Negative Brief: Home Confinement Sentencing

By David W. Helton & “Coach Vance” Trefethen

**Resolved: The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction**

The AFF case allows prisoners who were placed in home confinement by the 2020 CARES Act to serve the entirety of their sentence at home (or other AFF plans may increase home confinement in other ways or for other reasons). But home confinement isn’t the great answer to everything AFF will claim it is. Integrating back into society isn’t really happening for people locked to an ankle bracelet.
 You need to understand the concept of “Net Widening.” It is not merely a debater’s trick argument. The term is commonly used in academic literature regarding the criminal justice system. When it becomes “easier” to arrest or punish offenders, the system does not pocket the savings and empty the prisons. Instead, it casts a wider net to get more offenders. The prison space and expenses supposedly “saved” by some percentage of people put into home confinement evaporates. After all, we have all this prison space we’re not using, it’s a waste if we don’t fill it up by prosecuting more people we might not have prosecuted before. Or, now that we have this “lesser” sanction, people who never would have been sentenced to prison before will now be sentenced to home confinement. The prisons will be (over)filled again PLUS we’ll have a bunch more people on home confinement. The prison system is now bigger and mass incarceration (or “E”carceration) expands, it doesn’t shrink.

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Negative: Continue Home Confinement

INHERENCY

1. Clemency

Biden is offering clemency to home confinement prisoners to avoid bringing them back to prison

CNN 2021. “Administration to start clemency process for some federal inmates on home confinement due to Covid conditions” 13 Sept 2021 <https://www.cnn.com/2021/09/13/politics/clemency-covid-biden-administration/index.html> (accessed 11 Dec 2021)

The Biden administration is beginning the clemency process [for certain inmates](https://www.google.com/amp/s/amp.cnn.com/cnn/2020/03/26/politics/trump-administration-federal-prisons-coronavirus/index.html) released to home confinement due to the coronavirus pandemic, the White House announced Monday. The process will start with a review of nonviolent drug offenders on CARES Act home confinement with four years or less to serve, White House spokesperson Andrew Bates said in a statement. [A provision of that federal stimulus law](https://www.cnn.com/2020/04/04/politics/barr-early-release-inmates-prisons/index.html)signed by President Donald Trump last year expanded the group of inmates eligible for early release. "The Biden-Harris Administration is working hard every single day to reform our justice system in order to strengthen families, boost our economy, and give Americans a chance at a better future. As part of this, President Biden is deeply committed to reducing incarceration and helping people successfully reenter society," Bates said.

Biden is offering commutation applications to inmates

Sam Stein 2021(a political editor, Journalist, and contributor. He is currently a Political editor at The Daily Beast and a Contributor at MSNBC.  He has a master's degree from Columbia University Graduate School of Journalism and is a graduate of Dartmouth College.) September 13, 2021 “Biden starts clemency process for inmates released due to Covid conditions” <https://www.politico.com/news/2021/09/13/biden-clemency-covid-inmates-511658> (Accessed 4, December 2021)

The Biden administration has begun asking former inmates confined at home because of the pandemic to formally submit commutation applications, criminal justice reform advocates and one inmate herself tell POLITICO.

Inmates with 18 month – 4 year sentences can apply for clemency

Monique Beals 2021 (Breaking News Reporter at [The Hill](https://www.linkedin.com/company/the-hill?trk=public_profile_experience-item_profile-section-card_subtitle-click). Former Research Assisstant at the Washington Post.) *November 10, 2021 “*Civil rights groups press White House on clemency for inmates released during pandemic” <https://thehill.com/homenews/administration/580899-civil-rights-groups-press-white-house-for-clemency-for-inmates> (Accessed 4, December 2021)

Of the released inmates, only low-level non-violent drug offenders who have 18 months to four years left on their terms can apply for clemency. The White House did not confirm how many of the 4,800 inmates currently confined at home were eligible to apply under this policy, Reuters noted.

A/T “Biden hasn’t been granting clemency so far” – He will in 2022

CNN 2021. “Administration to start clemency process for some federal inmates on home confinement due to Covid conditions” 13 Sept 2021 <https://www.cnn.com/2021/09/13/politics/clemency-covid-biden-administration/index.html> (accessed 11 Dec 2021)

In Biden's first six-and-a-half months in office, the period for which statistics are available, he did not grant any [pardons or commutations](https://www.justice.gov/pardon/clemency-statistics#JosephRBiden). The President announced in May that he [would tackle clemency in 2022.](https://www.cnn.com/2021/05/17/politics/biden-pardons-clemency-racial-justice/index.html)

2. Covid emergency exception

The Covid Public Health Emergency is expected to last through 2022

The Academy of Nutrition and Dietetics 2021 (the world's largest organization of nutrition and dietetics practitioners. Today, the Academy represents more than 112,000 credentialed practitioners) October 15, 2021 “Public Health Emergency Extended Another 90 Days” <https://www.eatrightpro.org/news-center/member-updates/coronavirus-updates/public-health-emergency-extended-another-90-days> (Accessed 4, December 2021)

10/15/2021 - As a result of the continued impact of the COVID-19 pandemic, the U.S. Department of Health and Human Services has [renewed the January 31, 2020 determination that a public health emergency](https://www.phe.gov/emergency/news/healthactions/phe/Pages/COVDI-15Oct21.aspx) has existed since January 27, 2020, nationwide. This action means all HHS/CMS waivers and flexibilities currently in place will continue until January 13, 2022 unless earlier terminated by Secretary Becerra. Any waivers and flexibilities put into place by states and commercial payers that are specifically tied to these declarations will be extended as well. The renewal determination takes effect on October 18, 2021 and runs through January 13, 2022. While there are indications from the Biden Administration that they expect the PHE to continue well into, if not through, the end of 2022, legally Secretary Becerra can only extend it for 90-days at a time. The Academy will continue to monitor the situation and update members.

3. BOP Discretion

The BOP can keep inmates in home confinement if their sentences are short

[Catalina Garcia](https://www.wlrn.org/catalina-garcia) 2021 (Freelance Multi-Media Journalist at [WLRN Public Radio & Television](https://www.linkedin.com/company/wlrn-public-radio-%26-television?trk=public_profile_experience-item_profile-section-card_subtitle-click). MA in Journalism from the University of Maimi.) May 19, 2021 “As Federal Home Confinement Policy Nears Potential End, South Florida Inmates Face Uncertainty” <https://www.wlrn.org/news/2021-05-19/as-federal-home-confinement-policy-nears-potential-end-south-florida-inmates-face-uncertainty> (Accessed 4, December 2021)

WLRN asked the Department of Justice about the possibility of these inmates having to return to prison and the department issued a statement saying that the BOP will have discretion to keep inmates in home confinement after the pandemic if they’re close to the end of their sentences.

 SOLVENCY

1. Doesn’t help rehabilitation / reintegration into society - #1: Cut off from the community

Home confinement marginalizes prisoners, severs them from communities and families, and does not help rehabilitation/reintegration

Prof. Chaz Arnett 2019 (Associate Professor of Law at University of Maryland) “From Decarceration to E-carceration” CARDOZO LAW REVIEW Vol 41 Issue 2 December 2019 <http://cardozolawreview.com/from-decarceration-to-e-carceration/> (accessed 11 Dec 2021)

This Paper argues that current forms of electronic correctional surveillance, such as electronic ankle monitors, contribute to social marginalization. This social marginalization finds congruence with the social science literature on “othering,” often understood as processes and practices of problematizing the presence of others, and also with the concept of “racializing surveillance,” which signals those moments when enactments of surveillance reify boundaries, borders, and bodies along racial lines, and where the outcome is often discriminatory treatment of those who are negatively racialized by such surveillance. However, social marginalization in this correctional context is defined by its “sever and tether” effects,  where  electronic  ankle  monitoring programs act to sever individuals from their communities and families through the erection of significant barriers to reentry, while simultaneously tethering them to a surveillance regime wholly unconcerned with rehabilitation and reintegration. Electronic monitor programs act to push those under surveillance further on the margins of society, divorcing them from the very things that are necessary for reentry, while at the same time failing to make us any safer, nor significantly reducing prison populations.

Home confinement doesn’t help people integrate into society

Maya Schenwar 2015 (Editor-in-Chief of *Truthout,* an independent news website. She’s a cofounder of the Chicago Community Bond Fund and organizes with the Love & Protect collective in Chicago. BA in English Literature from Swarthmore College. ) January 22, 2015 “The Quiet Horrors of House Arrest, Electronic Monitoring, and Other Alternative Forms of Incarceration” <https://www.motherjones.com/politics/2015/01/house-arrest-surveillance-state-prisons/> (Accessed 4, December 2021)

Even probation officers have acknowledged how monitoring—both the actual physical confinement and the constant knowledge of being watched—seeps into each moment of a confined person’s daily life. A [Department of Justice study](https://www.ncjrs.gov/pdffiles1/nij/234460.pdf), for example, found that, with the visible ankle monitor acting as a “scarlet letter,” those permitted to go to work had a difficult time finding or holding jobs. That’s a problem in itself, since it’s well known that gaining employment is a [crucial step](http://www.cjcj.org/uploads/cjcj/documents/the_post-release.pdf) in avoiding future offenses. Full-scale house arrest, however, locks people into a life of stasis and boredom, inhibiting their ability to connect with loved ones or form new bonds—crucial factors in building a sustainable life.

2. Doesn’t help rehabilitation / re-integration into society - #2: Needs other programs to work

Electronic monitoring (EM) doesn’t rehabilitate unless you add a lot of other programs to it

Prof. AVLANA K. EISENBERG 2017 (Assistant Professor, Florida State University College of Law; J.D., Stanford Law School) “MASS MONITORING” Southern California Law Review <https://southerncalifornialawreview.com/wp-content/uploads/2017/01/90_123.pdf> (accessed 14 Dec 2021)

Finally, rehabilitative principles support the use of EM, in conjunction with other programs, instead of incarceration. While EM is not inherently rehabilitative, preliminary studies of the use of EM as part of a more holistic reentry program, or as a means by which to preserve family connections, employment, and other social connections that would be lost if the offender were incarcerated, suggest that, as one element of a larger program, EM can serve rehabilitative ends.

Electronic Monitoring (EM) will never reduce recidivism without more expensive additional treatment programs

Natasha Alladina 2011 (JD candidate, Duke Univ. law school) CRIMINAL JUSTICE SYSTEM: A PRACTICAL YET INCOMPLETE ALTERNATIVE TO INCARCERATION <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1028&context=alr> (accessed 14 Dec 2021)

Of course, in assessing EM’s value as “part of a whole,” researchers and policymakers will have to keep in mind that EM is a strictly voluntary sanction, and therefore, the primary target for home confinement under EM will continue to be the “low-risk” offender who is not considered a threat to public safety.208 Unless there is such a combined, or “hybrid,” approach to EM and “unless there is a shift in emphasis away from surveillance and control towards (more expensive) treatment as the basis of intermediate sanctions, electronic monitoring is never likely to ‘deliver the goods’ in terms of reduced rates of recidivism.”

3. Doesn’t help rehabilitation/re-integration #3: Other problems and shortcomings

Ankle monitors cause job loss

[Olivia Thompson](https://equaljusticeunderlaw.org/thejusticereport?author=5b227a1588251b8e708402ec) 2018 (Certified Legal Intern at Office of the State Attorney, Second Judicial Circuit of Florida. Equal Justice Works Americorps J.D. Member at the Legal Aid Society of the Orange County Bar Association. BS in Legal Studies from the University of Central Florida.) June 14, 2018 “Shackled: The Realities of Home Imprisonment” <https://equaljusticeunderlaw.org/thejusticereport/2018/6/12/electronic-monitoring> (Accessed 4, December 2021)

Indeed, the U.S Department of Corrections for Tennessee reported that 22% of the surveyed parolees wearing ankle monitors lost their job as a direct result of wearing the monitor. Some people may then ask, “Why don’t parolees just stay in jail or prison if they can’t afford wearing an ankle monitor?” Well, there are many reasons why people can’t stay incarcerated.

A/T “Increased quality of life” – Increased inconvenience

[Olivia Thompson](https://equaljusticeunderlaw.org/thejusticereport?author=5b227a1588251b8e708402ec) 2018 (Certified Legal Intern at Office of the State Attorney, Second Judicial Circuit of Florida. Equal Justice Works Americorps J.D. Member at the Legal Aid Society of the Orange County Bar Association. BS in Legal Studies from the University of Central Florida.) June 14, 2018 “Shackled: The Realities of Home Imprisonment” <https://equaljusticeunderlaw.org/thejusticereport/2018/6/12/electronic-monitoring> (Accessed 4, December 2021)

An ankle monitor must be charged twice a day. For the parolees working or socializing, keeping the ankle monitor charged is very inconvenient. Parolees must sit by an outlet and charge the monitor for two hours. Needless to say, not every worksite can accommodate a parolee in this sense and this might be pretty awkward for parolees who are charging their monitor while at a local coffee shop.

4. No cost savings

Electronic monitoring may actually increase the cost of the sentencing system

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

Despite the potential and the ambitious goals set for these two alternatives, many countries experienced the net-widening effect. The most prominent goal in introducing alternative sanctions is to substitute a prison sentence. However, in practice these sanctions are often used to substitute other non-custodial punishments, e.g. probation. Consequently, the costs of the criminal sentencing system increase. The net-widening effect may cause inefficiency in two ways. First, the new sanctions fail to reduce the prison population which imposes the highest costs on the society. Second, even though these instruments are less costly than prison, they entail more expenses than the traditional non-custodial sanctions (e.g. fine). Thus, a system which imposes community service or electronic monitoring on lighter offenders unnecessarily increases the sentencing costs.

5. Cost shifting

Home electronic monitoring merely shifts the cost of incarceration from the government to vulnerable and minority communities

Prof. Chaz Arnett 2019 (Associate Professor of Law at University of Maryland) “From Decarceration to E-carceration” CARDOZO LAW REVIEW Vol 41 Issue 2 December 2019 <http://cardozolawreview.com/from-decarceration-to-e-carceration/> (accessed 11 Dec 2021) (brackets in original)

The rapid escalation in the use of this electronic device and the associated social and economic barriers it presents has led to it being called “The Newest Jim Crow.”Advocates at the Center for Media Justice have popularized the term “e-carceration” in their “Challenging E-carceration” campaign as a way to describe the expanding power and harm of electronic monitoring in corrections. They argue that “[w]hile decarceration is a priority, punitive alternatives like electronic monitoring are false solutions that must be challenged,” as surveillance through these devices shifts the site and costs of imprisonment from state facilities to vulnerable communities and households of color.

DISADVANTAGES

1. Net widening

**When it’s easier to punish criminals, more criminals will be found and punished. They will prosecute more people (and put them on home confinement) or they will give longer sentences now that space is freed up in prisons. The end result is more people incarcerated or under the control of the prison system, not fewer. All the “cost savings” disappear and the prison system expands to inflict itself on more and more people.**

Net Widening: Electronic monitoring and other alternative sanctions mean more people will be arrested and punished once it becomes “easier” to do so

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

The current section presents empirical evidence for the existence of the net-widening problem in different criminal justice systems. Subsequently, this problem is analysed from the law and economics point of view. Alternative sanctions such as community service are usually introduced with the intention to be imposed on offenders who would otherwise be sentenced to prison. Instead, in many cases this sanction is used to punish convicted individuals who would be sentenced to a less strict sanction if this alternative was not available. This criticism is referred to diversion programmes as well. These programmes initially targeted young offenders and aspired to divert them from the criminal justice system. However, in practice it led to the situation that juveniles who would otherwise be released without any treatment from the enforcement authority, were sent to different programmes. From the law and economics perspective, the reforms had the potential to reduce the level of "consumption" of the criminal justice system. This in turn would reduce the costs of this system. Instead, more sentences were provided by the enforcement authorities and the costs might have become higher. Forasmuch as this study discusses only the alternative sanctions, i.e. community service and electronic monitoring, net-widening in the context of this paper refers solely to the problem of penalties which are not used efficiently to divert offenders from prison.

Electronic monitoring makes it easier to punish, so more people get punished

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

The net-widening problem was discussed also in the context of using electronic monitoring as a sanction. After its introduction in different countries, electronic monitoring is used for home confinement and may be imposed as a sentence, as a parole condition or as a pre-trial confinement. Similarly to community service, there is evidence suggesting that this sanction is also subject to the net-widening effect. This method is imposed not only as an alternative to prison, but many times on offenders whose freedom would otherwise be less restricted. Consequently, the prison population is not decreasing and more people find themselves under a strict (and costly) penal supervision. The net-widening effect may be found also in other countries. In the United States for example, this problem applies to different alternative sanctions such as community service, boot camps, intensive supervision programs, electronic monitoring, etc.

Link: Home confinement keeps people connected to the prison system longer

[April Glaser](https://www.nbcnews.com/author/april-glaser-ncpn1103026) 2021 (part of NBC News’ tech investigations team. Currently a Senior Internet Policy Fellow at Harvard.) July 5, 2021 “Incarcerated at home: The rise of ankle monitors and house arrest during the pandemic” <https://www.nbcnews.com/tech/tech-news/incarcerated-home-rise-ankle-monitors-house-arrest-during-pandemic-n1273008> (Accessed 4, December 2021)

Now, early data shows how much the use of electronic ankle monitoring rose nationwide during that time, according to research from Kate Weisburd, a law professor at George Washington University and a former juvenile defender. Researchers are finding that ankle monitors are keeping people connected to the prison system longer than ever, as more remain strapped to the devices for over a year.

Impact: Money wasted. Increasing electronic monitoring wastes resources because of the wider net of people sentenced to it, who would have been given much lighter sentences without it

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

Furthermore, the net-widening effect means that scarce resources are not used optimally. The number of places of unpaid work is limited, especially due to the restriction of not harming fair competition in the market. With respect to electronic monitoring, this sanction entails a usage of technology which imposes non-negligible costs on the society. Therefore, these sanctions ought to be used only in those cases where offenders may not be deterred using less intrusive sanctions. Imposing community service and electronic monitoring on “light” offenders leads to a waste of these resources and limits its implementation on the harsher offenders who may be diverted from prison.

Empirical example: Belgium. They tried electronic monitoring to reduce prison overcrowding… and it got WORSE, due to net widening

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

The use of electronic monitoring in Belgium is increasing over the years (from less than 300 at the beginning of 2000s, to around 1318 offenders in 2013). On the one hand, it seems that the problem of prison overcrowding has not been resolved. Whereas in 2006 around 116% of prison capacity was exploited, by 2013 it was already 123%. On the other hand, there are almost no short-term (up to one year) prisoners in Belgium, which implies electronic monitoring is a real alternative to custody. The explanation for this may be that until 2013 prison sentences of up to eight months were not executed due to prison cells shortage. Hence, the new technology enabled to execute prison sentences which before went unpunished.

Empirical example: France. They tried electronic monitoring to reduce prison population, but it didn’t decrease

Prof. Elena Kantorowicz 2013. (Erasmus School of Law, Netherlands) The “Net-Widening” Problem and its Solutions: The Road to a Cheaper Sanctioning System <http://www.antoniocasella.eu/nume/Kantorowicz_2013.pdf> (accessed 13 Dec 2021)

This measure was first discussed in France in 1989 as an instrument to solve the prison overcrowding problem. In 1997 electronic tagging was introduced in the French Penal Code and allowed to substitute a sentence of up to one year, or enable early release a year prior to custody completion. For several years it was not implemented, possibly due to the increasing use of other alternatives. However, at the beginning of 2000s this situation changed. Electronic monitoring was introduced in all stages of the trial, i.e. pre-trial detention, court sentencing and post-trial release. In 2009, the period of home confinement for early released offenders was expanded to two years, enabling releasing a larger portion of offenders. Finally, the tracking system (GPS) was introduced and applied to dangerous offenders after serving their prison sentences. The condition to impose electronic tagging as a substitution for short-term imprisonment is the existence of work, family obligations, education etc. This option is used mainly for drunk-drivers, other traffic offenses, drug and some violence offenses, usually only during the week-days. Those delinquents have on average more favourable characteristics than prisoners (employment, family, education). The completion rates are high, with only around 5% withdrawing from the programme. When observing sentencing distribution during the 2000s, it does not seem that this alternative had an effect on the growing prison population.

Long-term, home confinement will simply be added to existing sanctions as an additional layer

**Al Tompkins 2020 ( A senior faculty at Poynter.** After nearly 30 years as a journalist, joined the Poynter Institute where he is Senior Faculty for Broadcast and Online.) September 2, 2020 **“**How COVID-19 has jacked up the cost of house arrests” <https://www.poynter.org/reporting-editing/2020/how-covid-19-has-jacked-up-the-cost-of-house-arrests/> (Accessed 4, December 2021)

[Bloomberg Business reported](https://www.bloomberg.com/news/articles/2020-07-14/coronavirus-creates-big-market-for-electronic-ankle-monitors?srnd=businessweek-v2), “An estimated 25% to 30% more prisoners are wearing bracelets now compared to the pre-outbreak period.” Let me tell you, journalists, I would turn my attention to the private companies that are raking in money from this situation. In Maryland, that falls to three companies that hired more workers to keep up with business. The Crime Report, which is based at the John Jay College of Criminal Justice in New York City, [said](https://thecrimereport.org/2020/07/15/covid-19-boosts-fortunes-of-electronic-monitoring-firms/): “The companies are betting that this can be a test run for a longer-term shift in sentencing,” writes Cara Tabachnick, former deputy editor of The Crime Report, in the story posted Tuesday. “Criminal justice reformers say they’re worried about an added layer of surveillance in a field that’s been rife with abuse.” In the U.S., the Federal Bureau of Prisons has placed about 4,600 inmates in home confinement, a 160 percent increase since the end of March.

2. Masking Disadvantage. Home Confinement (or “E-carceration”) worsens harm by distracting us from real solutions

Link: Doesn’t help rehabilitation and reintegration and distracts us from these as legitimate goals, and from the harms of mass incarceration

Prof. Chaz Arnett 2019 (Associate Professor of Law at University of Maryland) “From Decarceration to E-carceration” CARDOZO LAW REVIEW Vol 41 Issue 2 December 2019 <http://cardozolawreview.com/from-decarceration-to-e-carceration/> (accessed 11 Dec 2021)

The concept of e-carceration seeks to encapsulate the outsourcing of aspects of prison into communities under the guise of carceral humanism: the repackaging or rebranding of corrections and correctional programming as caring and supportive, while still clinging to punitive culture. These surveillance practices raise a number of important questions about how sincere we are as a society in moving beyond the current hyperpunitive age of over-incarceration, and whether we are willing to commit to the reprioritization of rehabilitation and reintegration not only as legitimate goals but also as a form of transitional justice for the great harms caused by mass incarceration.

Impact: AFF harms get worse. Home confinement perpetuates mass incarceration by distracting us from solving it and then harms more people with all the collateral consequences of criminal conviction

Prof. Chaz Arnett 2019 (Associate Professor of Law at University of Maryland) “From Decarceration to E-carceration” CARDOZO LAW REVIEW Vol 41 Issue 2 December 2019 <http://cardozolawreview.com/from-decarceration-to-e-carceration/> (accessed 11 Dec 2021)

If mass incarceration is simply viewed as problematic because of the high number of incarcerated citizens in comparison to other industrialized western nations, then the solutions proposed will be equally narrow and focus on moving individuals outside of prison walls by any means. However, mass incarceration should not only be understood by the high number of inmates, but also the larger web of laws, rules, policies, and customs that control those labeled criminals both in and out of prison.  From this understanding, mass incarceration is not the problem itself, but rather a symptom or manifestation of a much larger problem, where criminal justice law and policy targets poor communities and racial minorities before and after entering prisons, limiting chances for life successes and constraining the full realization of the benefits of citizenship. Most states have significant collateral consequences attached to criminal justice contact and involvement, from the loss of voting rights, to the denial of licensing for certain trades, to the ineligibility for public and government-assisted housing.  Thus, if the harms associated with mass incarceration extend beyond institutional confinement, then the pursuit of decarceration through electronic surveillance only perpetuates the role that the criminal justice system plays in entrenching a marginalized second-class citizenship, as the technology often acts as an additional barrier to successful rehabilitation and reentry.

3. Physical and psychological harm

Ankle monitors cause numerous physical and psychological problems

[Olivia Thompson](https://equaljusticeunderlaw.org/thejusticereport?author=5b227a1588251b8e708402ec) 2018 (Certified Legal Intern at Office of the State Attorney, Second Judicial Circuit of Florida. Equal Justice Works Americorps J.D. Member at the Legal Aid Society of the Orange County Bar Association. BS in Legal Studies from the University of Central Florida.) June 14, 2018 “Shackled: The Realities of Home Imprisonment” <https://equaljusticeunderlaw.org/thejusticereport/2018/6/12/electronic-monitoring> (Accessed 4, December 2021)

Definitely not the best predicament to be in, but it’s a predicament all too common to parolees wearing ankle monitors. Other than being totally inconvenient (at least they’re water-proof so that you can shower with them on), they’ve been known to cause lower back problems, foot numbness, scarring, and bleeding. As it charges, it heats up, causing skin irritation for the parolee. Although ankle monitors claim to be designed for comfort, that is hardly the reality. Ankle monitors cause as much physical harm as they cause psychological harm. For parolees who must wear ankle monitors for years, the physical side effects may be irreparable.