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| RESEARCH ARTICLE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                     | <b>Electronic Monitoring as a Modern Alternative to Custodial Sentences: A Legal Analysis Under Algerian Law</b> |  |
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| <b>Abstract</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                     |                                                                                                                  |  |
| <p>This article examines the use of electronic monitoring, specifically the electronic bracelet, as an alternative to custodial penalties under Algerian Law No. 18-01. It addresses the system’s legal nature, conditions for application, and its role in reducing prison overcrowding, supporting social reintegration, and minimizing state financial burdens. The measure allows offenders to serve their sentences outside prison, while being monitored electronically through GPS and internet-connected devices. The study also explores the required legal conditions, including offender consent, sentence limits, and judicial approval. Comparative references from French and international laws highlight the broader application of this alternative. The article argues that electronic monitoring reflects a shift toward a technologically enhanced criminal justice system that prioritizes human rights, rehabilitation, and efficiency. It recommends wider adoption of legal technologies—such as AI in legal procedures and digital forensic tools—to modernize judicial systems and ensure more just and effective punishment alternatives.</p> |                                                                                                     |                                                                                                                  |  |
| <b>Citation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                     |                                                                                                                  |  |
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## Introduction

Technological advancements have significantly influenced the evolution of legal standards. Laws are increasingly transforming into technical rules heavily reliant on modern sciences such as physics and engineering. This shift highlights a profound change in the structure of the law itself—it is no longer merely a collection of rules regulating behavior and controlling social relations, but rather a technical tool that governs various activities in a world characterized by rapid technological progress.

Traditional areas of law, including civil and administrative law, are undergoing substantial changes. For instance, the traditional concept of a contract has evolved into electronic contracts. New concepts have emerged, such as "virtual companies" that operate entirely online. Even constitutional and administrative law have not remained untouched by these transformations. Concepts like "e-government" and "electronic elections" have emerged, along with new forms of digital administrative decisions and contracts.

One clear example of how technology is being integrated into legal systems is the electronic bracelet. It reflects the legal transformations that align with the use of technology in law enforcement. This development showcases how GPS technology is applied in the justice system for monitoring purposes. It represents a practical legal mechanism for implementing sanctions, contributing to a shift in how alternative punishments, supervision, and the rights of convicted individuals are approached. The electronic bracelet significantly highlights the transformations occurring in legal systems worldwide, offering a balance between respecting public liberties, ensuring individual human rights, and protecting society. It demonstrates how technology has become a part of legal mechanisms and affirms the law's ability to adapt to modern changes, thereby becoming a set of legal-technical rules.

So, does the electronic bracelet truly represent a practical component in the transformation of law from a traditional system regulating individual behavior into a technological mechanism for digital monitoring—redefining traditional punishment and blending technology with law in the age of electronic systems and artificial intelligence?

Based on this inquiry, we propose the following outline to highlight the importance of studying the electronic bracelet as a foundational element of a legal and technological punitive system within penal policy:

Chapter One: The Technology of the Electronic Bracelet

Section One: The Concept of the Electronic Bracelet

Section Two: Justifications for the Use of Electronic Bracelet Technology

Chapter Two: The Legal Framework of the Electronic Bracelet

Section One: The Legal Nature of the Electronic Bracelet System

Section Two: Conditions for Electronic Monitoring

Chapter One: The Technology of the Electronic Bracelet

The first successful attempt to remotely track an individual occurred in 1964, conducted by the Schwitzgebel brothers, researchers at Harvard University. They developed a wireless monitoring system that was tested in Boston on twelve young offenders who had been conditionally released from prison. The system utilized radio

frequency technology to monitor their movements remotely.<sup>1</sup>

### **Section One: The Concept of the Electronic Bracelet**

Several modern legal systems have adopted electronic monitoring through the use of bracelets, with various mechanisms for implementation. Most criminal codes and legal frameworks focus primarily on the procedures, conditions, and methods of enforcement, rather than offering a precise definition.

#### **1. Doctrinal Definition:**

Dr. Fahd Al-Kasasbeh defines it as:

“A requirement for the sentenced individual to stay within their residence during specific hours, monitored via a transmitter device worn on the wrist, which allows a control center to verify their location at the predetermined times. The system generates automated reports using computer-based communication.”<sup>2</sup>

Dr. Rami Metwally Al-Qadi describes it as:

“A voluntary alternative to custodial sentences, whereby the individual is monitored outside prison using modern technologies, under the supervision of law enforcement agencies. This monitoring is conducted based on pre-determined conditions, times, and locations. Failure to comply may result in a custodial penalty.”<sup>3</sup>

#### **2. Legal Definition:**

##### **Arab Center for Legal Research (Resolution No. 852):**

“An electronic device worn as a bracelet around the wrist or ankle of a convicted person. It serves as an alternative to short-term imprisonment or as a preventive measure to monitor released suspects.”

##### **French Legislator:**

“An obligation imposed on a convicted person to remain at home or at another specified place during certain hours determined by the judge. The person's compliance is monitored electronically. These hours and locations are set based on professional, educational, or medical needs, and the person is obliged to respond to judicial summons.”

##### **Algerian Legislator (Article 150 bis of Law No. 18-01, supplementing Law No. 05-04 on the Organization of Prisons and Social Reintegration):**

“Electronic monitoring is a procedure that allows a convicted person to serve all or part of their sentence outside prison. The individual must wear the electronic bracelet continuously during the

<sup>1</sup> Reference: Malika Masrour, "The Nature of the Electronic Monitoring System - 'The Electronic Bracelet' in Algerian Legislation", Master's Thesis, Kasdi Merbah University - Ouargla, 2019

<sup>2</sup> -Fahd Youssef Al-Kasasbeh, The Role of Modern Penal Systems in Rehabilitation, International Penal Reform Organization, 2013, p.20

<sup>3</sup> Rami Metwally Al-Qadi, The Electronic Monitoring System in French and Comparative Law, Journal of Sharia and Law, Issue 63, UAE University, 2015, p.285

designated period, which allows authorities to track their location based on the residence defined by the sentencing decision.”<sup>4</sup>

The electronic bracelet is typically made from high-quality plastic materials reinforced with titanium steel. It is designed to be irremovable or unbreakable by any external means. When tampering is attempted, internal sensors send warning signals to the system’s electronic processor, which immediately notifies the designated monitoring centers. The bracelet system functions through a triad of devices<sup>5</sup>:

### **The Bracelet Itself**

Manufactured from flexible and durable plastic materials, such as plastic blended with titanium steel, it is resistant to breaking or tearing. The individual is required to wear it on the wrist or ankle, depending on monitoring conditions. The device is water- and heat-resistant, making it suitable for all environments.

### **GPS Tracking Device:**

The bracelet is equipped with a Global Positioning System (GPS) unit that allows for the precise tracking of the individual's movements. It transmits geolocation coordinates continuously to the monitoring centers, ensuring that the subject does not leave permitted areas or enter restricted zones.

### **Internet Connectivity:**

The bracelet remains constantly connected to the internet to transmit real-time data on the convict’s location and movement to the authorized surveillance centers.

These features ensure the bracelet is tamper-proof. Any attempt to remove or interfere with it triggers immediate alerts via the built-in sensors to the digital monitoring system. If a breach is detected, an automatic warning is sent to the relevant centers for immediate action.

This blend of legal framework and modern technology results in a digital monitoring system—commonly referred to as **electronic tagging** or **house arrest**—which serves as a legal-technical measure that compels the convicted individual to remain in their home instead of a correctional facility. Through advanced technology, the individual is tracked and monitored electronically. The bracelet, worn on the wrist or ankle, transmits signals to the control center, confirming the person’s compliance with legal conditions, such as remaining in place or adhering to specific hours. It logs and monitors movement with high accuracy <sup>6</sup>.

As such, the system demonstrates several essential operational characteristics:<sup>7</sup>

### **Technical Character:**

The system relies heavily on technological innovation. It consists of a transmitter, receiver, re-transmitter, and a dedicated computer for data processing.

4 -Algerian Legislator (Article 150 bis of Law No. 18-01, supplementing Law No. 05-04 on the Organization of Prisons and Social Reintegration)

5 Admn, The Electronic Bracelet as an Alternative to Custodial Sentences, 22/11/2024, <https://www.9anon4dz.com/2023/11/electronicitag.html>

6 Ayman Ramadan Al-Zayti, House Arrest, 1st ed., Arab Thought House, Cairo, 2005, p.3

7 Mohamed El-Mahdi Bek Arwi, Habas Abdelkader, Jamiaa Malika, The Electronic Monitoring System in Algerian Legislation, Afaq 'Ilmiyya Journal, Vol. 11, No. 20, 2019, pp. 164-182

**Voluntary Character:**

Application is based on the individual's request or consent. It cannot be imposed except under specific legal provisions.

**Judicial Character:**

The system can only be applied through a judicial ruling or order. Its implementation is overseen by the judiciary in cooperation with relevant authorities.

**Liberty-Restricting Character:**

It requires the individual to remain in a designated place and adhere to specific restrictions. Additional obligations may vary depending on the legal framework applied.<sup>8</sup>

**Section Two: Justifications for Electronic Bracelet Technology**

**Digital Transformation in the Justice Sector**

The justice sector in Algeria has made notable progress in adopting ICTs and transitioning toward a digital environment. Multiple projects have been implemented to achieve a modern justice system that aligns with international standards—particularly in providing easier access to justice, simplifying judicial procedures, enhancing administrative and judicial management, and offering remote judicial services to citizens, litigants, and legal professionals.<sup>9</sup>

Efforts in this area include the development of a dedicated internal communication network linking the central administration to judicial institutions and correctional facilities through fiber-optic networks. This serves as the infrastructure required to operate various sector-developed information systems.

**a) Centralized Judicial Information System:**

A unified and secure information system was adopted to ensure data consistency and compatibility across departments.

Video conferencing technology is used for remote hearings at both national and international levels, expediting legal proceedings. This facilitates remote testimony and expert input, avoids prisoner transfers, and supports virtual training and meetings.

**b) Digital Judicial Administration:**

Electronic systems have been established to manage administrative and civil registry documents at the judicial councils, aiming for optimal archive use and enabling electronic governance.

Internal emails are used to send documents and exchange data.

Expert reports and documentation are exchanged electronically between judicial bodies and forensic departments.

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8 wafa Moudhakkar, The Electronic Bracelet under Algerian Legislation, Master's Thesis, University of Dr. Moulay Tahar - Saïda, 2019, p. 286

9 People's Democratic Republic of Algeria, Ministry of Justice, Modernization of Justice, 22/11/2024, <https://www.njustice.dz/ar/modernisation-2-2-2>

Judicial documents and notifications are sent electronically, replacing traditional legal delivery methods, allowing litigants to receive updates via SMS.

### **c) Reinforcement of Rights and Freedoms:**

A central DNA fingerprinting unit was established, supervised by a judge and technical staff. It oversees the national database in line with Law No. 16-03 (June 19, 2016), concerning the use of genetic data in legal procedures and identity verification.

A biometric information system has been implemented, creating a national fingerprint database for all prisoners and legal defendants. This system enhances accuracy and speed in identification, supports prison management, and prevents identity fraud.

These developments make justice more accessible and efficient for all social groups. Citizens can now submit and monitor cases remotely, bureaucracy is reduced, and digital networks have increased collaboration among judicial and administrative entities.

### **Enhancing Social Reintegration and Reducing Recidivism**

The electronic bracelet system aims to assist in the reintegration of offenders into society by allowing them to serve their sentences outside correctional institutions. This enables convicted individuals to maintain their employment and secure an income that covers their living expenses. Additionally,

it facilitates the payment of compensation to victims and the redress of harm caused by the offense<sup>10</sup>.

Experts have observed that this contributes significantly to reducing recidivism. Comparative studies and practical experiences affirm that such technologies have yielded encouraging outcomes in terms of rehabilitation and crime reduction<sup>11</sup>.

### **3. Reducing Prison Overcrowding**

Prison overcrowding is a global issue caused by high incarceration rates. It is one of the most pressing challenges facing criminal justice systems worldwide. Implementing electronic monitoring can alleviate overcrowding, especially in facilities housing individuals convicted of non-violent or minor offenses.

The electronic monitoring system has proven its capacity to manage a portion of the prison population, thus reducing overcrowding. In France, for example, one-third of individuals sentenced to custodial terms of less than a year are now subject to electronic monitoring instead of imprisonment<sup>12</sup>.

### **4. Reducing Financial Costs**

Electronic monitoring was also adopted as a strategy to ease the financial burden on the state and to enhance the overall effectiveness of criminal justice policy. This includes reducing the substantial costs associated with running correctional facilities—such as staffing, infrastructure, transportation, food, clothing, and medical care.

<sup>10</sup>Bouchnefa, Jamal, Implementation of Punishment through Electronic Monitoring under Law No. 01/18 Amending the Algerian Prison Organization Law, *Journal of Legal Studies*, Vol. 4, No. 1, June 2018, pp. 198–212

<sup>11</sup>(Talbi, Laila, Electronic Monitoring, *Journal of Human Sciences*, Vol. 1, No. 47, June 2017, pp. 253–261

<sup>12</sup> Talbi, Laila, *ibid.*, pp. 253–261

Moreover, technological alternatives like electronic tagging reduce the need for large human resources to manage and supervise inmates. By shifting from traditional incarceration to electronic monitoring, the financial pressure on the state budget is eased, including reduced costs related to staff training and management.

This results in a more cost-effective digital criminal justice system. Although the initial implementation of electronic monitoring systems entails certain expenses for equipment and logistics, the long-term savings are significant. In France, for instance, the daily cost of electronic monitoring is estimated to be four times lower than that of a prison stay<sup>13</sup>

## Chapter Two: The Legal Framework of Electronic Monitoring

Local and international legislations differ in regulating electronic monitoring depending on their legal doctrines. In some systems, it is recognized as a legal alternative embedded within the judiciary, while in others, its use is limited to specific cases. Laws also differ in terms of duration, requirements, and monitoring objectives.

Electronic monitoring represents a novel legal technology within criminal justice, aiming to balance community protection with individual rights. However, its use must be carefully regulated to protect human rights and avoid misuse, despite the diversity of legal opinions.

### Section One: The Legal Nature of the Electronic Bracelet System

Legal scholars have expressed varied opinions regarding the legal nature of the electronic bracelet, leading to multiple theoretical approaches to this modern form of punishment<sup>14</sup>

#### First Approach – Punitive Nature

This school of thought views electronic monitoring as punitive in nature. It mimics the practical effects of deprivation of liberty by placing convicted individuals under continuous surveillance, though within the community. The individual is compelled to remain within specified boundaries, both in time and space, which subjects them to a form of coercive authority. This reflects a philosophy within criminal policy aimed at deterrence and compulsory rehabilitation through punishment.

#### Second Approach – Preventive Measure

Proponents of this view consider electronic bracelets primarily as preventive measures. They argue that restricting the movement of the offender and inducing psychological discomfort acts as a sufficient deterrent. Wearing the bracelet constantly reminds the individual of their offense, and serves as a tool for rehabilitation and public deterrence.

Scholar Pollock, for instance, supports this viewpoint, suggesting that deterrence and prevention justify the societal benefit of penalties. The punishment need not necessarily inflict suffering but should restrict the

13 Outani, Safa, Electronic Monitoring “The Electronic Bracelet” in French Penal Policy, Damascus University Journal for Economic and Legal Sciences, Vol. 25, No. 1, 2009, pp. 129-162.

14 Abdel Mohsen, Mohamed Abdelrahman, The Use of Electronic Bracelets as an Alternative to Custodial Sentences in Egyptian Law, Journal of the Faculty of Islamic and Arabic Studies for Girls - Alexandria, 2nd Issue, No. 38, 2022, pp. 558-603

offender's freedom as a form of corrective intervention.

### **Third Approach – Technological Execution Tool**

This approach treats the electronic bracelet as a modern technological method of executing punishment. It avoids the negative effects of traditional imprisonment by offering a digital, practical substitute that fulfills similar penal objectives under normal circumstances. This represents a middle-ground between the punitive and preventive approaches. In this view, the bracelet acts as both a sanction and a preventive measure, applicable at various stages—either during execution or pre-trial.

### **Fourth Approach – A Hybrid Legal Tool**

This opinion suggests that the electronic bracelet functions as a hybrid mechanism combining punishment and preventive measures. It emphasizes reintegration by allowing the convicted individual to remain embedded within their social environment.

In summary, scholarly opinions differ as to whether electronic monitoring should be classified as a punishment or as a preventive measure—or both. This divergence is primarily due to the nature of its application:

If applied before sentencing, it may be considered a precautionary measure.

If used post-conviction, it is viewed as a punishment and thus assumes a penal nature.

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Given that the electronic bracelet restricts personal liberty, the second opinion considers it a penalty imposed on the offender. This aligns with modern penal philosophy, which views such measures as tools for rehabilitation, in line with contemporary criminal justice thinking.

### **The Inherent Restrictive Nature of Electronic Monitoring**

There is no doubt that electronic bracelet usage imposes liberty restrictions. Under electronic monitoring, the individual is required to remain at home and wear the bracelet continuously. The system enforces core legal principles such as:

No penalty or preventive measure may be imposed without a judicial decision

The measure is temporary and determined by a court of law.

### **Section Two: Conditions for Electronic Monitoring via Bracelet**

To issue an order for electronic monitoring via an electronic bracelet, the law requires certain conditions to be met. These are outlined in Law No. 18-01, which supplements Law No. 05-04 on the social reintegration of prisoners. The conditions are grouped into three categories: personal, penal, and procedural<sup>15</sup>

The offender must not have previously violated a condition of electronic monitoring;

The legal penalty for the offense must not exceed five years of imprisonment;

The actual sentence must not exceed three years of imprisonment.

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<sup>15</sup> as provided in Law No. 06-24 on electronic monitoring penalties

## 1. Conditions Related to the Person of the Convicted Individual

The purpose of electronic monitoring is to offer certain categories of offenders an alternative punishment more suitable to their legal classification, promoting rehabilitation and reintegration into society without resorting to incarceration.

This system can only be implemented with the **consent of the convicted person** (if of legal age), or with the consent of their **legal representative** (if a minor), as stated in **Article 811 bis 18 of Law No. 18-01**<sup>16</sup>

The person must have a **fixed residence**, and wearing the bracelet must not **affect their health**. The individual must also **settle any financial fines** imposed.

Other considerations include the person's family situation, any medical treatment, employment, studies, or vocational training. According to **Article 150 bis 4**, the individual may submit a request for monitoring to the **penal enforcement judge** in their place of residence or through the correctional institution, with a decision rendered within **10 days**.

Under **Article 150 bis 7**, electronic monitoring is restricted to **adults aged 19 and above**, as defined in **Article 40 of the Algerian Civil Code**. It cannot be applied to minors or legal entities (such as companies or associations), and the primary condition is that it must not jeopardize the physical or mental health of the convicted person.

As clarified in **Article 150 bis 2**:

"An electronic monitoring order cannot be issued without the consent of the convicted person or their legal representative if a minor. The dignity, safety, and privacy of the person must be respected during implementation."

The **French legislator** applies electronic monitoring specifically to individuals **aged 18 and above**, whether **convicted or under judicial supervision**, according to **Article 132-26-1 of the French Code of Criminal Procedure**. The measure is imposed based on individual circumstances and must be legally justified.

Interestingly, **Article 150 bis 2** appears to allow minors to benefit from electronic monitoring **with legal guardian consent**, but does not set a minimum age. Other jurisdictions have done so:

**France:** Minimum age of 13-18 years<sup>17</sup>

**England:** Minimum age is 10 years;

**Scotland:** Minimum age is 12 years<sup>18</sup>

## 2. Conditions Related to the Sentence

The Algerian legislator requires that the sentence be **custodial** in nature—thus, monetary fines or asset forfeitures do not qualify.

The measure **cannot replace other alternative sentences**, such as suspended sentences or community service.

16 Radia Mechri, Mouna Maqlati, Electronic Monitoring in Algerian Penal Policy, Kuwaiti International Law Journal, Issue 3, June 2022, p. 427.

17 Law No. 97-1159 of 19 December 1997

18 Jini Abdullah, The Legal Framework of Electronic Monitoring as an Alternative Penalty in Algerian Legislation, Master's Thesis, Abdelhamid Ibn Badis University - Mostaganem, 2022, p. 54.

The sentence must **not exceed three years** if the individual is not currently imprisoned. If already incarcerated, the **remaining sentence must not exceed three years**, and the sentence must be **final**.<sup>19</sup>

Algerian law is considered **generous** in this regard, allowing electronic monitoring for custodial sentences **up to three years**, compared to stricter jurisdictions:

**France:** Applicable only if the sentence is **one year or less**, or if the person is approaching the end of a longer sentence and **one year or less remains**.

It may also be applied during **conditional release**, provided the remaining sentence is **under one year**.<sup>20</sup>

### 3. Conditions Related to the Competent Authority

Under **Article 811 bis 8 of Law No. 18-01**, the **penal enforcement judge** has the authority to issue an electronic monitoring order:

**If the individual is not imprisoned**, the judge must consult the **public prosecutor**;

**If the individual is imprisoned**, the judge must consult the **penal enforcement committee**.

The order may be issued **ex officio**, at the **request of the convict**, or through their **lawyer**. In all cases, implementation requires the **consent of the convict**, and their **dignity, safety, and privacy** must be respected.

The judge issues the decision after:

Consulting the **public prosecutor** (always);

Consulting the **penal committee** if the individual is incarcerated and the **remaining sentence is under three years** (Article 150 bis 2).

The conditions mentioned must also comply with **Article 150 bis 3**, which adds additional procedural safeguards<sup>21</sup>

As the **electronic bracelet**, as an alternative to custodial sanctions, particularly within the framework of **Algerian Law No. 18-01**, which amended the Prison Administration and Social Reintegration Law (Law No. 05-04). The analysis has led to several key conclusions:

- Electronic monitoring represents a **modern penal and preventive mechanism** that not only alleviates the pressure on correctional institutions but also contributes to more efficient public resource management.
- It provides offenders with an opportunity to serve their sentence within the community, thereby facilitating **personal reform, social reintegration, and accountability**.
- Numerous studies and comparative practices have shown that **long-term incarceration often fails to achieve meaningful reintegration**, and may even increase the likelihood of recidivism.

<sup>19</sup> Jini Abdullah, *ibid.*, p. 57

<sup>20</sup> Sara Maach, *Custodial Sentences in Algerian Legislation*, 1st ed., Al-Wafa Legal Library, Alexandria, 2016, p. 51.

<sup>21</sup> Souria Bourbaba, *Electronic Bracelet as an Alternative to Custodial Sentences in Algerian and Comparative Legislation*, *Journal of Legal and Political Thought*, Vol. 6, No. 1, p. 12.

- The adoption of electronic monitoring is emblematic of **contemporary criminal justice systems** that seek to integrate **scientific and technological innovations** into legal practice. It reflects the shift from traditional punitive models to **smart justice solutions**.
- Integrating such alternatives into the penal system supports **economic efficiency** and **social stability**, while aligning with the global trend toward **humanizing criminal justice** and reducing over-incarceration.

### Future Perspectives

In light of the findings, the research suggests several forward-looking directions to strengthen legal systems through technological innovation:

- Expanding **digital legal services** to facilitate complaint filing, legal follow-ups, and public access to justice.
- Adopting **advanced forensic technologies**, including voice, image, and video analysis, as well as digital evidence management.
- Enhancing **smart legal education platforms** to support law students, legal practitioners, and professionals through interactive and remote learning environments
- Implementing **AI-based contract management systems**, using algorithms to structure and verify compliance with legal terms and conditions.
- Promoting the use of **artificial intelligence** to analyze legal texts, rulings, and contractual frameworks, thereby improving **accuracy, transparency, and efficiency** in legal decision-making.
- Ultimately, electronic monitoring is more than a simple alternative to incarceration—it is a **strategic legal tool** aligned with the broader goals of modern criminal justice: safeguarding public interest, upholding individual rights, and embracing innovation for a more just and responsive legal order.

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