1890-1925 into reorganization of the imprisonment system, although no major changes were in fact made' (cf. Garland, 1985).
- 32 'Legislation establishing probation services was first enacted in Ontario in 1921, followed by Alberta nearly twenty years later in 1940, British Columbia in 1946, Saskatchewan in 1949, Nova Scotia in 1954, Manitoba in 1957, New Brunswick in 1959, the Yukon in 1964, Newfoundland in 1965, the Northwest Territories in 1966, Quebec in 1967, and Prince Edward Island in 1972... Figures from British Columbia reveal that there were 6 probation officers for a population of 1.1 million in 1950, 72 probation officers for a population of 1.8 million in 1965, and 266 officers for a provincial population of 2.4 million in 1975' (Ekstedt and Griffiths, 1984:54-5).
- 33 According to Smart (1983:62) '[t]he "colonisation of the penalty by the prison" (Foucault) is explicable less in terms of developments in penal philosophy than as a significant dimension of the emergence and exercise of a new type of power'. Gosselin (1982:87-8) points out that '[t]he French Revolution substituted loss of liberty for corporal punishment, but it would be a mistake to see this as a purely humanitarian act. The bourgeoisie, the new dominant class, was based on free enterprise: thus, the greatest possible punishment for the guilty party would be to be deprived of this "freedom", motor of the economic system'.

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- 34 Thus, it is viewed as not socially, judicially, or economically prudent to incarcerate what Cohen (1985) calls 'shallow enders'. In reference to the particular jurisdiction under consideration, it is clear that the correctional apparatus is responding to an influx of driving and alcohol related offences. A *B.C. Corrections Branch* report (1982) states: 'There has been a change in the B.C. justice system regarding drinking drivers, as well as for other motor vehicle offences. A "get tough" stance has been adopted, and implemented with vigour. Based on data for January-February 1982, as compared with January-February 1981, admissions for drinking drivers has increased by 67.3% (502 sentenced admissions vs. 300)... Thus it is possible to attribute the growth in the count to a large number of shorter term sentences, primarily drinking drivers, many of whom have failed to pay their fines. Policy (of the criminal justice system as a whole) and the economy are interacting to produce a dramatic shift in the nature of the "typical" adult offender being incarcerated in B.C.'s provincial institutions' (quoted in Ekstedt and Griffiths, 1984:111).
- 35 Matthews (1979:113) has commented that '[t]he relationship between prisons and more recent alternatives/extensions are better seen as analogous to the relation between gold and money. Once the basic currency is accepted it allows the development of more flexible and convenient methods of exchange. However, the value of paper currency is always dependent upon the viability of gold itself, and at the end of the day must always be realizable'.
- 36 'The prison is still the centrepiece around which the punitive system is tightly arranged' (Lowman et al., 1987:9). On the other hand, Garland (1985:23) argues that the prison became decentred as a result of penal reforms in the early part of this century: 'developments and initiatives which occurred in the 1895-1914 period took place outside the prison system, involving extraneous agencies and institutions... clearly had a large impact upon the prison and its functioning. Many of these new sanctions, such as probation, or instalment fines, were conceived as direct alternatives to imprisonment, while others functioned to remove certain classes of offender out of the domain of the prison and into specialist institutions. The consequence was that the prison was *decentred* - shifted from its position as the central and predominant sanction to become one institution among many in an extended grid of penal sanctions. Of course it continued to be a sanction of major importance, but it was deployed in a different manner, for a narrower section of the criminal population and often as a back-up sanction for other institutions, rather than the place of first resort'. In discussing the move from individualism to individualization Garland states, '[a]n immediate consequence of this move is an alteration in the structural position of the prison. In this transformation, the prison shifts from the very centre of the penal realm to a kind of terminal position, forming the endpoint on an extended network of "alternatives to imprisonment" and specialist establishments' (Ibid.:28).
- 37 Not dangerous in the sense of not having a criminal history of violence (assault, use of a weapon, etc.). The MADD representative on the Advisory Committee emphasized that her organization was seeking to have impaired drivers conceived as dangerous in the sense that the car is a weapon and great injury and physical violence is an outcome.

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- 38 The concrete application of punitive power in 'a single uniform penalty (the prison) to be varied only in length' (Cohen, 1979:359) would not remain concentrated there. The techniques of discipline and surveillance instead spread out from the carceral centre. On the 'swarming of disciplinary mechanisms' Foucault states: 'on the one hand, the disciplinary establishments increase, their mechanisms have a certain tendency to become 'de-institutionalized', to emerge from the closed fortresses in which they once functioned and to circulate in a 'free' state; the massive, compact disciplines are broken down into flexible methods of control, which may be transferred and adapted. Sometimes the closed apparatuses add to their internal and specific function a role of external surveillance, developing around themselves a whole margin of lateral controls' (1979:211). House arrest and EM may be characterized as providing just such 'lateral controls'.
- 39 Indeed, some confusion may result from the mixing of these two different metaphors.
- 40 The emphasis by the Director throughout the Pilot Project program has been to counter all criticisms of net widening by pointing to the fact that the offenders targeted would be in jail but for the existence of the EMS program. In Cohen's (1985) nosology the offenders in question would be 'cream puff cases' or 'shallow enders'.
- 41 This argument, based on an administrative policy that has become transmuted into offender selection procedures (i.e., only prison-bound or -resident offenders are to be targeted) within the Corrections Branch, is insufficient by itself. Since it is narrowly focused on whether home confinement (verified by EM) is being deployed to *divert* those otherwise going to prison, it ignores the possibility that in expansionist penal systems, prison capacity itself conditions the extent to which incarceration is employed as a sanction (cf. Rutherford, 1984). The more capacity made available, the more likely it will be viewed as an appropriate measure (by judicial and corrections officials), thus bringing about greater use: widening the net of control.
- 42 Foucault (1980:96) urges the analysis of power 'at its extremities, in its ultimate destinations' (Walzer (1986) provides a very cogent critique of Foucault on this particular point). For purposes here I interpret 'the examination of power at its extremities' to mean the effects of the sanction on offenders or how they engage (socially) with the conditions of the sanction (Part I); or, on the other hand, this phrase can be taken to mean: success in installing the instrumentalities for administering punitive power (Part II), providing for system maintenance and expansion. He states elsewhere: 'I don't think that we should consider the "modern state" as an entity which was developed above individuals, ignoring what they are and even their very existence, but on the contrary as a very sophisticated structure, in which individuals can be integrated, under one condition: that this individuality would be shaped in a new form, and submitted to a set of very specific patterns... we can see the state as a modern matrix of individualization' (1983:214-5).
- 43 Patton (1979:146) provides a translation of Foucault's remarks on the *State* published in the journal *Herodote*, 1, (Jan.-March 1976, p. 80: '... I have by no means the intention of diminishing the importance and efficacy of State power. I simply believe that if one insists too much on its role, on its exclusive role, one risks missing all the mechanisms and effects of power which do not pass directly by the State apparatus, but which often support it, transmit it, give it its maximum effectiveness'.

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- 44 This is in keeping with Schmidt and Curtis' (1987) more rigorous approach of assessing program costs (see Chapter Two). Referring to the costs of decarceration in contemporary Britain, Willis (1981:262) paints a picture that is consistent with the expansion thesis: 'decarceration initially involves double costs - those of both community corrections and imprisonment - the extra cost involved in sending just one more offender to prison when no new staff or facilities are required - is very low, perhaps a matter of just a few pounds a week. Thus, the diversion of small numbers of offenders away from custodial sentences would only involve marginal savings, and when these were set against the extra costs of expanding non-custodial measures there would probably be an overall increase in expenditure. In addition, there is some evidence that even in the long term the supposed fiscal benefits of community supervision costs more than the incarcerative disposition it is replacing'.
- 45 The rationalization of penal practice - represented by EM and house arrest - could mean greater administrative efficiency in processing offender sentences, which fits Messinger's contention 'that the United States is experiencing the coming of a "minimum security society" in which an ever-increasing proportion of the base population will become subject to some form of state control despite a downward trend in the number of serious crimes reported. Indeed, it seems evident that net-widening will accelerate in the future' (Blomberg, 1987:225). House arrest and EM provide a sentencing option for managing the proliferation of various classes of offenders that criminal justice is increasingly witnessing before the courts, e.g., drinking driving offenders.
- 46 Skeptics might declare that this is a concrete example of mystification: as in magic, attention is 'misdirected' so that the 'trick' can be completed. The analogy here, of course, is that by pointing to those subjected to sanctions and by engaging in endless arguments over issues pertaining to whether they - by technical and legal criteria - are true prison diversions or not, obscures that systemic expansion is occurring: in the back door has come a new corps of corrections officers and its correlative networks of policy and administrative support.
- 47 Program administrators at different levels and representatives on the Advisory Committee expressed the belief that EMS would mitigate the stigma associated with incarceration. This is an implicit critique of the debilitating effects of prison. Since, in the local scheme of juridical order, offenders would otherwise have gone to prison, a case can be made that fewer offenders are going to prison, therefore constituting a reversal of the incarceration policy. This is another question that requires a longer time-frame before adequate judgment can be made on this question.
- 48 Questions concerning whether house arrest and EM are *inclusionary* and/or *exclusionary* forms of social control would seem to be suspect as well for these reasons.
- 49 No epistemological argument is tendered to warrant the analytic privilege given to Foucault. His importance for theorizing resides in the possibility that new windows onto the social world can be opened up by employing his strategic paradigm, as well as other of his analytic recommendations.
- 50 In *History of Sexuality* (1978:82), Foucault says '[t]he aim of the inquiries that will follow is to move less toward a "theory" of power than toward an "analytics" of power: that is, toward a definition of the specific domain formed by relations of power, and toward a determination of the instruments that will make possible its analysis'. See also (1980:198-222).

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- 51 In the present context of fiscal austerity in corrections we should expect to see the application of this new penal form where 'tolerance limits' with respect to acceptable/unacceptable conduct are changing or where new patterns of offence emerge (e.g., as in the crack-down on drinking drivers or as a more efficacious administrative policy in corrections for non-violent drug offenders).
- 52 Assessment for program participation is itself based on extensive examinations via documentary case materials. This is one level of *individualization*. Another manifestation of the latter occurs at the level of program operations: program staff constitute the individualization of the offender (for purposes of surveillance and control) by way of the specific curfew scheduling that embodies practical information concerning work setting, travel times, circumstances and conditions of the home environment, etc.
- 53 It is conceivable on the basis of juxtaposing Foucault (1979) and Garland (1985) to propose that while *individuality* may have been associated with the birth of the prison (Foucault), this individuality did not provide for subsequent individualization in the practice of punishment itself (Garland). The reforms of 1895-1914 ushered in the practices of differential treatment and control or *individualization* as Garland refers to it. House arrest and EM are a further extension of this individualization. Only now with the advent of IT, individualization is extended much further than previously, allowing for the punitive practice of 'active security' in the community.
- 54 Foucault states: '[w]e should admit... that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations. These power/knowledge relations are to be analyzed, therefore, not on the basis of a subject of knowledge who is or is not free in relation to the power system, but, on the contrary, the subject who knows, the objects to be known and the modalities of knowledge must be regarded as so many effects of these fundamental implications of power/knowledge and their historical transformations. In short, it is not the activity of the subject of knowledge that produces a corpus of knowledge, useful or resistant to power, but power/knowledge, the processes and struggles that traverse it and of which it is made up, that determines the forms and possible domains of knowledge' (1979: 27-8).
- 55 As shall be demonstrated in Chapter Six, there are many ways in which knowledge functions as an operator of power within this sanction. Chapter Six will draw on descriptive and empirical materials presented earlier (Chapters Two and Four) to constitute a social analysis of the effects on the body of *electronically monitored home confinement*.
- 56 States Foucault: 'One needs to be nominalistic, no doubt: power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategical situation' (1978:93); power 'is a total structure of actions brought to bear upon possible actions' (1983:220). In the penal realm this refers to the regulatory mechanisms set in place and managed by correctional administration: the application of panopticism or *programmatics*. However, prior to, and indeed, as part of the institutional integration of programs, the *complex strategical situation* refers to the overall play of socio-political-economic-technological-administrative forces that augur in favour of such penal programming policy.

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- 57 To repeat, these conceptions and the questions that they imply will be brought to bear again in Chapters Six and Seven in order to analyze the discourses corresponding to the development and use of this new sanction. Questions concerning both *tactical productivity* and *strategic integration* cover both anatomo- and bio-political spheres. However, the first set of questions, above, relating to *tactical productivity* are treated (in Chapter Six) as more focussed on or weighted towards the *anatomo-politics of the human body*; thus the question arises, what effects of power, of normalizing discipline, issues from the deployment of 'information' (the reduction of uncertainty) within the organization of this sanction; or, put somewhat differently, how, if at all, does knowledge produce useful bodies and subjects? This is a question about the efficacy of this disciplinary technology in achieving effects of *normalization*. The second set of questions relating to *strategical integration* are treated (in Chapter Seven) as being more germane to the sphere of the *bio-politics of the population*; thus the question arises, what are the conditions of power, knowledge, and strategy that do (or might) sustain this punitive practice, helping it to become integrated ('institutionalized') within a strategy of population regulation, specifically within the deviancy control system? See the section below, *Two Uses of Foucault* for a preview of Chapters Six and Seven.
- 58 Foucault (1983:208) states that the aim of his historical studies 'has been to create a history of the different modes by which, in our culture, human beings are made subjects. My works have dealt with three modes of objectification which transform human beings into subjects'.
- 59 Disciplinary techniques, tactics and functionings - the socially organized means of the regulation and control of human multiplicities - constitute forms of *disciplinary power*. Panopticism is a generalizable *mechanism* of disciplinary power.
- 60 In the case of house arrest programs with EM, the prospect of 'sentence enhancement' (Baumer and Mendelsohn, 1988:13) or greater penalty is an 'action upon action' which appears to be relatively effective in constituting acceptable levels of behavioural conformity among 'low risk' offenders.
- 61 One hypothesis about the relation of the two spheres being that the bio-political sphere concentrates and relays relations and effects of the sphere of discipline or anatomo-politics of the body.

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- 62 The history of the reform of penalty since at least the advent of imprisonment (1770-1815 approximately) has involved ameliorating the effects or practices of preceding penal reforms. Electronically monitored home confinement is no exception in that one of the chief purposes in the development of EM programs has been to alleviate prison crowding problems created in various American criminal justice jurisdictions by the swing to conservative sentencing and other justice system reforms. Crowding evidently is a factor of impetus for development of EM programs and is therefore a significant feature of the strategical situation of many programmatic developments and applications. However, it is also clear that the crowding feature is not essential to the complex strategical situation of the development and sustenance of EM programs. The B.C. program is certainly an example of that (as is the Clackamas County program). Other features of the complex strategical situation include the requirement for a large enough pool of offenders who will comply with program expectations within margins of tolerance acceptable for sustaining this new economy of punishment. Sentencing powers of judges are clearly important to the potential for, or direction programs might take. Judges' co-operation helps to foster use of programs and gives them legitimacy. Media promotion and management sustains an overall positive picture of EM programs. Voices of caution and dissent toward EM as correctional policy can possibly be influential in establishing limits of application. Researchers produce knowledge having operational and political utilities that affect EM programs in various ways. All of these considerations (and more), and the networks of social relations and power that are implied by them, make up the *complex strategical situation*.
- 63 When the research process was begun and the dissertation proposal written in early 1988, I assumed first, that systemic expansion - 'net-widening' on the correctional side, rather than necessarily on the offender side - was inevitable and that the organizational motives of expansion would be decipherable in the promotional practices of program inauguration. As this chapter and those that follow should make obvious, I no longer believe this to be inexorably true or inevitable. It is an open question at this juncture. Perhaps in three, five, or ten years, in *retrospective* research or analysis, the status of the promotional practices in the inaugural phase will be conceivable as symptomatic of expansion (should expansion in fact occur), however in the absence of actual evidence of expansion at this point, it would be foolhardy to suppose this kind of significance inheres in the energy, effort, and expertise expended by correctional personnel (at all levels) to 'make the program a success' or 'make the program work'.
- 64 Ontario is also pilot testing EM and home confinement in one provincial jurisdiction and apparently is adopting a cautious approach to inauguration and development also.
- 65 The positions are not given *a priori*, but rather evolve over the course of time and in conjunction with the manoeuvres, tactics, positionings, and functionings of power, in the network of power.

Chapter Six: Analysis of Disciplinary Effects

1. Introduction

The present chapter analyzes the empirically based findings given in Chapter Four in terms of their efficacy in achieving the main aims of penalty, namely *punishment*, *incapacitation*, *deterrence*, and *rehabilitation*. Before doing this, though, it is important to discuss the overall framework within which the analysis will occur. This chapter represents something of a debunking of the suggestion - contained in Chapter Four - that the sanction of electronically monitored house arrest shows clear-cut correspondence between punitive rationale and rehabilitative effect, indicating that penal intentions *are* being met.¹ To propose, without qualification, that correspondence occurs or does not occur, is to treat this question in too simplistic and superficial a manner. As a prelude to discussing the possible achievement of these penal aims, then, two general tasks will be necessary.

First, it will be pertinent to explore the question of the problematic correspondence of discourse, practices, and effects in the area of this sanction. Foucault's perspective on this question will be explicated and subsequently this problematic is discussed in light of a review of the research findings for affecting these important areas (or aims) of penalty. After completing a review of the problematic of correspondence of discourse-practices-effects, I describe and explore the relevance of various Foucauldian categories of disciplinary power for constituting a social analysis of disciplinary effects for the sanction of electronically monitored home confinement. The following, then, assembles a body of background knowledge that is necessary as part of the assessment and analysis of disciplinary and punishment effects of this type of sanction.

The analysis must of necessity be rather speculative owing to the status and form of the data (largely preliminary and exploratory) and other available evidence concerning offender (and

other) impacts of this sanction. Furthermore, the full ramifications of post-inaugural developments and expansion will have to wait the passing of time.² As such, the present chapter points to the direction future research might profitably take in addressing the important questions that arise in connection with the deployment of this sanction; thus, the following chapter is as important for its specification of the parameters of social analysis and interpretation as for the concrete results that it explicates.

The problematic of correspondence of discourse-practices-effects manifests itself in two ways within the present research. At the disciplinary level (present chapter), Foucault's analytic of disciplinary power can help to elucidate the logic of the program and its effects on individuals. This problematic correspondence at the level of the *individual* can be submitted to scrutiny by way of an assessment of the achievement (or achievability) of the chief penal aims. However, this use of Foucault to shed analytic light in this way is both limited and truncated. The analysis at this level needs to be taken further.

The problematic of correspondence expresses itself also at the *systemic* level and it is here where Foucault's analytic of power and disciplinary technique can be utilized to a *fuller* interpretive potential. The examination of the *anatomo-politics of the body* needs to be situated within or related to the *bio-politics of the population*. This, again, is the question of the *strategical integration* of this technique within the apparatuses of criminal justice and penalty: whether and how it becomes ensconced within the control and regulatory apparatuses. Correspondence of discourse-practices-effects at the level of the *apparatus* (or the organizational level) means, roughly, that the penal apparatus has been sustained and expanded by a reform of penal policy.³ Chapter Seven will provide an analysis of the contours of this problematic of correspondence by examining the practices (both discursive and non-discursive) evident as part of this local development and expansion of house arrest and EM. The concluding part of the present chapter will begin to move discussion toward this more fundamental kind of analysis.

The final section of the present chapter reviews and analyzes the disciplinary effects of this sanction. This assessment takes place within a framework that recognizes that there is a problematic correspondence of discourse, practices, and effects and that it cannot be assumed that penal practices and effects are always or necessarily in alignment with the discourses of truth that provide for the use of this form of penalty. The chapter, as a whole, points to the general possibilities and prospects of achieving or failing to achieve the main aims of penal sanctions. It will be concluded by a consideration of the caveats, shortcomings, and contradictions encountered within the research process itself; they are discussed as a way of bridging to Chapter Seven and a more complete Foucauldian analysis of the operation of power through disciplinary technologies within the apparatus of penalty. I begin below by discussing the problematic relation of discourse, practices, and effects.

2. Problematic Correspondence of Discourse, Practices, and Effects: distinguishing between disciplinary and systemic levels

Gordon (1980), in interpreting Foucault, provides some insights that help to clarify the discourse-practices-effects problematic. Bearing in mind from previous discussion that Foucault employs a *strategical-relational* conception of power (Smart, 1983), Gordon's comments are illuminating on the theme of disjunctures between discourse, practices, and effects and link up to the question of power (posed in Chapter Five): 'Foucault employs three concepts of general forms of rationality pertinent to the study of power/knowledge: the concepts of *strategies*, *technologies* and *programmes* of power':

All three concepts serve as means of conceiving relations of power in terms of the differential and differentiated interaction between distinct orders of historical events. In order to understand these concepts, it is necessary to keep in mind a basic distinction between three such general orders of events: that of certain forms of explicit, rational, reflected *discourse*; that of certain non-discursive social and institutional *practices*; and that of certain *effects* produced within the social field. These three orders do not of course represent watertight ontological compartments; the same events can be considered in turn under each of them. The point is to clarify certain of the ways in which they intersect and interact (Ibid.:246).

For Foucault 'the concepts of strategies, programmes and technologies of power serve to analyse not the perfect correspondence between the order of discourse, practice and effects, but the manner in which they fail to correspond and the positive significance that can attach to such discrepancies' (Ibid.:247).

It is important to recognize that the 'effects of a programme transcend the criterion of whether its intentions are fulfilled' (Ibid.:248). In this regard, 'the failure of the prisons to fulfil their planned function as reformatories, far from precipitating their breakdown, acts instead as the impulse for a perpetual effort to reform the prison which continually reinvoles the model of its original, aborted programme' (Gordon, Ibid.:250).⁴ The failure of the prison to reform normative deviation has brought in its wake - since the inception of the punitive practice of imprisonment - a continuous effort to achieve its reform. Since the advent of the modern period of penality (cf. Garland, 1985) the result has been a considerable differentiation ('swarming') of the instrumentalities of penality, creating an extended transcerceral network (see Chapter Five) within national and regional jurisdictions of criminal justice and corrections (see Cohen, 1985; Lowman et al., 1987).

A familiar understanding that is evident within the correctionalist discourses of penality and carceral organization is that the *function of the prison is to eradicate normative deviance*. Foucault takes the opposite view, proposing instead that the practice of imprisonment serves to *perpetuate deviancy* (cf. 1979:257-308). Indeed, a reorientation in perspective and tack is suggested: 'perhaps one should reverse the problem and ask oneself what is served by the failure of the prison' (Ibid.:272). He goes on to propose that

the prison, and no doubt punishment in general, is not intended to eliminate offences, but rather to distinguish them, to distribute them, to use them; that it is not so much that they render docile those who are liable to transgress the law, but that they tend to assimilate the transgression of the laws in a general tactics of subjection. Penality would then appear to be a way of handling illegalities, of laying down the limits of tolerance, of giving free rein to some, of putting pressure on others, of excluding a particular section, of profiting from others. In short, penality does not simply 'check' illegalities; it 'differentiates' them, it provides them with a general 'economy' (Ibid.: 272).

It is not altogether clear *who* (or perhaps *what*) is doing the *intending* in the beginning part of this passage, but it is arguably *wrong* to claim that administrators and other penal officials do not intend to eliminate offences by their reform proposals and designs of penalty. In the *rationalizations* of penal policy - that is to say, the *discourse* - the aims of punishment, incapacitation, deterrence, and rehabilitation constitute discursive categories that describe one central intention of penalty: to extinguish deviant conduct.⁵ Inasmuch as this is the case, then it can be claimed that these *correctionalist* discourses reflect the intention to eliminate deviancy, either through incapacitation,⁶ or in that they display the *belief* that punitive measures do (or will) deter further offending, or rehabilitate the offender to a Norm of conduct so that future offending is eliminated as a possibility of his/her conduct.⁷

Making this dissenting point in relation to Foucault's proposals, though, does not diminish the significance of a phenomenon that is central here, namely the 'failure' of the prison to eliminate deviancy and the non-correspondence of intentions (as given in *discourse*), practices, and effects. Smart (1983:76) amplifies on some points that are germane to this recurring phenomenon:

From this point of view 'failure' is the norm for social policy. Thus, given the specific *Panopticon* programme, the practice of imprisonment may be deemed to have 'failed', but that is not the end of the matter. It is not, then, merely a case of charting a difference 'between the purity of the ideal and the disorderly impurity of the real' (Foucault), but of investigating the actual effects (in institutions, in individual behaviour, in the perception and evaluation of 'objects') produced by the unrealised programme, in the specific instance with which we are concerned, the effects of the practice of imprisonment. These effects - the construction of a delinquency, an enclosed illegality, a less dangerous even useful illegality - are not anticipated in or by the programme. The programme may, as Foucault argues, anticipate its own failure; hence the business of prison reform being present at the very birth of the prison. But that is not the same thing as the programme producing latently 'functional effects' beneath its manifest dysfunctions or 'failures'. If there is any sense in which effects may be considered functional, it is not at the level of the *programme*, but at that of the *strategy* (emphasis added).⁸

The punitive policy of *electronically monitored home confinement* is part of the reform process Smart is referring to, in addition to also being a specific *panopticon* program whose effects on offenders is precisely what is at issue here. The important point to note here is that the assessment of the effects of this punitive policy in terms of *punishment, deterrence, rehabilitation, and incapacitation* (centre-piece elements in the rationalization and legitimation of penalty and its forms) provides an opportunity to bring evidence to bear on the question of non-correspondence (in the last section of this chapter).

Smart (1983:74) is helpful in clarifying an important point about non-correspondence: 'a lack of correspondence does not signify the absence of any relationship between programmes⁹ and practices; rather, it indicates that there can be no general formula, the relationship is problematical and specific to each instance, to each particular programme, the specific related practices and their effects'. Further on, Smart summarizes Foucault's two-fold argument emphasizing non-correspondence:

He argues that the complexities of institutions and human behaviour escape the programmatic formulation, that there is always a residual deviation from the norm and, furthermore, that the technologies charged with exercising a power of normalisation to correct or modify deviation are equally defective. In other words, rather than assume a correspondence, Foucault investigates the actuality of a non-correspondence between the respective levels (Ibid.:76).¹⁰

Non-correspondence can occur, then, in two fundamental ways. First, there is the question concerning how offenders resist the regulation and surveillance entailed in this sanction. The second area - defective disciplinary technologies - can be addressed as follows: *one way to pose the question of non-correspondence in reference to this new penal sanction is by examining apparent or evident offender effects in light of the disciplinary deficiencies implied by the type of offence committed.* This, presumably, would be a way of gauging the *efficiency* of this form of correction and control in regard to achieving the goal of normalization. Is there a complementarity or lining up of implied rehabilitative needs and the regulatory and control elements of this form of penalty? Punishment and incapacitation would be short term, immediate effects of this new penal technique. Deterrence and rehabilitation (normalization) would be long term effects, were the latter to be achieved.

Assuming that deterrence and rehabilitation have been achieved¹¹ as a result of the sanction's use, then correspondence of discourse-practices-effects could be said to exist. The important condition to focus on here is whether the concrete deployment of home confinement and EM complements or facilitates the disciplining of conduct implied by offence category and offender history.¹² Thus, arises the important question of the utility of the regulation, restriction, and control of offenders on electronically monitored home confinement for achieving *specific* effects of normalization.

It must be borne in mind that this new programmatic design of *home confinement* is partly informed - and certainly legitimized - by its feature of eliminating the degrading conditions and social influences associated with offenders collected together in a 'total institutional' space. With home confinement and EM, offenders are subjected to *dispersal*-control. This would seem to mitigate some of the deviance-producing effects of 'institutional' incarceration and diminish or eradicate the possibility of prison-based 'dangerous associations' (as indicated in Chapter Four). All available sociological evidence supports Foucault's claim about the effects on offenders of imprisonment,¹³ but the more immediate question is whether this new form of *home* incarceration has (or will have) a similar paradoxical outcome of perpetuating deviancy through its deployment. It is, after all, another kind of confinement and surveillance/monitoring of conduct.

It should be remembered that the 'alternatives to incarceration' are programmatic responses - discursive and practical organizational manoeuvres constituting systemic differentiation and expansion - whose rationale is grounded in the idea that incarceration in total institutions does not rehabilitate offenders (home confinement with EM is framed as *diversionary*) and likely does added harm to them.¹⁴ The general outlines of modification of the disciplinary technology (the penal apparatus) that flow from the reform discourse and practices regarding this new form of penalty are two-fold: it would appear to augur in favour of the direction of expansionary drift, while concomitantly providing for additional systemic differentiation and the

movement to ever increasing capabilities of individualization of offenders in the deployment of penalty that accompanies this process.

Based on some of the above considerations, it would appear that the disciplinary effects of this sanction are, on the one hand, going to be general (and quite possibly *irrelevant* to normative deficits and the disciplinary requirements these imply) and/or specific (as in its possible effectiveness as a supplementary tool in alcohol or drug dependency rehabilitation). There is also a class of unpredictable effects whose visibility may turn up only over a longer term (or possibly remain hidden) if investigative methodologies are not attuned to these possible dimensions where effects are silently registered. There is certainly the possibility that utilization of home confinement with EM may produce adverse consequences. The case of long term sentences could, for example, produce or exacerbate workaholism, compulsiveness, family relations problems, etc. At the disciplinary level, as noted, it is possible to gauge the correspondence or non-correspondence of the various elements of penalty (punishment, rehabilitation, incapacitation, deterrence) in the face of this specific penal technique: in order to assess whether this form of punishment is effective or, paradoxically, undermines the correctional aims of normalization.

3. A Foucauldian Framework for Describing and Analyzing Penal Techniques: 'normal' and 'specialized' disciplinary regimes

The above discussion makes clear that a correspondence of program design/purpose, practical implementation, and subsequent outcome, is far from ensured; indeed, the possibility is more likely that there will be *disjunctures* between these disparate and 'distinct orders of historical events' (cf. Gordon, *Ibid.*), referred to as *discourse*, *practices*, and *effects*.

Before getting to the business of analyzing programmatic effects of this technique of punishment, it is necessary to make some preliminary remarks and observations about the particular features of panopticism and other disciplinary forms in question here. In this chapter section I examine the conditions of this new form of social control and punishment by employing further analytic categories derived from Foucault. Analysis of research results will follow.

What this involves is description of the disciplinary technology involved in the social organization and functioning of the surveillance that constitutes this form of punitive power. Recall in the last chapter (and Chapter Two) that brief consideration was given to the features of panopticism (in the section on *Panopticism*) and is reintroduced now only to counter the possibility that in describing or focussing on *effects* of the sanction, the operation of power/knowledge in these organizational affairs will be obscured or ignored.¹⁵ It is essential, in order to grasp the significance of the disciplinary effects of this sanction, to conceive the way that power operates at the level of the monitored and controlled subject.¹⁶ What this will involve is a brief review of the instruments involved in the operation of disciplinary power (as enunciated by Foucault).

Only after setting this framework - and bearing in mind the problematic of correspondence between discourse, practices, and effects - will the research findings be analyzed and evaluated in the final section of the chapter. I begin by discussing the overarching schema of *normal* and *special* forms of disciplinary organization and power. Then, after that, a discussion of instruments of discipline will help to provide a descriptive context within which to interpret disciplinary effects of this form of punishment and social control.

3.1 Normal and Special Forms of Discipline

The present chapter is founded on a distinction that Foucault makes between ordinary or 'normal' discipline, on the one hand, and 'special' discipline, on the other hand. Foucault's conception of the 'disciplinary society'¹⁷ is that mechanisms of social discipline permeate *all* social relations in modern industrial and post-industrial societies. The ordering of human multiplicities within disciplinary society is achieved through the various technologies of social discipline and control that comprise part of the domain of both the *anatomo-politics of the body* and the *bio-politics of the population*.

Disciplinary power is constituted within the correctional system by way of the authorized institutional structurings that are *special* in the sense that prescribed social conduct is

programmed, spatially and in other ways. The following comments from Gordon (Ibid.:248) about *programs* are evocative of how knowledge makes of the body a target (of control and subjection) and this occurs in a manner that constitutes a specialized disciplinary form:

If the effects of a programme transcend the criterion of whether its intentions are fulfilled, this is largely because a programme is always something more than a formulation of wishes or intentions. Every programme also either articulates or presupposes a *knowledge* of the field of reality upon which it is to intervene and/or which it is calculated to bring into being. The common axiom of programmes is that an effective power is and must be a power which *knows* the objects upon which it is exercised. Further, the condition that programmatic knowledge must satisfy is that it renders reality in the form of an object which is *programmable*.

Supervision of *curfew* and *prescribed program rules* is constituted as part of the organizational structuring of surveillance and provides the linchpins of control for the EMS *service delivery unit*; electronic monitoring and spot checks¹⁸ verify compliance with what amount to very specific¹⁹ normative criteria of the program.

Another way to proceed to an understanding of the distinction between *normal* and *special* disciplinary regimes is to recall Garland and Young's conception of penalty: 'Penalty is... an overdetermined site which relays and condenses a whole series of social relations within the specific terms of its own practices' (see Chapter Five). Consistent with this is the observation that 'the discipline of a prison... represents a continuation and intensification of what goes on in more ordinary places' (Walzer, 1986:58).

Normal disciplinary mechanisms are all but invisible (except in the 'learning' phase) and typically constitute the accepted or 'internalized' conditions of social action. *Special* disciplinary mechanisms are organized, formally institutionalized methods applied in the cases of selected groups of persons who have demonstrated a failure to internalize, or even comply with, forms of social conduct that are considered important enough that they have been given legal sanction. Mere *compliance*, which may only be temporary, rather than acceptance/internalization (of a more lasting nature), is typically the outcome in *special* disciplinary mechanisms.

This distinction is evident in the following observations on discipline from Foucault (1979:215-16):

"Discipline" may be identified neither with an institution nor with an apparatus; it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures, levels of application, targets; it is a "physics" or an "anatomy" of power, a technology. And it may be taken over either by "specialized" institutions (the penitentiaries or "houses of correction" of the nineteenth century), or by institutions that use it as an essential instrument for a particular end (schools, hospitals), or by pre-existing authorities that find in it a means of reinforcing or reorganizing their internal mechanisms of power (one day we should show how intra-familial relations, essentially in the parents-children cell, have become "disciplined", absorbing since the classical age external schemata, first educational and military, then medical, psychiatric, psychological, which have made the family the privileged locus of emergence for the disciplinary question of the normal and the abnormal); or by apparatuses that have made discipline their principle of internal functioning (the disciplinarization of the administrative apparatus from the Napoleonic period), or finally by state apparatuses whose major, if not exclusive, function is to assure that discipline reigns over society as a whole (the police).

The relevance of this distinction for present purposes is that the correctional deployment of this panoptic regime is a variety of programmatic *specialization* of disciplinary technique within a wider complex of technologies and mechanisms of discipline. Of course, the question of the problematic correspondence of discourse-practices-effects discussed above is applicable to the practical operations and effects of *specialized* disciplinary techniques: there being no assurance this technique of surveillance and control will work *as intended*, and the possibility that certain unpredictable, deleterious effects may arise under certain specific conditions of its use.

One general observation about the structure of control provided here is noteworthy: home confinement and EM operates to observe and control offenders' subjection to the conditions of *normal* discipline.²⁰ In effect, the offender is subjected - by the use of *special* disciplinary mechanisms - to *normal* disciplinary mechanisms, over which corrections officials now have a measure of control via surveillance: is the offender going to work on time and getting home on time? is the offender staying within the confines of his/her home? is the offender abstaining from alcohol? is the offender driving a vehicle whose use is prohibited? Hence, the evaluation of this *specialized* form of discipline and control needs to take account of the effects produced on normal discipline.

3.2 'Simple Instruments' of Discipline

'The success of disciplinary power derives no doubt from the use of simple instruments; hierarchical observation, normalizing judgement and their combination in a procedure that is specific to it, the examination' (Foucault, 1979:170). These 'simple instruments' constitute technologies of individualization, of control, of punishment, and of normalization. The description of the operation of one penal technique (namely, home confinement with EM) by the use of such instruments helps to shed light on the detailed workings of the micro-physics of power.²¹

The concern here is to review the structure and workings of these instrumentalities of correction, control, and punishment as they become manifested in the operation of the penal practice of *electronically monitored home confinement*. This is done so as to provide a descriptive background that in the next section (where penal effects are analyzed) will help to establish an interpretive context for constructing and understanding discourses of the truth of penal effects for this sanction: in other words, what can rationally, plausibly, cogently, etc. be stated *as knowledge* about the impacts this sanction has on offenders.

A central interest here is the character and shape of *discipline*. Foucault (1979:170) proposes that '[d]iscipline "makes" individuals; it is the specific technique of a power that regards individuals both as objects and as instruments of its exercise'. The three main features of disciplinary technology he describes produce 'an obscure art of light and the visible' where 'each gaze would form a part of the overall functioning of power'. These themes find expression in the carceral technique in question, where an economy of information and knowledge are organized and deployed within clusters of more or less co-ordinated social relations, the intention of which is to punish and produce effects of discipline (i.e., normalization). *Surveillance*, in the widest sense of that term, is at the heart of 'the means of correct training'.

The closed or controlled milieu of the disciplinary space - "'observatories" of human multiplicity' and 'observation machines',²² Foucault calls them - is constituted by the practices and

operations of disciplinary power. In this regard, Foucault (Ibid.:173) emphasizes the importance of the functioning and effects of the 'techniques of multiple and intersecting observations':

This infinitely scrupulous concern with surveillance is expressed in the architecture by innumerable petty mechanisms. These mechanisms can only be seen as unimportant if one forgets the role of this instrumentation, minor but flawless, in the progressive objectification and the ever more subtle partitioning of individual behaviour. The disciplinary institutions secreted a machinery of control that functioned like a microscope of conduct; the fine, analytical divisions that they created formed around men an apparatus of observation, recording and training.

'The perfect disciplinary apparatus would make it possible for a single gaze to see everything constantly' (Foucault, Ibid.:173). Since practical circumstances and conditions often impede the realization of *complete* visibility, various designs of surveillance seek to make more efficient the machinery of observation. The circle may have been absorbed into eighteenth century architecture as the expression of 'a certain political utopia', as suggested by Foucault, in that it provides the schematic constituents that optimize surveillance (Bentham's proposal for the Panopticon was based on a circular design). The circle implies *direct* visibility. Foucault points out that

the disciplinary gaze did, in fact, need relays. The pyramid was able to fulfil, more efficiently than the circle, two requirements: to be complete enough to form an uninterrupted network - consequently the possibility of multiplying its levels, and of distributing them over the entire surface to be supervised; and yet to be discreet enough not to weigh down with an inert mass on the activity to be disciplined, and not to act as a brake or an obstacle to it (Ibid.:174).

What is being referred to here is the instrument of *hierarchical observation*, which is central. The EMS *service delivery unit* constitutes a program entity that operates precisely on the basis of this instrument: both in terms of surveillance of, and knowledge about, offenders and their conduct; and in terms of the *service delivery unit* itself, which is part of an 'uninterrupted network' which has its own internal mechanisms of (hierarchically arranged forms of) supervisory observation and control.

But neither the circle nor the pyramid completely capture the metaphorical potential for describing this electronic machinery of observation. The programs themselves fit within hierarchical structures of disciplinary technologies; the monitoring itself forms part of the

communication relays that inhabit this overall system of hierarchical observation. The automatic functioning of power is analogous to the pattern of surveillance/monitoring. The metaphor that perhaps more aptly captures this (from monitorees' perspective) is the image of the nerve cell embedded in an interconnected network of neurons, occasionally communicating with others at *their* (others') behest or initiation. Within these conditions, power 'functions like a piece of machinery' (Ibid.:176). This technology provides for the smooth functioning, the automatic functioning of power; in acting in this way it also 'disindividualizes power'.

The second instrument of disciplinary power, *normalizing judgement*, refers to the 'power of the Norm' which involves 'a small penal mechanism'. 'It enjoys a kind of judicial privilege with its own laws, its specific offences, its particular forms of judgement' (Ibid.: 178). It is the domain of the non-conforming that elicits punishment and corrective training:

Disciplinary punishment is... isomorphic with obligation itself; it is not so much the vengeance of an outraged law as its repetition, its reduplicated insistence. So much so that the corrective effect expected of it involves only incidentally expiation and repentance; it is obtained directly through the mechanics of a training. To punish is to exercise (Ibid.:180).

Punishment, then, becomes the 'reduplicated insistence' of the Norm; a 'double system' - gratification-punishment - operates in the process of training and correction to achieve the *normal*. In programmatic terms (i.e., home confinement with EM) this means both confinement and behavioural restrictions are concrete indices - normative criteria - that form the focus of correctional attention by way of knowledge and perception in the social organization of surveillance.

Lastly, the instrument of *the examination* 'combines the techniques of an observing hierarchy and those of a normalizing judgement'. The examination

is a normalizing gaze, a surveillance that makes it possible to qualify, to classify and to punish. It establishes over individuals a visibility through which one differentiates them and judges them. That is why, in all the mechanisms of discipline, the examination is highly ritualized. In it are combined the ceremony of power and the form of the experiment, the deployment of forces and the establishment of truth. At the heart of the procedures of discipline, it manifests the subjection of those who are perceived as objects and the objectification of those who are subjected. The superimposition of the power

relations and knowledge relations assumes in the examination all its visible brilliance (Ibid.:184-85).

In further discussing the examination, Foucault proposes the relation between power and knowledge more explicitly: 'The examination introduced a whole mechanism that linked to a certain type of the formation of knowledge a certain form of the exercise of power' (Ibid.:187).

He then goes on to explicate what appear to be functional attributes of the examination that achieve this linkage. Thus, the examination: 'transformed the economy of visibility into the exercise of power' (Ibid.:187), 'also introduces individuality into the field of documentation' (Ibid.:189), and 'surrounded by all its documentary techniques, makes each individual a "case"' (Ibid.:191).²³ 'The examination' for offenders in the present research takes many forms and occurs through many different administrative procedures of documentation and record-keeping.²⁴

These 'simple instruments', then, form the basis of the success of disciplinary power. These minute instruments are social practices that form a more general technology of discipline and control. This is achieved through deployment of the principles of visibility which Bentham provided two centuries ago in the plan of the Panopticon. These principles have here been transposed into the penal technique of home confinement, and the automation of the monitoring function greatly assists correctional personnel in achieving a spatial grid of visibility.

The concern of the next (and major) section of this chapter is to review and analyze the evidence of punishment and disciplinary effects in relation to this penal sanction. This is carried out, as noted above, with an eye to consider the non-correspondence between this punishment and its effects, as well as being concerned to review and assess the effects of *special* discipline on *normal* discipline. Here the emphasis is on an evaluation of how the operation of the *service delivery unit*²⁵ and offenders' subjection to this panoptic regime (that co-ordinates and deploys instruments of discipline), affects social, psychological, and familial dimensions of offenders' lives. It is an examination that centres its attention on an assessment of the efficacy of this punishment as measured by the achievement of correctional goals.

4. *Interpreting Programmatic Effects*

The problematic correspondence of discourse-practices-effects in the case at hand can be sketched and analyzed using the empirical evidence.²⁶ Clearly, though, more research examining the complex and slippery question of recidivism will have to be undertaken before a better understanding is gained concerning whether home confinement has an impact either way (i.e., either deviantizing or normalizing) or none at all. Moreover, there is the question of various other possible deleterious effects.²⁷

A superficial, *general* review of the evidence here suggests stigma is minimized and certain fortuitous effects of discipline are evident. Haste in interpreting disciplinary effects should be avoided, however, since answers are very much dependent upon the programmatic *uses*²⁸ that are made of home confinement and EM. Moreover, claims about the effects of this sanction are based on evidence that, as mentioned above, must be considered preliminary²⁹ and therefore treated with caution and self-consciousness regarding their meaning and use.³⁰ A critic of the research might validly ask whether the findings are applicable to different categories of offenders, in different programmatic configurations, with lengthier sentences for offenders, etc. This less-than-ideal form of the data (from a scientific-methodological standpoint) should not, however, avert the possibility of doing a social analysis of the punishment and disciplinary effects that are evident for this sanction.

One particular area of interest here, of course, is the extent to which discourse-practices-effects *do* or *do not* correspond. The event of non-correspondence suggests attention be directed to determining the extent to which *resistance* and/or *defective* disciplinary technologies contribute to that result. Disciplinary technologies may be defective because of a whole range of factors, some of which will be identified or otherwise indicated and discussed. Correspondence suggests some degree of correctional efficiency³¹ is being achieved. In which case, it is important to describe and analyze the *tactical productivity* of power that operates: the way in which (*how*) this penal

technique functions as an operator of a micro-physics of punitive power that achieves purposeful aims of social control and behavioural regulation.

There are, as noted, *four* penal purposes or aims (*punishment, deterrence, incapacitation, rehabilitation*) that correctionalist discourse enunciates as being achieved by punitive sanctions and it is in terms of an assessment of the practical accomplishment of these possibilities that judgement can be made as to whether the ultimate goal of *normalization* is attained (or is attainable)³² as well. Effects of *punishment* and *incapacitation*, however, do not ensure effects of discipline (e.g., *normalization*) that will prevent continued offending (except of course where punishment effects are significant enough to deter). *Normalization* occurs on the basis of *deterrence* and/or *rehabilitation*.³³

It is very important to note that effects of this sanction are contingent on the sanction's practical use (how is it deployed? on what offenders? for what purposes is it deployed as a form of punishment? etc.). The empirical data can then be deployed to identify the effects of punishment, incapacitation, deterrence and rehabilitation in light of the *particular* configuration of programmatic contingencies. Especially in regard to rehabilitation, and perhaps of greatest importance, it is necessary to identify the relationship of the sanction to the implied disciplinary problem indicated by the offence category and the individualized social history of the offender. As I have suggested above, correspondence would be implied in the event that this sanction's use accords with or supports the rehabilitation of the identifiable disciplinary deficiency, thus achieving the *normalization* of social conduct (indicating an *efficient* rehabilitative modality).

With these concerns and considerations in mind, I will proceed, below, to analyze the research results, remembering that it is the relation of *special* disciplinary regimes to *normal* conduct, and to the implied *problems of living* of offenders, that is at issue. Although no formal research agenda is proposed for the future, it is important, in the context of these preliminary research efforts, to suggest the rudimentary outlines of a research agenda that might further these investigations: so that empirical description and analysis has a clear trajectory, its objective

foci are detailed and purposeful, and it reflects a strong critical footing. Revisiting and analyzing results will be organized as follows. The findings concerning offender impacts are drawn together and assessed by reference to the central discursive categories (correctional aims) of *incapacitation*, *punishment*, *deterrence*, and *rehabilitation*. The evidence of offender impacts of this sanction will be evaluated and analyzed on the basis, first of a review of Baumer and Mendelsohn's findings, followed by review of the present research findings. These findings will be compared and assessed with respect to each penal aim.

4.1 Incapacitation

Baumer and Mendelsohn asked their offenders to estimate the likelihood that an unauthorized absence would be detected. Nearly 1/3 of offenders in their sample (63.7%) 'thought that it was "quite or very likely"' they would be detected. Given that perceptions of risk of detection could be expected to vary by method of monitoring³⁴ these researchers were surprised to learn from their data that 'the electronic system did not enhance perceptions of risk' (Ibid.:5). A partial reason for this will be suggested below in discussing *technical violations* reported.

Indeed, the kind and rate of program *technical violations* is the most obvious index of incapacitation. Baumer and Mendelsohn's results pertain to '*compliance with the home detention order*'³⁵ and indicate that 42.1% of their 126 offender sample reported violations thereof. Moreover, 'for those who reported leaving without permission the mean number of unauthorized absences was 6.1 times (the average sentence for these offenders was around six months)'. Unfortunately, a more complete account of these sorts of violations is not provided (e.g., what were offenders doing such that they could apparently avoid detection?).

Based on their preliminary results comparing electronic monitoring (involving a *programmed contact* system) and 'manually placed telephone calls' they report 'more of the offenders monitored *manually* did report unauthorized absences (47.5% vs 36.9%), but a chi square test of significance failed to reject the null hypothesis' (emphasis added, Ibid.:6). They

conclude from both perception of risk and violation reports that '[a]t this point it appears that the electronic system does not significantly enhance either perceptions of risk or compliance with the home detention order' (Ibid.:6).

Other evidence relevant to incapacitation is that offenders in the Indiana sample reported engaging in forms of 'cheating': 'many offenders learned to "cheat" on travel time and hours worked in order to run short errands such as grocery purchases' (Ibid.:7). These researchers report various other 'incapacitative side effects' for different categories of offender. They also note the denial of gratification felt by offenders ('the negative consequences revolve around needs and commitments which require absence from home' and 'one of the most significant complaints, usually from offenders who still lived with their parents, was that home detention had "ruined" their sex life'). Also noted is that home detention seems more difficult for those living by themselves compared to those living with others (i.e., is isolating). 'On the positive side, many offenders reported that relationships with their family and work attendance had significantly improved while on home detention' (Ibid.:7). These researchers assert that the findings suggest 'a significant departure from the "electronic jail" envisioned by some advocates of electronic monitoring' (Baumer and Mendelsohn, Ibid.:6). This does not mean offenders were not incapacitated. An average of one violation per month seems quite minimal (however this very much depends on what offenders are using this time to do). These researchers conclude that

[e]ven though over 40 percent reported unauthorized absences, most would agree that they had been "incapacitated." The low frequency of such absences would tend to support such a contention (Ibid.:20).

Of the B.C. sample, 18.3% of offenders (eleven offenders) reported some sort of technical or legal violation of the program. It was also clear in the present research that offenders in the main perceive a significant risk of detection with the *continuous signalling* EM system that is being used in the program. In the present research, *offenders were asked whether they thought they could violate the program without detection*. Offenders in the sample predominantly stated either that they *had not thought about it* (36% sample reporting, 22/60), and/or that *EMS is failsafe* (25%

sample reporting, 15/60), and/or that *there is too much to lose to bother thinking about it* (23% sample reporting, 14/60). Eleven offenders (18.3% sample reporting, 11/60) - the same number as reported violating the program in some way - named some ways that violations could be accomplished without detection. The handful of respondents remaining either *noted a predictability in the corrections officers' community surveillance* (8% sample reporting, 5/60) - implying the perception of opportunity to violate - or they *did not know* (6% sample reporting, 5/60) in response to the question.

Offenders were asked to recommend ways that program staff could prevent violations. Their answers to this open-ended question are revealing: fully 1/3 of the sample (20/60) recommended *more random spot checks*; another 15% of offenders (9/60) suggested *greater vigilance around work times*; other notable suggestions were as follows: 'be clearer about what can and can't be done', 'what about a checklist?', 'staff could be more specific to offenders about when they expect them to leave work', and 'don't be so predictable in spot checks'.

This researcher - like the above researchers - found that astute offenders could and would manipulate their scheduling around travel time or take alternate means of transportation (lifts from co-workers) that would allow extra time or a 'free zone' before being back to their residence for curfew.³⁶ Some offenders reported a predictability in the spot checks which would permit imbibing or ingesting prohibited substances, though reported incidence of said behaviour is quite low (6.7% sample reporting, 4/60; though this may be a slight underreporting for this sample). In the present research a continuously signalling EM system is in use and this is viewed as being a supplement to human surveillance, the latter operating up to the late evening hours. When interviewed, *Correctional Officers* in the B.C. program estimated that violation rate figures more or less jibed with their experience of offenders. In other words, they were not seeing many intentional technical or legal violations either.

In trying to account for the differences in results between these two researches a number of relevant factors need to be considered. First, the Indiana sample contains 'minor felons', thus

the likelihood is that this sample will contain more 'prison smart' offenders who may well attempt more program violations. Second, the length of sentence undoubtedly had an impact on violation reports by interviewed offenders. Mean length of sentence in the Baumer and Mendelsohn research is approximately 6 months, while mean sentence length in the research reported in Chapter Four is 22.7 days. Recall from Chapter Four that when offenders in the B.C. sample were asked to contemplate being on the program for a longer period, 28% (17 offenders) said they would likely attempt to violate program rules with a longer sentence.³⁷ Indeed, the initial research on home confinement and EM reports violations going up substantially beyond the 90 day period.³⁸ Third, what may account for differences between the samples is that data for the present study were collected from a special pilot test project, whereas for the Indiana sample there is no special significance to the period when the data were collected (at least, Baumer and Mendelsohn make no reference to any such pilot testing situation).

Finally, the monitoring in the Indiana sample involved three kinds, while the B.C. sample employed only one, a *continuous signalling* system. Baumer and Mendelsohn's preliminary findings show no statistically significant differences when a comparison of monitoring methods is made, either in terms of perceptions of risk (for detection of violation) or for actual reported violations (as noted above). Unfortunately, the EM system variable is *programmed contact* and not the more secure *continuous signalling* system that is being compared to 'manual' monitoring; they do not compare the two types of EM systems. It could be that offenders will more readily risk violations on the *programmed contact* system (compared to the more-difficult-to-breach *continuous signalling* system), which may explain why the mean violation rate for offenders on electronic monitoring is not significantly different than *manual* monitoring.

Overall, however, both researches support the view that home confinement (with or without EM) 'substantially incapacitated the offenders' (Baumer and Mendelsohn, *Ibid.*:20). This effect of incapacitation is very much a function of the use - meaning, in part, the type of offender chosen for the sanction - made of the sanction and represents nothing inherent in the technology's

capacity to control an offender who otherwise cannot or will not be controlled. Indeed, the sanction relies on a good deal of co-operation from offenders, something many are willing to do in exchange for the avoidance of prison. As Baumer and Mendelsohn note, it is a deterrent model that is the coercive basis of social and behavioural control. It appears, with the exception of the forms of resistance that are permitted or evident, that the programmatic operations of surveillance in such programs³⁹ achieve an incapacitating effect, though certainly not as complete as some observers had supposed.

4.2 Punishment

Baumer and Mendelsohn note two main ways in which punishment is accomplished by home detention. One punitive effect is a *sense of loss of freedom* and the other is *embarrassment* concerning wearing the electronic bracelet. For the former, offenders 'repeatedly commented on the sense that they could not do what they wanted to do, when they wanted to do it' (Ibid.:9).

The question of embarrassment is more complex. These researcher's preliminary data indicate that 'embarrassment may be partly a function of the offenders' occupation'. They report:

Offenders in occupations where impressions are important, e.g., sales and contracting, may be more likely to suffer this form of punishment. One of our respondents suggested, in his own words, that embarrassment was a function of class. In response to a question about whether the device caused any problems for him he told the interviewer that "No, every body at my level tends not to think of what other people think (of them). Now, if I was makin' more money it might be different (Ibid.:10-11).

There seems little doubt from these preliminary data that offenders *do* experience the home detention and EM as punitive. The degree of punitiveness will also vary, as these researchers note, in that the 'punitive quality of home detention is also affected by the nature of the home environment and the ordinary lifestyle of the offender' (Ibid.:13).⁴⁰

I will not, again, summarize the results from the present research and offender accounts relevant to them here (see Chapter Four). It is, however, clear from the research reported in Chapter Four (in the sub-section *Areas of Impact*) that the home confinement, wearing the

bracelet, and managing the EMS offender status constitute areas where offenders experience punitive effects. The evidence of concealment practices and the phenomenon of embarrassment suggests that the bracelet is itself problematic or aversive to some degree (though, as noted, offenders maintain a certain degree of control over revelation of their 'offender' status while completing the sanction). In most cases offenders feel more at ease and comfortable in regard to wearing the bracelet in their own residences.

The present research confirms Baumer and Mendelsohn's preliminary finding concerning the relationship between offender *embarrassment* (presumably due to being required to reveal offence and offender status) and socio-economic status. The crosstabulation of *revelation of EMS status to employer* and *socio-economic status* is significant (to less than .05), which confirms the view that as the social and economic status of the offender increases there is a greater likelihood that the bracelet and offender status will be felt to be more punitive (i.e., embarrassing or perceived to be consequential socially or financially).

Punitive effects also arise for offenders - much more significant effects in most cases - as a result of curfew restrictions (cf. Friel et al., *Ibid.*; Baumer and Mendelsohn, *Ibid.*). Offenders experience a 'loss of freedom', of which most were able to give concrete specification in interviews carried out in this research. This is a punitive effect that is very different in locus compared to the concealment/embarrassment problems inherent in managing an offender status in public spaces.

As noted earlier (Chapter Two), the deployment of *information* to reduce uncertainty about compliance with programmatic norms (curfew, alcohol/drug consumption) is significant for increasing the punitive impact of curfews. It is consistent with the view that the 'sense of loss' felt by offenders is due to the curfew restrictions, and as Baumer and Mendelsohn interpret it, 'this implies that as electronic monitoring increases the meaningfulness of curfew restrictions, it will also increase the perceived punitive impact of home detention' (*Ibid.*:9).

To summarize then, results from both researches of the impact of home confinement (with and without EM) suggest offenders *report feeling punished*; moreover, they give sufficient grounds in other accounts of effects of programs on their conduct to validate the claim that they *are* punished. Thus there exists some manner of correspondence in respect to this penal aim, however the conditions of punitiveness vary and are contingent on such factors as mentioned above.

All of this is suggestive of a correspondence between discourse-practices-effects. While this may be true, it appears also that there are identifiable circumstances of the sanction's use that point to little, no, or largely mitigated effects of punishment. In the B.C. research sample (Chapter Four), for example, the relatively short periods of sentence resulted in some offenders not experiencing a degree or duration of restriction that was significant or meaningfully punishing to them (ten offenders, 16% of sample, reported that they did not feel punished by the EMS program).

The other problematic area here concerns whether punitive consequences might get in the way of incapacitative and disciplinary effects. Although there is no evidence on this question in the present research, the employment of home confinement for much lengthier sentence periods is now occurring in some jurisdictions in the U.S.. Michigan would be an example here with its apparently lengthier sentencing practices, and certainly the program studied in Baumer and Mendelsohn's research (Marion County, Indiana) has sentence lengths averaging 6 months. As the latter research shows, the level of offender co-operation and compliance diminishes compared to that shown in the present research where mean sentence length is 22.7 days. This suggests that the aims of incapacitation and security begin to become compromised as length of home confinement sentence increases.

The discussion of *punishment* leads into the question of *deterrence*, a topic that is much more difficult to assess in terms of the problematic correspondence of discourse-practices-effects. This is mainly because *subjective reports* of deterrence cannot be taken at face value alone, but

must be assessed and compared against *recidivism* data. The latter are not yet available from research.

4.3 Deterrence

The question of *general deterrence*⁴¹ is more appropriately addressed by systematic investigation of the public perception of this sanction. Within the criminal justice system, however, there is a *perception* among correctional administrators and judges that house arrest and EM is not viewed by citizens as particularly harsh or punitive.⁴² The question of how much of a *general* deterrent home confinement and EM represents will profit by gauging public opinion in light of the changing use patterns of this sanction and the knowledge (about what the sanction entails) that is publicly disseminated along with this.⁴³

The question of *specific deterrence* is only slightly more clarified than that for *general deterrence*. The question is: does the sanction *itself*, or what it represents, serve to coerce or motivate offenders to *not* reoffend? Baumer and Mendelsohn find a mixed picture in respect to specific deterrence. First of all, they document that many offenders find the constraints visited upon them by their home detention program to be experienced, subjectively, as punishing in themselves. Home detention, it could then be supposed, represents a sanction that they will wish to avoid in the future.

These researchers point out, however, that 'the program we studied was an alternative to incarceration'. They go on:

As a result many of our respondents were clearly of the opinion that, even though they may have viewed it as punitive, "it's better than jail." To the extent that the option might be available for subsequent violations, specific deterrence is not likely for these offenders (Ibid.:14).

Thus, *how the program is deployed* in relation to other sanction options is very much bound up in whether offenders are likely to perceive it as a deterrent. Baumer and Mendelsohn also found that 'specific deterrence may occur to the extent that the offenders... believe subsequent convictions will result in "jail"' (Ibid.:14). Presumably, subsequent data analysis will shed light on the question of recidivism and perhaps on the deterrent effect(s) of this sanction.

The research reported in Chapter Four concerning deterrence is largely anecdotal as well. The evidence derives from offender accounts pertaining to perception of the sanction's punitiveness. These accounts establish nothing other than what offenders stated when asked about how punishing the sanction was for them and whether they felt it would deter future offending. This evidence, not unexpectedly, designates the EMS program as a deterrent (71.1% of the sample stated this sanction would deter future offending).

Interestingly, 30.2% of those offenders claiming the EMS program would deter future offences asserted that the program was not necessarily deterring in itself, but rather was a portent of future imprisonment should the offence reoccur. This duplicates a pattern Baumer and Mendelsohn note in their research (as indicated above).

A point that needs to be underscored here is that *subjective reports* - and this is essentially what both researches provide concerning this penal aim - indicate possible effects of deterrence. It is important to note, however, that both researches have identified concrete ways that offenders report feeling punished and common sense suggests most individuals would choose to forego this kind of denial of gratification if they could. Whether the reported aversiveness of this sanction will, so to speak, *come to mind* as a brake on further reoffence, is not clear from the present researches.

One way that light could be shed on the effects of deterrence is by tracking offender cohorts and comparing recidivism rates of this sanction with other sanctioning methods. While this may constitute a measure or method of *validation* of the possibility that home confinement and EM deter, it nonetheless is *still* an indirect index of deterrence. The question would remain: if

reduced recidivism were found, is this due to either (or both) *rehabilitation* or *selection practices*? Differentiating the effect of rehabilitation as against deterrence presents an interesting and tricky methodological problem in itself, something that cannot be solved here. Suffice it to say, the claims that can be made about deterrence with the data presently available are indirect, anecdotal, and equivocal.

The more interesting and perhaps crucial question revolves around whether *rehabilitation* - that is, *normalization*⁴⁴ - is produced as an effect of the deployment of this sanction. Evidence of rehabilitation would tend to imply or affirm that programmatic procedures work to subject individuals so that future conduct is organized by the Norm they did not once choose to follow, but now 'freely' adhere to. This would indicate that the micro-physics of disciplinary power has operated in such a way that it inscribes or installs norms of conduct in the offender. Attention is now turned to this very important empirical question.

4.4 Rehabilitation⁴⁵

The question of rehabilitation is of considerable interest in any assessment of the effects of *special* discipline on *normative* or *normal* conduct. Indeed, rehabilitation is a penal aim that is brought into precise focus within a consideration of the programs of intervention and their procedures and practices of social control (such as are presented by home confinement and EM). It is now generally believed that incarceration (as a modality of intervention) does not rehabilitate. The question here is, does *home* incarceration produce rehabilitative effects where 'institutional' incarceration could not?

The research conducted by Baumer and Mendelsohn is not yet complete in its tracking of offenders (for purposes of evaluating recidivism rates). When the study is complete, these researchers will be in a position to compare electronically monitored and 'manually' monitored groups as far as recidivism is concerned.⁴⁶ In the absence of such data, 'qualitative data from the study allows us to add to the speculative information already available on the rehabilitative

impact of home detention programs' (Ibid.:16). They then proceed to describe qualitative evidence (mainly offenders' accounts) pertaining to impacts on *family relationships* and effects of the sanction on *restructuring life* among offenders.

As far as family relationships are concerned, Baumer and Mendelsohn point to subjective reports that indicate some offenders engage in productive home-bound activities such as, for example, house repairs and redecoration; others reported doing more reading or 'developing new hobbies'. Some offenders in this research cohort stated that family relations had improved during the period of home detention. Some 'respondents indicated that the restrictions gave them the time to talk about problems... others indicated the restrictive nature of the program forced them to talk' (Ibid.:16).⁴⁷ It appears that some female spouses of offenders are happy to have the kind of control of their husbands that home detention provides, something which they could not achieve in its absence. Evidence from some offenders indicates that the dependency that is created by home detention may fortify some family relationships. There is also a negative side to the forced intimacy that home detention creates, such as: 'there were instances in which the strain of home detention came close to disrupting relationships' (Ibid.:17).

It is clear also from subjective reports in this research that a *restructuring* of offenders' lives occurs with home detention. For example, 'a number of respondents indicated that home detention forced them to better structure their time and life'. As well, many of the offenders interviewed in the Indiana sample 'reported that the program restrictions forced them to plan ahead and use what time they had available more efficiently'. Some of the offenders 'found that home detention served as an acceptable defense against peer pressure and helped them avoid activities that would get them into trouble' (Ibid.:18). At the end of their research report these researchers state: 'We were most impressed with the somewhat *unanticipated rehabilitative effects* apparently experienced by some offenders' (emphasis added, Ibid.:20).

The impact on work is interesting in respect to unintended consequences and suggests different kinds of possible effects:

Some...reported improved job performance. Others reported working more hours or taking a second job. It was apparent that some of the offenders found that more hours or another job (or any job) was a legitimate way to get out of the house more often. What the long run impact of this type of evasive behavior is on the rehabilitative effect of the program is difficult to say. Extending acceptable work involvement might add to the program, or alternately, it could undercut the program by demonstrating to offenders that if you use your head, a system can always be beaten (Ibid.:18).

It is apparent, then, that some offenders are adapting to the curfew and other conditions of the program by electing to *work more* or otherwise increase their focus on work and their work setting.

The research findings reported in Chapter Four, in general, are comparable to those reported by Baumer and Mendelsohn. The present research, however, does not provide for recidivism comparisons owing to the highly selective, non-random make-up of the research cohort.⁴⁸ However, the interview schedule did provide for extensive *subjective reports* data pertaining to offenders' experiences and perceptions about the effects of home confinement and EM. These findings reflect the *quantitative frequency of specific offender accounts* with respect to impacts of the sanction (thus reflecting aggregated tendencies of offender subjective reports), as well as constituting anecdotal evidence of disciplinary effects. Many of these subjects' reports are virtually identical in form⁴⁹ and content with those summary examples given in Baumer and Mendelsohn's research.

The noteworthy facets of similarity of the B.C. and Indiana samples in regard to rehabilitation are in the areas of family relations and impacts on restructuring the lives of offenders. These effects - to be discussed in greater detail below - are largely fortuitous in the sense that they are not explicitly planned by corrections personnel, but rather, arise as a result of how offenders adapt to the situation of constraint they find themselves facing in these respective home confinement programs (e.g., such as by working excessively, spending time productively at home, etc.). These impacts of the sanction - the definite forms of influence on areas of offenders' social lives - are perhaps only indirectly related (if at all) to the implied disciplinary deficiencies displayed by offenders. Equally fortuitous are the effects of disciplinary normalization as far as

promoting more assiduous work habits are concerned; this is an effect of the curfew schedule itself.

The B.C. research - like the Indiana research - suggests both positive and negative impacts on offenders and their families. On the positive side, offenders reported minimal negative impact on family (or co-resident) relations. Only 3 respondents (6.2% of offenders co-residing with others) reported that the EMS program has 'worsened' household relations. Over half the research sample (25 offenders, 52% of offenders co-residing with others) reported 'no effects' on household relations when asked. Ten offenders (20.8% of offenders co-residing with others) actually reported an 'improvement' in household relations as a result of being on the EMS program. This latter effect is likely due, to some extent, to the process of enforced intimacy and dependency producing greater *immediate* effects of social cohesion; whether these effects will extend beyond the sentence period itself is a matter for future and/or follow-up research.

There are other apparent rehabilitative effects evident among interviewed offenders. In particular, 9 offenders (17.6% of employed offenders) reported 'improved work habits', such as 'doesn't leave early from work as usual', 'more punctual', and 'can't spontaneously take the day off work'. Some offenders noted that their *employers* had remarked positively about this outcome and thus expressed full support of the aims and conditions of the program.

There is evidence of a general effect of discipline from this punishment; a fortuitous effect arising out of offenders' adaptation to and management of the constraints that now place limits on their lives and conduct (and to varying degrees, those of their family and other social relations). Some offenders actually formulated that the forms of constraint that they consented to with program participation, had fostered their gaining control of behaviour that previously had known little or no restraint. Many offenders, for example, expressed pleasure about the consequent curtailment of money-spending as a result of their program participation. Also, a number of offenders reported better work attendance and punctuality. This confirms Friel et al.'s (Ibid.:21) report that 'it is not unusual for offenders to become more domestic after a period of in-house

arrest'. Some offenders reported in the present research that they wanted to use their time constructively while on the program.

Of course, these effects provide no basis in themselves to suppose that offenders are rehabilitated or normalized in respect to the conduct that led to their specific conviction. It seems to be the case that these disciplinary effects are particular, contingent reactions to a general program of discipline (provided by program rules and curfew) and therefore more or less accidental; whether they will last beyond the sentence period is another issue, of course. The 'success' of discipline may indeed be indicated, however the more important question is whether the normalization that appears to have been achieved bares any direct or relevant relation to the implied disciplinary deficiency, as noted above. To begin to address this question it would be necessary to examine the effects of discipline in light of the implied normative deficiency on a more or less case-by-case basis.

This relationship of disciplinary effects and implied normative deficiency is not particularly clear in the case of such offences as theft, fraud, drug trafficking, and driving while prohibited (30% of offences in the B.C. sample). However, there appears to be more of a complementary relationship between the problem implied by impaired driving (namely, alcohol dependency) and the rehabilitative *support* provided by the surveillance and control elements of home confinement and EM. In this regard, some offenders (5/10 in the alcohol treatment sub-sample) in alcohol counselling and treatment expressed the belief that the program was positive in respect to supporting alcohol abstinence.⁵⁰ On the other hand, some offenders who may well have a 'drinking problem' are afforded an additional opportunity for self-delusion in the event that they do manage to complete their sentence without succumbing to the temptation to imbibe. A number of offenders indicated as much in the interview; what was noteworthy, however, was that other evidence from spouses or self-reports indicated that drinking *was* a problem. There are no definite conclusions in this area, which gives added impetus for more detailed investigation of this vital question of the rehabilitative potential of home confinement and EM.

4.5 Summary: an assessment of the correspondence of discourse-practices-effects at the disciplinary level

Such effects of discipline that *do* occur will likely not have durability unless they become linked to other normalizing practices which have their own momentum. Should this occur, then the supplementary status of this regimen of punishment may well *foster* and/or *reinforce* normalization in the areas of normative deviation. However, and this is very important, *this link cannot be guaranteed and is only programmable in the sense that effects of discipline are enforced simultaneously with the possibility that offenders are (or perhaps are not) struggling to overcome certain forms of behaviour* (e.g., poor judgement or decision-making, alcohol and drug dependency, certain psychological problems). Some offenders, for example, report that the opportunity for temporary seclusion and enclosure is helpful in addressing problems.⁵¹ While home confinement, then, can turn out to be of some apparent utility - rehabilitatively speaking - again, this result or effect *cannot be programmed* in itself.

It is clear from the course of interviewing offenders and also from being on the monitoring system for a brief period of time, that though the conditions of observation and control may 'incapacitate' individuals being monitored, there is nonetheless, room to *resist* this effect. One way encountered in the present research (and also found by Baumer and Mendelsohn) is for offenders to load up on work or other 'outside' activities sanctioned by correctional personnel. This would be considered a *legitimate* avenue in which offenders can bypass or mitigate some of the punishment effects of the sanction. This result - what amounts to the production of a hyper-disciplinary effect - would appear to achieve an immediate effect of disciplinary *exercise*, a generalized effect of discipline that results from the way some offenders adapt to the conditions of their curfew and confinement. In other words, it is not directly imposed by correctional personnel, it is the chosen adaptation of (some) offenders to the conditions of the sanction in light of their lifestyle, personal habits, interpersonal associations, etc.. Both follow-up research and investigation of longer sentence periods will shed further light on this question.

Offenders may also choose to gamble and engage in *illegitimate* avenues of *resistance*. However, as mentioned above the parameters of supervision and surveillance that might permit this opportunity can be quite narrow (depending on the type of monitoring system and correctional supervision practices, and these, as noted, vary between programs). Nonetheless, some latitude is available here as the accounts from interviews attest. In this respect, it is possible to identify offenders who vary in their astuteness about how much they might be able to manipulate the conditions of observation so as to permit a certain space or latitude of freedom. Many of the offenders in this research, as noted in Chapter Four, were not on the program long enough to feel the need to press the limits of resistance in their favour further ('there's too much to lose' was a commonly encountered sentiment). They did not want to resist ('I just want to co-operate and get it done with' being commonly expressed here) due to fear of greater penalty, and so were not particularly interested in exploring that possibility in the research interview itself.

However, it is evident from the research that another class of perhaps more savy and motivated offender exists. That offender is able to *read* or otherwise predict the practices of surveillance and also is able to engage in activities and provide legitimate (and perhaps effective) accounts to correctional staff regarding program violations. Some of these offenders were quite resourceful in their manipulations and this belies a considerable native competence to provide a presentation of self such that the depiction of an otherwise compliant program client is indicated to correctional staff.⁵² Thwarting the incapacitating effects of the punishment can take different forms, from simple gambles like sitting outside the residence (which is not allowed) to more elaborate efforts that rely on offenders' assessments and predictions concerning the possibility of *human* surveillance (i.e., an unexpected spot check). Administrative penal policy could secure *increased* degrees of incapacitation (if that were deemed necessary for some reason) in the area of human monitoring only at the cost of increased intrusiveness, administrative inconvenience, and/or inefficiency in operational deployment of corrections personnel.

Only in the unlikely event that administrative policy and priority provides that spot checks are themselves truly randomized⁵³ (perhaps by a process of machine programmed randomization) and are exercised over the entire twenty-four hour period of the day, will more and more zones of freedom be plugged so as to expand the projection of the disciplinary gaze with the intention to further minimize non-conformity. It is not altogether clear at this point what the effects of such an *intensification of surveillance* might be over a range of individual factors (such as, for example, *sentence length, offence type, dwelling type, occupation, type of rehabilitative need*) or as conceived from the point of view of administrative purposes. In any case, it is not clear from a consideration of present data what effects more complete or intensive forms of monitoring and control might produce in offenders and their social relations.

The correctional staff in the program in question are aware of these facts within their offender supervision practices and maintain what appears to be a tacit countenancing of minor expressions of some accountably *legitimate* expressions of non-conformity (such as the circumstances of transit that sometimes result in curfew violations). Also, some offenders are aware that the computer evidence of violations is not sufficient itself to take them off the program and that program staff need direct, physical evidence confirming that a program violation has occurred. It should be emphasized that these personnel operate according to agency procedure and rules; they realize also that offenders have a small margin of latitude where they (corrections staff) can employ their discretion to overlook minor deviations, as long as plausible and legitimate grounds are available to account for violations of the Norm and that flagrant violations are not occurring (thus bringing to the fore the question of their competence as correctional officers, something that might *require* them to initiate a course of action that Corrections Branch policy dictates, e.g., such as *apprehension* as a prelude to the possibility of revocation).

It is evident, then, that qualified claims about the correspondence and/or non-correspondence of discourse-practices-effects can be made for this new penal technique of punishment and social control (in the areas designated by the punitive purposes reviewed above).

Disciplinary effects of this sanction are neither definite, nor are they wholly correspondent or non-correspondent with the four penal aims discussed above. As well, empirical evidence of the achievement/non-achievement of these penal aims would seem to depend upon specific circumstances and conditions that constitute the possible forms of programmatic deployment of this sanction. These, as suggested in Chapter Two, display considerable variability, and therefore it can be expected that there would also be variable effects of incapacitation, punishment, and normalization that would be realized as a consequence.

It is also important to remain alert to the possibility that home confinement could be deployed in a way that undermines some of the other penal aims (such as in offenders taking more chances to gain 'free time' and thus compromising *incapacitation* or adapting by excessive working which may be counterproductive as far as general normalization is concerned). Perhaps adequate management practices and level of programmatic supervision can be adjusted to prevent deleterious effects on offenders⁵⁴ and their families, a phenomenon the potential for which is evident in some cases in the present research. These issues must be very much a matter of concern and where research efforts now need to be directed.

The results, as implied, must be considered tentative at this stage, due mainly to the preliminary and exploratory character of the data generated as part of the respective researches. The evidence at hand indicates that home confinement programming (verified by EM) performs an ordering, surveillance, and controlling function that largely incapacitates offenders; moreover, this sanction is *experienced* as punishing inasmuch as offenders are curtailed in the extent to which social and other kinds of *gratifications* are attainable within program conditions offenders are subjected to.

Both of these penal aims, however, cannot be said to be *unequivocally* achieved for it is also evident that various tactics of resistance, as noted above, are evident that enable offenders to reduce or mitigate the intended effects of incapacitation and punishment. Within the practical limits of surveillance, though, offenders are observed closely enough that program administrators

are satisfied that 'incapacitation' has been achieved. The aim of punishment is also evidently achieved, however the degree of its subjectively experienced punitiveness is much dependent upon various offender-specific factors that limit or assuage the effects of punishment. Nevertheless, and perhaps of greatest importance, correctional authorities can *represent* both 'punishment' and 'incapacitation' as achieved and achievable by the use of this new sanctioning method.

The penal aims of deterrence and rehabilitation are even more equivocal than is the case for punishment and incapacitation. There is evidence *in some cases* that home confinement with EM is punishing enough that offenders would want to avoid this sanction in the future. This suggests they will be deterred from reoffending to some extent because home confinement with EM is punitive in itself. In addition, the majority of offenders in the B.C. sample assumed that the EMS program *would not be available* to them in the future - if they happened to reoffend again - and hence they tended to view their program participation (instead of being imprisoned) as being a 'lucky break' that would not be repeated. Baumer and Mendelsohn suggest that to the extent that this sanction is available in the future for 'low risk' (or other) offenders, then its deterrent value is compromised or limited.

Methodologically, the question of deterrence is very difficult to assess in the absence of carefully constructed data that conform to rigorous scientific standards that control for program screening and other variables that can influence or account for variability in rates of reoffence (compared to other available sanctions). The research conducted by Wheeler and Hissong (1988) suggests that the application of fines, community service, and incarceration makes no difference as far as rates of reoffence for impaired driving are concerned. If home confinement and EM were to be found to be consistent with this finding, then it would suggest that the deterrent effects are no better and no worse than are other available sanctioning methods for impaired drivers (this is an open question for other offence categories, of course). While subjective reports indicate the possibility that this sanction will act as a deterrent for some offenders, this correspondence has

yet to be unequivocally demonstrated by empirical evidence and remains a largely open question at this stage.

Indeed, there are considerable analytic and methodological problems and issues to be resolved before serious and detailed consideration of this question is embarked upon: principally determining a semiotic basis for interpreting the *signs* of deterrence, constituted *as* a form of subjectivity; and determining what would count as adequate evidence of causality of the subjective effect of deterrence itself.

The penal aim of rehabilitation is also very complex and must, as noted above, be assessed against the more specific background of offenders' implied disciplinary deficiencies; these deficiencies are essentially *normative* and imply the achievement of a behavioural goal whereby this new punitive practice (i.e., home confinement and EM) brings about (or helps to bring about) the practice of the Norm (e.g., expressed in the negative: *not drinking and driving, not engaging in fraudulent activities, not selling proscribed drugs, etc.*). The point about *specifying* the relation of penal practice (in this case, use of home confinement and EM) and rehabilitative goal (i.e., the practice of the Norm) is made because, presumably, fortuitous effects of discipline may in fact be achieved that have no bearing at all on the normative dimension that evoked the punitive intervention of the state apparatus in the first place.

Again, subjective reports give some indication that a degree of correspondence is being achieved. However, more detailed research that investigates the relation of specifically implied normative defects (exhibited by offenders) and the efficacy of programmatic practices in ameliorating them is necessary in order to permit conclusions about this penal aim that are more than merely speculative. For now, though, little more can be said than that correspondence of discourse-practices-effects is achieved in some small degree; to what overall effect is not at all clear at this juncture. Longer sentence periods and more detailed, long term studies of psychological, social, and familial impacts of this sanction will help to clarify many of the questions that have been raised above.

5. *Limits of Disciplinary Analysis*

This brings the present chapter to a close. I believe the above discussion and analysis shows the dimensions in which the *tactical productivity* of disciplinary power *may* be achieved by application of the sanction of home confinement and EM, as constituted by the operational organization of a mobile, panoptic regime of surveillance and control. The *limits* of that tactical productivity of power at the disciplinary level - at the material level of the body - would seem to be indicated by the extent to which the deployment of this form of sanction can be accomplished so as to maximize the achievement of the discrete penal aims of *punishment, incapacitation, deterrence, and rehabilitation* (and perhaps, more importantly, the *perception* of their achievement). The results, as indicated in the offender impacts research discussed above, are either mixed or are yet unclear.

How this sanction is configured within local systems of criminal justice administration, ultimately, will determine its utility and efficacy at the disciplinary level. At present, this criminal justice and corrections policy serves as a practical means of differentiating, then managing, a definite sub-population of offenders (see Chapters Two and Five); moreover, this penal policy, or rather *its representation*, provides a discursive service: constituting the truths of, and thereby legitimizing, this sanction; the truths being the administrative rationality that enunciates the good sense of the incorporation of this sanction within judicial and correctional practice, thereby producing and expanding the punitive basis of power/knowledge. This rationality is primarily expressed in terms of the punitiveness,⁵⁵ humanity, and cost-efficiency of this sanction, its effects virtually guaranteed (discursively) by the invidious contrast with the practice of prison-based incarceration.

Foucault would likely neither approve of, nor engage in, the kind of analysis carried out above. In the first place, Foucault's project involves the transgression and disruption of dominant discourses of power/knowledge such as is constituted by the administrative rationalities of corrections. He opposes and seeks to undermine them, rather than partaking in their construction,

legitimation, and utilization. Foucault is not a practitioner of dialectics,⁵⁶ but rather seeks to disrupt regimes of truth by displaying their essential contingency through employing the strategy of *difference*. He achieves this by contrasting dominant truths with marginal, excluded, and repressed truths. As Carroll (1982:193) puts it:

His critical perspective is one that attempts to situate itself in such a way as to avoid all nostalgia for the past as well as all forms of evolutionary, utopian, reformist, teleological optimism projected onto the future, to delimit prison discourse and its institutions and practices without being delimited in its turn by another form of the prison or the 'microtechniques' associated with it. His is the attempt to describe the exercise (and not the possession) of power without exercising it himself, or at least without exercising it in the same way that other techniques and strategies of analysis do.

This approach, however, tends to be static and leads in the direction of a 'lonely politics' where inertia becomes infused in the critical practice of penal politics (cf. Walzer, 1986; Carroll, 1982). Clearly, Foucault's politics seeks to avoid the role of forming power/knowledge so as to accomplish the discipline and individualization of offenders, a tack the present work has not followed.

However laudable Foucault's romantic reverence for the marginal and the repressed may be, it provides no practical basis for engaging the very real and pressing problems that societies face and for which political technologies of the body are fashioned and deployed. What sense would it make to revere the impaired driver, for example? At another level, though, the normative violation of impaired driving makes a great deal of sense in light of the conditions out of which it is generated (cf. Gusfield, *Ibid.*).⁵⁷

The state level concern and the concomitant energies directed to eradication/control of the 'social problem'⁵⁸ of drunk driving would seem to guarantee perpetuation of this class of offence since policing and correctional provisions now are capable of detecting, processing, and managing greater numbers of offending individuals.⁵⁹ One of the long term results here, of course, is expansion of the penal apparatus. The example of the Impaired Driving offence illustrates well that power is not localized in any one institution. Corrections has had to *accommodate* to changes in law and sentencing patterns concerning this offence (which also widens the ambit of its

regulatory and disciplinary power). Perpetuation of deviance - non-correspondence of discourse-practices-effects - can occur, then, at either or both disciplinary and systemic levels.

The pilot project program investigated offers a wealth of clues suggesting that the construction of this program is designed precisely to ramify and extend state power in the correctional sphere. Future deployments of this sanction may turn out to be as ineffective in ameliorating deviance as the 'total institutional' forms of incarceration it ostensibly replaces. Failure (or non-correspondence of discourse-practices-effects), then, provides yet another basis for future reforms and modifications of penalty.

Foucault's interpretive analytic of power in the present case of penal reform remains of limited importance at the level of disciplinary effects. It is evident that some correspondences obtain at the level of discipline - enough perhaps to provide for the discursive representation and political legitimation of this new penal form. However, the more interesting and significant questions pertain to the strategical integration of this new penal form within the criminal justice and correctional apparatus, within the overall system of social control and penal regulation. The management of the Pilot Project program indicates the achievement - at the level of *representation* at least - of the goals identified for successful inaugural launching of the program (see Chapter Three). Penal programs must be perceived as achieving intended penal aims, in which case they may then be attributed with a tactical productivity of power. This would seem to be a prerequisite to their successful *strategical integration* within the criminal justice and penal apparatus as a whole. Attention is now turned, then, to the features and dynamics of that strategical integration.

Notes

- ¹ The question arises as to how much (or in what way) can the punishment and disciplinary techniques be non-corresponding and still remain within the ambit of usable technologies of deviancy control. In the case of this sanction the results are mixed and hazy in respect to the effects of deterrence and rehabilitation. On the other hand, the ostensible aims of incapacitation and punishment are underscored for this sanction. The legitimacy of programs would seem to depend on program administrators' choice of offender populations (how 'risky' are they?) and practical matters such as the intensity of programmatic surveillance. The consequences for the continuation of programs is obviously very different if the newspaper reporter learns, on the one hand, that some Alcohol Impaired Drivers have been revoked from their home confinement program due to the detection by program personnel of continued driving or alcohol consumption while on the program (violating a program rule of 'no alcohol') and, on the other hand, learning that a rape or murder has occurred while an offender is supposed to be under state control.
- ² And indeed, the passing of time allows for a playing out of the administrative and organizational processes that underly programmatics. In an entirely different vein, this is the area in which can be seen a key difference between Foucault's historical genealogy and the present form of social analysis. The former conducts a *retrospective* interpretation of historical documents and of the forms of *emergence* and *descent* of those phenomena sociologists (as well as other humanities scholars) are interested in, namely social practices, processes, structures, and order (or orderings). Foucault does this with a view to elucidating the historical present and the forms of subjectivity that are formed by the techniques, tactics, and functionings of power or operation of the micro-physics of power (cf. Foucault, 1980, 1983, 1988). The present study is *not* a retrospective analysis. Its focus is on administrative and organizational processes and their effects insofar as they can be interpreted and described *in the present*. Foucault's retrospective analysis contains a built-in historical comparative basis, whereas many or most of the discursive truths (e.g., about rehabilitative potential, cost efficiency, punishment efficacy) in the present investigation can only be judged against *subsequent* developments, which are now in the process of formation and occurrence. One way around this is to modify social analysis so as ensure that different *possible* kinds of future historical developments are *anticipated* and considered. Anticipation of possible effects (at both disciplinary and systemic levels), then, will be a sub-text of the chapter as a whole.
- ³ 'Successful' effects at the system level implies or predicates 'failure' at the disciplinary level. This will be discussed further in the next chapter.
- ⁴ Home confinement with EM is no exception, retaining as it does the technique of *confinement* or *detention*. This confinement is verified in part by the modality of EM (where applicable), the latter being a policing, *surveillance* practice. Again, this is the hybrid aspect of the deployment of home confinement and EM. It has elements of punishment, surveillance, and incapacitation similar to prison-based designs, but can be fitted to these tasks 'in the community' as part of everyday life.

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- 5 This is the important issue of *representation* discussed in the previous chapter. As shall be argued, the representation of penalty is *misaligned* at the disciplinary level (i.e., it *claims* to eradicate deviance but does not), and its alignments at the systemic level operate to sustain and expand the control culture. One implication from this is consistent with what others have observed and recommended. As Smart (1983:75-6), for example, proposes: 'strategies operate on the objects and relations formed within the social domain by programmes and technologies of power' and furthermore, *functionality* is not considered at the level of the program but at the level of strategy. This suggests that the *representation* of punishment - the semio-techniques of punishment - is an element of power/knowledge that is also a *political* operator of power (as also suggested in Chapter Two). Elucidation of this phenomenon will permit an analytic comprehension of the possibilities of strategical integration of this penal form (in Chapter Seven). This is why, I argue, there is such importance placed on the capabilities inherent in these information systems to remotely monitor offender status and therefore achieve disciplinary semio-techniques (punishment and incapacitation) where before this would not have been possible except in more costly (human labour intensive) forms of *intensive probation supervision*. Electronic monitoring now permits the achievement of the goals of 'punishment' and 'incapacitation' within a configuration of service delivery organization 'in the community'. This is a semio-technique that provides for legitimation of the sanction by displaying - in the field of language and representation - its tactical productivity of disciplinary power: it watches and controls.
- 6 Banished to the extremities of civil society so as not to offend in its midst; arguably only contained, not eliminated.
- 7 It seems evident that Foucault overstates his case in the direction of non-correspondence without exploring the possibility that is implicit in much of his later work, namely that the constitution of subjectivity occurs through the deployment of various technologies: disciplinary technologies that act to subjugate bodies. Yes, but there are also technologies of security (cf. Foucault, 1983) that, I assume, foster liberative potential within the social, within the life-world. All is not subjection and subjugation. On the other hand, the various 'projects of docility' *do* register some successes. They create and administer ordered conduct. Indeed, we could warrantably ask of Foucault whether *anatomo-* and *bio-politics* would be possible without some degree of correspondence (whether *perceived* or 'real') of the orders of discourse-practices-effects. It is a question of ascertaining the relationship of 'success' and 'failure' over a period of social and historical change and of charting the embeddedness of these successes and failures within the circuits and relays of social and juridico-discursive networks of power. This is the question of whether strategical integration of the penal form is achieved and points to the connectedness of discourse, programs, and practices with *strategy*. This is the subject matter of the next chapter.
- 8 Smart restates this relation (on the next page) as follows: 'strategies operate on the objects and relations formed within the social domain by programmes and technologies of power'. This relation of program and strategy is particularly important for the analysis - in Chapter Seven - of the prospects for *strategical integration* of this new penal form within the overall penal mechanisms of regulation and social control.
- 9 Smart's usage of *programmes* is interpreted as referring to policy designs, programmatic descriptions, and other discursive materials standing as their true *discourses* (or *rationality as such* in the administrative and institutional spheres). Therefore, the relationship between 'programmes and practices' signifies the relationship between *discourses* and *practices*; this translation is provided so as to clarify some possible ambiguity that might arise between different conceptual usages here. Hence, there can be 'no general formula' and the 'relationship is problematical and specific to each instance'.

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- ¹⁰ The claim of non-correspondence, I take to be an *hypothesis* that can be subjected to empirical assessment. I do not believe Foucault is saying that non-correspondence is absolute and omnipresent between discourse, practices, and effects. It seems in keeping with this, as Foucault says elsewhere about the regulation of punishment, that the reform of punishment is in the direction of making its practices more *efficient*, more effective, of punishing better and more deeply into the social fabric. This implies some degree of correspondence, however minimal it might appear or brief and transitory its effects. Some kinds of correspondences between discourses, practices, and effects must be occurring (as mentioned in a footnote above), else the business of administration would and could not proceed. Efficiency is a chief administrative criterion for assessing programmatic forms. This does not mean that every reform (of what was previously itself an 'object') of a reform, necessarily adds to the valence of efficiency of the deployment of penal policy in each new case (one of Cohen's (1985) *stories of progress*). Regardless of this, we would need to know a great deal more about what 'efficiency' references in any given case of punishment/control in order to adequately deal with this question. Lack of correspondence, as this passage states, does not mean that there is no relationship between these orders of events. It means that the effects sought by administrative design and policy are *not* produced or that unexpected (not intended) outcomes are produced. Arguably, though, matters do not transpire in only these two ways. In some respects programmed effects are being realized or are possibly realizable, as suggested: programmed effects of incapacitation, of punishment, of rehabilitation, and possibly of deterrence; in short, movement toward, and/or achievement of, the normalization of social conduct.
- ¹¹ There exists no firm or unequivocal evidence to this effect as yet. Chapters Two and Four include discussion of the detailed methodological issues that need to be addressed in doing studies of recidivism and other offender impacts.
- ¹² The contours of implied deficiencies of discipline would be described by a consideration of two intersecting discursive elements: comprised by a knowledge of the offender and a knowledge of the offence. Thus, the deficiency of conduct implied by juxtaposing the documentary history of the offender and the *category* of offence in the case of Impaired Driving is that of alcohol dependency. I believe that many caught in the considerably expanded nets of policing and enforcement of the problem of drinking and driving become *misattributed as alcoholic* in this respect. The use of home confinement as a sanction for defaulting in payment of child support would seem to resonate with the effects of money saving, extra work seeking, etc., which are evident in some cases. Whether spouses needing financial support would end up benefiting is an empirical question. However, one would assume there would be a greater likelihood given some of the evidence in this research concerning personal financial management. What of sex offenders? The level of surveillance is sufficient in most EM programs to keep sufficient tabs on such offenders (i.e., incapacitate them), and more therapeutic resources are available to deal with these types of offenders than in total institutions where there tends to be insufficient treatment resources. What the potential rehabilitative efficacy of home confinement and EM is for other types of offences and offenders is a matter for more detailed future investigations.
- ¹³ Which, of course, represents a significant disjuncture or non-correspondence of discourse-practices-effects.

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- 14 The extent to which deterrence and rehabilitation is or is not achieved will obviously differ depending on programmatic use and 'fit' (see Chapter Two). Each local, regional, and national criminal justice system will deploy this sanction to differing effect. For example, policy in the B.C. Corrections Branch is enunciated as follows: 'one of our goals is minimal intervention. The lowest level of intervention possible in an offender's life, which will still ensure the safety of the public' (EMS Pilot Project *Director*, Interview: May 24, 1989). In this relatively less crisis-ridden atmosphere - there is no crowding crisis in B.C. prisons - the EMS program presents the occasion to display that Branch policy is operating effectively. It is a very different story in Michigan, where home confinement with EM has been legislated as mandatory for all inmates released from state prison facilities. It is a case where crowding drives the patterns of offenders targeted for this sanction. In Michigan, offenders are subjected to this sanction automatically (this Michigan program information was passed along in the interview with the Pilot Project *Director*). This means or suggests a haphazard targeting of offenders as far as offence type and implied rehabilitative need is concerned. Given this use, it would then seem that the question of the sanction's efficacy to produce appropriate disciplinary effects of normalization (whether by way of deterrence or rehabilitation) may be irrelevant to the rehabilitative needs implied by the different offence categories covered. An uncrowded penal system that can afford the relative advantage of experimentation with this new technique is in a position to deploy it in a less reactive manner compared to circumstances where crowding is the primary driver of correctional policy (cf. Friel et al.'s (1987) discussion of Clackamas County program in this regard). Where slow, cautious planning (see Petersilia, 1987a) is permitted, there is a greater opportunity to design and implement a more pointed and purposeful correspondence of disciplinary requirement and penal technique.
- 15 In other words, the *interactional* character of the operation of power - 'an action upon an action' - would be hidden if its concrete operation as a machinery of observation and control (a programmatic of supervision/inspection) were not provided. Foucault's proposals concerning the instruments and features of disciplinary power provides the basis to describe the operation of disciplinary technologies and mechanisms, a task taken up in the main body of this chapter.
- 16 This is what Foucault would refer to as the material level of the operation of power, 'capillary forms of power', or the 'micro-physics of power' (1979, 1978, 1980).
- 17 As Gordon (1980) points out, Foucault has been misunderstood as proposing that a supra-personal regime of social order has been achieved, namely a *disciplined* society. The previous discussion should clarify that such a view is a significant *misreading* of Foucault in so far as his analytic of power addresses *forms of discipline* and the administration of penalty. He is addressing organizational phenomena and not final outcomes.
- 18 Referred to as *attending offender's residence*.
- 19 As mentioned in Part I, program rules proscribe consumption of alcohol (or any non-prescription substance for that matter) and offenders are required to remain within the boundaries of the residence itself. Violating boundary stipulations was found to be much more enticing (and therefore problematic) to offenders during warm, sunny weather conditions.
- 20 This is also where the 'blurring of the boundaries' occurs (Cohen, 1979, 1985): that is, between 'the carceral' and the conditions of freedom of democratic, civil society.

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- 21 Walzer (1986:58) makes an interesting point about Foucault's recommendation to study micro-power (in hospitals, armies, schools, factories, in instruments and techniques of power, etc.). In doing this, he describes a kind of non-correspondence between Foucault's discourse and his practice. Walzer characterizes Foucault's proposal thus: 'We must study the sites where power is physically administered and physically endured or resisted... In fact, this is not quite what Foucault does: he is more a theorist than a historian, and the materials out of which he constructs his books consist mostly of the written projects and proposals for these sites, the architectural plans, the handbooks of rules and regulations, rarely of actual accounts of practices and experiences'. The present research on EM and home confinement departs from the model of genealogical history by covering the inaugural practices and testing of a new kind of penal instrument and not the plans and designs that leave much about social action (and the micro-physics of power) within the penal realm hidden or obscured.
- 22 Foucault (1979:171) states: 'Slowly, in the course of the classical age, we see the construction of those "observatories" of human multiplicity for which the history of the sciences has so little good to say. Side by side with the major technology of the telescope, the lens and the light beam, which were an integral part of the new physics and cosmology, there were the minor techniques of multiple and intersecting observations, of eyes that must see without being seen; using techniques of subjection and methods of exploitation'. It is *programmatics* - such as the organization and administration of the *service delivery unit* - that is implied here.
- 23 For a discussion of the *social construction of documentary reality* that is complementary to this discussion see Smith (1974). In the penal realm this involves a focus on the practices that constitute *individuality* and that make possible the techniques of intervention that provide for *individualization* of punishment and discipline. 'Introducing individuality into the field of documentation' does not mean that *individualization* of punishment and discipline is occurring. This is Garland's (1985) position (see Chapter Five). It makes sense that in the early historical phases of carceral design, punishment, incapacitation, and, as a result, deterrence, are emphasized in penal practice; that the examinations of judicial personnel, as well as those by other 'parallel judges', construct deviant categories for legal, administrative, judicial, and penal purposes. Individualization of discipline and punishment itself is correlated with the reform policy that signals a shift to 'alternatives to incarceration'. The latter can bask in the implicit moral approval that comes with 'humanitarian' projects; thus do 'rehabilitation' and normalization come (in the modern penal period) to be correlated with penal and social control practices that claim to reach beyond the *immediate* effects of discipline and punishment (punishment, incapacitation, and possibly deterrence) and produce - via techniques of individualization and the individualization of punishment - sustained behavioural change, compliance, normalization (rehabilitation).
- 24 Police records, pre-sentence reports, use of risk protocols or program criteria screening, relevant legal documents, and medical and psychiatric reports are typical materials that construct the documentary reality of the case of an offender.
- 25 The reference here being to the *program* entity comprised of penal practices and instruments of observation, examination, and judgement (cf. Smith, 1974).

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- 26 Of course, paying due attention to the effects of pilot project selection processes on the character and significance of the data; in the sense that offenders were aware of the 'pilot project' status of the program at the time they were on EMS (their 'bargain' with correctional personnel) and that sampling was non-random. Offenders were reluctant to frankly discuss details of fudging and program rules violations, preferring to maintain the script of strict compliance. In fact, 'voluntary' research participation tends to favour selection of more co-operative and/or compliant offenders making for a research cohort that violates significant methodological canons of scientificity and systematicity. The result of this is doubt about the validity and reliability of 'results'. This feature, plus the otherwise limited (preliminary) scope of the data encourages the speculative tone of the chapter as a whole. I believe it is reasonable to say of the data that trends, patterns, issues, and other phenomena are evident (and are very *real*), but perhaps are not as intensely or dramatically expressed in the present research cohort (due to the reasons mentioned) as they might be in the context of research examining longer sentences and other, less benign categories of offenders.
- 27 The question of long term periods of adjustment to home confinement needs to be given considerably more attention. For example, Baumer and Mendelsohn express a concern about one class of offender they describe as loading up on 'outside' activities they can legitimately do, namely work. The present research uncovered the same phenomenon as a means of coping with the sanction. Given the projection of this sanction over a longer period could produce various problems, both for the offender and others in his/her immediate social nexus (i.e., home confinement could *adversely* affect family relations).
- 28 Meaning, who it is employed to punish/control and whether a direct empirical relationship can be demonstrated between its use and specific disciplinary effects (especially deterrence and rehabilitation).
- 29 Baumer and Mendelsohn formulate their results as *preliminary* also.
- 30 Knowledge production regarding the effects of this sanction bodes to assist the correctional apparatus in its understanding, management, and correction of deviance. The Pilot Project *Director* stated that the findings were relevant to security concerns around technical violations. Of course, research in general about the social (and other) conditions of penalty makes clear that research knowledge forms part of, and indeed is permeated by, the power relations that produce the common sense and professional discourses (see Chapter Two) in terms of which this sanction is made intelligible. Another way of saying this is that research and research knowledge is situated within the networks of power.

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- 31 The presumption being that *accomplishing/not accomplishing* the aims of penalty defines the character and extent of administrative *efficiency/inefficiency*. 'Efficiency' could also refer - at the level of strategy - to social, political, economic, ideological, and other forces and effects that serve the regulative or administrative hierarchies where *efficiency* is a holy grail. Given that this sanction *does* constitute a defensible policy of political and administrative decision-making and provides the basis for operational efficiency (through differentiation of the penal apparatus), this suggests that it achieves a quotient of *tactical productivity* of power (the punitive power to supervise, control, and punish), sufficient for immediate correctional purposes certainly. The form of *strategical integration* of this kind of *intermediate punishment* program into the penal apparatus would seem to depend upon the extent to which the *tactical productivity* of power of this penal technique reaches its limits of use (as discussed in Chapter Two) within any given criminal justice system. Clearly, the political, economic, administrative, ideological and other conditions unique to local systems of criminal justice constitute a significant space for the convergence of forces within the *complex strategical situation* (accessible to research at the local system level) that conditions and forms the use of this new form of penalty; whether as a state-wide policy of legislation and/or criminal justice practice (that concomitantly widens the ambit of state control) or as a cautious policy where local utilization pays scrupulous attention to whether net-widening (on the offender-side - fishing metaphor sense - see Chapter Five) is occurring. The force relations and networks of power obviously are decisive to the direction of policy and social practice in the utilization made of this sanction. There are, then, no final conclusions or inevitable outcomes as far as this sanction is concerned, only the processes of development and expansion (or contraction), where levels and forms of use will be decided in an ongoing manner and presumably in conjunction with social and other conditions that will permit this to occur. This penal form is a case where the occurrence of historical events and the processes of social change transform the social and the *anatomical* and *bio-political* bases of the regulation and control of populations (see Chapter Two).
- 32 Much of the discussion is speculative inasmuch as penal networks have only just begun to address the administrative and other important pragmatic questions of *using* this form of sanction. This research, and Baumer and Mendelsohn's, are unique in the respect that they seek to open up that boundary of knowledge concerning the social and other effects of the sanction. The question, though, is what *could possibly* occur in terms of future development of technology and its application to various categories of offenders? How will it be used and what might be its effects in light of what the preliminary findings indicate?
- 33 'Rehabilitation' meaning the practice of the Norm. Where conditions (socio-economic, class relations, education, etc.) do not support or are not conducive to the support of the Norm, then *deterrence* becomes the next possible normalizing operator.
- 34 Recall there were *three conditions* of monitoring in Baumer and Mendelsohn's research: *programmed contact*, *continuous signalling*, and 'manual' monitoring, the latter meaning corrections officers' telephone calls to monitorees.
- 35 It is not clear whether other behavioural norms form part of the *home detention order* (e.g., no alcohol, as in the B.C. program) or whether this refers only to compliance with spatial restrictions pertaining to individualized curfew schedules.

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- 36 Travel time negotiating is an excellent opportunity for offenders to adopt a tactic that will permit this. Those offenders, for example, who need to rely on public transportation (because of driver's license suspension) can legitimately have this built into their curfew schedule and yet obtain rides from friends, co-workers, or spouses that will then permit them to fudge or cheat in a *safe* manner: they can be at work up to about quitting time (thus covering the possibility of a workplace spot check) and have the time they are supposed to be on the bus covered by being in a companion's car which allows an extra period - typically not very lengthy - where a sense of freedom from surveillance is permitted.
- 37 Because questionnaire responses are 'multiple responses' they cannot be added together. However providing for a few cases overlapping it is evident that the *reported violation* rate (18.3% sample reported) and the *violation rated predicted for a longer sentence* (28% sample reported), if added together (46%), is close to Baumer and Mendelsohn's violation reported rate (42%).
- 38 Friel et al. (Ibid.:29) say that imposing full curfew and electronic monitoring 'for any length of time... would be abusive'. However, they do not specify at what point this would occur. Hofer and Meierhoefer (1987:28-9) state that '[a]lthough some sentences of home confinement have lasted up to two years, most have been for six months or less. Especially if electronic monitoring is used, long sentences can lead to "cabin fever." Officials at one of the largest and oldest monitoring services, Pride, Inc., of West Palm Beach, Florida, believe that 90 to 120 days is the most reasonable duration for electronically enforced confinement. Probation officers we interviewed generally agree with the six-month limit on the duration of home incarceration'.
- 39 And here again, each program would to some extent be unique in operational practices of surveillance. There are, for example, suggestions in the literature that programs that rely largely on surveillance and have no offender management staffing (24 hr. service delivery, including checking on computer print-outs of violations) or no immediate response capability (to accomplish apprehension of offenders pending revocation proceedings), lose effective capacity to incapacitate offenders because information is not deployed to act on violation behaviour in accordance with the ideal functioning of the deterrent model.
- 40 It will also vary by length of sentence and the particular parameters of human and electronic monitoring entailed in any given home confinement program - including whether violation response practices are immediate or delayed - where, as noted in Chapter Two, the basic element of the *curfew* may be adjusted loosely or tightly (cf. Hofer and Meierhoefer, 1987).
- 41 Baumer and Mendelsohn (Ibid.:13) state: 'The basic elements of deterrence theory usually include certainty, expressed in various ways, and severity of sanctions (Blumstein et al. 1978). Given this, it is not very likely that the general population will be deterred because of the threat that if caught (certainty) they might be placed on home detention (severity), however it might be monitored. Although we are aware of no public opinion data, it is our impression that the general public views home detention as a reasonably pleasant way to be punished. This suggests little or no general deterrent value to home detention in its various forms'. I am aware of no public opinion data on these programs.
- 42 Recall again, however, that the immediate comparison benchmarks are prison (maximum control) and probation (minimum control) and that this sanction is formulated as an alternate *form* of incarceration. This may, in part, account for the tendency of judges in the U.S. to, in some cases, treble the period of house arrest sentences in compensation.

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- 43 This is an area of inquiry that links up with the social construction of deviance and its control in 'news' and other journalistic literary genres (cf. Ericson, Baranek, and Chan, 1987).
- 44 It must be recognized, of course, that *deterrent* effects can also be normalizing, however this result is the product of coercion rather than co-operation.
- 45 This sub-section addresses only 'positive' forms of *rehabilitation* or those effects of normalization that arise in connection with how programmatic rules and curfew restrictions interact as part of the 'restructuring life' that occurs with participation in such programs. Therefore, no consideration is given to the question of offenders *avoiding* stigma, labelling, or status degradation by being on home confinement with EM (rather than being in prison where such effects occur). It ought to be re-stated, however, that the avoidance of negative or debilitating effects is certainly evident in the research reported in Chapter Four. For example, the two offenders who reported suicidal ideation reflect, if anything, the deep and gloomy reaction some individuals have about the prospect of going to prison. Other similar reactions are less extreme, but reflect that imprisonment is inimical to rehabilitative aims inasmuch as problems of low self-esteem and positive self-regard - essential for rehabilitative gains - are undermined by the process of imprisonment.
- 46 These researchers note that Todd Clear (ND) has hypothesized that the EM element 'contributes little to the goal of rehabilitation' (Ibid.:15). Their results will test this hypothesis.
- 47 'For example, one respondent indicated that in the past when he got "mad" he'd storm out of the house. He said on home detention he couldn't do that so he and his wife had to find a way to talk through the problem' (Ibid.:17). This is not to say that this sort of situational reaction is necessary or inevitable, however it does point out the importance of detailed and thorough program screening for 'non-violent' offenders.
- 48 Were the research sample to have been a random sample, then it would make sense to compare EMS offenders with offenders serving weekends in the Lower Mainland Regional Correctional Centre.
- 49 That is to say, the subjective accounts reflect a similarity (between the researches) in how offenders respond or react to the *conditions of surveillance and domiciliary restriction*. These conditions produce considerable variability in how offenders experience and perceive the sanction (see Chapter Four) and reflect various other contingencies (e.g., sentence length, occupation, offence-type, residence type, relationship nexus, etc.) that are likely more directly related to offender-specific experience and perceptions (or the *content* of offender reactions).
- 50 Recall from Chapter Four that of the ten respondents involved in treatment programs for alcohol dependency, four offender/respondents (40% of treatment sub-sample) stated the program had no effect on their treatment involvements.
- 51 Interestingly, this belief is present with many of the religiously-based prison reformers of 19th century Britain (cf. Ignatieff, 1978).

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- 52 One offender in particular stands out. This offender realized that if he asked for clarification about 'certain grey areas' of the program rules (and their application), which he secretly was wanting to exploit, he would be told he could not do the activity or would be given a more precise delineation of the application of the program rule in that regard, thus thwarting his resisting designs. The 'grey area' concerned the fact that he had not been given specific expectations about when he could leave work and when he could not; thus, his inclination was to leave early so that he could get all of his tasks done. However, he did not want to address this issue explicitly with program staff in the event they told him this was not allowed and he would not be able to do shopping, banking, and other business that was necessary in his busy schedule. He kept quiet and resolved to 'act surprised' if actually caught. He felt assured that this would not result in revocation and that he would get done what he needed to do also.
- 53 Many offenders, recall (Chapter Four), expressed surprise that spot checks were as infrequent as they turned out to be (Corrections Branch policy now stipulates 3 spot checks per week; during the Pilot Project period it was 2 spot checks per week). Many offenders, as well, indicated that they found the correctional spot checks to be predictable to some extent. Some offenders are themselves well aware of the bureaucratic context in which the corrections staff work and suppose (correctly) that checks occur virtually always during 'waking hours' (except where contacts are made by phone). A number of offenders used this knowledge and the supposition that after seeing the correctional officer it would be safe to assume that they would not return again soon: hence, an opportunity to drink, take drugs, etc. This opportunity potential may be closed up in the wake of new technological developments that will permit remote monitoring of drug and alcohol levels. Presumably, someone coming onto such a program would be consenting on the basis of the knowledge that random drug or alcohol monitoring would be occurring, but this is not the case for the B.C. program at present.
- 54 Recall from the previous section that offenders living alone may be particularly susceptible to adverse psychological effects such as loneliness, depression, and the like.
- 55 This, of course, is in conformity with contemporary, neo-conservative correctionalist ideology, as indicated in Chapter Two.
- 56 As Poster (1982) argues, marxian dialectics bifurcates theory and practice, then accords practice a privileged epistemological status. Foucault conjoins the phenomena these terms gloss into *discourse/practices* or *power/knowledge* (cf. Garland and Young, 1983 and Chapter Five discussion).
- 57 Changes in normative tolerance to drinking-driving receive detailed and eloquent explication in Gusfield's (1981) perceptive work on this subject. In this light some elements of the convergence of forces would consist of such objects and phenomena as: urban, road network, and automobile designs, continued proliferation of automobile transportation in overcrowded urban areas, accentuation of *individual* transportation practices, mounting fiscal crises in automotive and other insurance industries, which also spills over into medical and health care economies and administration, etc. The list that could be drawn up here could be considerably longer. Just to elaborate on one point, though, social change in the past twenty years has entailed the construction of automobiles and roadways that require greater levels of driver competency, but this has been overlaid on a social landscape where cultural practices of alcohol (and other addictive substances) consumption have either remained the same or undergone quantitative increases (especially diffusing to younger populations of potential drivers).

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- 58 The social problem of drunk drivers has its own genealogical history. Central to this history is the idea of *tolerance limits*. Clinard's (1974:17) conception (drawn from an earlier sociological literature) is relevant here: 'Each norm can be thought of as having a *tolerance limit*, this is, the ratio between violations of the norm and a group's willingness to tolerate it or suppress it'. Effectively, the conduct of 'drinking and driving' now has a much lower tolerance limit than previously (as reflected in the increased degree of punitiveness now evident), when roads were engineered for different capacities, traffic control was less sophisticated, and automobiles more cumbersome and less responsive in their functioning. Undoubtedly there are other features that need to be considered as well.
- 59 This past spring the government cited sentencing statistics as support for the success of the provincial *Counter Attack* program, a system of random roadside police checks that monitor the presence of impaired driving offences. The program either remains part of the expanded apparatus or its staff and resources will be diminished in light of further confirmation of 'success'. The latter would be a political and/or administrative decision requiring sufficient grounds presumably (e.g., a combination of cost savings and demonstrated program 'success'). The emplacement of this regulatory instrument tends to be expansionary however: its presence becomes part of the structure of deterrence such that contemplation of its removal needs to be justified on extra-ordinary grounds. If its removal is followed (predictably) by increases in Impaired Driving offences, administrative decision-making would appear short sighted. On the other hand, if recently announced local initiatives for public transportation (Aug. 1 & 2, 1989, *Vancouver Sun*) eventually prove successful in diminishing automobile use, then clearing rates for this offence will likely diminish as well.

Chapter Seven: Expansion of State Control

1. Introduction

From the foregoing, it can be deduced that the new punitive technique of *electronically monitored house arrest* gives every evidence of being an 'alternative'¹ penal tactic - like the functioning of previous 'alternatives to incarceration' within the overall penal reform strategy - that *expands the networks of social control*². 'Expansion' here refers to the distinction made earlier, namely either that *more offenders are subjected to this sanction* where previously they were not so affected or controlled (e.g., EM and curfew orders being tacked on to probation/parole), and/or that *actual social control networks experience a quantitative proliferation* by employment of more State control agents: this involving new 'service delivery units' (e.g., programs) which, in turn, incorporate the new cadre of 'community control' officers.³ This is clearly a penal mutation that permits further rationalization within the modern penal era.

The *utility* of the penal policy of *electronically monitored home confinement* in the panoply of mechanisms in the transcarceral system - including its functions for system maintenance and regulation - will, ultimately, determine the extent of *strategical integration* that it realizes within local criminal justice and correctional systems.⁴ It cannot be ruled out, of course, that this new penal technique may not fit the needs of particular (local) criminal justice systems and hence offender monitoring with EM may not be a politically, economically, or administratively feasible punishment and disciplinary technique at this particular juncture within the penal complex.

On the other hand, the evidence cited by Ball et al. (1988) in Chapter Two suggests that EM and house arrest can be combined to 'fit' a wide range of control and supervision circumstances, thus increasing its probability as a penal reform 'success'. Needless to say, expansion is an implied outcome in the event that no explicit, concerted effort is made to use this

technique in an overall reform policy aimed at *reducing* the penal apparatus. There is no apparent reductionist policy in evidence in the B.C. criminal justice and correctional system (quite the reverse), implying that *if* the EMS program achieves substantial integration within the social control apparatus over the next one to six years, then it will do so by effectively *expanding* the networks of social control.

At present, however, no documentary proof of the manner or extent of expansion (either of offender- or correctional personnel-side net-widening) has been systematically assembled by researchers working independently of the crime control system.⁵ Cursory evidence from state-wide (e.g., in Michigan and Florida) as well as county level deployment of this sanction, however, does indicate that expansion in *both* senses is indeed occurring. Precisely how many more offenders are being absorbed and how many more correctional personnel are being added to local deviancy control systems are the questions at issue.

In judging the matter of expansion there is a very important question to bear in mind: how are home confinement and EM programs used within the penal apparatus? Utilization as a *crowding management* tactic in an overcrowded prison system makes such programs much more susceptible to functioning as a supplement and modality of expansion of the correctional system, if not an *accelerator* of growth. In the present case, on the other hand, the local correctional system is *not* overcrowded. This has afforded the opportunity for policy-makers and program designers to pay serious attention to minimizing offender-sided net-widening (see EMS Pilot Project Evaluation, 1989), as well as proposing a very specific initial purpose within the penal system for the EMS program.⁶

This is precisely the question (among others) that the present chapter will address: is the EMS program expanding the net of social control in the local criminal justice system of B.C.?⁷ Regardless of the absence of immediate empirical evidence affirming that 'drift and design' are producing systemic expansion,⁸ the present speculative analysis proceeds on the assumption that the expansion hypothesis applies to the B.C. provincial criminal justice and correctional control

system as well.⁹ This implies that EMS program developments become a feature of this expansion.

The present chapter aims to address this question by invoking *suggestive* evidence gleaned during the course of the research reported in Chapter Four, as well as from accounts obtained in both formal and ethnographic interviews with Pilot Project and other personnel connected with the testing phase of what is now a correctional program whose mandate is to expand and develop into the rest of the province. This evidence will be combined with a general assessment of the strategic environment - the complex strategical situation - that by 'drift and design' will, according to the expansion hypothesis, produce an increment of expansion of the carceral apparatus in the local criminal justice system.

The bedrock of institutional organization (i.e., administrative deployment of the service delivery unit) and political legitimation of the program has been substantially achieved, thus assuring short-term integration into the local order of penalty. Of course, all new programs must achieve enough local support¹⁰ to provide for their initial integration within the penal apparatus. The next few years will be a critical period in which systemic utility and cost efficiency will ultimately determine the extent of expansion.¹¹ The present chapter, then, discusses the initial processes of program husbandry. Evidence that appears to support the expansion hypothesis will be examined more closely.

Evidence will be presented that speaks to the process of program husbandry; that evidence that bears on the expansion hypothesis involves apparent *contradictions* between discursive (talk, accounts, texts) and non-discursive (programmatically organized) practices and other administrative events.

Of course, it must be borne in mind that a conscious process of applying the schema of the expansion hypothesis is being followed in anticipation of the result it predicts.¹² Be that as it may, evidence from contradictions can be *read* as evidence that supports the applicability of the

expansion hypothesis, *though it does not constitute evidence that expansion has already occurred*; it is important to note that no claim is being made that expansion has in an immediate (and empirical) sense occurred as a result of the program.¹³ However, evidence does indicate that detailed investigation into this matter - say, five years from now (assuming, of course, that intra-Branch dissensus about offender targeting and referral is resolved and the program goes forward) - will likely show that the expansion hypothesis is confirmed.

The Pilot Project period, and subsequently the stage of incorporation (i.e., attaining *program* status) within the provincial correctional system, have rigorously followed the policy of keeping the program a *classification* option, rather than a *sentencing* option. It is the Corrections Branch's view (see EMS Pilot Project Evaluation, 1989) that *correctional-administrative control* over offender-entry into the EMS program - also paying heed to justices' intent in sentencing - will prevent net-widening.¹⁴

As noted earlier (in Chapter Four), the target group is 'non-violent' offenders who have been sentenced to a jail term but who have been closely screened for the EMS program.¹⁵ This policy continues to the present. Thus far the program is strictly 'front-end' in its use and is absorbing only those who otherwise would be imprisoned. The Pilot Project Director emphasized that the program ought to be viewed as an alternate *form* of incarceration. Presumably the latter designation lends this new sanction some measure of abstract conceptual equivalency with the jail option. This affirmation that program intent is being achieved in this respect - no net-widening on the offender side - does not, of course, imply that this will *always* be the case (for such programs introduce added system capacity, and history indicates this tends to get used, see Rutherford, 1984).

The 'true' test¹⁶ of the expansion hypothesis, however, will be to demonstrate that the staff expansion necessitated by the EMS program, has involved a concomitant *reduction* in staff complement in other areas of the penal apparatus. Unless it can be *unequivocally* shown that projected correctional costs (without the existence of the program) have either been *exactly offset* by

the program (implying a 'stand-still' penal policy) or have been *reduced* as a result of the program (implying a 'reductionist' penal policy), then it must be concluded that expansion - by 'drift and design' - is occurring (the cost estimates apparently sanctioned by the provincial Corrections Branch are contained in the EMS Pilot Project Evaluation (1989) and will be examined more closely below).

In the absence of any concrete and obvious evidence of the *design* of systemic expansion,¹⁷ it will be assumed that expansionary *drift* (in other words, lack of an explicit reduction policy) is occurring and will result from the strategical operation of power based on the play of forces within and between the State apparatuses in the juridical, penal, and welfare systems. Suffice it to say, confirmation of the expansion hypothesis seems assured since there is no general policy initiative in force that aims at overall reduction in the use of imprisonment in this local system.

It has already been noted that the B.C. EMS Pilot Project Director and others within the Corrections Branch,¹⁸ are emphatic that if the EMS program becomes a sentencing option for courts, the net of social control will be expanded. This expansion or net-widening could be expected to occur in both senses identified earlier, namely expansion in control over *offenders*¹⁹ and in *correctional personnel* resources and programs.

The relevance of Foucault's strategical-relation conception of power/knowledge here is that there is power in this positioning: judicial power is effectively cast within a circumscribed role under this rationality of fiscal prudence²⁰ (see Discussion Paper, 1987; EMS Pilot Project Evaluation, 1989), compared at least to what members of the legal profession might like (cf. Cole, 1989; Skelly, 1988). This is because (power over) control of offender entry into the EMS program is maintained within the correctional-administrative apparatus; this positioning is achieved discursively by way of the fiscal/budgetary stance. Whether the forces of law and legal administration (e.g., lawyers, judges, politicians) will exert their energies toward establishing house arrest with EM as a sentencing option in the Canadian context of criminal justice administration,²¹ remains to be seen. If this does occur, all available evidence from previous

community-based penal reforms indicates that this will substantially widen the net(works) of social control.

The above possibility of conflict represents one area of power relations that could lead to expansionary drift and design. However, there is another play of forces within the Ministry of Solicitor General and the Corrections Branch. These are bureaucratic and administrative forces that are specific to program implementation. One symptom of force relations is the existence of conflict and, as suggested above, there is an apparent conflict between regional and planning administration about implementation of the EMS program.²² In a nutshell: the central planning and program design body understands the program to be a fiscally responsible way of managing a specific offender population (in an era of changes in utilization of secure facilities) and there is evidence that regional administration does not agree that this can be done.

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The above observations and remarks provide the general thematic direction that will be taken in this chapter. *Assuming* the prospect of expansion - recall again, there is as yet no unequivocal evidence to confirm this hypothesis²³ - permits a heuristic examination of the possible mechanisms and engagement of forces (mainly involving the State apparatuses, though not without considering other social forces also) that, predictably, will bring about a widening of the networks of social control.

As already suggested, this expansion is constituted within the penal reform process that involves the *differentiation and extension of the practices of correction and social control*. It also includes the political governance or husbandry of inaugural testing and subsequent programmatic development and expansion. Behind this political governance are all of the instrumentalities and institutional and regulatory mechanisms that achieve and extend punitive power. They also, of course, constitute the truths or received knowledge about this new penal form (hence

power/knowledge). In what follows, then, evidence is examined that *points to* this design and drift of systemic expansion. The chapter will be organized as follows.

First, consideration is given to the organization and functioning of the Pilot Project program as an inaugural mechanism for achieving initial systemic integration. The apparently purposeful organization and management of program testing is highlighted by various ethnographic observations and accounts from the course of research and via interviews. These observations and accounts bear on organizational and institutional processes within, or on the basis of which, programmatic developments and expansion are played out. These tactical manoeuvres and concerns are exhibited in various ways and these will be described. This examination will also attend to future planned developments and the very important issue of costing the program, questions already partly sketched. In this section also is a consideration of the two forms of discourse that accompany program implementation, namely the citizens' Advisory Committee to the EMS program and the research knowledge produced about the impacts of the program on offenders and their families (Mainprize, 1988; Chapter Four).

The above examination will make up the main dimension of the present chapter. However, in two brief subsections following this I discuss, first, the political nexus of this new 'community-based'²⁴ programmatic of punitive power. This will involve a *general* consideration of some of the *forces* and *force relations* immanent in the social field - such as forces of law, of bureaucracy and administration, of economy (in narrow and broad senses of this term), of contending representations (power/knowledge) of this penal form, and of technology²⁵ - that provide fundamental constituents of what Foucault refers to as the *complex strategical situation*, which is the field of the operation of power relations.²⁶ This discussion is purposefully general and speculative; it focuses on institutional and social processes of systemic integration and the strategic operation of power, i.e., the sanction's strategical integration within the penal apparatus and the expansion of disciplinary and institutionally-based power that this achieves.

Finally, the question of the problematic correspondence of discourse-practices-effects, a topic that was explicated in Chapter Six, will be revisited. In that previous discussion the problematic of this correspondence/non-correspondence referred to the discourse, practices, and effects with respect to the immediate target of power, namely the body of the offender. Recall that those findings suggest that there are social patterns of effects (both corresponding and not corresponding to the aims or intentions of penalty), however no definitive claims can be made about effects, especially in light of the massive contingency - that is, variables such as lifestyle, psychology, relationship, length of sentence, occupation,²⁷ etc., etc., - through which effects operate.

On the other hand, and in accordance with the play of forces out of which arises the bio-politics and the regulatory government of the population, the problematic of correspondence of discourse-practices-effects *at the level of the system or apparatus* takes a very different hue. Here, correspondence implies the expansion of power (with 'failure' at the disciplinary level - that is, that home confinement and EM make no difference to recidivism - meaning 'more of the same'). Non-correspondence at the level of the system does not necessarily imply *diminuation* of power, for clearly the 'failure' of certain programmatic forms can be deployed precisely to extend power relations (e.g., by further reform practices that punish and control more humanely, efficiently, and effectively: the 'holy trinity' of penal reform, cf. Chan and Ericson, 1981), as is repeatedly demonstrated in the history of penal reform. (Because the main thrust of the present chapter is to consider the systemic relevance and impact of the EMS program, the sub-sections concerning the political nexus of the program and the discussion of the problematic of correspondence/non-correspondence will be brief by comparison.)

So, expansion of punitive power within the deviancy control system can occur as a response to programmatic successes or failures. Again, there are no finalized strategic configurations, however the obvious concern in the case of the present program is the presence of overarching and parallel juridical forces that *could* press to secure the power of direct sentencing;

the likely result being to produce - more immediately and more starkly - the defeat of the ostensible purpose of *reducing costs of penal administration*,²⁸ a primary rationale for the program (at least, at its outset). Ultimately, of course, the question arises as to whether this new penal technique can be made to function within a strategy that aims to *reduce* the use of incarceration (cf. Rutherford, 1984).²⁹ Before this can be addressed, though, the social practices and processes of program testing will be examined more closely and it is to that task that attention is now turned.

2. The Inaugural Process and the Pilot Project Program

Chapter Three has already provided a schematic description of the B.C. Corrections Branch's EMS Pilot Project program. In conventional accounts of programs this would suffice inasmuch as it provides *background* for understanding the relationship of knowledge and the ostensible social purpose(s) of the operation of programs. In the present analysis, however, this schematic rendering is clearly insufficient by itself for purposes of charting global forms of the operation of power (and the mainly institutional strategies within which that power operates).

The present sub-section, then, will display and assess the design and practical organizational dimensions corresponding to the management of the program in its inaugural phase. Planned and actual developments are available in various documentary and textual forms and these will be employed to assess the procedures of program costing, to consider future development and expansion, to discuss the operation of the citizen's Advisory Committee to the program, and to review how the research knowledge generated (Chapters Four and Six) is treated within the framework of the EMS Evaluation report.

2.1 Programmatic Developments To Date

The official period of the EMS Pilot Project³⁰ program spanned August, 1987 to April, 1989 or twenty months.³¹ The table below covers much of this period and reports the mean *daily program count* of offenders on the EMS program during the Pilot Project period.

Table 5

***Mean Daily Program Count (by Month)
for the EMS Pilot Project Period***

Month	Mean # Offenders Per Day	Bed Days Displaced
Aug. 1987	0	0
Sept.	.74	23
Oct.	1.35	42
Nov.	2.07	62
Dec.	3.39	105
Jan. 1988	3.06	95
Feb.	2.90	84
Mar.	5.52	171
Apr.	5.30	159
May	5.00	155
June	7.13	214
July	6.84	211
Aug.	6.81	212
Sept.	6.17	185
Oct.	10.61	329
Nov.	10.20	306
Dec.	7.35	228
Jan. 1989	7.74	240
Feb.	10.32	289

The small numbers for daily counts between Aug. 1987 and Feb. 1988 are accounted for by various factors. First, only two staff were initially allotted to the test program: the Project Director and a Correctional Officer (Principal Officer) were responsible for both devising and implementing program selection and supervision procedures. Twenty-four hour coverage was applied by them. These two personnel traded on-call assignments over this period and were also assisted by an additional Correctional Officer who worked on an intermittent basis. And, the

Director had many other tasks in addition to direct operational and practical duties. They were initially only drawing offenders from the one Vancouver court. Moreover, caution was in order since these personnel were *just then* coming to know the equipment as a mechanism of supervision. The Evaluation report indicates referrals to the program from Probation Officers is small, however it is unclear how significant this is for the viability of the program (now or in the future).³²

The increase in March, 1988 is accounted for in two ways by Corrections Branch personnel whom I spoke with. First, the Correctional Officer who had been occasionally with the program, came on to the Pilot Project program in March, 1988. Second, it was at this time that the court jurisdictions, opened for the program to draw offender-clients from, was increased substantially across the local regional judicial districts in the greater Vancouver region. This, of course, meant increased referrals, because along with this came the emplacement of administrative procedures in those courts such that greater inflow to the Pilot Project program would occur. Also, by this time, the procedures and protocol for screening program offenders had been honed so that staff were fully competent and efficient in applying program criteria to cases that came to their attention.

The daily program count continued to rise through the spring, summer, and fall of 1988. During this period two new program staff - two Correctional Officers - were added so that now there were *four* correctional line staff engaging in the direct operational tasks of vetting offenders for the program and conducting the community surveillance. The fall (Sept. 1988) is also a time when the Pilot Project Director relinquished operational control of the program over to a Probation Officer who panelled for and successfully won the position of *Acting Local Director*. The Pilot Project Director stated the belief that the marked increase in numbers during this period (Oct. and Nov., 1988) reflected the new Operations Director's contacts within the various court jurisdictions now available to the program. The downturn in December, 1988 and January, 1989 reflect, as

one Correctional Officer put it, judges' reluctance to sentence over this particular period. This was characterized as representing a familiar pattern reflected in total institution settings as well.

The great majority of offenders during the Pilot Project period - from August 1987 to August 1988 - either came to the program through a court-ordered referral (48.7%), or because of Crown or defense counsel (43.4%). The remainder were either self-referred (5.3%) or arose from Probation Officers (2.7%)³³ in the framework of pre-sentence investigation and reporting (Evaluation, Ibid.:13).

Of the 150 referrals during the period covered by the Pilot Project Evaluation, 38 offenders (25.3%) were not considered suitable for the program. The remaining 112 offenders, those considered suitable, are broken down again into those *admitted* (92 offenders, 61.3% of referrals) and those offenders *not admitted* to the program 'due to judicial discretion' (Ibid.:16). The latter involved 20 offenders (13.3% of referrals). The conservatively estimated 3 hours that it takes to screen each referral likely over-estimates in some cases and under-estimates in others. That is to say, some offenders not meeting basic program criteria³⁴ can be assessed as inadequate fairly soon (though this is not a *necessary* consequence), whereas for offenders excluded 'due to judicial discretion',³⁵ the complete process of assessment has to have occurred.³⁶ In any event, it is clear that in addition to the traditional offender supervision duties of Correctional Officers, their responsibilities in the EMS program now mean the development of interpretive skills in the area of the application of program screening criteria.³⁷

It is noteworthy that for the period covering the Pilot Project Evaluation period (Aug. 1987 to Aug. 1988), there were no revocations whatsoever. This is further indication of the caution practiced in the screening process itself during this time. Only one offender was subjected to disciplinary action for breach of program rules (the offender lost 'good time' because of going out into his yard after being initially caught and explicitly warned not to breach the house boundary). The fall of 1988, a period of program upturn in terms of daily program count, witnessed program expansion and change (new Local Director and two new staff hired in July and August). The first

revocations (four in a row in Sept./Oct., 1988) occurred during this period and apparently provided a locus of conflict between the new Local Director and the Pilot Project Director. The latter, while still responsible for the conduct of the project, passed over to the Local Director the operational authority for the program.³⁸ I am aware of seven offenders who have been revoked from the program out of the approximately 300 persons processed through the program thus far (making this about a 2.5% 'failure' rate).

The offender profile has also changed since the end of the Pilot Project period. The Local Director reported at the July, 1989 citizen's Advisory Committee meeting that currently only about half of offenders on the program are Impaired Drivers (whereas during the Pilot Project these offenders made up approximately 70% of offenders). The program is now taking more offenders who have been convicted on fraud, theft, and drug charges.

The EMS Pilot Project period officially finished in April, 1989. As of the date of this writing (Sept. 1989), then, the B.C. Corrections Branch has had a new program for six months. At present, the program has more than six Corrections Branch staff³⁹ attached to the program and its daily counts, as reported in the July Advisory Committee meeting, currently exceed the present system of 25 monitoring units.⁴⁰ Currently, further expansion is being stalled by an inter-ministerial conflict that centres on choice of equipment supplier. The program staff evaluating the equipment used during the program want that same equipment; however, the *Purchasing Commission* (another branch within the provincial government), which is another feature of program decision-making, apparently wants a local vendor to take the equipment contract.

Corrections Branch staff I spoke with who are knowledgeable about the importance of reliability in monitoring equipment are concerned, mainly because no local vendor actually has an operating system that staff can examine or test. There is also an awareness that equipment support that might be available from a local vendor may not be reliable in the sense that monitoring business startups in the U.S. have been many and a process of corporate merging and concentration is occurring where small companies cannot compete for service with the proven

equipment developer/suppliers. The consequence for correctional staff is the perception that their responsibilities for security could be compromised. Matters are currently stalemated in this position.

A review of the EMS Pilot Project Discussion Paper (April, 1987) in light of the foregoing results is instructive at this point. It is interesting, for example, to note that the Discussion Paper indicates program designers believed 9 to 12 months would be required to test and assess the EMS program.⁴¹ According to this paper '[i]t is anticipated that the average sentence length for participants in the EMS project will fall in the range of 20 to 25 days' (Ibid.:13). Anywhere from 275 to 337 offenders were expected to be processed in and out of the Pilot Project program during this period. Corrections Branch analysts estimated that only *two* personnel⁴² would be required to run the project.

The early conception of the program (Discussion Paper, 1987) significantly underestimated the time needed for the screening and promoting processes that ended up employing considerably more staff time. In the fall of 1988, the peak point for elevated daily counts (see table above), there were five operational staff, plus administrative support staff and not the two proposed in the initial Discussion Paper. The process of getting the word out within the local criminal justice community took much effort on the part of the Pilot Project Director, the Local Director, and the correctional line staff. The 9-12 month pilot turned into a 20 month stretch that had processed only about 220 offenders when it had run its course, whereas designers thought many more could be supervised in half the time. The testing period bias toward Impaired Drivers is symptomatic of the program promotion requirement of relatively more compliant offenders and short sentence periods.⁴³ The phenomenon of *underestimation* recurs and is part of the very process of integration-expansion. Suffice it to say for now, there will be cause later to re-examine this phenomenon.

The significance of the above for the expansion hypothesis is that there exist fundamental disjunctures between projection and design proposals (i.e., discursive events) and actual operational requirements (i.e., non-discursive events). It seems reasonable to suppose from this

that the emphasis on program promotion tends to obscure the more fine-grained consequences of implementing this program, namely that the program will cost more than initial projections (cf. Discussion Paper, 1987) and it may not meet an important objective of the Pilot Project test period (i.e., to manage the intermittent offender population so as to obviate new construction capital costs). These concerns are reflected in the next sub-section.

2.2 Future Program Developments, Program Costing, and Expansionary Drift

In January, 1989, the Pilot Project Director submitted her evaluation and recommendations concerning the EMS program to the Corrections Branch Management Committee for their deliberations and decision-making. Upon due consideration, it was the decision of the Branch Management Committee to fund, staff, and manage the EMS Pilot Project program *as a program*. Recalling that program design and promotion tend to exaggerate or distort possible outcomes in favour of the new 'alternative to incarceration', the present section will examine what correctional planners now see for this program, as well as assess Corrections Branch claims⁴⁴ about the economic implications of the EMS program. Included will be a discussion of the applicability of the expansion hypothesis.

The Pilot Project Evaluation (1989) report summarizes the outcome of the test period as follows:

One cannot help but conclude that the technology is effective and this is an appropriate alternate means of accomplishing the Corrections Branch statutory mandate to administer sentences imposed by the court. There is a demonstrated potential for the Corrections Branch to utilize EMS for sentenced inmates. Neither the project nor this paper has addressed the potential application of EMS to other offender populations administered by the Corrections Branch (i.e., the remand population, bail supervision, parole, or terminal Temporary Absences).

Presumably, these latter options would be considered after the present bureaucratic hurdles have been surmounted and the offender capacity of the system is increased. This will be achieved, likely, through employment of satisfactory equipment and training new line staff in the procedures and practices that have been established and continue to evolve.

It is clear from the earlier Discussion Paper (1987), as well as from the Pilot Project Evaluation report,⁴⁵ that EMS is seen as a potentially important programmatic response in the context of the changing carceral configuration.⁴⁶ Both documents identify the intermittent population as a chief target of the program; the Evaluation submitted to the Branch Management Committee by the Pilot Project Director states that 'it is anticipated that a total 70 percent⁴⁷ reduction in the intermittent population can be made within a year and a half of implementation' (Ibid.:40).

I learned from interviewing Pilot Project staff, however, that there had been much dispute⁴⁸ about this particular calculation. Regional Directors of the Corrections Branch had concerns about how the 70%⁴⁹ figure was arrived at and how reliable it might be. The Local Director indicated that he and a Program Analyst had done a more detailed investigation, actually attending LMRCC⁵⁰ so as to interview a sample of offenders on a case-by-case basis by application of actual EMS program screening criteria. Results showed the estimate to be 35%-40%, rather than the optimistic 70% figure. A 35%-40% displacement of the intermittent population suggests that the anticipated elimination of capital costs may not be feasible or not as substantial as initially estimated (see Discussion Paper, 1987). It is noteworthy that in the report submitted in January (1988) to the Branch Management Committee pursuant to its decisions about the future of the EMS program, it is stated:

How the Branch will accommodate intermittents is still undecided. Use of a mothballed facility (such as the Chilliwack Security Unit), expansion of existing CCC's, and use of Sheriff's holding cell are some of the alternatives that have been discussed (p. 59).

The upshot of all of this is that the larger the population of intermittents becomes that is not handled by the EMS program, the more problematic becomes the prospect of forestalling capital construction costs (either in renovations or in new construction). If local Sheriff's holding cells are employed for some of the intermittents who are not suitable for the EMS program, this would reintroduce the problem of incarcerating low risk offenders in higher security facilities and at greater cost - in other words, a *false economy* - something that already occurs, but whose elimination the Corrections Branch would like to achieve.⁵¹

So, the tacit suggestion of the Discussion Paper, that the entire intermittent population might be managed by the EMS program, has given way to the official projection reported in the Pilot Project Evaluation (i.e., that 70% of the intermittently sentenced population can be managed by the EMS program), an estimate which is now under serious dispute within other sectors of this local system.

The original projection of staffing and program costs in the Discussion Paper estimated that 150 offenders could be supervised with long-term leased equipment and that 5 Correctional Officers would be required to accomplish this. The projected annual budget in the Discussion Paper was \$400,000, which involved equal expenditures on staff and equipment. Currently, on the other hand, an operational director and 5 Correctional Officers are managing the present system capacity of 25 offenders, though numbers have lately (summer, 1989) fluctuated between about 10 offenders and system capacity (25 offenders).⁵²

The Evaluation proposes that province-wide implementation of the program can be substantially put into place near the end of 1991.⁵³ This would mean expanding into rural areas of the province, where the staffing and supervision of offenders is bound to be very different - possibly more demanding of staffing due to distances travelled⁵⁴ - compared to its configuration within the urban milieu of Greater Vancouver. The Evaluation indicates that '[w]ith an average daily population of 40, the EMS program would require about 10 full-time positions to operate, made up of 2 probation officers, 6 institutional officers and 2 administrative support staff'

(Ibid.:40). These latter estimates appear to be more in line with current staffing levels. The Evaluation estimates that by 1993-1994 the daily program count will be about 175 offenders. Thus, based on the figure of a 1-to-4 staff-inmate ratio, this will mean the need for about 44 new correctional and support staff also. This is a far cry from the earlier estimate that 5 Correctional Officers could supervise 150 offenders on the EMS program.

Rural implementation of the program will likely mean additional costs because monitoring will be done 'long-distance'.⁵⁵ Exactly how the local supervision will operate in geographically more expansive areas and how this will affect staffing, are questions that are not altogether clear at this point. This could well prove to be another place wherein the underestimation of staffing occurs, in which case the program will, again, cost more to administer - in terms of staffing - than had been projected.

A question that crops here concerns whether the EMS program can prevent additional capital costs. In the event that the program leaves a substantial portion of the intermittent offender population still in need of facilities, suggests that it *may not prevent additional capital expenditures*, perhaps only limit them somewhat. It appears to be the case that the great efforts that went toward promoting the program (e.g., with judiciary, with other justice system personnel,⁵⁶ and with the general public⁵⁷) have achieved an initial strategical integration of this new punishment technique into the panoply of disciplinary mechanisms within the transcerceral system. The above numbers, however, suggest that the EMS program is already constitutive of an expansionary drift.⁵⁸

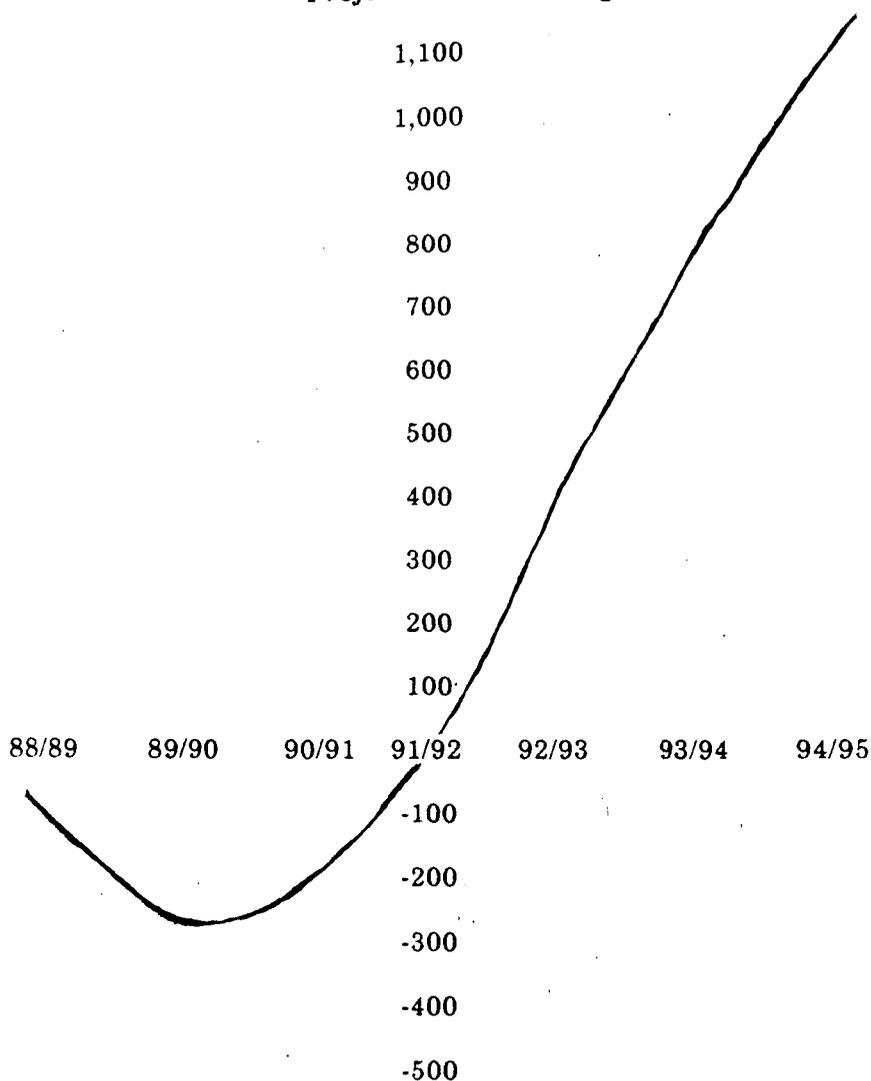
Whether or not the EMS program achieves the level of success suggested by the Discussion Paper in regard to managing the intermittent sentenced population at reduced cost seems very much in doubt at this point. This is an issue that remains separate from the evident prospect that other categories of offenders - in terms of offence category and sentence length - are coming under consideration as correctional administrators plan for the maximum utilization of

their expanding equipment and staffing resources.⁵⁹ Nonetheless, the Evaluation states that cost savings will be realized from the program, *eventually*.

The 'Costs/Savings' section of the Evaluation report (Ibid.:38-44) is interesting, both for what it *does* and does *not* contain. The report states that 'it is necessary to expect that the EMS program will, as a result of start-up (i.e. equipment costs and lower volumes) initially, result in the Corrections Branch expecting more than would otherwise occur... Further, it is anticipated that several years will transpire before the expected full cost/benefit of a province-wide EMS program will be realized' (Ibid.:38). The reader is directed to a graph (see below) in which the horizontal axis contains fiscal years spanning 1988/89 to 1994/95. On the vertical axis are inscribed the costs (in hundreds of thousands of dollars), either saved or lost over the period of provincial implementation and covering a longer term assessment (up to 1994/95). The curve that inhabits the space of the graph shows that costs in excess of \$300,000 will be *lost* in the present fiscal year, whereas the next fiscal year is graphed as involving unrecovered expenditures of about \$200,000. The fiscal year 1991/92 is graphed as the year where no costs are lost or saved. The subsequent fiscal years are depicted as involving costs savings that increase steeply: 1992/93 is depicted as involving \$400,000 in saved costs, 1993/94 as involving \$800,000 in saved costs, and finally, \$1.1 million in saved costs for 1994/95.

Graph 1

*'Projected Costs/Savings'**



* This graph can be found in the EMS Pilot Project Evaluation report (1989:39). Projected costs 'savings' are expressed in hundreds of thousands of dollars (,000).

Incredibly, no explanation whatsoever is given of how these figures were arrived at.⁶⁰ Neither is this graph and its contents subjected to any more detailed descriptive or evaluative assessment. It is merely *asserted* that the costs lost and saved will come about. Considering the poor record for estimating operational expenditures for this program, in light of the fact that no explanation is given of how these figures are arrived at, and taking into account that considerable doubt exists *even within the Corrections Branch itself* about what the program might or might not

be able to do (as far as intermittents are concerned, at least), this graph seems little more than a tool of mystification and a representational tactic within the program promoting enterprise (cf. discussion of the function of representation in Chapter Five).

If this curve is based on the optimistic estimation that the EMS program will bring about a 70% reduction in the intermittent population, then at a minimum it would need to be corrected to reflect the more recent (and more conservative) projections as to what actual proportion of the intermittent population the program can accommodate.⁶¹ This doubt also warrants the inclination to be suspicious of estimated staffing allotments and costs (as described above), though the more recent figures appear to be closer to present patterns of operational deployment of correctional staff.

The Staff Resource Analyst for the Corrections Branch was very helpful inasmuch as she supplied detailed statistics about Branch staffing, as well as extensive commentary concerning how the figures broke down. A consideration of these more general Branch staffing practices will help to provide a background for understanding the place the EMS program might take in the overall staff allocation trends. Statistics provided pertain to staffing expenditures for what are referred to as 'FTE's' (meaning 'full-time equivalents'). Each FTE refers to a position or unit, theoretically inhabited by an individual employed in the provincial government civil service who does a person-year's work (or a quarter or a half year's work; see definition of FTE in footnote corresponding to the following table). The table below is a one-decade-review of the Corrections Branch's budget and staff allocations.

Table 6

Corrections Branch Budget and Staff Allocations

	<i>Budget</i>	<i># Staff</i>	<i>Budget Increase Since Last Year (in millions)</i>
1979/80	\$56,432,801 ¹	2,269.12 ²	-
1980/81	\$63,777,585	2,260.26	+ \$7.4 m
1981/82	\$64,701,187	2,283.71	+ \$1 m
1982/83	\$73,684,771	2,359.90	+ \$9 m
1983/84	\$79,171,190	2,236.43	+ \$5.5 m
1984/85	\$106,669,853	2,045.66	+ \$27.5 m
1985/86	\$115,404,274	2,118.79	+ \$8.7 m
1986/87	\$118,243,328	2,225.07	+ \$2.8 m
1987/88	\$125,666,379	2,208.49	+ \$7.5 m
1988/89	\$130,920,494 ^E	2,157.47 [*]	+ \$5.3 m
1989/90	\$147,000,000 ^{**}	2,213.00 ^{**}	+ \$16 m

See Footnote #62 for notational explanations.

With the exception of the large increases in fiscal years 1984/85 and 1989/90, the trend for Corrections Branch budgets has been that they increase on average by about \$5.9 million dollars annually. The \$9 million increase in fiscal year 1982/83 is, ironically, the year government 'restraint' was first proclaimed as public policy. However, if inflation is taken into account (see table below), it is evident that budget increases for fiscal year 1982/83 (as well as the two fiscal years preceding this) actually falls below inflation (by an average \$3.6 million over these three years).

The *Staff Resources Analyst* pointed out that the restraint policy resulted in a reduction of 314 FTE's⁶³ from fiscal year 1982/83 to 1984/85. While the FTE's were being reduced in the latter fiscal year, however, the budgetary expenditures for the Branch soared over the previous year by \$27.5 million, or \$17.1 million in excess of the inflation rate (see table below). This expenditure is the first of a series of substantial budgetary increases for the current decade (see table below). It seems that the two major policy initiatives (i.e., 'restraint', which meant a substantial budgetary increase, and the current major institutional changes in secure facilities

employed), have meant significant increases in budgets, to yet new plateaus; whereupon, they continue their upward climb.

After fiscal year 1984/85 there is a slight increase in FTE's that may or may not have leveled off to just below the FTE figure for fiscal year 1979/80.⁶⁴ While the privatization initiative resulted in programs dropping FTE's in Probation services, the number of FTE's in Youth services more than doubled from fiscal years 1984/85 to 1986/87 (i.e., from 193.22 to 399.67 FTE's) as a result of implementation of the Youth Offender's Act.

One hidden feature here is the social control and correctional work that has been dealt to private operators. The latter is an administrative extension of the correctional and control function, ultimately paid for by state revenues, however due to accounting practices⁶⁵ private operators are not included in Branch financial accounting of staffing levels. 'Organizational change' also accounts for fluctuations in FTE allotments, such as in the recent ministerial split in which the Ministry of Solicitor General lost approximately 22 FTE's designated as 'Management' to the Ministry of Attorney General.⁶⁶ It appears, with the 'delegated' FTE's for 1989/90, that the Corrections Branch is starting to recoup those losses.

The upshot of this assessment of FTE allotments is that officially documented staffing has again surpassed the 2,200 mark,⁶⁷ however this has occurred in the face of losing FTE's to privatization, organizational change, and 'fluctuations in service delivery requirements'. The overall conclusion suggested by these staffing data is that hidden systemic expansion is occurring. This would seem to be confirmed by consideration of actual financial expenditures made by the Corrections Branch over this period.

The Corrections Branch budget is now nearly *triple* what it was a decade ago, however, as noted, there are slightly fewer documented staff now. The significance of the budgetary increases during this past decade can also be underscored if budgets are examined by taking general monetary inflation into account. The table below takes the fiscal year 1979/80 budgetary

expenditure as a base rate and extrapolates or projects it forward by adding the mean annual inflation rate.

Table 7
Corrections Branch Budget
Projected on the Basis of Annual Inflation

<i>Year</i>	<i>Projected Budget</i>	<i>% Annual Inflation</i>	<i>Increase Over Actual Budget (in \$ millions)</i>
1979/80	\$56,432,801 *	9.2%	-
1980/81	\$61,624,618 +	10.2%	+ \$2.1 m
1981/82	\$67,910,329 +	12.5%	- \$4.1 m
1982/83	\$76,399,120 +	10.8%	- \$1.4 m
1983/84	\$84,650,224 +	5.8%	- \$5.4 m
1984/85	\$89,559,936 +	4.4%	+ \$17.1 m
1985/86	\$93,500,573 +	4.0%	+ \$21.9 m
1986/87	\$97,240,595 +	4.1%	+ \$21 m
1987/88	\$101,227,459 +	4.4%	+ \$24.5 m
1988/89	\$105,681,467 +	4.1%	+ \$20 m
1989/90	\$109,914,407 +	5.4% **	+ \$37 m

* This figure is an actual expenditure (compare with Corrections Branch Budget and Staff Allocations Table) and is being used as a base rate. The subsequent or 'projected budget' is calculated solely by adding the rate of inflation to that 1979-80 budget figure and extrapolating forward to the present based on the inflation rate. Thus, each annual projected expenditure is the percentage of inflation added to the projected expenditure from the previous fiscal year.

** This figure is the inflation rate provided by Statistics Canada as of August, 1989.

It is evident by comparing the above table with the previous table of actual (and projected) budget expenditures for the B.C. Corrections Branch, that *inflation does not account for budgetary increases*. The impact of double-digit inflation from fiscal year 1980/81 to 1982/83 is clearly evident in this heuristic projection. However, the calculation of the difference between budgetary increases based on inflation and actual budget increases (see *Corrections Branch Budget and Staff Allocations* table), makes evident that the overall trend is one of *substantial and increasing expenditures* (see far right column) by the Corrections Branch for correctional and control

functions. This is occurring, as noted above, even while correctional and control functions are reorganized and privatized (the latter representing hidden expansion of correctional staffing).

This evidence would seem to confirm the proposal made earlier that general system expansion is occurring. At this point in time it is not altogether clear how the EMS program fits into this pattern of apparent expansion. The likelihood, however, is that it will *add* to the accelerated expansion of the correctional mechanism in the wake of 'restraint' (i.e., from 1983 onward). As noted above, the Pilot Project Evaluation asserts that 'cost savings' will accrue from the 1992/93 fiscal year onward. However, no detailed specification of costing methods is supplied. This renders any future assessment of the impact of the program more difficult since there are no clearly spelled out parameters of financial debit and credit.

In any case, all of the *suggestive* evidence reviewed above concerning staffing of the EMS program indicates that whatever happens regarding the offender-side of net-widening/expansion, the correctional-side of network-widening/expansion is occurring. There is no reason to believe that this trend is going to reverse directions in the future, since provincial correctional policy is not informed by a 'deep-end'⁶⁸ strategy of systemic reduction. The probable long-term result is an expansionary design and drift.

2.3 Autonomous Parallel Discourses: the Citizen's Advisory Committee and the Production of Research Knowledge

The B.C. EMS Pilot Project program, and subsequently the EMS program, has involved as part of the inaugural process, the discussions, deliberations, and expressions of concern of an assembly of citizens representing various 'public interests'.⁶⁹ They make up the EMS program citizen's Advisory Committee, a body whose ministerially authorized mandate is 'to offer advice to the Corrections Branch on matters relating to the use of EMS'⁷⁰ (EMS Pilot Project Evaluation, *Ibid.*:33). This citizens' committee appears to be unique given that most county-level developments (and even state-wide developments for that matter) of house arrest and EM in United States

criminal justice jurisdictions have not involved any such forum for mediating relevant 'public interests'.⁷¹

It is noteworthy that it was expressions of concern about the impact of the EMS Pilot Project program on offenders and their families that constituted the original locus of the present research (cf. Mainprize, 1988; Chapter Four). The members of the committee, as well as the Pilot Project Director and subsequently the Local Director, in various ways encouraged and supported the research throughout. Most committee members conveyed that the research itself had helped in their understanding of the sanction and this seemed quite evident during the times when summaries of the research or discussions of offender impacts took place within the committee.

A central question posed by the existence of this committee, as well as by the processes of bringing to fruition a research knowledge about this sanction's effects on offenders (and their families) is: what are their respective relations to the processes of EMS policy formation and implementation? Relatedly, how much do (and *can*) they influence or affect program design and implementation? These two questions can, in turn, be addressed at two levels. On the one hand, these respective discourses provide an *independent* basis to make sense of the reform process and hence have their own individual and collective voices in respect to constituting the truth(s) of this new penal sanction.⁷² On the other hand, the Advisory Committee and the research knowledge can be deployed tactically by the Corrections Branch to facilitate support and initial strategical integration of the EMS program; this is done *at the level of representation*⁷³ (see discussion of representation in Chapter Five), something that has already been suggested in regard to the research knowledge.

The latter perspective,⁷⁴ to be explored below, assumes or implies the *perspective of the Corrections Branch* and suggests a tactical productivity of its disciplinary power (inasmuch as inaugural developments are facilitated and legitimated) arising from the conditions and mandate of the committee and the offender impacts research. These conditions allow for opposition; however, the opposition evident within the committee that was witnessed and made accountable in

interviews is contextualized within an overall process where each member recognizes and accepts other views that may also be opposed within the committee itself. They agree to disagree as part of the understood grounds of committee membership and participation. As a Policy Analyst told me earlier, the committee saves both public institutions and private agencies from engaging in open conflict through the media, a prospect formulated by the Pilot Project Director as being unproductive for both sides (a point also made by some committee member representatives).

The citizens' Advisory Committee and the research into offender impacts can be deployed within the strategy of penal reform to achieve programmatic integration. There is another type of 'bargain' (recall the Correctional Officer/Offender bargain) and it concerns the respective interests (both collective and individual) operating tacitly between the Corrections Branch and each committee member/representative. It, like the aforementioned relationship of correctional officer and offender, is a *bargain* insofar as committee members trade individual and collective *degree(s) of program support* for the assurance that their efforts are being treated seriously by being addressed or considered in program decision-making. The Corrections Branch walks a tightrope inasmuch as it must provide assurances or evidence of the serious treatment of the committee's advisements, something it has been doing and continues to do (but about which much mistrust exists). In exchange for the committee's 'cautious support', the program and the Corrections Branch (and its tactical positioning of power) is legitimized. Moreover, the Corrections Branch attains support for its position on the issue of net-widening (see *Electronic Monitoring Advisory Committee Interim Report*, March 21, 1988). It seems reasonable - on the basis of this application of the strategical-relational conception of power - to say that various discursive forces (diverse public interests and social scientific research knowledge) have been rallied, thus constituting a positioning of power in the larger criminal justice apparatus.

On the public interest and independent research sides, it provides a forum where concerns, questions, and other reasonable requests for knowledge and input can be voiced. Also, it grants at least the *potential* of consultative input into policy formation and program design, though Branch

Management decision-makers are by no means bound by its recommendations and suggestions (however much unanimity among committee members there might happen to be). To be a participating member of the committee, then, affords at least the *prospect* of some influence; an ill-considered condemnation and withdrawal from the citizens' Advisory Committee⁷⁵ would yield a position of not knowing about developing EMS program policies and decisions. Subsequent criticisms would, consequently, flow from an ignorance that could easily be countered by official knowledge and pronouncements from informed agents within the correctional apparatus, i.e., from the state.

In the committee process itself, whether or not 'questions' or 'concerns' or 'issues' ever influence programmatic policy in any significant way is an underlying sore point among some members;⁷⁶ or so it would seem, judging from comments made that reveal some distrust of the Corrections Branch's motives,⁷⁷ despite the reassurances of the Branch's representatives in the committee. The continued presence in the committee of a private agency that unequivocally opposes the EMS program (Salvation Army) is an indication that if nothing else, the committee stands as an important information or intelligence body⁷⁸ for representative groups keeping track of programmatic developments.

Evidence from interviewing the Pilot Project Director and the research summary narrative description in the Evaluation report (EMS Pilot Project Evaluation, Ibid.:22-4) provides substantiation that the research discourse (Mainprize, 1988) about the EMS program is considered to be of relevance to promotional and program security purposes.⁷⁹ The two and a half pages reviewing the offender (and family) impacts in the EMS Pilot Project Evaluation report is summarized in five main points as follows:

- 1) There is only a slight tendency to select affluent offenders, keeping in mind that the voluntary aspect facilitates "self-selection" and may account for this difference.
- 2) Offenders and their families are able to adapt to the idiosyncracies of the EMS program, which included sporadic telephone interruptions, in addition to limiting social and child care activities.

3) EMS participation affected offenders in the workplace specifically with regard to concealing equipment. Those people who sought to conceal their participation struggled with complex issues in the workplace. In some cases, however, attitudes toward work were improved as offenders looked forward to going to work -- it was a timeframe during which their movements were not so closely monitored.

4) There is a perception by offenders that EMS is a "more just" alternative than prison. As a result, offenders commonly reported a positive attitude toward the justice system.

5) EMS was perceived by offenders as supportive of alcohol abstinence, resulting in enhanced social relations and income savings. Intermittent weekend sentences, in contrast, were not viewed as abstinence supportive.

(cf. Chapter Four, which is a slightly edited version of the research report given to the Corrections Branch in November, 1988).

The report alludes to the research observations about the program's capacity to mitigate the stigma experienced (or imagined) in regard to the alternative, 'institutional' incarceration. It notes the lack of conclusiveness regarding whether the EMS program changes offenders' behaviour in the area of their offence and adds that the program seems to 'enhance workplace attitudes and discipline' in some offenders. The Evaluation report section describing the 'impact on offenders and their families' concludes its summary by stating: 'In conclusion, Mr. Mainprize's research supports EMS as a "community correctional alternative to imprisonment"' (cf. Mainprize, 1988:32; Chapter Four). The latter phrase quoted from this researcher's submitted research report is taken *out of context*; its new contextualization tending to give the impression that 'Mr. Mainprize's research supports EMS'.⁸⁰

It is no surprise, of course, that an otherwise very qualified piece of research is depicted in the way it is in the EMS Pilot Project Evaluation. The information about offender and family adaptations within the conditions established in the Pilot Project period has a relatively minor practical importance or relevance to programmatic practices.⁸¹ However, the research knowledge itself bears another more important significance, namely as a demonstration or display of the efficacy of the program (ergo the legitimation of this form of disciplinary power by an ostensibly objective research source). Ownership of research findings (see Appendix I) is claimed by the

Corrections Branch and this effectively means an interpretative summary/overview that suits the purposes of establishing the tactical productivity and strategical integration of this new form of disciplinary power. It means research findings are selectively attended and framed as 'supporting' the EMS program, though the expression of support that is given is very much qualified as noted above.⁸²

The evidence in (suggestive) support of the expansion hypothesis discussed above, would seem to indicate that both the citizen's Advisory Committee (and its discourse) and the offender impacts research (and its discourse, as suggested earlier) can be deployed as tactical manoeuvres engaged in by the administrators of the penal complex via agencies of planning and implementation work. To have the citizen committee's and the research's explicit (or even tacit) approval counts for something, namely legitimacy and the tactical positioning in the wider criminal justice terrain so as to secure intra-Branch control over the instruments of disciplinary power (through well-founded fears of net-widening and prudent fiscal policy arguments). The end that corrections personnel seek is the tactical productivity of punitive power, the strategical integration of this punishment technique, and ultimately and more generally, the legitimation of State control by way of this criminal justice reform.

One question that crops up (as mentioned above) concerns whether the capacity of these discourses and the interests they represent could provide a (discursive) force in their own right; one that has a palpable and more significant influence on penal policy or which can effectively resist the administrative and bureaucratic momentum that augurs in favour of development and expansion of the EMS program (in both senses of net-widening/expansion). No clear answer to this question can be given in either case (research or committee discourse) up to this point in time.

Whether the citizen's Advisory Committee has only a time limited utility for Corrections Branch management of the EMS program remains to be seen. It is clear that mutual benefit is produced by the continuation of committee involvement (and perhaps research involvement also), at least in the short term and perhaps as long as the net-widening issue remains problematic

within the current Corrections Branch fiscal policy in respect to the EMS program. The response of Corrections Branch policy and program analysts and managers to the topicalization of the political nexus of EMS program testing and developments will have to await a subsequent reading and comment upon the present document.

3. Analyzing the Complex Strategical Situation: the political nexus of the EMS program and force relations

The present, and subsequent, section(s) will briefly explicate the main section above by drawing together conceptions and analytical points - about strategy, force relations, power, and knowledge - discussed in earlier chapters (see Chapters Five and Six). In combination with the above evidence (and under the heuristic extrapolation of the expansion hypothesis) I assess circumstances and conditions within (or of relevance to) the local criminal justice system. These conditions, of course, pertain to the tactical productivity and strategical integration - the expansion - of punitive power. The operation of punitive power takes place primarily in two locations⁸³ glossed by the terms 'criminal justice system' and 'correctional administration'.

The *complex strategical situation*, as noted in previous chapters, is a changing configuration of force relations constituting networks of power in social, political, and institutional fields. This changing configuration is made up of concatenations of strategies, techniques, tactics, functionings, positionings, and manoeuvres; these are, in turn, constituted within ordinary sense-making and the discourses and social practices that form the organizational basis of that 'modern matrix of individualization', the State (Foucault, 1983) and its apparatuses of criminal justice and of social discipline and control. This is a process that is governed by accident as much as by planning and willful intention; or so it would seem since contingent conditions and effects within this complex field of political, social, bureaucratic, technological, and economic relations produce effects unique to the particular constellation of forces and are never able to be *completely* anticipated or predicted beyond a relatively short historical time-frame.⁸⁴ The aim of the present section is to describe and review in general terms the various converging forces that might be

relevant to an assessment of this new penal program in terms of possible dynamics of expansionary design and drift.

It has been proposed that expansion of the penal apparatus *will* occur unless a general reductionist policy is embraced and applied within the local system. In the absence of such a policy, expansion is a probable outcome and this implies that the EMS program will be a feature of the systemic net-widening that will likely result. The questions that remain are, *how much* expansion will occur and what conditions or processes might work either to exacerbate or mitigate expansion? It is not possible to answer the first question at this time, however some speculative analysis about the second may be useful. One place to look for other forces is in the larger, overarching terrain of juridical order and power.

The Canadian Bar Association (CBA) is a large and powerful body that has wholeheartedly endorsed the EMS Pilot Project program, as mentioned above. However, the CBA is on record as stating the belief that 'monitoring should require a court order... parole boards, jail authorities, halfway house staff or probation officers should not be capable of imposing such a Draconian measure without public scrutiny by an independent judicial officer' (Cole, 1989:A7).⁸⁵ This is a position that the EMS program in B.C. explicitly opposes (see EMS Pilot Project Evaluation, 1989), as noted previously.

The CBA's position appears to arise from the perception of the relevance and significance of this new penal technique for the practices of law and legal due process. Cole invokes the majesty of the judiciary and fundamental legal due process when he recommends 'public scrutiny by an independent judicial officer'. Bearing in mind the B.C. Corrections Branch's position on net-widening⁸⁶ in respect to the EMS program and the necessity of achieving cost efficiency, in addition to the evidence that decisions by judges tend to widen the net of social control (see Chapter Five),⁸⁷ successful lobbying by the CBA at other political levels would surely exacerbate expansionary drift within the deviancy control system.

Containing within the correctional apparatus the power of deciding who gets on EMS and who does not, allegedly represents a cautious approach to program development (see *Electronic Monitoring Project Advisory Committee Final Report*, 1989) and an attempt to restrict fiscal costs of the program (and in correctional expenditures more generally). Cost containment through efficient management of resources constitutes the (discursive) positioning of B.C. Corrections Branch forces. The positioning of the forces of the CBA centres on a discursive articulation of the interests of judicial scrutiny and legal due process and whatever other tactical manoeuvring it might require to realize the goal of establishing home confinement with EM as a sentencing option of the court. The play of forces in the complex strategical situation is at a stage where further tactical manoeuvres are imminent in the social field. However, other force relations that are of relevance to the integrity and integration of the EMS program within the local correctional system are much closer to hand.

The Corrections Branch is currently waging its own *internal struggle* precisely around the issues of cost effectiveness and the publicly stated intentions of the EMS Pilot Project program. There are, then, other force relations within the administrative and programming spheres that need to be resolved in order to secure longer term strategical integration of the program. Probation Officers need to be brought on side over this new correctional policy and significantly more intermittent offenders will need to be absorbed, otherwise the program will not be able to meet the publicly announced aim of managing the intermittent offender population - and forestalling or preventing capital expenditures for 'institutional' facilities - within the new penal configuration (for Pilot Project objectives see Chapter Three; Discussion Paper, 1987; EMS Pilot Project Evaluation, 1989).⁸⁸

The force relations within the circuits of administrative power inside the Corrections Branch itself would appear to emanate from planning and policy positions (i.e., discourses specifying rational public policy) taken at Corrections Branch headquarters (in Victoria, B.C.) on

the one hand, and the practical circumstances and conditions (including the knowledge and institutional practices) relating to regional program implementation, on the other hand.

The question of power, then, arises again, but the circuits of power in question are localized within the administrative and bureaucratic nexus of the Corrections Branch itself. Intra-Branch forces constitute the networks of power relations corresponding to this governmental apparatus of social control.⁸⁹ The organization of power/knowledge - by way of the administrative and decision-making mechanisms within the Corrections Branch - expresses the will to define and design the EMS program in a particular way. This programmatic specification and positioning within provincial correctional regions (as well as within criminal justice organization as a whole), is articulated on the basis of avowed political, administrative-bureaucratic, and fiscal aims and is expressed through its official discourses (e.g., in policy statements found in Discussion Papers and Evaluation reports). The latter constitute the truths constructed in order to make sense of, rationalize, and legitimize the EMS program. Power and knowledge become fused.

As mentioned previously, not all force relations are restricted to or within the networks of governmental power. The forces of technology are an example of this. Moreover, their effects are fundamentally different inasmuch as they change the economy of information so as to permit new possibilities of observation and surveillance. They alter the form and scope of the carceral. The surpassing of this very important *economic* threshold has meant that in the U.S., where an even greater level of private contracting within correctional services is occurring, the lobbying of hi-tech entrepreneurs has been influential in the establishment of EM and home confinement programs. Indeed, there is a sense among some observers that information technology itself might tend to drive these kinds of programs.

Certainly in a general sense, as technology becomes even further embedded in everyday life through new uses and innovations, the discursive rationality of remote correctional monitoring will become further entrenched and legitimized in correctional practice. Moreover, there is a wave of ideological support from within corrections administration (see Chapter Two) that supports the

proposals of the use of EM within correctional practice; whereas earlier this had not occurred because EM had not passed the fundamental economic and ideological thresholds that would permit its serious consideration within correctional administration councils. Now, information technology is diffusing throughout correctional practice at an extremely rapid pace indeed (cf. Archambeault and Archambeault, 1984; Waldron et al., 1987).

The forces of 'public' interest and opinion about the program have been incorporated within a committee structure that provides non-binding comment and recommendations in respect to the implementation of programmatic policy. Management of 'Orwellian fears' has occurred within the manoeuvre of the citizens' Advisory Committee, which as has been noted above, already functions as a discursive force that legitimizes the EMS program and lines up with the Corrections Branch position on net-widening. The tactic with respect to 'Orwellian fears' is relatively greater openness⁹⁰ to criminal justice mechanisms and a virtual avalanche of information: the committee is provided with whatever information or evidence that is relevant to members' deliberations and assessments of the program. If 'Orwellian fears' are the problem within various sectors of civil society, then *demystification* constitutes an important tactic in allaying such fears. Obviously, the research can also function tactically as a procedure of demystification; inasmuch as the depiction of the mundane details concerning the operation and effects of electronic monitoring serves to show that the State is not unduly intruding into the lives of others who form part of offenders' social and family relations.

The question remains, of course, what will become of the committee as it follows the proposed development and expansion of the EMS program throughout the rest of the province of B.C.. From the point of view of the Corrections Branch, the citizens' Advisory Committee has no doubt been perceived as valuable in providing added moral force to its position regarding net-widening and cost-containment. In the present historical conjuncture, the play of forces constituting part of the complex strategical situation (e.g., forces of the Bar and legal professions

and forces of correctional administration) have not come to any publicly evident engagement or resolve over what is a substantial disagreement. That is where matters presently stand.

Needless to say, the Corrections Branch has gone some way in building the citizens' Advisory Committee into its positioning tactic - achieved via processes of power/knowledge - in respect to controlling EMS program offender selection and constituting the reform of correctional practices. As long as other forces within the criminal justice system lobby for control of program offender selection, then the Advisory Committee will have a utility to the Corrections Branch's positioning within the strategical conjuncture at hand.

One form of counter-power or resistance to programmatic developments would be if committee members, either collectively or individually, resigned from the committee and protested their case in the public media. Most representative members I interviewed stated that if EMS program policy got too far away from their group, association, or society's philosophy and reform goals, then withdrawal would be seriously contemplated. The strength of this kind of protest might be weak (say, if only one member withdrew) or strong (say, if a majority resigned over some policy change); it will also depend on how and when such a move might be taken, what significance or weight it might have within the penal reform process (the import of the research knowledge and its present explication will be discussed in the final chapter).

4. Correspondence of Discourse-Practices-Effects

The present social investigation is obviously premature as an evaluation of correspondence or non-correspondence of discourse-practices-effects at the systemic level. The kind of interpretive analytic or genealogy of power proposed by Foucault is best suited to events that have already occurred and which are therefore available to *retrospective* description and analysis. It is within such a form of analysis that it is possible to see historical events as moments and features of social change that can be given a specific strategical-relational significance and intelligibility.⁹¹

From the perspective of using empirical evidence (cf. Garland, 1985) to shed light on historical and sociological processes, it is necessary to have documentary materials. These materials presumably, and at least in part, constitute contingent effects within the interplay of intentions (i.e., discourses, rationality ideas, ideologies) and practices (i.e., social practices corresponding to program operations); moreover, they are symptomatic of the play of forces (political, legal, technological, administrative, social, economic) in networks of power which it is necessary to *read* in a particular way (cf. Garland and Young, 1983).

With the policy and programmatic implementation of home confinement and EM the above ideal cannot be met. Clearly, the evidence of documentary materials which correspond to socially produced events and processes would be preferable to speculating about penal policy reforms as plausibly conforming to systemic patterns, tactics, manoeuvres, positionings, strategies, etc., within criminal justice and correctional administrative organization (namely, through a penal reform strategy that constitutes and extends punitive power, see Cohen, 1979, 1985; Chan and Ericson, 1981). In the absence of concrete outcomes that can be analyzed, then, the hypothesis of expansionary drift and design has been evaluated within the very processes that set the stage for the differentiation and extension of punitive power.

This new penal policy may yet fall on the rocks of political expediency in the short run, in this particular criminal justice jurisdiction. Clearly though, the inaugural tactic has involved various disjunctures between discourse and practice in respect to the EMS program within the apparatus of correctional administration in the province. Senior Branch officials are now concerned that program numbers are still low and that, ultimately, the pilot project goal of diverting the intermittent offenders will not be realized. The various force relations, then, *could* lead to a decision to (temporarily) close the program down. Whether this will occur is not clear.

Furthermore, it is also not yet clear how juridical forces - represented by the lobbying of the Canadian Bar Association - will fare in the strategic field of power relations within the criminal justice system as a whole. The current stance of the B.C. Corrections Branch in respect to

net-widening and the EMS program, is that it must achieve an acceptable penal economy under the auspices of its administrative power.

This position would seem, ultimately, to permit the Corrections Branch to decide whether or not offenders could be monitored since the house arrest policy is easily reversible (Ball et al., 1988) in the event that programmatic objectives such as cost effectiveness are not being achieved. This is in contrast to prison programming that requires considerable capital expenditures that cannot be so readily abandoned. With the completion of the pilot test the B.C. Corrections Branch is now in a position to be able to shut the program down on short notice (and redeploy program staff back within the secure facilities and probation centres) or, having shut it down, reopen it on the basis of the accumulated knowledge and experience to date.

Strictly speaking, the 'failure' of the program at the systemic level could mean many different things. It could mean 'the system isn't ready for EMS at this time'. It could mean that policy and planning analysts and designers are exercising their power/knowledge to secure control over net-widening, willing to reopen program operations only when conditions that will affect their budgetary needs for running the program are more to their liking.

In any event, what should not be lost sight of is the proposal implied by the expansion hypothesis. Unless explicit and concerted efforts are made to deploy EMS within an overall policy of fiscal restraint and reduction in the use of incarceration, then it can be expected that this program will - like other 'alternatives to incarceration' before it - expand and extend punitive power. Evidence presented in the present chapter *suggests* that if the program remains funded and staffed over the period indicated in the EMS Pilot Project Evaluation (1989) report, then expansion of punitive power and widening of the networks of social control will result. How much it will expand is not clear at this stage, even though the Corrections Branch has adopted a very cautious approach which also reflects a genuine concern about net-widening. At present, the Branch can modulate its utilization of EMS based on the intra-Branch (and inter-ministerial) political processes of securing budgetary allocations for programs and the administrative exigency of efficient

utilization of resources. However, should this control be lost, say because of the extension of juridical power into this area, then systemic expansion can be predictably expected to accelerate even further.

The citizens' Advisory Committee opposes this possibility and strongly recommends that adequate and effective guidelines be established that prohibit or prevent the use of the EMS program as other than an alternative *form* of incarceration within the local system.⁹² In the event that the EMS program *is* established as a *sentencing* option of the court, it is not clear whether legislative or regulatory guidelines would help to mitigate expansionary drift.⁹³ This will very much depend upon the political basis and intent in the construction of such guidelines, as well as in how the program is utilized within the local system.

* * * * *

It has been argued above that previous evidence concerning the effects of 'community-based' correctional reform can be applied to the present case of penal reform. The reform strategy of community-based corrections is founded on the discursive basis of cost efficiency, effectiveness, and humanity, the 'holy trinity' of penal reform (Chan and Ericson, 1981). Research has shown that new 'community-based' programs end up supplementing existing sanctions and add to the overall size of the penal and criminal justice systems. That evidence, of course, supports the claim that the discourse of the reform strategy and the practices and institutional structures that it puts into place do not correspond. The result is that the criminal justice system in general and the correctional system in particular, are made larger and extended. This fits with Foucault's (1979) observations in respect to the proliferation and extension of disciplinary mechanisms in the contemporary historical period. The present chapter has examined evidence that points to the applicability of the expansionary hypothesis. Systemic expansion or widening of the net(works) of

social control are accomplished, according to Foucault, through the proliferation and extension of disciplinary power.

The present chapter has shown that program integration is structured within the local criminal justice and penal systems so as to assuage significant concerns, fears, criticisms, etc. evident or expected upon the introduction of this new penal form. It is evident that the hallmark of the correctional introduction of this new penal sanction has been *caution*. This caution is manifested in various ways, including in particular the provision for 'independent' research and consultations with community groups. Caution is evident in various other ways as well.⁹⁴ The common theme of these deployments of caution is to show that the EMS program neither expresses nor portends an Orwellian nightmare. Moreover, it is proposed, the program will save money and may even provide for offender rehabilitation. The emphasis of caution may have been successful in legitimizing the program outside of corrections, however internal integration and programmatic legitimacy within corrections itself has been problematic.⁹⁵

The speculative extrapolation of the expansion hypothesis does not constitute evidence that expansion has in fact occurred. It only *suggests* that this will occur in due course. The evidence tendered affirms what has been found elsewhere in critical investigations of penal reform, namely that 'true' cost savings are questionable when a longer time-frame is used in evaluating *overall* correctional expenditures. The ministerial budget evidence, as well as the evidence that shows a tendency for program and policy designers to underestimate programmatic expenditures, would seem to support the view that expansionary drift and design will be the outcome of the incorporation and use of this new penal technique (though sufficient time has not yet elapsed to empirically confirm this hypothesis). It is apparent at the outset, then, that program designs and expectations for systemic absorption and integration are overly optimistic. It should be no surprise that the objectives of program promotion supercede the need to address practical organizational concerns necessary for systemic integration.

A further concern exists however: the strategical field - outside of the immediate realm of corrections - might yet involve a play of forces that could exacerbate the expansionary drift proposed to be the consequence of the integration of this new penal technique. This could lead to a penal apparatus that expands considerably more than it otherwise might under the auspices of the management within corrections that *has* proceeded with much caution and care in the development of its EMS program.

Notes

- 1 Cohen (1979:347) proposes that "'alternatives" become not alternatives at all but new programs which supplement the existing system or else expand it by attracting new populations'.
- 2 Rutherford (1984:171) asserts that '[m]ost contemporary prison systems are expanding through a combination of drift and design. Criminal justice administrators perpetuate the myth that the prison system is swept along by forces beyond their control or influence'.
- 3 Expansion, in terms of correctional expenditures and staff allocations, can, in principle, mean that the same number of offenders end up being managed by more correctional staff. In the present case Correctional Officers from the provincial civil service, mainly drawn from the 'institutional staff' of local provincial correctional facilities, are being trained and deployed to carry out necessary program tasks. In some cases the local system equivalents of 'community control' staff have been conceived as possibly involving actual, methodical surveillance by police personnel. This prospect has been discussed - by Corrections Branch officials in the citizen's Advisory Committee - as a possible supervision modality in the context of the rural expansion of the EMS program in the B.C. correctional system.
- 4 There is evidence in this local governmental system (i.e., the Province of British Columbia) that the policies of EM and home confinement have evoked interest across different provincial government ministries (such as the Ministry of Social Services and Housing and the Ministry of Health). These policies, apparently, have been given consideration at the provincial Cabinet level (either in the *Committee of Cabinet* or by the *Planning and Priorities Committee*), presumably with a view to determining (or commenting upon) these ministries' use of this technique as a resource under their own auspices of programmatic planning (John Ekstedt, Aug. 8/89, **personal communication**).
- 5 Initial advocates of the penal policy of house arrest (with and without EM), Richard Ball and Robert Lilly (1988) are now more concerned about the widening of the net of social control. These sociologists notice a disparity between the rationale they initially proffered in support of these new penal policies, and subsequent institutional *practices* (which do not correspond: 'Much of our theoretical perspective has rested upon the concept of reconciliation between offender and community, and we had been troubled by data suggesting that the community might resist such reconciliation, calling into question the entire enterprise of community-corrections (Greenberg, 1975). The rapid development of electronic monitoring now suggests that the systems of juvenile and criminal justice may be more interested in maintaining bureaucratic control over offenders than in involving the community in the monitoring of compliance with home incarceration, even at the cost of sacrificing other goals to the budget squeeze' (1988:152-3).

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- 6 Policy analysts and decision-makers for the Corrections Branch are in a period of significant change in use of secure facilities as indicated previously. This also involves the loss of the 'elastic capacity' of bedspace currently available within the present penal configuration (EMS Pilot Project Evaluation, 1989). This gives the EMS program the more specific administrative purpose of absorbing a substantial number of the 150 intermittent offenders (an average weekly figure reported in the August, 1989 citizens' Advisory Committee meeting by the Director of Policy Analysis for the Branch) that now serve their sentences at LMRCC, an institution to be closed down in 1991. The Evaluation identifies the EMS program as capable of managing 70% of this group (but regional administration calls this figure into question, suggesting only half this amount, or about 35%-40% management of this population). The significance of this intra-Branch difference will be examined later.
- 7 The 'cost effective' portrayal is central to the promotion and legitimation of the program (see Discussion Paper, April, 1987 and EMS Pilot Project Evaluation, 1989). However, confirmation of the expansion hypothesis suggests that over the longer term, costs are *added* to overall correctional expenditures. For inaugural purposes, 'cost effective' ends up involving narrowly framed comparisons of per diem costs among different levels of correctional supervision, e.g., comparing home confinement (with and without EM) with maximum-to-minimum security levels of incarceration and different kinds of probation supervision (cf. Petersilia, 1987a:83). Petersilia observes that 'crowded prisons underestimate the costs of alternatives, and it is very difficult to obtain a reliable picture of how much government services cost, given the nature of government accounting procedures' (Ibid.:83). It is here where it is important to make a distinction: "There is a difference between "true" savings and figurative savings. True savings occur when fewer total dollars are spent on the correctional function. The mere reduction of prison crowding saves very little money, because it costs about as much to run a prison system at 85 percent capacity as it does to run one at 110 percent. When a new program is added, its budget, taken together with the corrections budget, may require *more* money than before, even if every client it handles is a true diversion from prison. Average per inmate costs do not tell the story. The only real way to save money through prison alternatives is to avoid new construction' (Ibid.:83-4).
- 8 Such evidence will have to wait the passing of time; it could hardly be available now, given that pilot testing has only recently been completed. Interestingly in this regard, the Pilot Project Evaluation concedes that the program will cost more money in the short term, with the period 1991-92 as the projected fiscal year where cost savings will begin to be realized (see EMS Pilot Project Evaluation, 1989). This issue will be re-examined again shortly, for precisely what the basis of comparison is such that it would be possible to cost 'more' or 'less', is in need of close attention.
- 9 For a more detailed review of evidence of expansion at both provincial and federal levels for incarceration and probation/parole rates, see MacLean (1986) and *Juristat* (1984). Ratner (1987:291), in drawing on the latter source, states: 'Between 1978-1979 and 1982-1983, for example, the official average daily adult prison population in Canada (federal and provincial institutions combined) increased 22 per cent from 21,963 to 26,924, and the population on probation and parole increased 31 per cent from 61,738 to 80,912'. See also Lowman and Menzies (1987). A more detailed consideration of the budget and staffing of the B.C. Corrections Branch will occur later in the present chapter.

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- 10 This means or refers to 'support' in the control bureaucracy, the incidence of support (or acquiescence) from special interest groups, and support in the more amorphous realm of public attitudes, which presumably runs the range of attitude and belief from outright opposition, to benign disinterest, and finally, to believing, along with correctionalists, that it is rational and effective as a correctional measure (and thus worthy of support).
- 11 One prospect that has not been considered, but which is, of course, within the realm of possibility, is that the EMS program *could be shut down* because other penal techniques might be preferable (for reasons of cost, for example). Recall from Chapter Two that there have been some programs shut down because no significant consensus was able to be manufactured within the local system, about the program's purpose and use. On this possibility in the present case it is relevant to consider the words of the Corrections Branch's Director of Policy Analysis, who attended and spoke candidly to the citizens' EMS Advisory Committee (August, 1989). In particular, he stated that there exists consternation - emphasizing that this was at high levels within the ministry and within the Corrections Branch management itself - about the low numbers that are being handled by EMS in relation to concerns as to what will happen with the intermittent population (soon to be in need of institutional space when LMRCC is abandoned in 1991) (see section, below, entitled *Programmatic Developments to Date*). The possibility being intimated here is that the program *could be shut down* in favour of more cost effective options. The Director might also be read as delivering a veiled message to regional administrators and personnel (via the EMS Local Director, who was present): in essence, if the numbers do not go up *and* in the area of concern (i.e., 'intermittents'), then at another political level within the bureaucracy it becomes difficult to argue for its cost effectiveness.
- 12 The apparently teleological outcome of expansion is, however, not a *necessary* consequence of the use of this new technology of the body (or what amounts to a new procedural basis of surveillance and control). This, it will be argued, is due mainly to the possibility of embedding the sanctioning technique itself in an overall reductionist strategy of penal reform. See Chapter Eight discussion.
- 13 Discussions with the *Staff Resource Analyst* left the impression that staffing organization in the present period of great institutional change is very difficult to judge with respect to specific outcomes. This government analyst did, however, indicate two things that are important, both here and again for discussion later in the chapter. First, it was the Staff Resource Analyst's impression when I first made contact with her, that the Pilot Project Director's staffing estimates were - and this is her phrasing - 'conservative' (this point is relevant to the expansion hypothesis and underscores that the *promotional* accent of the Pilot Project program tends to hide the practical realities of operation of power in penal administration). Second, and also at that time, the Staff Resource Analyst predicted that the three new prisons being designed and built *will require more personnel to staff* them due to the fact that present staffing at LMRCC (which they will soon replace) is based on a cell-block and wing architectural design. Staffing in the new prisons about to come on stream is based on 'living unit' architectural designs (which from the correctionalist perspective, provide a much more efficient and safe means of controlling inmates).

¹⁴ The Pilot Project Director was emphatic on this matter when interviewed. Moreover, it is the Canadian Bar Association's endorsement (see Skelly, 1988; Cole, 1989) of the EMS program that, she notes, might prove troublesome. Speaking on the issue of the CBA's endorsement, the Pilot Project Director cautiously stated: 'it's really nice to have the endorsement of the Canadian Bar Association, so I think that we have to publicly be very pleased about that... And I'm quite enthusiastic that they do like what we're doing. But their recommendations, in my view, perhaps inferred the success of the program into areas we have been very cautious in. We, being both the Branch and the Advisory Committee. Their recommendations are that there be changes in the legislation in the area of probation and intermittent sentencing and bail. And that would permit judges to sentence directly to this program. Well, the experience in the United States which we can't overlook, is that sentence lengths triple frequently, when it's a sentencing option. And if it's a sentencing option, then the recourse changes. In other words, if a judge sentences someone to serve their time on electronic monitoring and they don't comply with some rule, then it has to go back to the court in the form of a breach for the judge to decide then what to do with the individual. So it changes the whole nature of this whole thing. Right now we know that the only people we're putting on are people who are or would have served their time in jail, because they're coming through classification. The people who are in jail, when we decide that this is an acceptable way to house them. So it changes the whole nature of the program. It makes it something other than what we're using it for. I'm not saying it's any less legitimate. It may be very legitimate. Maybe there is a need to have another social means of control over people. But from our point of view and the aims and goals of this project, that is outside of our mandate. Very clearly outside. And in terms of the concerns of the Advisory Committee, we know from the American experience - and it's very easy to speculate that the same thing would happen here - that it will widen the net. It will include many people who normally wouldn't have gone to jail. It will be more costly. If you think about people on probation, even the high risk end, and adding \$28 to \$32 a day onto those people. That could be a phenomenal cost' (May 24, 1989 Interview). She also pointed out that 'our deputy minister has communicated with the federal department of justice around this issue and the report produced by the Canadian Bar Association went to the minister of justice. So, they have had their say and we have had our say at the proper level, rather than leaving those of us on the line to fight about it' (May 24, 1989 Interview).

Available evidence (e.g., Ball and Lilly's examination of sentencing practices of Kenton County judges, Flynn's reluctant admission of 14% net-widening in Florida's community control program, Michigan's legislated policy requiring offenders released from state prisons be placed on house arrest with EM) lends support to the Pilot Project Director's view. Should judicial discretion be successfully pressed to expand and incorporate the practice of specifying EMS as a condition of sentence, this would virtually ensure first *offender-side* net-widening, and following from that, of course, *correctional personnel-side* network-widening. The case being made here is that the latter type of network-widening is going to occur at any rate (unless consensus is sought and secured for an overarching criminal justice and corrections policy of reducing the overall use of incarceration as an option for legal sanction).

¹⁵ 'It is very conservatively estimated that the time required to assess each referral was three (3) hours, not including court appearances. This includes travel time to the residence, interview of the client and other significant persons, and confirmation of records checks' (EMS Pilot Project Evaluation, 1989:12).

¹⁶ Compare this with Petersilia's distinction, made in the footnote above, between 'true' and 'figurative' tests in regard to cost savings.

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- 17 However, the factors to be discussed below are suggestive of a design, partly intended and partly unintended, that will produce expansion. The design emanates from the will to power that seeks to expand and proliferate its disciplinary mechanisms. Expansionary drift and design are an effect of the positioning and manoeuvring of various relations of forces played out within networks of power relations.
- 18 At the July, 1989 EMS program Citizen's Advisory Committee meeting, the new *Program Analyst* represented this view that opening up program selection to the judicial process itself would open a Pandora's box and likely widen the net of control.
- 19 This could occur either through new populations being controlled or current probation/parole populations being more intensively monitored 'in the community' than heretofore.
- 20 To anticipate reaction somewhat: penal system officials will no doubt deny the validity of the views expressed here. The essential reason for this would be that the *economic* reality implied by the (expansionist) use of this sanction, is exactly contrary to the Corrections Branch's chief argument in favour of the program: namely that it is cost effective in regard to displacing or diverting jail-bound offenders. But as Petersilia's (1987a:82-5) comments - quoted in the footnote above - make clear, this represents a very narrow basis for assessing the cost efficiency of such a program.
- 21 The Supreme Court of Canada recently overturned two previous provincial rulings that prevented Susan Nelles, the publicly disgraced Toronto nurse, from bringing suit against the Attorney General of the province of Ontario (see *Vancouver Sun*, Aug. 15, 1989). For purposes here this ruling shows that regional criminal justice systems are not immune from the consequences that flow from a judicial ruling that runs counter to the perceived interests of public policy practice within criminal justice administration. In other words, judicial power and administrative power within the ranks of Attorneys General (e.g., administration of police and correctional services) can be very much forces *in opposition*; again, this is a *contingent* accomplishment, rather than a *necessary consequence* of their social, political, and administrative relations.
- 22 As a research investigator into the organization and management of the program, I became positioned in the sphere of conflict itself. A question of the Pilot Project Director that sought to probe the conflicting figures (i.e., the Pilot Project Director's estimate of 70% capture of the intermittent population vs. the 35%-40% estimate arising out of a region-based assessment at LMRCC) was dismissed by her. This connects up also to the issue of lack of support from Probation personnel (there were also other suggestions that Branch staff were not supporting the referral process), something that may account for the daily program counts being lower than expected. The Pilot Project Director suggested I not get involved on one side or the other and that this 'conflict' (a term which she felt overstated matters) was a normal part of organizational/bureaucratic processes and nothing that would have any substantial effect on implementation of the program.
- 23 A reconfiguration of the Lower Mainland Region's secure facilities is about to occur and the initial startup period will require extra costs and personnel; exactly how many more staff and how much in program budgets remain to be seen. Moreover, these additions occur within the (*projected*) budgetary increases corresponding to this period of reconfiguration, and thus it is no surprise that the Staff Resource Analyst for the Branch cannot with any precision calculate the program's costs in terms of staffing.

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- ²⁴ One organizational locus of the EMS program is within the Vancouver Pre-Trial Services Centre (VPSC) - a maximum security prison in downtown Vancouver, with a capacity for 150 inmates - and the office space of Vancouver Adult Probation (next door to VPSC) where EMS staff and computer equipment are located. Thus, one could say the program is very much 'institution-based'; however, if one designates the *space where the offender 'does the punishment'* - in this case, within the individual's normal daily round - then it is sensible to speak of the sanction as being a 'community-based' penal entity. I take the choice of the latter interpretive and representational preference to be telling of the discursive interests of the correctionalist-administrative discourse (power/knowledge) in promulgating its institutional reforms.
- ²⁵ This, again, follows from Garland and Young's (1983) proposal that penal relations constitute the condensed and concentrated form of wider social relations (cf. Walzer, 1986).
- ²⁶ '...power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization; as the process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies... power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategical situation in a particular society' (Foucault, 1978:92-3).
- ²⁷ To put it another way: it is in terms of the *use* of these categories that truths about punitive effects are achievable; employment of these categories permits constitution of the visibility and interpretive assessment of the effects of this political technology of the body.
- ²⁸ The previous lengthy quotation from the Pilot Project Director suggests a certain 'flexibility' in respect to the possibility of EMS becoming a sentencing option for courts. She makes the point very clearly that the Corrections Branch's position is to oppose net-widening (again, the reference being to net-widening in respect to offenders); the position the Corrections Branch has taken regarding this sanction's cost efficiency would seem to more or less dictate this stance. I detect in the tone of this speech that the untoward outcome (i.e., EMS as sentence option, followed by net-widening) could in some future set of imaginable circumstances and conditions be represented as a regretful one, however it would also be one that could apparently be lived with (Pilot Project Director: 'I'm not saying it's any less legitimate. It may be very legitimate'). No doubt still greater expansion (due to offender-sided net-widening) would provide a reconfiguration of institution-based power relations on the basis of new territories of penal administration. Local correctional administrators have made their case and now if net-widening occurs because of the sanction's deployment as a sentencing option, they can legitimately and reasonably disavow responsibility and point the curious (or those who are critical) in the direction of the rightful source of net-widening, namely judicial discretionary powers or legislated changes in the legal process itself. Its position might then be that despite all its best efforts judicial power is now having its way and, to put it in the common vernacular: 'don't say we didn't warn you'. Whatever occurs, penal administration will see to its expanding program domain (Pilot Project Director: 'Maybe there is a need to have another social means of control over people').
- ²⁹ Rutherford (1984:168) seems to think not; however, this is, I believe, a contestable position that will be critically analyzed in the final chapter.

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- 30 Thus, applies the administrative distinction of a 'pilot project', which is not a fully-fledged and recognized Ministry of Solicitor General, Corrections Branch 'program'. The latter has an ongoing budget allocation, whereas the former is funded out of a special projects budget that has flexible, but ultimately fixed temporal boundaries.
- 31 The Pilot Project Evaluation extends it to eighteen months, which may refer to the *active* period from Sept. 1987 until the end of 1988 and just into 1989, at which time the Evaluation was submitted to the Corrections Branch Management Committee for its consideration and decision-making.
- 32 As noted, this source of referrals (and therefore intra-Branch support of the program) was negligible during the Pilot Project period (see EMS Pilot Project Evaluation, *Ibid.*:13). This could also be due to the fact that Impaired Driving offenders are not typically managed by Probation Officers, if at all, until *after* sentencing, and, therefore, prospective EMS candidates would not even come to their attention unless these offenders received a sentence of probation (in which case it would be too late to take offenders into the program). The resistance from probation personnel in B.C. would seem to parallel that found in the British penal system at the prospect of employing EM or 'tagging' (cf. *The Economist*, 1988). At this time it is not clear how important Probation Officers are or could be as a conduit for EMS program offender screening and efficiency in processing.
- 33 The Local Director of the EMS program stated at the August, 1989 citizens' Advisory Committee meeting that there is opposition to the EMS program from his Probation Officer colleagues (see Chapter Two). The *extent* of this opposition was not specified, but later he reported to me that this attitude was changing.
- 34 In its essentials this means: 1) no outstanding charges, 2) no history of violence, 3) presence of a functioning telephone, and 4) absence of 'bad attitude' or presence of 'good attitude' in the offender (i.e., the predicted tendencies of compliance and co-operation).
- 35 The policy of the Corrections Branch in conducting the Pilot Project program has been to honour the intentions in sentencing of the judge. Where judges specifically stipulate that the convicted offender *not* go on the EMS program, staff will not take that individual. I know of a least one case - as related to me by an offender - where the judge had remarked early in hearing the case that he did not want this offender to go onto the program and he in fact got onto the program. This is an exception that proves the rule, however, for there is ample evidence that program staff co-operated fully with what judges did or did not want. One offender appealed the judge's stipulation that he not go on the EMS program and finally won his case. He eventually completed the program without incident.
- 36 It is evident here that correctional administration is closely interconnected with law and judicial decision-making, and this fragile nexus provides the framework within which power expands through correctional-administrative, judicial, technological, social, and economic forces.

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- 37 There has been a concern expressed (in the citizens' Advisory Committee meetings) that Correctional Officers be trained to detect signs indicating the possibility of family violence. This concern was reinforced when the common-law spouse of an offender on the EMS program admitted (after her spouse's program revocation in Fall of 1988) that the latter was physically abusive toward her in the past. While he had not mistreated her during his period on the program, she confessed to lying to program staff when they initially asked her whether he had been physically abusive toward her. Had program staff known this at the outset, the offender would not have been admitted to the program. This instance emphasizes the need for adequate interpretive skills among all program staff in light of the fact that sympathetic spouses are willing to mislead correctional personnel in their initial screening investigations. The development and application of such social and interpretive skills would mean deeper penetration of State agencies into the family nexus.
- 38 Most of the Correctional Officers interviewed felt that the change in operational Directorship (Sept. 1988, from the Pilot Project Director to the new Local Director) resulted in a situation where there was 'not a clear chain of command and accountability', as one line staff described it.
- 39 Presently there are five Correctional Officers, one Local Director, one *half-time* Program Analyst, and administrative support staff attached to this service delivery unit.
- 40 At the July, 1989 citizen's Advisory Committee meeting, the *Local Director* of the EMS program recounted that there had actually occurred a backlog and something of a processing bottleneck due to 4 units being out of service (for repairs). This means there are only 21 units. The backlog resulted in an innovation that was of interest to Committee members. What it entailed was the release for some offenders near the end of their sentence, but only from the *electronic monitoring*, not from the face-to-face spot checks. This procedure freed up monitoring units to handle clients the courts were giving the program, but which it was having difficulty handling. There has been a lowering of the daily program count more recently (as of August 20, 1989, 12 offenders on EMS), which the Local Director said represents a typical pattern of fewer sentencing decisions taken during this particular month.
- 41 'In order to test in sufficient detail, a period of no less than 9 months or no more than 12 months is suggested. Since 9 months of actual usage should be adequate for assessment purposes, this time period is the preferred, cost-effective option' (Discussion Paper, *Ibid.*:10).
- 42 'At the outset (and perhaps for the duration of the project) two officers will be required to operate the project' (*Ibid.*:11).
- 43 The Local Director reported in summer 1989 to the citizen's Advisory Committee that the majority of offenders currently on the program are serving 90 day sentences (the longest sentence period currently permitted on the program) as opposed to the 60% of offenders in this researcher's sample who were sentenced to 14 days and less.
- 44 An example of this exaggeration and distortion is the intra-Branch criticism of the Evaluation's conclusions, to be discussed at greater length below.

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- 45 The Pilot Project Director agreed with the proposition that the new institutions that will replace the old Lower Mainland Regional Correctional Centre (LMRCC) are more specialized and, hence, the intermittent sentenced population (i.e., shallow enders, cream puff cases, low risk offenders) are not envisioned to be managed in those new locations since this would defeat one of the problems that these offenders pose, namely employing excessively expensive and unnecessary means of incapacitation for those who do not need it. This is a poor economy of punishment, then, in the eyes of Corrections Branch officials. Exactly what proportion of all low risk offenders EMS can manage is very much open to question at this point in time.
- 46 All three Adult detention facilities are slated to open at various times next year, i.e., in 1990, and the LMRCC that they replace will shut down in 1991 (see Discussion Paper, *Ibid.*:22).
- 47 An important point here is that the lower this percentage becomes, it would seem, the more problematic becomes the issue of producing penal management options. Failure to meet this objective would seem to imply either one or a number of the following options: building the minimum security facilities the Branch wants to avoid allocating capital costs for; revamping other correctional centres; devising and implementing another set of 'alternative alternatives'; or employing Sheriff's holding cells (all of which defeats the initially stated purpose of the EMS program).
- 48 Indeed, this feature helps to account for the limits that were placed on my efforts to secure interview access to other Branch personnel involved in implementation of the policy (e.g., Regional Directors, Program Analysts), those apparently who were the very persons in conflict with the Pilot Project Director over matters having to do with the program.
- 49 This figure is asserted in the Evaluation (*Ibid.*:40); however no operational or procedural basis is supplied to account for how this particular number was arrived at. It is asserted, and then on the next page the Evaluation (*Ibid.*:41) states (again) that 'it is anticipated that the 100 plus intermittent offenders entering L.M.R.C.C. every weekend could be reduced to 30 admissions per weekend within one year of full implementation of EMS in the Lower Mainland'.
- 50 The Evaluation also states that '[t]he immediate effects of EMS have been realized as the pilot project is currently reducing the Lower Mainland's intermittent custody population by 26 percent' (*Ibid.*:40). How this number is arrived at is not specified in the report either. The Discussion Paper suggests the intermittent population at LMRCC experiences 'an average growth of 9.4 offenders or 8.8%' (*Ibid.*:14) and that the population grew from 106.2 offenders in 1985 to 115.6 offenders in 1986. Given that the (1988) average weekend count at LMRCC for intermittents would be about 126 offenders (based on the 8.8% anticipated growth in this population) for the data collection period of the Pilot Project program, this means that EMS will need to have managed or diverted about 33 offenders out of this facility in any given week to satisfy the 26% figure. Considering that Pilot Project daily program counts for this period are quite low, this makes the claim of 26% diversion of the LMRCC intermittent population seem very dubious indeed. A more accurate estimate would likely fall in the 4-15 offenders per week range considering the daily counts of the EMS program (or 3%-11% of the LMRCC intermittents being diverted). The 11% estimate is based on the peak period (Sept., Oct., 1988) when daily counts were approximately 10 offenders per day on EMS (and providing that some sentence initiation or hookups and completions occur during any given week). The fact that the program was typically processing shorter sentences during the Pilot Project period means that there will be more sentences processed. Hence, the sentence completion rates are skewed in the EMS sample and are not reflective of the intermittent population as a whole.

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- 51 This point was emphasized to me by the Pilot Project Director (Interview: May, 24, 1989).
- 52 Budget figures for the program have been requested; however, they have not, to date, been provided by the Corrections Branch.
- 53 This time estimation is already likely to be erroneous because of the current problems with the Purchasing Commission that are delaying the securing of a reliable equipment vendor.
- 54 The Pilot Project Director describes the EMS program as very *vehicle intensive*, meaning that transportation costs for vehicles will tend to escalate because community supervision, hookups, and program screening all involve a great deal of vehicular use.
- 55 The new EMS Program Analyst stated in the July, 1989 Advisory Committee meeting that 800 numbers will be used and that a special arrangement with B.C. Telephone meant that there would be an additional \$50-\$100 per month per offender monitored. This figure was presented as being lower than the initial rate of \$400 per month per offender that had been anticipated due to normal long distance rates where a minimum one minute charge is made. The present 'call-back' (FMD communicating with monitoring computer) rate is set for about 23 per day and data transfer time is approximately 17 seconds. The Analyst suggested that by reducing the call-backs to about 14 per day and by obtaining the special billing rate (due to call frequency and short duration of calls), the \$50-\$100 per operating unit *per month* would add on to the other costs, i.e., staffing and equipment costs.
- 56 However, I was made aware of one particular intra-Branch critique of the conduct of the Pilot Project that held that the low numbers during the Pilot Project itself resulted from the program's insulation from immediate regional administration of corrections. Even the Director admitted that the program had been somewhat insulated during our interview. She said that a series of events of organizational change concerning the inclusion of the Pilot Project Director on a key regional decision-making committee hampered the opportunity to achieve communication and co-ordination with other elements of the system. She said the decision about her participation on this committee kept getting postponed because those in 'acting' administrative positions were inclined to not want to make decisions that the eventual incumbent might not want or would have to live with.
- 57 The Pilot Project Director reported having 130 'media contacts' during the course of the Pilot Project itself, thus clarifying and describing the organization and intent of the program to a more general public constituency.
- 58 Again, unless it can be demonstrated or confirmed that FTE's are being offset or reduced in other areas of corrections, then it must be assumed *expansion* is occurring and the EMS program is part of that very process.
- 59 The Corrections Branch is actively considering possible utilization of EMS on offenders sentenced to non-intermittent or straight time, as well as those offenders serving up to 180 days (Program Analyst, July, 1989 Advisory Committee meeting). It has already been mentioned that the offender profile is changing to include fewer Impaired Driving convictions and lengthier sentence periods. Branch staff are emphatic that program screening criteria are to be retained in the event that offenders serving up to six month sentences are targeted also.

60 Though it is not stated in the report, it would seem reasonable to suppose that costs 'saved' or 'lost' might be calculated by extrapolating costs on the basis of projected staffing and equipment costs of the EMS program over this period. These figures would then be contrasted to expected (per diem) costs from imprisonment and monies saved from forestalling penal construction.

61 The new Program Analyst stated that the determination of other alternatives was now high on the administrative agenda of Branch managers (June, 1989, Advisory Committee meeting).

62 ¹ Budget figures are from Public Accounts documents and are, unless otherwise noted, a record of actual expenditures. Estimates (E) of expenditures are derived either from documented 'Blue Book' Estimates of government expenditures or directly from ministry personnel.

² Figures for staffing after 1984 are based on measurement of 'Full Time Equivalents' (referred to as FTE's) which is defined in the government budget estimates as 'the employment of one person for one full year or the equivalent thereof'. 'Staffing data prior to 1983/84 were recorded as regular positions and Auxiliary Person-Years' (Corrections Branch Annual Report 1984-85:51)

* 'Those are not going to be our final published figures, but they'll be very close' according to the Corrections Branch Staff Resource Analyst, who said she still had 'journal vouchers to process' for the last fiscal year. It remains to be seen exactly how many more FTE's will accrue after all expenditure data are finalized. The Staff Resource Analyst said that further FTE's would likely be forthcoming due to some errors in data expenditure handling because of the ministerial reorganization, as well as additional union activity during the year yielding further 'business credits' that are yet to be processed. It was not made clear exactly how many extra FTE's would be added for a final FTE figure for the 1988/89 Fiscal Year.

** These two figures were provided courtesy of the Corrections Branch's Staff Resources Analyst and represent 'delegated' expenditures and FTE requirements for the present Fiscal Year. The fiscal projection is 'plus or minus a hundred thousand dollars' and, of course, the FTE projection would be a conservative estimate as well.

At the bottom of a document entitled *Corrections Branch FTE Expenditures: Historical Review* provided by the Staff Resource Analyst, is contained the following explanation of fiscal year variances: 'Variances in the FTE figures from year to year reflect organizational changes, privatization initiatives and fluctuations in service delivery requirements'.

- 63 This loss of 314 FTE's between 1982/83 and 1984/85 would seem to have reversed a trend prior to 1982/83 of increases in FTE staffing. The Staff Resource Analyst explained this reduction in FTE's (from fiscal year 1982/83 to 1984/85) by saying that it took a year to set up and implement 'private contracts'. Therefore, the civil servants they make redundant does not become visible until fiscal year 1984/85. These were programs the Staff Resource Analyst described as 'Youth Residential Attendance' programs; the examples she gave being DARE and DASH, which are contracted to W.J. Stellniachuck and Associates. Even though these private contractors supply the equivalent of FTE's, these are not presently counted (monitoring of contracts is for bed-days, rather than units of staff activity as represented by the FTE designation). This represents an increase that is hidden at present, though the Staff Resource Analyst stated that the Branch is just now setting up a system of monitoring private contracts. Whether this proposed monitoring system will provide for documentation of comparable staffing practices remains to be seen.
- 64 The final figures for 1988/89 and 1989/90 have not been finalized, as noted above. In all likelihood the 'delegated' FTE's for 1989/90 will underestimate staff requirements as the move to living unit design (which the Staff Resource Analyst stated would require *more* staff) in the new institutions is accommodated within the correctional system. How much higher these figures will be is a question that will have to wait the passing of time.
- 65 There are likely some *ideological* practices underpinning this manoeuvre also: the idea of 'private' operation satisfies the neo-conservative ideology of 'efficient business management', as well as positioning this new economy *outside* 'public' service delivery organization (at least as far as FTE documentation is concerned).
- 66 Management FTE's peaked in fiscal year 1978/79 at 155.33 and have dropped thereafter:

Year	Management FTE's
1978/79	155.33
1979/80	149.27
1980/81	146.27
1981/82	146.16
1982/83	137.32
1983/84	125.65
1984/85	102.48
1985/86	101.33
1986/87	102.05
1987/88	101.16
1988/89	79.14*
1989/90	83.72**

* This an 'unadjusted' figure that might increase minimally upon completed processing of staffing data.

** This is a 'delegated' quantity of FTE's. It could possibly increase - whether minimally or substantially in this year of impending change is not yet known - when actual expenditures are finally completed in the Branch's financial records.

- 67 If the high FTE figure (1982/83: 2,359 FTE's) and low FTE figure (1984/85: 2,045) are eliminated and the other nine fiscal years are averaged, a mean FTE level of 2,118 results.

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- 68 A 'deep-end' strategy of penal reduction refers to a policy of decarceration that makes significant reductions in penal system capacity (such as shutting prisons, cutting programs of incarceration). This usually requires broad-based political and criminal justice system consensus about the policy. The deep-end strategy is based on the premise that if the system capacity is available, it will - one way or another - get used (see Rutherford, 1984).
- 69 Participating members come from: the B.C. Civil Liberties Association, whose focal interest is in monitoring and assessing prisoners' rights and other civil liberties issues (e.g., the household intrusiveness of the program and technology); the John Howard Society, a private agency promoting effective and humane penal reforms; the Elizabeth Fry Society, a private agency promoting effective and humane penal reforms; the Citizen's United for Safety and Justice, a citizen's group concerned that violent and other offenders be sufficiently incapacitated and deterred; Mothers Against Drunk Drivers (MADD), a citizen's group concerned about how Impaired Driving offenders are sanctioned; the Salvation Army, a religious organization/agency that provides rehabilitative and other services for offenders. The Chairperson came from the B.C. Criminal Justice Association, an organization chosen by the Commissioner of Corrections because the Association was perceived by the latter to be neutral due to its having no public position (for or against) concerning the EMS program.
- 70 The mandate is to 'advise' Branch managers only; the committee Chairwoman agreed that the Advisory Committee performs a consultative role, expressing various concerns about implementation to Branch Managers. On many occasions during the course of Advisory Committee meetings I witnessed representative members (particularly from B.C.C.L.A. and the John Howard Society) expressing displeasure with this limit. When conflict around this limit arose (on the occasions I witnessed), the Pilot Project Director or the Advisory Committee Chairwoman would reiterate the 'advise' or 'consultative' criterion. From the Corrections Branch's perspective, no doubt, any more latitude than this being granted to this committee would mean that it would have to be conceived and implemented as a *policy-making* body. This is a function that Branch managers would want to maintain themselves.
- 71 In the *Executive Summary* of the evaluation report made to Corrections Branch Management (Jan. 18, 1989), the Pilot Project Director reports that the '[p]ublic response to the project has been determined in part by the active participation of an Advisory Committee. Their views could be characterized as cautiously supportive'. Indeed, as intimated in earlier chapters, the Advisory Committee becomes very much a part of the inaugural tactic of promoting and integrating the EMS program within the correctional and control apparatus. The significance of the Advisory Committee is indicated, in part, by the recognition it is paid within correctional policy and administration councils. Whether the Advisory Committee is *influential* in policy and programming design (and to what effect), or is being *co-opted*, will have to await the unfolding of events and more definitive evidence.

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- 72 Concerning the Advisory Committee, at least, each of the committee representative members reports to a board or executive body of its own. The B.C.C.L.A., Salvation Army, John Howard Society, and Elizabeth Fry Society have an historical interest in penal policy and reform issues more generally, compared at any rate to the more narrow interests of monitoring and assessment of the judicial and correctional practices having to do with drunk drivers (MADD) or the concerns about security and punitiveness, especially in respect to violent or incorrigible offenders (Citizens United for Safety and Justice Society, CUSJ). Representatives from the latter two groups certainly have concerns about issues that the former groups' representatives take to be the more general public interests they represent (e.g., civil liberties, monitoring and criticism of penal reforms). However, representatives from both MADD and CUSJ do not frame these concerns in the same way as B.C.C.L.A., Salvation Army, John Howard, and Elizabeth Fry representatives. Nor are representatives from MADD and CUSJ mandated by the ideological positions of their groups to formulate a position, for example, on net-widening, something the other groups (and Corrections Branch) take to be within their purview. MADD, for example, takes a punitive approach toward the EMS program, believing 'all impaired drivers should and must serve some period of incarceration either in prison or on EMS'; furthermore, 'MADD would like to see EMS used for sentencing on a first and second conviction of impaired driving but we strongly disagree with its use for third and fourth convictions as is presently happening' (the MADD representative has been noticeably absent since the Pilot Project period, which may be a kind of symbolic protest, or perhaps merely disinterest, given that its concerns are not being met).
- 73 It is noteworthy that when the Federal government considered the use of electronic monitoring in a discussion paper in 1986 it was indicated that '[i]t would not be difficult with a good communications strategy to gain wide public acceptance of the benefits offered by this concept (community supervision with EM), and to refute critics who see in it a threat to civil liberties' (*Correctional Services of Canada*, Discussion Paper, 1986:12). For reasons that are not clear, federal correctional administrators did not follow through with pilot tests of EM even though that is what the discussion paper recommended.
- 74 These independent discourses have their own interests, motives, and dynamic processes of production, but these are not subjected to analysis at this time. It is the Corrections Branch's interest in and use of these discourses - their representational import - that is of significance here.
- 75 One Advisory Committee representative was concerned that his Society's board would vote to unequivocally reject the house arrest and EM policy, which would also imply withdrawal from the committee. He stated that he was happy when the motion to censure this new penal policy was defeated at its annual general meeting. Though still critical of the policy and skeptical about the Corrections Branch, he felt that withdrawal from the committee would completely close off the possibility of influencing government policy. Moreover, as he pointed out, it would leave the membership of his group in the dark as to what the government would be doing in respect to this new penal policy.
- 76 Many members articulated a suspiciousness concerning whether the concerns the committee expressed (and continues to express) were being listened to and were in fact influencing Branch decision-makers. In contrast to this, the Chairwoman of the committee expressed the belief that the committee *had* influenced Branch policy and pointed to a tie-in of the EMS program with treatment resources; one being a drug and alcohol treatment program that is being given serious consideration as mandatory for Impaired Drivers (or so said the Director of Policy Analysis at the August, 1989 monthly meeting). Whether this will pan out remains to be seen.

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- 77 One member suspected *tokenism* when asked to help review government policy changes *after* they had occurred. His inclination was to want to be an involved participant in constructing (along with the rest of the committee) the policy guidelines within which the EMS program would operate. The terms of reference of the citizens' Advisory Committee preclude this, as mentioned above.
- 78 Indeed, the wide range of opinion about this new penal sanction within many of the representative bodies was evident within the committee itself, but was also explicitly affirmed by many representatives in interviews (conducted in spring, 1989). 'Cautious' and 'qualified' 'support' is the result of lack of consensus about the priority of significant issues (and developing agreement about positions subsequently) within member interest groups. Many of the committee members ascribed a 'watchdog' function to what they were doing as part of the committee. The committee *is* in full support of the Corrections Branch's announced position on net-widening prevention.
- 79 The Pilot Project Director stated that double-checks were suggested or indicated by the evidently successful breaching of program rules by the small numbers of offenders admitting as much in the research interview.
- 80 The phrase '*community correctional alternative to imprisonment*' is in the first sentence of the concluding paragraph of the research report submitted to the Corrections Branch (Mainprize, 1988:32-33). The paragraph begins: 'A general assessment of program effects or impacts suggests that this EMS program constitutes a *community correctional alternative to imprisonment* that reduces or minimizes negative consequences of incarceration' (emphasis added, *Ibid.*:32). The next sentence speculates that the EMS program appears to have rehabilitative potential (as far as Impaired Drivers are concerned at least). The following sentence notes the generalized disciplinary effects evident for some offenders and states that '[o]n balance... the research supports a favourable overall view of the effects of this EMS program on offenders'. The final sentence emphasizes that caution is necessary in the interpretation of the findings in light of the non-randomness, evident interview 'demand characteristics', and inadequate numbers of lengthier sentence cases in the sample. The qualification in the final sentence is meant to convey that while 'the research supports a favourable overall view of the effect of this EMS program on offenders', it does so under the cautionary awareness of Pilot Project conditions that tend to skew offender responses in the 'favourable' direction. What is *not* being claimed is that 'the research supports the EMS program'; what *is* being said is that the research supports the general view that offender (and family) impacts are more favourable, as perceived by the interviewed offenders (and in light of the other option of weekend imprisonment).
- 81 However, the concern that Correctional Officers need more training in being able to identify potential problematic circumstances (and possibly intervene) has been articulated on a number of occasions. It is a concern the current Local Director of the Lower Mainland program acknowledges. This concern likely arises from day-to-day program experience as much as from research that did not speak directly to this issue.

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- 82 One relevant account in this regard goes as follows. One of the committee members I interviewed said that he had received the Pilot Project Director's summary of the offender impacts research (submitted to the Director at the end of November, 1988). Subsequently, he had read a copy of the more detailed 45 page (single-spaced) research report submitted to the Corrections Branch (Mainprize, 1988; Chapter Four is substantially the same report, except the comparison of findings with Baumer and Mendelsohn's (1988) has been added). I understood him to say that the original summary of the research findings initially given him by the Pilot Project Director came to seem like a distortion (in favour of the positives), after having the opportunity to read the offender and family impacts research in full. He suggested that the overall positive summary of offender and family impacts amounted to an exercise in taking findings out of context.
- 83 This refers to two areas of social control and punitive power where institutionalized practices of law and punishment/control are implemented; these apparatuses of State constitute the bio-politics of State regulation and control of the population in regard to deviancy control. Civil society offers additional loci for reform practices and discourse, however the State apparatuses maintain hegemony in power relations through the establishment and maintenance of their overarching political legitimacy.
- 84 However, see Henshel and Kennedy (1973) who identify two sub-species of 'self-altering prophecies'(S-APr) or 'prediction dilemmas'. One is the *self-defeating prophecy* and the other is the *self-fulfilling prophecy*. These researchers propose that social prediction is a researchable phenomenon and that various 'multiplier' and 'oscillation' effects are noticeable that influence the systemic impact of social predictions.
- 85 David Cole is a Toronto lawyer and member of the CBA's Committee on Imprisonment and Conditional Release. Committee Chairman John Conroy reportedly stated to the *Vancouver Sun* that this particular committee had 'spent two years studying prison sentencing, imprisonment and release programs' and 'calls on provincial and federal governments to establish criteria for the use of electronic surveillance'. Conroy is quoted as recommending 'specific legislation setting out conditions for its use, suspensions if there's a breach and penalties' (Skelly, 1988:B1).
- 86 This is done by keeping this sanction as a *classification* option where offender selection is maintained within the Corrections Branch, rather than as a sanction that is available to the court as a *sentencing* option.
- 87 Sentencing lengths are tripled in many cases in compensation, or extra costs are added to probation or parole.
- 88 As reported in Chapter Three, the Minister of Attorney General stated when announcing the inauguration of the EMS Pilot Project program: 'Electronic monitoring systems impress me as a humane, safe, and cost-effective alternative to imprisonment. For non-violent offenders, (EMS) offers us a way to deliver a sanction against criminal behaviour and, at the same time, to forego the expense of building prison space for offenders who can function safely in the community' **Corrections Information** (May, 1987:16).
- 89 One implication that can be proposed here is that programmatic 'failures' result from intra-Branch forces not being able to establish a working coalition or *modus vivendi*; namely by achieving an *initial* correspondence of at least *discourse* and *practices* (the representation of *effects* can be deployed either in the event of successful installation of the program, to legitimize it, or in the event of 'failure', to rationalize its non-utilization).

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- 90 Recall that the Pilot Project Director spent considerable energies describing and explaining the EMS program to journalists and other media personnel (130 media contacts overall, as mentioned previously).
- 91 Garland (1985), who is influenced by Foucault, and Armstrong (1983), provides interesting and useful examples in this respect.
- 92 'Considerable emphasis was placed on the need for clear guidelines to ensure that EMS is not implemented so as to widen the net of control... There are clear concerns that legislation or other forms of regulation should be in place if EMS is to be continued in the Province' (*Electronic Monitoring Project Advisory Committee Final Report*, 1989:8).
- 93 However, the experience of Kentucky, Florida, and Michigan states is not encouraging in this regard.
- 94 Other indices of caution include the considerable energies that went into providing information about the program to various media organizations. I was alerted to the importance of managing potential trouble-spots early on in the research. Many of the first offenders interviewed made note of being told by program staff that considerable publicity would follow in the wake of their 'failure' in the program. When I spoke with the (former) Pilot Project Director after the test period had been completed, she seemed surprised that no media attention followed the series of revocations (i.e., program 'failures') in the fall (1988). I proposed to her that since media organizations would not have access to information about program 'failures', they would not have any basis to know about them other than what they might be told by Corrections Branch personnel. To this she assented and pointed out that all adjudications concerning revocations are conducted in a panel internal to the Corrections Branch and therefore not accessible to media.
- 95 There apparently was some criticism from regional administrators concerning the Pilot Project Director's conduct of the project. She explained that as follows: 'when I went over and evaluated it and then we started looking at provincial implementation, a number of problems became apparent right away. And although you haven't seen the evaluation, one of the things I've pointed out very clearly in the evaluation is that it would appear that we've been quite successful at selling electronic monitoring to the judges and the lawyers, but we have failed selling it within our own branch. Not for lack of effort, but we were continually viewed as a project over there doing something else. We were never brought in. We were never recognized by management. We were never given the status of being real. We were always this group.. I mean no one even talked about us other than maybe a few of the managers. We weren't real for many of the line staff and now all of a sudden we're expecting them to participate (?), to support the program (?), and uh it's like, well y'know who are you people and where do you come from? It was.. we did a very poor job. I think there are things we could have done better. I will take some of the responsibility for that but not all of it. I think that some of the managers who probably have a far better idea about what was necessary to do their.. and I would say that in large part it was because we had so many changes. We changed district directors, we changed regional directors, we changed commissioners, we changed AG's, I mean, we developed a new ministry. We were operating at a time of change where the only person related to the project that remained consistent was myself. The only person. (Principal Correctional Officer) left, (Correctional Officer) came and left, (Correctional Officer) added on. (Local Director) came in late. The only person with the project who was consistent was myself, everyone else was changed' (Interview, May 23, 1989).

Chapter Eight: Conclusion

1. Overview

In this final chapter I recapitulate and discuss the main themes of this sociological investigation, as well as review questions and issues having to do with methodology and future research concerning this new penal technique. This is followed by a brief summary of the history of the B.C. EMS program, wherein I again consider the *organizational complications* that will likely undermine the realization of the fiscal and possibly rehabilitative intentions and rationales enunciated for this program.

Within the two-part division of this dissertation, four general objectives have been accomplished. In **Part I**, two aims provided the framework for description and analysis of the sanction of *electronically monitored house arrest*:

- 1) Chapter Two reviewed the *electronic monitoring* and *house arrest* literatures, as well as examining the political, ideological, economic, technological, and administrative conditions that account for the recent institutional development of this new penal technique and its subsequent incorporation into corrections.

- 2) After description of the research site in Chapter Three, Chapter Four reported the research findings of an exploratory investigation of the effects of this sanction on offenders and others in their lives. Results are tentative because of the method of sampling and the special grooming and treatment of the research cohort. Despite the methodological shortcomings, however, some important insights were provided about how this sanction works to control, punish, and discipline offenders. In addition and more importantly, knowledge about this sanction's effects on the psychology of offenders, as well on their social and familial relations, has been provided.

In **Part II**, two further objectives were covered in Chapters Five, Six, and Seven:

- 3) Part II began (in Chapter Five) by establishing a social analytic basis for critically evaluating the local use of this new correctional option. Following this, Chapter Six provided a framework for assessing the *possibility* of achieving the four penal aims of punishment, incapacitation, deterrence, and rehabilitation, as well as of evaluating empirical findings from this and one other research effort (providing an indication of correspondence/non-correspondence of discourse-practices-effects at the individual or

disciplinary level). Analysis suggests the achievement of these penal objectives is mixed, indicating the need to investigate the degree to which non-correspondence could be tolerated before closure of programs.

4) Chapter Seven examined various data sources relating to the local development and implementation of this program in B.C. This was done in order to evaluate the applicability of the expansion hypothesis. Evidence assessed for the EMS program indicates that this new penal form will be more costly than expected and that this is also indicative of systemic expansion. Evidence of expansion attests to correspondence at the systemic level, inasmuch as system continuation and proliferation are assured as implied in Foucault's paradigm of the extension of disciplinary power.

The foregoing chapters depict the effects, as well as the organization and implementation, of a new disciplinary and punishment technique. It is clear from a reading of Foucault that, together, punishment and discipline constitute the penal form. It is also clear that the EMS program is a form of penalty: a *special* disciplinary mechanism that intends to *restore* the individual to the *normal* disciplinary mechanisms. Certainly, the *punitive* objective is signified in the effects of this institutional manifestation of punishment and in its corresponding semio-techniques. The findings from the research on offender impacts clearly show this to be the case. However, it appears that punishment¹ is of secondary importance in relation to the more significant purpose of establishing *discipline*; the social discipline necessary to constitute the normative social order of contemporary daily life in complex, technologically based societies.

The evolving 'mode of information' (Poster, 1982) that infuses contemporary social relations offers new instruments and a new economy for fabricating surveillance. It should be no surprise, then, that the general social nexus also provides the basic resources (social and information technologies) and aims (discipline) necessary to maintain and regulate both individuals and groups in the larger social collectivity. The EMS Pilot Project and subsequent program developments show the disciplinary and organizational dimensions involved in incorporating *information* in this particular way into the punitive enterprise.

These developments indicate that a great deal more human labour is required than had been anticipated in order to maintain this informational and observational instrument as an

adequate and/or efficient method of correctional surveillance. At the disciplinary level, the evidence from the present research points in the direction of the achievement of punitive and disciplinary effects. However, the achievement of these effects is equivocal in any given case, and is also very much dependent upon a myriad of conditions and circumstances having to do with both the offender and the operational organization of monitoring/surveillance.

There is much evidence that this particular program accomplishes disciplinary effects while offenders are on the program. They go to work on time and arrive home on time, and tend in various ways, to be more disciplined at home and at work. The disciplinary technique itself accentuates the structure and organization of normal, everyday discipline by formalizing routine social conduct within an approved curfew schedule that involves its own order of possible sanctions. Whether the effects this sanction produces last beyond the period of sentence *and* whether they address relevant disciplinary objectives remain open questions. Nonetheless, the conditions and possibilities of action that this new organization and deployment of 'information' provides are significant.

The *integration* of this disciplinary technique into the penal apparatus is another matter altogether. A pre-requisite condition of systemic integration of this new sanction would seem to be its very capacity to produce discipline. As emphasized in Chapter Six, this sanction's capability to be (or be perceived as) an adequate disciplinary measure depends very much on the offender populations chosen for its use and on operational formats adopted in its implementation. However, as the extended discussion in Chapter Seven suggests, there is a great deal more to the incorporation or integration of this disciplinary technique than the fact that it produces effects of discipline. There are complex issues that have been considered having to do with political, bureaucratic, economic, ideological, in short, *organizational* matters concerning the criminal justice and correctional apparatuses of which this penal technique is becoming a part. Consideration of organizational issues and questions suggests that integration of this disciplinary technique as an enduring correctional modality has more to do with its capability to *expand the networks of power*

in the social control apparatus. The evidence points very much toward confirmation that this expansion is occurring.

The current problems of under-utilization of the EMS program do not invalidate or disconfirm the expansion hypothesis. Indeed, it is fully expectable that various *internal* resistances within the correctional system will arise. In the event that political and economic pressures mount to result in program closure,² this would not necessarily indicate the falsity of the expansion hypothesis nor suggest that system *contraction* was occurring. On the contrary, this outcome could signify the adoption of alternative reform tactics that would also accomplish systemic expansion; unless, of course, evidence of efforts of system reduction yield unequivocal empirical support.

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Although the 'organizational complications' in any particular local system will be specific and unique in their concrete manifestation(s), sociological understanding and critical analysis *can* be brought to bear on 'State' actions and practices within the criminal justice and correctional spheres. It is especially important to examine these issues now, in the early period of development and implementation of this new penal technique. Scholarly curiosity warrants that attention and critical reflection, on the grounds of professional and theoretical interest alone. But also, part of that professional interest entails the obligation to discuss and comment upon what, ultimately, are *moral* issues. The moral issues have to do mainly with the apparent disjunctions between 'rhetoric and reality' that are evident with the use of this sanction.

It should be clear by now that interpretations and speculative proposals concerning the form and direction of this program, are grounded in the hypothesis derived from Foucault (cf. Cohen, 1979) that *disciplinary power tends to multiply, differentiate, and expand*. Moreover, the

social processes involved reflect that the inauguration of a 'concrete system of punishment' (cf. Rusche and Kirchheimer, 1939; Foucault, 1979) is deeply enmeshed within the social systems - the bio-political orders - of state and economy. This, of course, includes social, ideological, technological, bureaucratic, administrative, political, and other forces that determine a complex strategical situation or historical epoch within which that form of penalty becomes integrated and utilized.

In being faced with differing truths - those of the correctionalists, on the one hand, and those of Foucault and sociological description and analysis, on the other hand - the present inquiry clearly comes down on the side of the latter. A summary/review of the available evidence makes apparent that certain of the truths produced by the correctional apparatus are either false or deceptive; one of the most central being that 'cost-savings' will accrue with the use of this new penal technique. That this is an ideological ruse is not confirmed by systematic evidence as yet; however, programs of house arrest and EM are disturbingly similar in their institutional and ideological trajectory compared to previous 'alternatives to incarceration' reforms (cf. Chan and Ericson, 1981; Cohen, 1979, 1985; Hylton, 1981a,b, 1982). Moreover, there is evidence - however tentative and indirect - to support the (hypothetical) claim of expansion.

In light of the privilege given to the Foucauldian perspective in analysis and evaluation of this new penal technique, it is necessary to ask whether anything positive can come of the house arrest and EM policy. In section 2 below, I propose some conditions that I believe will be necessary in order to make 'optimal' use of this punishment technique. The conceptualization of the optimal or ideal use of this sanction is derived from the following assumptions: that 'minimal intervention'³ is to be preferred, that rehabilitative objectives ought to supercede other penal aims, and that an overall policy of penal reduction needs to be embraced that *actually* reduces prison offender counts.

In the concluding section of this chapter, I discuss the more general social issues surrounding the use of *electronic monitoring* and *house arrest*. What kind of society is being brought

into being such that this kind of social control technique makes sense and becomes actively supported and integrated into criminal justice and correctional practices? Do we want to extend the penal system into the community in the manner implied by the use of this social control and punishment technique? Does the deployment of this penal technique portend an Orwellian society, one where more and more citizens come under State control? Though these are not central questions in the present study, they linger as nettlesome problems in the deployment of this new correctional technique.

1.1 Methodological Shortcomings and Future Research Work

Previous chapters (Chapters Two and Six) have referred to methodological problems in doing research on the new programs of house arrest and EM. These chapters have also suggested further research objectives that would seem to be indicated in light of the present state of knowledge concerning these programs. This sub-section will review and summarize these issues.

It is clear from the present research that the constitution of the sample is hampered by the very promotional process of inaugural development in which it is caught up. While the shortcomings here must certainly be recognized and taken into account in assessing the findings, this should not otherwise halt the course of scholarly discussion and analysis. The non-random character of the sample is something that would seem to be fairly typical (cf. Ball et al., *Ibid.*), given that offenders on such programs are themselves carefully vetted prior to program participation. Baumer and Mendelsohn appear to have gotten around this hurdle, at least in a *within*-subject experimental design⁴ that randomly assigns subjects to monitoring conditions.

As already noted, future research will need to pay close attention to the problems of non-randomness that would seem to be an inherent feature of these types of programs, since screening processes and guidelines are a necessary element in deciding about offender intake to house arrest and EM programs. Indeed, the very phenomenon of applying screening guidelines and criteria is clearly an area in need of detailed investigation. This is an area where no research has been

undertaken, but which could yield important insights regarding exactly *how* program offenders differ with respect to 'non-selected' groups of offenders. At this point in time, offender selection occurs on the basis of choosing 'offenders who will tend to do well' (Petersilia, 1987a,b). As a result, any positive outcomes (e.g., recidivism, rehabilitation) can be attributed to screening practices themselves, rather than to the effects of house arrest and EM. It is possible that such legislated criteria for screening as are implied by the Michigan program, may provide some way around this problem since all offenders released from prison must go on the state-wide house arrest and EM program. Consideration of program selection criteria and practices, in addition to careful tracking for rehabilitation and recidivism over *longer* periods of time, will help to clarify further questions in respect to programmatic effects.

There have been many allusions to future research investigations in the previous chapters. In particular, the need for more research in the area of offender effects is clear. Though random assignment of offender cases to house arrest and EM programs is precluded from the outset - judges and correctional personnel make this decision - this should not diminish the prospect of long-term tracking and comparison of program and non-program cohorts as far as recidivism (deterrence and rehabilitation) is concerned. The need to conduct research on offenders serving longer sentences on house arrest and EM is clearly indicated. While the selection of offenders subject to short-term sentences tends to reflect the cautionary tenor of the promotional-inaugural phase, it impedes fuller understanding of the outside (or extreme) limits and effects associated with a more extended application of this particular form of punishment and social control.

There is certainly a need, as indicated by the present research, to conduct detailed comparisons of different types of offences and offenders in terms of the prospects and realities of *rehabilitation*; especially given that the latter is either claimed or implied as a benefit of house arrest and EM programs. However, the present study suggests that it is not sufficient to focus on arbitrary, coincidental disciplinary effects and 'normalization'. Rather, assessment of the effects of social control, punishment, discipline, and normalization need to be made within a consideration of

the problematic behaviour(s) that occasioned the judicial process and finding of guilt, as suggested in Chapter Six.⁵

The central question here is, whether the policy of house arrest (verified by EM) fits within a general sanctioning process that leads or causes offenders to normalize their conduct in the area of behaviour that is problematic for them (e.g., controlling/restricting: alcohol consumption, as with alcohol impaired drivers, and illicit drug use, as with various kinds of drug addicted⁶ offenders; social and therapeutic contacts, as with sexual offenders). If the answer to this question is 'no', then it must be assumed that *home* incarceration is little better than 'institutional' incarceration in regard to promoting the practice of the Norm. There will be effects of deterrence (possibly), of punishment (likely), and of incapacitation (depending specifically on elements of programmatic deployment which determine how intensive the correctional gaze and control will be), but these, for the most part, are only relevant during the period of house arrest.

More research is necessary that would *critically* analyze the conditions and effects of home confinement and intensive 'community' supervision (employing the informational element of EM) in order to establish its rehabilitative efficacy.⁷ This means conducting studies of punishment processes and phenomena that also take account of researchers' roles and interests in the research process, as well as considering the broader frameworks of power within which power and knowledge operate.

The most significant item on the research agenda is clearly in the area of program costing. This is a complex question that will need to consider *all* economic costs. House arrest and EM appear to yield less debilitating 'social costs' compared to 'institutional' incarceration: families are maintained and productive, self-sustaining labour is supported. However, the arguments in favour of this new penal technique have mainly hinged on the *economic* costs. This, as a rule, has meant comparing fiscal costs associated with this new penal technique with prison, on the one hand, and probation and parole, on the other hand. These are *direct* fiscal cost considerations. Alternatively, the introduction of a set of indirect costs that are susceptible of estimation is suggested if an

offender is able to keep working where otherwise job loss would have occurred.⁸ Where applicable, these costs need to be examined and assessed.

The present examination has focussed exclusively on *direct* fiscal costs because programmatic legitimations are significantly founded on this rationale. At the local level of counties in U.S. criminal justice jurisdictions, house arrest and EM *supplement* existing carceral capacity by permitting the management of overflow, either emanating from other prison facilities (usually state secure facilities) or due to the local dynamics of bedload utilization. The costing analyses here are obviously going to be very different than those for state- or province-wide programs. Thus far, available evidence does not support the contention that intermediate punishments, such as house arrest with EM, have forestalled prison construction or reduced prison populations significantly.⁹

While this is an important area for research, the obvious problem of data accessibility remains: government authorities are unlikely to allow the kind of unrestricted research access to financial records that would permit a thorough investigation of all fiscal expenditures. Without such access, social research and/or journalistic tenacity will have to rely on obtaining fiscal information about programs from publicly available records. There is clearly a need for comprehensive, detailed investigation into program costing, involving studies that are based on 'true' rather than 'figurative' costs (cf. Petersilia, 1987a).

1.2 Program History and Organizational Complications

According to one Corrections Branch Policy Analyst, interest in EM and house arrest in the B.C. jurisdiction began in 1985. He stated that there was a 'period of indecision' about going forward and that this reticence revolved around dealing with the 'controversial' aspects of using EM. This analyst said, 'we were looking at ways of dealing with intermittents about mid-1986' when he became involved. During the next year more pilot project planning occurred based on

researches, inquiries, and an evolving consensus on how to deal with the controversial 'big brother' overtones.¹⁰ Then the Attorney General himself took an interest and this gave added support to conducting an actual pilot project test. In March, 1987 the Commissioner of Corrections announced the EMS Pilot Project program.

The active period of the EMS Pilot Project program stretched from about August, 1987 to early 1989. Over this period a gradual rise in both correctional staffing and in offender daily counts occurred for the program (see Chapters Three and Seven). More staff were added to the program when it achieved 'program' status as of April, 1989. Offender counts reached current full capacity (25 units) during the summer of 1989. The Solicitor General recently (September, 1989) announced the expansion of the B.C. program, to a capacity of 40 monitoring units from the present 25 available units. Ten of the new units have gone to the Fraser Region, the next correctional region in the province into which the program is to expand.¹¹ Various hurdles have been encountered during this process of inauguration and expansion, not the least of which have been organizational difficulties involved in programmatic integration and deployment according to original intentions and designs (see Chapter Seven).

In retrospect, the B.C. Corrections Branch Discussion Paper (1987) estimate of program costs appears to be vastly under the actual costs necessary to monitor offenders as determined in the Pilot Project period.¹² That initial projection included provision for an annual \$200,000 equipment lease plus *five* EMS Correctional Officers who, it was stated, would manage 150 offenders. 'The entire EMS program could be delivered, including operational support, for approximately \$400,000 per annum,' (Ibid.:21) the Discussion Paper of April, 1987 confidently asserted. Two years later the EMS Pilot Project Evaluation (1989:40) projected the need for *ten* FTE's to monitor 40 offenders¹³ (see sub-section 2.2, Chapter Seven).

Comparing the projected and actual figures means *twice* the quantity of staff are necessary to monitor slightly more than *one quarter* (40/150 or 26%) the number of offenders initially estimated. Clearly, the monitoring program is much more labour-intensive than had originally

been thought. Ideological and program promotional processes add to this tendency of underestimation inasmuch as they help to obscure the *correctional*-side of expansion by focussing attention on the *offender*-side of net-widening and by emphasizing *per diem* costing (Petersilia's 'figurative' cost savings), the latter tending to de-emphasize long-term and systemic-vantage point assessments.

It seems that the expansion results from a combination of factors. These consist of the establishment of organizational purposes for the EMS program that either have significantly underestimated its ability to manage the intermittent population or that will involve establishment of adequate capacity and/or modification of screening criteria to capture more of the intermittent offenders. How the Corrections Branch will ultimately deal with this offender group when LMRCC (Oakalla Prison) closes is apparently not yet decided. However, as the 1991 date of closure approaches, this issue will become more urgent in policy circles.

Another factor at play here would seem to be that, however sincere and thorough the planning for the program happened to be, nonetheless, a substantial underestimation of the labour requirements accompanying the use of EM has occurred (as noted above). Since this researcher was not permitted to re-interview the author of the initial Discussion Paper (1987), it is not possible to obtain any official accounting for this great disparity between what was projected (i.e., 5 FTE's to manage 150 offenders) and what the Evaluation determined to be necessary (i.e., 10 FTE's to manage 40 offenders and, extrapolating on the basis of this, 40 FTE's to manage 160 offenders). This means that approximately *8 times* the initially projected staffing level is necessary to manage offenders on the EMS program. This is without considering the likelihood that more staff will be necessary for rural regions of the province.

A consideration of these intra-Branch administrative and bureaucratic processes has not taken into account the hidden dynamics within the system - where programs may well engage in practices that essentially protect their clientele - and hence the viability of programs that may

compete with the EMS program.¹⁴ This would happen, in part, through the internal processes and dynamics of classification, as well as other institutional and organizational processes.

The other area that may affect the likelihood and degree of expansion is *external* to the administrative apparatus of corrections. At present there are no compelling grounds to sound the alarm; however, should other criminal justice forces actively seek and be successful in attaining this program as a direct *sentencing* option of the courts, then this could result in an accelerated expansion of the criminal justice and correctional systems in B.C.. On the other hand, establishing this program (and this type of program in general) as a sentencing option for the court means that strict ceilings on EMS offender capacity might be the only way program costs could be managed effectively by corrections administrators. Regardless of whether the EMS program becomes a sentencing option of the court, in addition to being applied according to guidelines specified by corrections administrators, it seems that budgetary and cost factors establish correctional control over program size.¹⁵

It is of interest to note that in the Lower Mainland Region of provincial correctional organization, the daily counts remain low.¹⁶ This suggests resistance¹⁷ within the system to this new modality of punishment. It also suggests that far from providing the basis of *expanding* the local deviancy control system, the program may eventually shut down due to lack of internal support and the apparent inability to meet specified goals. This possibility would not invalidate or refute the Foucauldian expansion hypothesis, for clearly, the local system has an intermittent population that under the current punitive approach requires some kind of penal management. The 'failure' of the EMS program - especially in light of the considerable political and administrative energies that have been expended on it - may have a strategic utility: to legitimize other penal reform efforts whose essential consequence is an expanded correctional apparatus.

1.3 Interpretive Understanding and Extrapolation of the Expansion Hypothesis

The question that now has to be asked is, what evidence would count as a refutation of the proposal that the local system is being expanded? One answer that has already been given in previous chapters is that it must be demonstrated how the existence of the program results in staff reductions elsewhere in the deviancy control system. The basis for deciding that has not been firmly established. The evidence concerning budgetary and staffing levels over time, especially in this period of significant change in the utilization of secure facilities in the Lower Mainland Region, suggests that it will be difficult to identify any definite causality, even in the event that staff reductions would be achieved in some part of the system over the next five years. This latter prospect seems unlikely, particularly since the 'living unit' design context of the new prisons will likely entail higher staffing levels (or so the Staff Resource Analyst surmised).

Government documents outlining the design and evaluation of the pilot testing of the EMS program clearly imply expansion. It is noteworthy that significant dissensus exists within the corrections bureaucracy at management levels regarding the possibilities of managing the intermittent offender population. The officially sanctioned, public representation is contained in the EMS Pilot Project Evaluation report; however, regional administrators have strongly conveyed their doubts about the validity of the 70% figure, which refers to the percentage of the intermittent population in the Lower Mainland Regional Correctional Centre (Oakalla Prison) that ostensibly can be managed by the EMS program. What the outcome of this might be, in specific terms, is not clear. However, some alternative strategies would seem to be implied given that this figure is too inflated an estimate. Whether this will entail capital costs for the construction and/or upgrading of penal facilities is not clear at this juncture.

This evidence is only suggestive at the present time, but when this evidence is combined with the pattern identified by previous criminological and crime control analysts who have found that 'alternatives to incarceration' tend to become add-ons and supplements, then it would seem to lend support to the proposal that disciplinary power is differentiating and expanding. And this

program is one of a set of possible programmatic means by which this occurs. Hence the importance of Foucault's work. Armed with this preliminary and suggestive evidence, it is possible to judge the sphere of penalty with a critical eye. Systemic capacity is now being enlarged in the use of EMS in British Columbia Corrections, and this involves considerably more staff than was originally projected. Indeed, those earlier projections (Discussion Paper, 1987) seem to provide the rational impetus for development of this new punishment technique.

Reactions to these claims and propositions by Corrections Branch personnel will provide further data, and no attempt is made now to foretell or otherwise anticipate what their responses will be. Suffice to say, however, that the ideologues and administrators within the Corrections Branch who know of or have been involved with this program, have (or will have) an account that makes sense of the events and disjunctures highlighted above in the present work. The question arises, then, as to which authoritative account carries more weight and validity, correctionalist rationality or the systemic expansion hypothesis derived from and explicated through Foucault's analytic of the differentiation and extension of disciplinary power?

It should be eminently clear that this work proposes to supersede correctionalist discourse. This supercession takes place within a version of the 'interpretive analytics' (Dreyfus and Rabinow, 1983) of disciplinary power, a style or model of inquiry provided by Foucault. Correctional discourse announces again and again the cost effectiveness of this new penal form, and yet critical reviews and analyses of programs *in general*, and this program in particular, do not necessarily support this discursive truth. It is not enough to repeat the comparative per diem rates for prison and EM-type programs. These are 'figurative' rather than 'true' procedures of program costing. Citing per diem costs alone is part of a process of misdirection and mystification.

Along with this has been the evident tactic of managing this researcher's discourse in various ways throughout the course of the investigation. Indeed, it has been 'suggested' to me more recently by one Corrections Branch representative that *Commissioner of Corrections* authority to publish (see Appendix I, Research Contract) the research results will very much

depend on what is written about the Pilot Project. It was emphasized that this should *not be interpreted as a threat*. What this suggests is that the Corrections Branch will likely choose to exercise broad discretion and could well seek to censor, via control established by the Research Contract, interpretations or Branch revelations that run counter to its administrative and political interests.

The reality is that the new intermediate punishment of house arrest with EM is being *represented* or depicted as a sanction that *supplants* existing prison programs, while the gathering evidence more clearly supports the view that its institutional utilization actually does now (or will in the future) *supplement* existing carceral regimes, enlarging systemic capacity and maintaining/extending punitive power. In this light, the counter-evidence refuting the proposal that expansion is occurring would need to be both strong and unequivocal. That evidence would need to show how costs that would otherwise be incurred have been avoided or undercut by the costs of the new punishment regime. It is doubtful whether the Corrections Branch will co-operate with or support future research in this politically charged area.

2. Proposed Conditions for a Policy of Optimal Utilization of Electronic Monitoring and House Arrest

What has been examined in the preceding chapters of this dissertation does not give cause for optimism. It seems that the application of coercive and punitive measures for the sanctioning of deviant behaviour will continue. And insofar as current knowledge and plausible conjecture are concerned, the systemic functioning of this micro-technique of punitive power shows that it is (or will be) a feature of expansion, similar to other 'alternatives to incarceration'.

Furthermore, this new sanction blurs the boundaries between custody and its alternatives.

As Rutherford (1984:168) remarks,

[i]f custody is to be regarded as a last resort, boundaries must be clearly defined. If the essential feature of imprisonment, the deprivation of liberty, is blurred, custody may be used even more widely.

Rutherford's observations would seem to be confirmed by the present investigation. This suggests that house arrest and EM cannot be used within a strategy of reducing the use of imprisonment. However compelling this truth would seem to be, I want - in the present section - to examine the possible conditions where this conclusion could be false. I want to propose some 'ideal' conditions for the utilization¹⁸ of this new penal sanction that offers the prospect of a strategy of penal reduction. The realization of the aims set out below, points to a whole complex series of events, practices, and political processes that are implied, but which cannot be addressed in any detail here. Consideration of the practical limits of, as well as strategical deployment toward, their achievement will have to await future efforts.¹⁹

The conditions in which EM and house arrest might be operative - so as to fit within a reductionist tactic - are based on principles that derive from the present, as well as other, research work. As mentioned previously, three main assumptions are involved: minimal intervention, rehabilitative precedence, and reductionist strategy. The practical operational organization of these elements, however, constitutes another domain of social events and practices. Moreover, the 'ideality' of these criteria is underscored because their implementation presupposes that a more or less broad-based consensus exists within criminal justice systems. *That* such consensus is achieved or is achievable is a significant pre-requisite condition of a reductionist strategy that might be successful (cf. Rutherford, *Ibid.*). In fact, criminal justice system *dissensus* and lack of overall agreement about reduction in use of imprisonment, forms part of the very dynamic within which the circuits of State power operate to expand.²⁰

What a reductionist strategy must inevitably confront are social, political, and ideological forces that would oppose its proposals for decarceration and alternative (non-penal) sanctions. If the penal policy of *electronically monitored house arrest* is to be employed within a reductionist strategy, its *rehabilitative* - rather than *punitive* - potential must take precedence. Otherwise, this form of penal sanction merely becomes another figure of incarceration. Research and common sense knowledge have indicated that the rehabilitative efficacy of incarceration is nil. *Home*

incarceration may yield a similar result if programmatic utilization accents the punitive as opposed to the rehabilitative possibilities of this sanction.

One key question implied here has been present all along; namely, for which offenders is EM and house arrest best suited? It has been argued that answering this question must necessarily involve a determination of whether the organization and deployment of this sanction contributes to a process of behavioural change that is specific to offenders and their offences. This is one way of determining whether this penal technique is efficacious. At present the question of EM and house arrest 'working'²¹ is still unclear and equivocal. It may 'work' in some cases and not in others, though the research reported in Chapter Four and analyzed in Chapter Six provides no firm proof of the establishment of discipline, normalization, and rehabilitation in the relevant spheres of daily life conduct.

Unlike Foucault, who would likely not be interested in a detailed assessment of the efficacy of the micro-techniques of punishment, the present work *is* interested in the investigation of these conditions.²² It has been suggested that the workability of this sanction depends on how it is deployed in relation to offences and to the various rehabilitative strategies that specific offences imply or suggest. As noted, this will vary between types of offence and offenders and is not strictly programmable.

The policy of 'minimal intervention' is already in place within the Corrections Branch as part of the classification mechanism. Minimal intervention carries the rider that its practice must also be 'consistent with community safety and protection'. The (admittedly rhetorical) question that must be asked, however, is: why is it necessary to 'protect' the community from offenders who present no substantial threat to it? Why incapacitate 'cream puff' cases when more effective rehabilitative utilization could be made of house arrest and EM? This new penal technique could be employed, for example, with drug addicted offenders, where individualized, intensive programs can be established that support their community integration while treatment and drug-weaning processes are put into place. This tack carries with it the need for a fundamental and generalized

recognition that the social conditions over which State systems preside are also accountable for criminality; a criminality whose responsibility is normally and all too conveniently ascribed to the existence and will of the individual offender.

Clearly, the concept of 'minimum intervention' is a relative term in respect to the sanction under consideration here. House arrest with EM is not inherently 'minimal'. This very much depends on how it is utilized within the criminal justice and correctional systems. With what sort of offenders is it employed? How intensive is the surveillance and incapacitation? How this sanction is utilized is something that must also be judged by the range of other available sanctions which it would substitute for. Furthermore, and as Chapter Two indicated, house arrest with EM can be more substantial in its incapacitative potential compared to 'institutional' incarceration.

The policy of minimum intervention is worthy of pursuit. However, unless the minimum intervention policy is reinforced or supported at other levels or in other spheres of the criminal justice process,²³ then the practice of punishing and 'incapacitating' offenders through house arrest will continue to establish a further extension of State control into everyday life.

I agree, therefore, with Petersilia (1987b) that house arrest and EM need to be used more frequently on offenders who fit into the higher risk categories.²⁴ In many jurisdictions, for example, sex offenders are precluded from house arrest and EM; even though supervision practices are capable of being adjusted to watch offenders closely. Moreover, community-based treatment and integration are what is needed, as opposed to shunning, ostracism, and institutional enclosure where the collective reference-groups of peers help to sustain practices of denial and continued deviance.

3. Extending Corrections into the Community: the case of Electronic Monitoring and House Arrest

Use of Foucault's analytic of disciplinary power permits an understanding of expansionary processes within the State apparatuses of criminal justice and corrections, as well as the social, economic, and political forms taken in the operation of power in civil society. Whether Foucault's account²⁵ of punitive power and its social practices has validity, is in part answered by social and political events (i.e., by history, by empirical research), and in part by theoretical and analytical coherence, cogency, relevance, utility, etc. (i.e., on *epistemological* grounds). Nonetheless, he provides the outlines for the analysis and explanation of complexly interwoven social processes of power, knowledge,²⁶ and regulation at both 'micro-' and 'macro-' sociological levels.

The evidence indicating the expansion and extension of State control will ultimately be judged by historical events and processes, and their social and cultural consequences. In considering the possible elements of future social control practices,²⁷ however, various issues, questions, and concerns loom as these correctional reforms take place. These questions and issues are more general and will no doubt also be answered by future events. The concerns here relate to the fundamental rights²⁸ and freedoms provided - both formally and substantively - to citizens in democratic and capitalist nation-States. These concerns depart from those that derive from Foucault, which have focused in previous chapters on an examination of power, knowledge, and social regulation.

One of the most general issues concerns the extension of corrections into the community. On the one hand, it must be applauded that 'community-based alternatives to incarceration' are being established, presumably 'diverting' offenders from the stigmatizing and debilitating experience of imprisonment. But to the extent that these 'humanitarian' technologies of punishment and social control are not *supplanting*, but are actually *supplementing* established modes of segregative control, it becomes questionable just how benevolent and positive these new measures really are.²⁹ As matters now stand, this new punishment and control technique expands

and extends State control further into the community. There are various corollary questions that this implies.

First, a relatively concrete question emerges that relates to the desirability of this extension of State power and control into the lives of citizens. The obvious rhetorical query here is: do we want a society in which more and more citizens come under observation, restraint, and control? The design and drift toward expansion of the systems of deviancy control suggests movement toward the informational base implied by the Orwellian vision. Only futurologists and crystal ball gazers would want to assert the occurrence of social and other consequences of this new penal form beyond what social scientific observation and analysis propose as the warrantable limits of projection and trend analysis. However, there is little doubt that diverse populations now exist that satisfy offender selection criteria employed by the new intermediate punishment programs. It is clear that offenders ranging the complete gamut of seriousness of offence in adult and juvenile corrections have been or are being accommodated within programs of house arrest and EM (see Friel et al., 1987; Ball et al., 1988; Schmidt, 1988; Charles, 1989). Offenders are therefore available to fill whatever capacity is afforded by use of this new technique; a social control and punishment technique that is a mutation of incarceration and community supervision practices.

Looked at from a slightly different angle of vision, it seems that programs of community punishment and supervision - such as house arrest with EM - are forms of social control that are continuous with social practices and organizational forms extant in productive, leisure, familial, and other spheres of contemporary civil society. As Information Technology changes and new developments occur and become more deeply embedded in social and occupational structures and institutions, technologies of social control are brought into being that exercise a precise supervisory and individualizing knowledge. In this respect, EM represents a concentrated form of the social relations implicit in the forms of social power bound up in what Poster (1982) has termed the 'mode of information'. The new economy of information provided by computer technology and

'information systems' is having a profound impact on the social relations of everyday life, as well as on the systems of criminal justice organization and deviancy control (cf. Archambeault and Archambeault, 1984).

Recognizing this continuity, though, does not stand as either a warrant, or as moral support, for the deployment and expansion of this new penal technique. The question that must be asked is, what can be done - or what do we need to do - so that we do not need to subject excessive numbers of offenders to this particular form of the correctional 'gaze'? In answering this question it is necessary to ask what sort of society we are producing and reproducing such that this new form of control is required or needed. It is interesting to note parallel social phenomena: of surveillance and control disseminating institutional and social structures due to problems of domestic and international 'security' (e.g., due to terrorism, identification practices), of changing structures of medical and insurance surveillance of specific population segments (e.g., due to AIDS, sexual abuse, workplace drug use), and of information and computer-based methods of efficiency in managing and controlling spheres of production and consumption. These events and forces are simultaneously political, economic, technological, ideological, and regulative in their concrete social content; however, they are also driven by that principle of Information Technology and Information Work, the *reduction of uncertainty*.

Is it any surprise, then, that the availability of this verification technology goes hand-in-hand with present practices and trends in the production of deviant behaviour? The apparent proliferation of sexual abuse cases and licit and illicit drug abuse (and its associated criminality), indicates the *extent* to which deviance is growing and pervasive. Of course, it is arguable that the ostensible 'growth' of deviance is at least partly an effect of the expanded arsenal of resources of corrections and social control for detecting and supervising it. Improvements in the instrumentalities of observation and surveillance mean higher rates of policing and judicial processing, in addition to effective forms of social control based on Information Technology (cf. Marx, 1985a, b).

Unfortunately, no social or political consensus has been reached about effective ways of eliminating the preconditions of these and other forms of criminal conduct. The result is more of the very coercive practices that belie short-sighted and piecemeal social planning, and which make for ineffective, inefficient utilization of human resources in the pursuit of social justice.

Notes

- ¹ That this is the case is indicated by the fact that offenders *report* attenuated subjective effects of punishment (though indicating they feel punished nonetheless). Furthermore, correctional officials must exert their energies to reassure conservative political constituencies that, indeed, this penal technique *does* constitute punishing effects (contrary to the apparently common belief that it is not harsh enough and therefore will not deter criminal activity).
- ² This precedent has already occurred as Hofer and Meierhoefer (1987:55) report: 'The Contra Costa, California, home detention program was cancelled after a year because its \$95,827 price tag was estimated to be greater than the cost of confining the eighty-six participating offenders in jail--even though no electronics were used'.
- ³ This does not necessarily mean that house arrest and EM *are* inherently a kind of minimal form of intervention. This, again, depends very much upon *how* this penal technique is used in the criminal justice and correctional control process.
- ⁴ Baumer and Mendelsohn (1988) randomly assigned subjects to different conditions of monitoring (2 kinds of EM, plus 'non-verified' or 'manual' monitoring); but how their subjects compare with other similarly convicted offenders is not addressed.
- ⁵ Obviously, if macro- or structural, class, economic, or other social conditions are such that there is no work for the recovered drug addict, then the prognosis for law-abiding behaviour becomes considerably diminished. Hence, the question of rehabilitation in regard to this sanction cannot be gauged strictly in terms of the specific effects of the sanction *per se*. If wider conditions of social existence - those organized by social, political, economic, technological, ideological, and bureaucratic forces, structures, and institutions - tend to promote illegal behaviour and social and economic practices, then no amount of punishment, 'rehabilitation', restraint, or repression will quell conduct that has more fundamental bases of support and maintenance. The new penal technique then has the possibility of becoming but one more 'failure' on the ash-heap of penal reform, although it can be justified in its continuance because it is arguably better and cheaper than the imprisonment it ostensibly replaces.
- ⁶ Williams, Shichor, and Wiggenhorn (1989) point to a combination of electronic monitoring and 'surrogate homes' as an effective intervention method among drug-using offenders.
- ⁷ A related point here is that any research that would seek to compare programs would need to take into account whatever detailed differences in programmatic design and utilization might exist. This is not so much a methodological concern as it is an analytic one. However, failure to consider program differences would constitute a significant interpretive shortfall.
- ⁸ Unfortunately, this was not addressed in the present study. My general sense from interviewing offenders suggested to me, however, that most offenders could have kept their jobs while serving an *intermittent* (or weekend) prison sentence (something that this particular sentence was designed to support in any case). Questions arising in respect to possible costs here are: are there dependents that will be shifted onto public welfare? will the offender be able to obtain employment upon prison release? etc.

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- 9 Some researchers propose that '[i]f home confinement programs divert substantial numbers from prison, they could relieve pressure for new prison construction' (Hofer and Meierhoefer, *Ibid.*:54). On the other hand, '[t]o reduce institutional spending from its current level, a significant number of personnel positions would have to be eliminated or the number of institutions decreased, neither of which is likely to occur' (Vaughn, 1989:3). So, for example, Flynn's (1986a; see also *House Arrest* Video Tape, 1987) contention that 180 less offenders going to state secure facilities might only mean that more space is available for 'high risk' offenders in the prison facilities.
- 10 That consensus, apparently, revolved around a fundamental theme that would require 'openness'. This is where the Advisory Committee functions as an important tactic of initial program integration. It is also why, by employing a cautious approach, the Corrections Branch could countenance an independent researcher.
- 11 Presumably, this means 5 more units are added to the Lower Mainland Region part of the program, bringing its total available up to 30 units from 25 units. This means the program (in the two provincial correctional regions) is expanding by 1.6 times, instead of the erroneous 'doubling' of the program recently reported (Buttle, 1989:B6). This *Vancouver Sun* reporter also wrongly reported that sex offenders were being monitored, as well as stating that 'the waterproof bracelets... transmit their (offenders') precise location to authorities'. Only a *tracking* type of EM could accomplish the latter and as already specified, the continuous signalling equipment being used in the program only verifies curfew compliance and does not 'track' offenders in the community.
- 12 I have requested the program's budget; however, I have not been given authorization to be told what it is as yet, even though the figure will eventually be made public in the annual government accounting.
- 13 The Local Director of the EMS program recently corroborated that the staffing figure (of 10 FTE's) projected in the Evaluation report would likely be required to manage this number of offenders.
- 14 This is a phenomenon alluded to by a Regional Director within the Corrections Branch with whom I informally discussed the operational expansion of the EMS program. He suggested that other programs with low counts would seek to protect the viability of their programs by ensuring intake, which would keep their counts up. These hidden institutional dynamics would have the effect of ensuring the successful recruitment of offenders, at the expense of new sanctioning options such as the EMS program.
- 15 Another way program size can be controlled within the Corrections Branch is through screening and intake criteria that exclude various kinds of offenders. This is where the strategic deployment of the Advisory Committee may be particularly helpful since it has been clear throughout that caution and conservatism have been evident among Advisory Committee members in terms of screening and intake guidelines (e.g., no sex offenders, no offenders with a history of violence, no Impaired Driving offenders who have injured others, etc.).
- 16 At the Oct., 1989 Advisory Committee meeting it was disclosed that while the second region of the province (Fraser Region) got under way, the Lower Mainland Region-based part of the program continued to have a depressed daily count. The day of the meeting there were only 9 offenders on a system that had recently expanded beyond its initial 25 unit capacity.

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- 17 One well placed Corrections Branch official I spoke with stated that a committee had been struck within the Branch to begin to organize implementation on Vancouver Island. This official stated that substantial overt resistance could be expected from some areas within the Island region in the impending developments.
- 18 Instead of steadfastly opposing all uses of EM and house arrest, I believe it is more realistic to accept that this new penal technique is now part of the social control landscape. This penal technique is a concentrated and intensified form of social relations that are profoundly embedded with Information Technology (IT) and the regulative social processes of Information Work (IW) in civil society. It is this embeddedness that establishes the applicability and appropriateness of this new social control technique for penal use and system integration.
- 19 It has been the aim of the present work to bring this phenomenon to a more general awareness. This is done by proposing that various forces and processes are at work within State apparatuses and civil society that bring about this contradictory outcome.
- 20 See Irwin and Austin (1987), Austin and Krisberg (1985), Skovron (1988), and Rutherford (1984) for discussions of some possible reductionist strategies. Paradoxically, the aim of rehabilitation through the use of EM and other 'non-institutional' controls might require an expansion of persons engaged in social control, not a reduction. Accepting that this is valid suggests that the dichotomy between Foucault's conflation of the expansion hypothesis and the production of deviance and, say, Rutherford's conflation of minimalist social control with crime reduction, is spurious or overstated. It may be that a genuine reduction of deviance through rehabilitation and prevention calls for an expansion of people engaged in the processes of resocialization and social control. It should be clear by now that the use of EM and house arrest might have some rehabilitative benefits that are worth the programmatic efforts that are occurring. It may turn out to be the case that more correctional personnel in these types of programs have a positive impact on offenders.
- 21 Of course, a definition of exactly what this could mean would be necessary first. Does house arrest and EM 'working', mean only punishment and incapacitation? Or does it include the penal aims of deterrence and rehabilitation as well?
- 22 In this respect I agree with Walzer's (1986) critique of Foucault's anarchism, inasmuch as the latter demurs from an active stance of 'progressive' penal politics.
- 23 Rutherford (1984:159-67) suggests various forms of 'punishment without custody', including restriction of available penal measures and capacity, 'packaging alternative sanctions', fiscal incentives for reduced use of imprisonment, and legislative measures reducing the use of imprisonment.
- 24 And as Clear and Shapiro (1986) point out, correctional practices can and are being amended to achieve community supervision of these kinds of offenders.
- 25 Of course, one would also have to take into account those social analytic accounts deriving from Foucault's groundbreaking analyses of power/knowledge. The present inquiry is obviously greatly influenced by his work.

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- ²⁶ Also referred to as *rationality*, of which Foucault makes the following observations concerning his purposes in examining knowledge: 'One isn't assessing things in terms of an absolute against which they could be evaluated as constituting more or less perfect forms of rationality, but rather examining how forms of rationality inscribe themselves in practices or systems of practices, and what role they play within them. Because it's true that 'practices' don't exist without a certain regime of rationality. But rather than measuring this regime against a value-of-reason, I would prefer to analyse it according to two axes: on the one hand, that of codification/prescription (how it forms an ensemble of rules, procedures, means to an end, etc.), and on the other, that of true or false formulation (how it determines a domain of objects about which it is possible to articulate true or false positions (Foucault, 1981:8)).
- ²⁷ See Ekstedt and Griffiths (1988:379-413) for a discussion of future corrections in Canada. They are no doubt warranted in viewing speculation about the future of corrections as a 'perilous undertaking'.
- ²⁸ See, for example, the discussion by Ball and Lilly (1988) about effects on *privacy*.
- ²⁹ C.S. Lewis (1971:46) said: 'Of all tyrannies, a tyranny sincerely exercised for the good of its victims may be the most oppressive. It may be better to live under robber barons than under omnipotent moral busy-bodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated; but those who torment us for our own good will torment us without end for they do so with the approval of their own conscience'.

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Appendix I

Research Contract

Corrections Branch Research Agreement

The following constitutes agreement between the B.C. Corrections Branch and Stephen Mainprize, UBC Doctoral student, Department of Anthropology and Sociology.

The B.C. Corrections Branch agrees to allow Mr. Mainprize access to client related information generated by the Electronic Monitoring Project, subject to the agreement of the clients, for the purpose of researching the effects of this technology on offenders and their families.

Mr. Mainprize agrees to treat as confidential and will not, release, disclose, or permit to be published any information which would reveal the identity of any client.

Statistical and subjective information is being collected to form part of a Doctoral thesis on the subject of electronic monitoring as a new social phenomenon.

Information compiled by Mr. Mainprize relating to the impact on offenders will be provided to the Corrections Branch to assist in the overall evaluation of this project.

Mr. Mainprize will not publish or disclose any information generated by the Electronic Monitoring Project without the prior written consent of the Commission of Corrections.

Disclosure of information will be permitted only for the purpose of the doctoral dissertation itself and the fulfillment of related university requirements (such as the university defense).

Steve Mainprize

David Bahr
Regional Director
of Corrections

ADDENDUM I

CORRECTIONS BRANCH RESEARCH AGREEMENT

The B.C. Corrections Branch will provide Mr. Mainprize with the opportunity to access information regarding a random sample of intermittent inmates for the purpose of comparison with Electronic Monitoring System participants.

This information will supplement his research regarding the effects of E.M.S. on offenders and their families and will be subject to the same conditions with regards to confidentiality and publication as provided for in his original contract.

Steve Mainprize

Rene Gobillot
District Director
L.M.R.C.C.

Appendix II

Private and Confidential

Interview Schedule: Electronic Monitoring System (EMS)

Introduction - researcher's status and relationship to Corrections Branch, confidentiality of subject's reports, likely interview duration, subject-matter: how EMS impacts on people involved in the program.

I. Sentence

1. How long is your sentence to this EMS program, and how long have you been in the program thus far?

_____ Days Sentenced _____ Days To Serve _____ Days Served to Date

II. Home

2. Has being on EMS in any way affected, changed improved, or worsened your relationships with persons whom you live with in your household? (explain)

3. Have there been any other ways in which EMS has affected your home life or is likely to in the future?

4. Do you feel that in participating in this program, your home has become like a jail, and that it no longer represents "home" to you, as it did before? (explain)

III. Work

5. Has your being in the EMS program had any effect on your work or work setting? Have you had any problems with work due to EMS? Do EMS requirements conflict with work requirements in any way?

6. Does being on EMS help your work/work-habits in any way(s)?

7. Do your employer and co-workers know of your participation in the EMS program? If they do, how did they find out and what were their reactions? If they don't, have you tried to prevent them from finding out? If so, why?

IV. Self

8. Have you felt that the program has placed you under particular kinds of pressures? If so, what pressures? How have you tried to cope with these pressures? Have they affected you personally?

9. How do you feel about having to wear the bracelet/anklet? Does it bother you in any way? Does it affect your self-image? If so, how? Was this how you felt about the matter when you first began your participation in the EMS program?

10. In general, do you feel better or worse about yourself since you began participating in the EMS program? (explain)

V. Significant Others

11. Do others know about your participation in the EMS program?

12. Family? **Yes No** Friends? **Yes No** Employer? **Yes No** Co-Workers? **Yes No** Acquaintances? **Yes No** Others? **Yes No**

13. Are there persons whom you don't want to know about your participation in the EMS program? If so, who and why?

14. Have you sought to conceal your EMS participation from anyone? If so, who and why?

15. Has being on EMS affected your relationships with persons in any of the above categories (#12)? If so, how and why? How do you feel about those effects?

VI. Community Ties

16. Does being in the EMS program facilitate or impede community involvements for you? (explain)

17. Have you become more or less involved in the community since beginning participation in the EMS program? (explain)

18. Does being on EMS affect telephone use in any way? If so, how?

19. Have you come into contact with other community/neighborhood residents who are in the EMS program? How did these contacts come about? Do you see any of those other EMS participants or talk with them (on the phone)? If so, do you discuss your mutual participation in the EMS program? Is doing this useful to you and them in any way? If so, how?

VII. Activities

20. Does being in the EMS program stop you and/or inhibit you from doing activities that you would otherwise do? If so, what activities?

21. Does being in the EMS program lead you to engage in activities that you would otherwise not engage in? If so, what activities?

VIII. Rehabilitation

22. Are you now involved in a treatment/rehabilitation program of some sort? **Yes No** If so, describe.

23. Do you think that you have a "problem" that requires treatment? Do you believe that you do need to be rehabilitated? Why do you think that?

24. What impact, if any, does the EMS program have on your involvement in treatment/rehabilitation programs? (explain)

25. Do you think that being in this EMS program will make it possible for you to overcome the 'offending behaviour' (drinking problem(?)) that led to your conviction? If so, how and why?

IX. Selection Process

26. Who were the first persons to contact you about the EMS program, and how did this contact come about?

27. How was the program described to you initially, and how did you respond to these initial contacts?

28. Why do you think that you were amongst those selected for participation in the program?

29. Has your experience in the EMS program up to now corresponded to the descriptions that were given of it at the time you were first contacted and selected for the program?

30. Have the staff members of the EMS program who first approached you in order to interest you in the project continued to treat you in the same manner? If there have been any changes, what do you think accounts for them?

31. In what ways do you feel you are expected to cooperate with staff in helping to make the EMS program a success? Where did you acquire/learn those expectations? Were they ever made explicit by anyone, or are they merely assumed by you? Did you acquire those expectations at the very start of the program, or did you acquire them during your experience in the program?

X. Organizational Goals

32. What do you think are the goals/objectives/motives of the Attorney-General's Department and of the EMS staff in staging this project? How do you know those are their objectives?

33. Has the EMS staff engaged in any actions, behaviour, or practices that have led you to question what you originally took to be the goals/purposes of the project? (explain)

XI. Violations

34. Since being in the EMS program, have there been occasions when you have not been where you're supposed to be and you've been caught? If so, what happened? How did staff deal with your violation? How did their response to your violation make you feel about yourself and about your involvement in the EMS program?

35. Since being in the EMS program, have there been occasions where you have not been where you were supposed to be, and you were not caught? If so, how is it that you were not caught? Did not being caught affect your behaviour/attitude toward the program in any way? (explain)

36. [**Remind of confidentiality**] How might persons seek to get past the monitoring system, if that is what they wanted to do?

37. If EMS participants were to attempt to get past the monitoring system (in the above named and other ways), what strategies might EMS staff develop to prevent violations?

XII. Evaluation

38. How do you feel about the length of your EMS sentence?

39. How would you feel if your EMS sentence were longer? How do you think that would affect your behaviour in the program?

40. How would you feel if your EMS sentence were shorter than it is? How would that affect your behaviour in the program?

41. Do you think if you were convicted again for impaired driving, that you would be sentenced to an EMS program? What is the basis for your expectation?

42. How would you feel if you got convicted again and you were put on EMS? Would you want to be on EMS again? If so, why? If not, why not?

43. Do you view EMS as the kind of punishment that would deter you from offending again? (explain)

44. Do you think that other offenders would have a similar view of EMS as a deterrent? (explain)

45. How does being on EMS differ from week-end or pre-trial incarceration? (and longer-term incarceration, if experienced previously?)

46. Has being in this program changed your approach/philosophy towards life in any significant way? (explain) If so, do you think you'll maintain that changed perspective after you are discharged from the program? What is the basis for that expectation?

47. If you know anyone else on EMS, what is their general feeling about the EMS program?

48. Any other comments/thoughts not covered in the interview so far?

XIII. Demographic Data

Sex: M/F Age _____ Marital Status _____

Number of Children _____ Ages _____

Educational
Level _____

Usual Occupation _____
How Long? _____

Other Occupation(s)/skills _____

Spouse's Occupation _____
Age _____

Spouse's Education _____

Other co-residents _____

Combined Family (or household) income _____

Length of residence (in B.C.) _____ in Canada _____

Ethnicity _____ Nationality _____ Religion _____

Political Party Preference:

Municipal _____

Provincial _____

Federal _____

Other Convictions:

1st Offence _____ Penalty _____
Year/Type

2nd Offence _____ /Penalty _____
Year/Type

3rd Offence _____ /Penalty _____
Year/Type

4th Offence _____ /Penalty _____
Year/Type

Other Offences _____

Appendix III

Interview Consent

I, _____, consent to be interviewed by Steve Mainprize, Doctoral Candidate in Sociology at the University of British Columbia, regarding my experiences in the British Columbia Attorney General's (Corrections Branch) Electronic Monitoring System (EMS) program.

Consent to be interviewed is granted on the basis of the following principles of understanding:

- 1) All information and responses provided are strictly confidential.
- 2) Information or responses provided will only be reported in a completely anonymous form, preventing anyone - including Corrections Branch staff - from identifying me with this information.
- 3) I understand that the interviewer is conducting research for his doctoral thesis and is independent of the Ministry of Attorney General, Corrections Branch, though he will report his general conclusions to the Ministry of Attorney General upon completion of the research.
- 4) I also understand that I can withdraw from the interview situation at any time and that this choice will be without consequent prejudice, i.e., no negative result or impact will occur should I choose to withdraw.

Interviewee's Signature

Date

Appendix IV

ELECTRONIC MONITORING SYSTEM FOR OFFENDER SUPERVISION

TERMS OF REFERENCE

ADVISORY COMMITTEE

Starting in June, 1987, the B.C. Corrections Branch will operate a pilot project to test the feasibility of an electronic monitoring system for offender supervision. As part of this initiative, the Corrections Branch is establishing an Advisory Committee to observe and comment upon the conduct of the project and its results, and to advise upon any post-project policy and implementation strategy.

MANDATE

The Advisory Committee is mandated to offer advice to the Corrections Branch on any matter relating to the use of electronic monitoring systems within the project or potential use beyond the project.

PURPOSE

The purpose of the Advisory Committee on Electronic Monitoring Systems is to:

- (a) observe all facets of the pilot project;
- (b) offer advice to the Corrections Branch regarding specific details of the pilot project;
- (c) offer advice to the Corrections Branch regarding actual and potential uses of electronic monitoring systems;
- (d) serve as a forum for consideration of implications of current and future uses of electronic monitoring systems;
- (e) serve as an informed resource to the justice system and the community on the issue of electronic monitoring systems.

TERMS OF THE COMMITTEE

The Advisory Committee will meet as soon as possible upon appointment. It will meet at least monthly, and more frequently if called by the chair, until the completion of the nine month pilot project. The pilot project is expected to commence in June, 1987, and run until March, 1988.

The mandate and duration of the Advisory Committee may be extended beyond the end of the pilot project, but will be expected to complete its work within one year of its initial meeting.

COMPOSITION

The chairman and members of the Committee will be appointed by the Attorney General. Invitations will be extended to the following organizations to name representatives:

John Howard Society of B.C.

Mothers Against Drunk Drivers (MADD)

Citizens United For Safety and Justice

Elizabeth Fry Society of B.C.

B.C. Civil Liberties Association

B.C. Criminal Justice Association

Other groups/organizations may, at the discretion of the chair, be invited to make submissions to the Committee.

The Committee will be expected to submit two formal reports to the Commissioner of Corrections, one in the fall of 1987 and a final report at the termination of its work. Ongoing informal advice-giving and reporting shall occur through the Vancouver Regional Director of Corrections.

Appendix V

Developments in Radio Telemetry

The *New Encyclopaedia Britannica* (1974, 15th Edition) states:

[t]elemetry, as a name, designates a highly automated communications process by which measurements are made and other data connected at remote or inaccessible points and transmitted to receiving equipment for monitoring, display, and recording. Originally the information was sent over wires; modern telemetry more commonly uses radio transmission. Basically, the process is the same in either case. Among the major applications are monitoring electric-power plants, gathering meteorological data, and monitoring manned and unmanned space flights (Ibid.:79).

Contemporary 'remote sensing' technologies are indeed sophisticated, being employed to map natural resources, monitor and predict weather patterns, verify arms control treaties, and conduct domestic and foreign intelligence-gathering, to name but a few uses.

Young (1968) holds there are two main divisions of telemetry: entailing supervisory and aerospace systems. Supervisory telemetry 'is in several respects the longer established of the two divisions'. He goes on to point out that 'telemetering systems have been employed since the early 1930's as the basis for the supervisory control of the British "Grid" interconnected power network' (Ibid.:1).

However, it is well prior to this that telemetry is in evidence. Borden & Wells (1959) trace telemetric design to early nineteenth century Europe (about 1812). Young (1968:1), following Borden & Wells, states that 'the practicality of both remote measurement and control had been firmly established in Europe "before the turn of the century"'. And further: 'telemetering had fully emerged from the laboratory in the U.S.A. when in 1912 a "load dispatching telemeter" was installed in Chicago by the Commonwealth Edison System'.

Friel et al. (1987:3) state, '[a]s early as 1919 the US Army Signals Corps announced the development of technology which would allow them to track airplanes and ships using radio signals'. Missile development programs prompted the second division of aerospace telemetry, with vigorous energies being directed thereto since the late 1940's (Young, Ibid.).

Commercialization of telephone systems began in 1877 (Bell's patent is dated Feb. 14, 1876), and in that very year Einthoven (1877) demonstrated a procedure for remotely monitoring physiological functions using existing *telephone* lines. This is telemetry using a ground-wired communication medium/network. It was not until the late 1950s and early 1960s - when 'development of transistors made remote monitoring units markedly more feasible' (Schwitzgebel & Bird, Ibid.:61) - that remote observation (measurement, communication, and tracking) proliferated significantly (see Carceres, 1965; MacKay, 1968). Miniaturization in transmission and reception devices means they can be attached to or embedded in human or other organic systems.

According to behavioural scientists Ingraham and Smith (1972:966),

a telemetry system consists of small electronic devices attached to a subject that transmit via radio waves information regarding the location and physiological state of the wearer. A telemetry system provides a method whereby phenomena may be measured or controlled at a distance from where they occur--i.e., remotely.

The great advantage of telemetric systems (based on Radio Frequency waves) for biologists and physiologists was that it enabled measurement of biological variables within natural settings, thus avoiding experimental artifacts arising from the laboratory context. Furthermore, continuous observation by way of 'tracking' is facilitated (see below).

According to R.L. Schwitzgebel and Bird (1973:61) '[t]he earliest reports of remote communication with human Ss are found in the 1930s'. Chaffee & Light (1934), for example, describe 'a method for the remote control of electrical stimulation of the nervous system' (1973:61). Indeed, overall developments in biomedical telemetry during the 1950's and 1960's lead to considerably advanced instrumentation and wide-spread experimentation (cf. for example, R.L.

Schwitzgebel & Bird, 1973; Zimmer, 1966; MacKay, 1968; Carceres, 1965; Ingraham & Smith, 1972).

R.K. Schwitzgebel (1967:365) notes what would seem is one of the practical uses of radio telemetry in medical settings that was analogous to a system design he would develop: '[o]ne system is now being developed to effect the rescue of persons subject to emergency medical conditions that might preclude their calling out for help, such as acute cardiac infarction, epilepsy, or diabetes'. This is a system in which '[a] sensor and transducer worn by the patient superimpose the heart rate data upon the patient's standard location signal' (Schwitzgebel, 1969b:598).

Papers, Articles & Conference Presentations

- 1979a The New Criminology and Ethnomethodological Studies in Deviance. Unpublished Manuscript.
- 1979b Personal Space of the Blind. Unpublished Master's Thesis, Department of Sociology, University of Western Ontario.
- 1980a "The Criterial Features of Spacing Behaviour: the textual elements of personal space." (with Augustine Brannigan) Presented at the Annual Meetings of the American Sociological Association, New York, New York (August, 27-31).
- 1980b "Personal Space of the Blind," (with L.A. Hayduk) *Social Psychology Quarterly*, Vol. 43: 216-223.
- 1982a The Constitutive Features of Spacing Behaviour. (with Augustine Brannigan) Unpublished Manuscript.
- 1982b "Entering the Natives' Social World: some practical methods used in the achievement of 'adequate ethnography.'" Presented at the Annual Meetings of the Canadian Ethnology Society, Vancouver, B.C. (May). Subsequently published in *Nexus*, Vol. 2 (#2): 12-25.
- 1982c Politicians' Views About News Reporting: sources as a neglected dimension in the analysis of 'news'. Unpublished Manuscript.
- 1983a "Captioned Visuals in Print Advertising: a typology of techniques." (with Richard Pollay) *History of Advertising Archives*, Working Paper # 938. Dept. of Commerce, University of British Columbia.
- 1983b "Ambiguity and Anomaly as Visual Devices in Advertising." Presented at a joint session of the Annual Meetings of the Canadian Communications Association and the Canadian Sociology and Anthropology Association, Vancouver, B.C. (June).
- 1984a 'Headlining of Visuals in Print Advertising,' (with Richard Pollay), in *Proceedings of the American Academy of Advertising*, J.Glover (ed.), Denver: American Academy of Advertising.
- 1984b Outline of a Microsociology of Child Care Work & Knowledge. Unpublished Manuscript.

- 1985a "Interpreting Adolescents' Music," *Journal of Child Care*, Vol. 2 (#3): 55-62.
- 1985b Review of *Women Against Censorship*, Varda Burstyn (ed.), Douglas & McIntyre: Vancouver and Toronto (1985), in *Canadian Journal of Communication*, Vol. 11(#3):316-20.
- 1987a "Greener Pastures in Toronto?" *B.C. Business* (March), Pp. 9-11.
- 1988a A Case Study in Institutional Change: power and politics in the social organization of residential treatment. Unpublished Manuscript.
- 1988b Examination of Social, Psychological and Familial Impacts of the B.C. Corrections Branch's Electronic Monitoring System Pilot Project Program on Participating Offenders. (Draft submitted to B.C. Corrections Branch, Ministry of Solicitor General, November 25, 1988)
- 1989 Incorporating Electronically Monitored House Arrest into British Columbia Corrections: the processes of power, knowledge, and regulation in the debut of a punishment technique. Unpublished Doctoral Dissertation. Department of Anthropology and Sociology, University of British Columbia [Forthcoming].