



Testimony on Proposed Electronic Monitoring Policies  
Required under Act 125 before the  
Joint Legislative Justice Oversight Committee  
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Thank you for the opportunity to share the Center's perspective on the Windham County Electronic Monitoring Pilot Program procedures and expansion. The Center appreciates the hard work of Sheriff Clark and his staff in bringing this program to fruition.

**The Details Matter: Transparency and Timely Notification**

Although many types of crimes, both listed and non-listed, could potentially meet the criteria for the current electronic monitoring program, most Windham program participants are facing domestic violence charges.

When considering how to respond to defendants who pose some risk of further violence and whether those defendants should remain in the community pre-trial, the details of pre-trial release matter. In a facility, the risk of re-offense during the pre-trial phase is 0%. When a defendant is released, however, at least some amount of risk is re-offense is borne by the community. If we want domestic violence victims in particular to continue to seek out criminal justice intervention to help break the cycle of violence for themselves and for their families, the system has to provide some assurance that they will not bear unnecessary risk and that their lives and routines will not be unnecessarily disrupted.

In many cases, electronic monitoring can mitigate risk while meeting victims' needs: the defendant is accountable, the victim's personal safety is assured, and the defendant can continue to work or seek treatment for the benefit of all involved. Nonetheless, and especially in all cases that involve violent crimes,

transparent procedures that victims can rely on and rapid notification are essential for safety planning. Notification is also required under 13 V.S.A. § 5305.

#### **EMP-002 (Eligibility criteria)**

- What are the risk-based eligibility criteria for defendants who chose to reside in a location without cell service? How does the program ensure 24/7 compliance with respect to geographic restrictions if no cell/GPS service is available? If real-time data for the defendant will not be available due to the housing location, the State and the court should know in advance of the hearing or this information should be reported back.

#### **EMP-007 (Coordinator Responsibility)**

- Page 7: No specific reference made to release/escape notifications, which must also must be provided at a minimum.

#### **EMP-009 (Deputy Responsibilities)**

- Alert/Violation Response on page 1: One concern here is whether victims will receive timely enough notice to get themselves out of harm's way in certain higher risk cases. If the victim only receives notice when a defendant's location cannot be verified, following a series of other procedures, it could be too late.

#### **EMP-010 (Data and Records Management)**

- Victim addresses and contact information are highly sensitive data that should not be stored in an ordinary spreadsheet. The Legislature recognized the need for victim data protection many years ago when it authorized the creation of the VANS electronic database and notification system currently maintained by DOC. The VANS software allows victims to enter and update their contact information and request defendant release and escape notifications through a protected web portal that has the capability to track who has accessed this information. As the Windham program expands and more and more program coordinators, liaisons, and law enforcement officers are involved in executing these procedures, the need for protected, centralized access to victim data will only increase. The Center proposes that WCSO enter into an MOU with DOC to use VANS solely for the purpose of storing and accessing victim data in these cases. Doing so would not require the Sheriff's office to delegate notification

responsibility or otherwise utilize VANS electronic notification capability. Instead, it will mitigate confusion for victims, protect sensitive data, and make it easier for staff across counties to access the best information to reach victims.

#### **EMP-011 (Victim Interaction)**

- Page one, paragraph 3: “Changes to the participant schedule are to be reported no later than 24 hours **PRIOR TO** the approved change to the victim(s), if requested, through the desired means of communication”
- Page two, paragraph 7: Release/escape notifications should be included among minimum information provided.
- The procedure should make some reference to how/where victims should report violations of program guidelines or conditions of release and should address how the victim report will be investigated and how the victim will be notified of the outcome. For example, will the Coordinator receive these reports or should the victim notify local law enforcement? Will the victim be provided with an affidavit form?