



North Carolina Department of Correction

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Beverly Eaves Perdue
Governor

Alvin W. Keller, Jr.
Secretary

MEMORANDUM

TO: Senator Harry Brown Representative N. Leo Daughtry
Senator Thom Goolsby Representative W. David Guice
Representative Shirley B. Randleman

FROM: Jennie L. Lancaster, Chief Operating Officer

RE: Legislative Report on Electronic Monitoring/
Use of Global Positioning Systems for Sex Offenders
(Section 19.12.(d) - Session Law 2009-451)

DATE: March 1, 2011

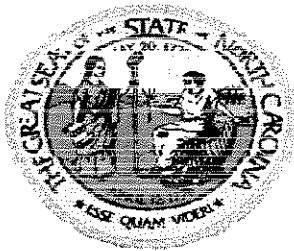
A handwritten signature in black ink, appearing to be "Jennie L. Lancaster", is written over the "FROM:" line of the memorandum.

Pursuant to Section 19.12 (d) of Session Law 2009-451, please find attached the Department of Correction's Legislative Report on Electronic Monitoring/Use of Global Positioning Systems for Sex Offenders.

JLL:BSB/jbk

cc: Aaron Gallagher
John Poteat
Doug Holbrook
Kristine Leggett
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**STATE OF NORTH CAROLINA
DEPARTMENT OF CORRECTION**

Division of Community Corrections

**LEGISLATIVE REPORT
ON ELECTRONIC MONITORING/
USE OF GLOBAL POSITIONING
SYSTEMS FOR SEX OFFENDERS**

March 1, 2011

**Beverly Eaves Perdue
Governor**

**Timothy D. Moose
Director**

**Alvin W. Keller, Jr.
Secretary**

REPORT ON ELECTRONIC MONITORING/USE OF GLOBAL POSITIONING SYSTEMS FOR SEX OFFENDERS

SECTION 19.12.(d) The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.
- (4) The number of absconders.
- (5) The projected number of offenders to be enrolled by the end of the 2009-2010 fiscal year and the end of the 2010-2011 fiscal year.
- (6) The total cost of the program, including a per-offender cost.

INTRODUCTION

Session Law 2006-247 (H1896) required the Department of Correction to establish a sex offender monitoring program using a continuous satellite-based monitoring system to monitor sex offenders in the community. Offenders subject to monitoring include those under probation, parole, or post-release supervision and certain offenders who have completed their periods of supervision or incarceration but are subject to lifetime tracking pursuant to statute.

The Division of Community Corrections (DCC) began the use of global positioning systems (GPS) to aid in the supervision of sex offenders in January 2007. Several challenges to the use of GPS technology, especially regarding those offenders who had completed all incidents of sentencing, resulted in a slower-than-anticipated start for the initiative. GPS continued to grow at a slow rate due to the presence of many court challenges. Offenders' attorneys argued that additional punishment could not be added after a sentence was complete. In October of 2010 the N.C. Supreme Court rendered a decision in *State vs. Bowditch* which stated that tracking via Satellite Based Monitoring (SBM) is not considered punishment and is a civil matter; therefore it is retroactive to offenses committed on or after August 16, 2006, when the law was enacted. As a result of this decision, the unsupervised lifetime population will expand as determination hearings that were suspended pending appellate decisions will now resume.

(1) NUMBER OF SEX OFFENDERS ENROLLED

N.C.G.S.14-208.40(a) establishes two categories of offenders subject to GPS monitoring: (1) any offender classified as a sexually violent predator, is a recidivist or was convicted of an aggravated offense (Mandatory GPS); and (2) any offender who has committed an offense involving the physical, mental, or sexual abuse of a minor and requires the highest possible level of supervision and monitoring based on a DCC risk assessment (Conditional GPS). Both categories require that the offender be convicted of a reportable conviction and be required to register as a sex offender.

During FY 2009-2010, there were 157 new offenders enrolled in the electronic monitoring program. Of the 157 offenders, 88 were assigned to the conditional program (56.1%), while 69 were assigned to the mandatory program (43.9%). All offenders were monitored via active GPS. The table below represents the number of offenders enrolled on GPS for FY 2009-2010.

NEW OFFENDERS ENROLLED BY MONTH ON GPS FOR FY 2009-2010

Month	Mandatory	Conditional	Total
July 2009	3	10	13
August	9	10	19
September	10	3	13
October	4	4	8
November	5	9	14
December	2	13	15
January 2010	8	4	12
February	7	6	13
March	9	9	18
April	4	13	17
May	5	3	8
June	3	4	7
Totals	69	88	157

Approximately 58 percent of offenders enrolled in the electronic monitoring program were supervised offenders (91 offenders), while 66 offenders were unsupervised. Of the conditional offenders 21 were Interstate Compact Offenders who were supervised by our department on behalf of another state.

On June 30, 2010 there were 372 offenders enrolled in the electronic monitoring program. Most offenders (194) were identified as mandatory participants (satellite based monitoring is required for the person’s natural life), 178 were identified as conditional participants (satellite based monitoring is required for a period of time ordered by the court). Most offenders (216) were supervised as opposed to unsupervised. All offenders enrolled at the end of the fiscal year were monitored via active GPS.

(2) CASELOADS OF PROBATION OFFICERS ASSIGNED TO GPS/SEX OFFENDER SUPERVISION

Due to the relatively small numbers of offenders under GPS supervision, DCC utilized existing resources to establish specialized officers in some districts. These officers specialize in the supervision of sex offenders, including those who do not have the GPS requirements. In areas where there are not enough offenders to justify specialization, DCC utilizes a blended caseload concept in which officers carry varying types and levels of offenders. Factors such as geography, the number of different offender population types and their admission rates to supervision, and the number of officer resources impact decisions concerning these local case management practices. *Appendix A provides information concerning the caseloads of officers assigned to supervise sex offenders monitored by GPS and is a population snapshot as of January 24, 2011.*

In addition, two officers work in the GPS administrative office and handle the GPS lifetime-tracking offender population which consists of certain sex offenders who are no longer under DCC supervision, but who were legislatively mandated to be tracked for the remainder of their lives. These officers handle cases statewide, and at the close of the fiscal

year were responsible for monitoring 143 offenders. Of these 143 offenders, 66 were new enrollees for the fiscal year, while 57 were placed on GPS prior to the beginning of the FY 2009-2010.

(3) VIOLATIONS

During FY 2009-2010, offenders under GPS supervision were cited for 215 violations. However, only 90 of the 157 (57.3%) offenders enrolled in the program during FY 2009-2010 were responsible for all violations. There were 13 violations for absconding, committed by 4 offenders. The table below represents the type and number of violations committed by program enrollees during the fiscal year.

TYPE AND NUMBER OF VIOLATIONS

Violation	Number	Percent	Number of Offenders with Violation
Sex Offender Violation	38	17.70%	16
Failure to Pay Court Indebtedness	25	11.60%	13
Failure to Obtain/Retain Employment	18	8.40%	1
Failure to Notify Residence Change	17	7.90%	6
Other	17	7.90%	8
Curfew Violations	16	7.40%	5
Failure to Pay Probation Supervision Fee	16	7.40%	11
Absconding With warrant	13	6.00%	4
Left County Without Permission	11	5.10%	3
Positive Drug Screen	10	4.70%	4
Failure to Report in Reasonable Manner	6	2.80%	1
Failure to Comply SBM	5	2.30%	2
Other Treatment Failure	5	2.30%	2
Failure to Report	2	0.90%	2
Misdemeanor Conviction	2	0.90%	2
Possess Firearm/Deadly Weapon/Explosive	2	0.90%	2
Contact with Family/Victim	1	0.50%	1
Failure to Complete Community Service	1	0.50%	1
Failure to Obtain Assessment	1	0.50%	1
Felony Conviction	1	0.50%	1
Failure to Comply with Sex Offender Program	1	0.50%	1
Totals	215	100.00%	90

(4) OFFENDER ENROLLMENT PROJECTIONS

The DOC Office of Research and Planning provided assistance with the enrollment projections. GPS enrollment projections assume that current factors remain in place as they were at the start of the 2009-2010 fiscal year. The projections do not take into account the potential impact of pending legal challenges to the use of GPS. The table below shows population projections for the GPS program for FY 2010-2011 and FY 2011-2012.

PROJECTED POPULATION FOR GPS SUPERVISION

Type of Offender	FY 2010-2011	FY 2011-2012
Mandatory GPS	386	565
Conditional GPS	203	228
Totals	589	793

An estimated 148 offenders will have no community supervision requirement during FY 2010-2011, while 304 offenders will have no community supervision requirement during FY 2011-2012.

(5) PROGRAM COSTS

In September 2006, the State Chief Information Officer granted approval for DOC to use the Western States Contracting Alliance (WSCA) for the lease of the satellite monitoring and remote tracking equipment and services. WSCA is a contracting alliance that allows participating states to join together in cooperative multi-state contracting in order to achieve cost-effective and efficient acquisition of quality products and services. Many other states use the alliance, including Virginia, Washington and Mississippi. Pursuant to the WSCA contract and offender volume, DCC paid \$8.29 per offender per day for the monitoring and equipment units. The initial startup costs for the program in 2006 were \$251,263.80. Vendor services under the WSCA contract for FY 2008-2009 cost \$448,026.56, including lost, stolen and damaged equipment costs. The contract with WSCA ended in March 2009.

On April 1, 2009, the Division of Community Corrections contracted the use of new monitoring equipment through G4S Justice Services. This contract allowed for a more efficient use of GPS technology through a dual approach using both active and passive GPS technology. Active GPS is used to monitor sex offenders and other populations through the use of near real time violation reporting, at a cost of \$6.49 per day per offender. This contract is based on a sliding scale based on the number of active offenders utilizing this technology. Passive GPS is utilized when geographical and technical limitations prohibit the use of an Active GPS system. Passive GPS units are designed to call in at designated times, during designated intervals to report offender behavior, at a cost of \$3.74 per day per offender.

DCC paid \$448,026.56 under the WSCA contract for July 1 through May 31 of FY 2008-09 and \$32,924.10 under the G4S Justice Services Contract. DCC continued the contract with G4S Justice Services and for the FY 2009-2010 paid \$328,576.86 on the sex offender population.

Appendix A - Caseloads of Probation Officers Assigned to GPS-monitored Sex Offenders as of January 24, 2011

Division 1					
County	Unit	Officer	# of GPS cases	# of Sex Offenders	Total Cases
Dare	5010A	URW01	1	2	74
Camden	5010B	SBK06	1	2	57
Pasquotank	5010B	STL16	1	5	70
Chowan	5010C	JKF04	1	1	50
Gates	5010C	PSG03	1	2	134
Perquimans	5010E	LAM06	1	1	75
Pasquotank	5010E	MWR01	2	2	63
Martin	5020B	STM06	1	9	71
Beaufort	5020C	TML06	1	3	57
Washington	5020D	HGH03	1	3	73
Craven	5030B	WTJ03	2	21	48
Carteret	5030D	TMX01	1	11	61
Onslow	5030G	CLS15	1	1	65
Onslow	5030G	FES04	1	20	42
Onslow	5030G	JRA04	2	13	37
Duplin	5040B	KRL02	1	9	92
Sampson	5040D	CAD11	2	12	63
Sampson	5040D	QJA02	2	13	57
New Hanover	5050B	PJS05	4	24	35
Pender	5050D	KSL13	1	9	52
New Hanover	5050G	WDR02	1	1	76
Northampton	5060C	DVD04	1	3	85
Bertie	5060D	BAT07	3	6	64
Hertford	5060E	NLW01	1	13	62
Halifax	5060F	BJX06	3	17	51
Edgecombe	5070A	JJM02	2	3	90
Edgecombe	5070A	PKG01	1	3	89
Wilson	5070B	DMT06	1	2	83
Wilson	5070B	MSB18	1	3	82
Wilson	5070B	SAR10	2	5	83
Nash	5070C	OCI01	1	17	88
Wilson	5070E	DVL06	1	2	82
Nash	5070F	FBD13	1	8	95
Pitt	5070K	WKB02	2	32	58
Greene	5080C	CMB07	1	5	82
Wayne	5080D	HAM22	1	8	89
Division 1 Total			53	291	2,535

Division 2					
County	Unit	Officer	# of GPS cases	# of Sex Offenders	Total Cases
Vance	5090B	JCB04	1	18	69
Warren	5090B	WPM08	1	7	56
Granville	5090D	RVW01	2	15	76
Wake	5100E	CDC21	2	27	50
Wake	5100E	DPG01	3	29	52
Wake	5100E	MBC14	4	24	52
Wake	5100E	MJM31	4	28	48
Lee	5110G	GCL06	1	13	47
Cumberland	5120F	BAC06	1	32	48
Cumberland	5120F	FML10	7	28	44
Cumberland	5120F	RGB03	1	15	45
Columbus	5130C	CGM01	3	18	52
Brunswick	5130F	WJJ09	4	26	47
Durham	5140C	EQL01	1	35	49
Durham	5140C	RDW22	3	30	51
Chatham	5140J	RLM14	1	11	82
Orange	5140L	DGE04	3	17	71
Alamance	5150A	AMA02	2	14	77
Alamance	5150B	RBH01	1	10	81
Scotland	5160A	LVX03	2	10	45
Hoke	5160B	MBJ03	2	12	95
Robeson	5160F	JCE05	6	27	43
Robeson	5160G	BWX16	3	17	44
Division 2 Total			58	463	1,324
Division 3					
County	Unit	Officer	# of GPS cases	# of Sex Offenders	Total Cases
Rockingham	5170B	ADR07	4	32	59
Surry	5170C	MTD11	5	24	47
Stokes	5170D	BSH05	2	16	54
Guilford	5180B	BGL09	1	28	47
Guilford	5180B	CLE16	1	21	47
Guilford	5180B	STJ17	3	19	46
Guilford	5180K	PJB07	4	32	48
Cabarrus	5191A	SMA28	6	28	41
Rowan	5191F	BJB33	1	20	29
Rowan	5191F	GLA06	2	25	43
Randolph	5192A	CJL11	3	17	45
Randolph	5192B	WRJ07	1	22	49
Montgomery	5192C	BLB06	1	8	65
Richmond	5200C	BAF10	1	15	60
Stanly	5200E	RWK05	2	19	53
Union	5200G	PTN02	4	31	43
Forsyth	5210C	ACA12	2	29	44
Forsyth	5210C	CMH13	3	31	50
Iredell	5220B	MJL28	8	23	43
Iredell	5220B	MPG03	2	24	47
Davidson	5220F	KSD04	4	32	46
Davidson	5220F	PJG02	2	32	42
Davie	5220H	JSN01	1	9	68
Wilkes	5230B	CJL66	2	20	52
Division 3 Total			67	558	1,168

Division 4					
County	Unit	Officer	# of GPS cases	# of Sex Offenders	Total Cases
Yancey	5240A	HRM08	1	3	75
Caldwell	5250A	LBC09	1	13	64
Catawba	5250F	RRE06	1	12	44
Burke	5250G	ARW07	1	15	71
Burke	5250G	CJP28	1	8	75
Mecklenburg	5260E	ECA04	1	36	53
Mecklenburg	5260E	RTR07	2	34	50
Mecklenburg	5260O	RAJ11	4	33	53
Mecklenburg	5260O	SWE13	4	31	49
Gaston	5270A	DJN03	2	24	57
Gaston	5270A	KPE04	3	35	58
Cleveland	5270F	HWJ07	3	8	92
Lincoln	5270G	BPA21	2	9	78
Lincoln	5270G	MHS08	3	10	82
Cleveland	5270H	BTC01	1	11	89
Buncombe	5280D	CWT02	1	19	37
Buncombe	5280D	GMC06	1	20	40
McDowell	5290B	HCA06	2	6	81
Transylvania	5290D	GTL18	1	1	43
Polk	5290E	LBP01	1	4	50
Rutherford	5290F	AWD12	1	9	71
Rutherford	5290F	HCC10	2	5	66
Cherokee	5300C	MMA58	2	6	68
Cherokee	5300C	PEA11	4	6	68
Graham	5300C	SJC23	2	3	49
Macon	5300D	KCW02	1	7	60
Division 4 Total			48	368	1,623
Statewide Total			226	1,680	6,658