

The Norwegian Approach to Electronic Monitoring: Changing the System and Making a Difference

I. Introduction

In 2008, the year that electronic monitoring (EM) was first implemented in Norway, 100 offenders were tagged. Ten years later, more than half of all offenders are starting their sentence outside of prison, mainly due to the increasing use of EM. Despite political skepticism in the beginning, EM has contributed to changes in the correctional system and has made a difference in offenders' lives.

The use of EM has had a major impact on the prison population, reducing the numbers of new entries into prison by one-third. This direct impact is easily measured. A way of serving an unconditional prison sentence, EM is based on an administrative decision by the Correctional Service after a court issues an unconditional sentence. In this way, EM serves as a real alternative to imprisonment, not a measure in addition to imprisonment, thus reducing the risk of a net-widening effect.

This "decision model" is controversial and often questioned by countries outside Scandinavia, where critics fear a lack of judicial review and a reduction in the importance and effects of court decisions. Here, we discuss how the EM model was chosen and implemented in Norway; describe the model's basis in the general principles of the Correctional Service; outline some of the reasons for its positive results over ten years, one of which is the administrative decision system; and discuss how EM has changed the system and made a difference in Norway.

II. Figures and Facts

The Correctional Service consists of both the Prison Service and the Probation Service, unified under the charge of the Directorate of Norwegian Correctional Service.¹ Today, approximately 9,000 offenders are sentenced to unconditional prison sentences each year. Almost 50% of all unconditional prison sentences are three months or less, and almost 80% of all sentences are less than a year. The prison population rate of the general population in Norway is 74 per 100,000.² The corresponding rate for probation is 47 per 100,000,³ including community sentences, the DUI (driving under the influence) program, and other conditional sanctions. Some 2,500 offenders are sentenced to community service or conditional sanctions organized by the Probation Service.

During 2017, the number of offenders who served at home with EM was 3,265. On average, about 330 offenders

are being electronically monitored at any given time. Since the program's start in 2008, over 20,000 offenders in total have served their sentence with EM. Related to the number of unconditional sentences in total per year, about one-third of these sentences is fully executed at home with EM.⁴ Figure 1 shows the major shift in the Norwegian Correctional Service during the past decade, moving offenders out of prison and into the community with EM.

Today, more offenders start serving their sentences outside of prison than inside. The rise of unconditional sentences served with EM outside of prison is one of the most important factors in this development. Figure 2 shows the number of offenders serving sentences either in prison or in society during 2017.

III. The Norwegian EM Model

Norway established EM as an alternative to imprisonment in 2008. The legislation is implemented in § 16 paragraph 2 of the Execution of Sentences Act⁵ and supplied by regulations, subsequently incorporating the ethics and standards for EM recommended by the Council of Europe.⁶

The political decision to implement EM in Norway was controversial, and all the opposition political parties were against it.⁷ While the right-wing parties regarded the proposition as too soft on crime and on offender management, others were concerned that EM would create a social gap by presenting an opportunity only to those offenders with the necessary resources, such as stable living arrangements and suitable occupations. Turning people's homes into prisons became a discussion of principle.

A small majority in the Parliament supported the establishment of EM, with the aims of creating a humane and trustworthy alternative to imprisonment, preventing recidivism, and lowering the prison population. From both a political and a professional point of view, there was a need for a more suitable way of serving a sentence for a particular target group (as described below). With EM, the offender is able to maintain the social and economic ties of family and occupation during the sentence,⁸ which are considered important factors in preventing recidivism.⁹

There was a wish to lower the use of imprisonment in general, and a need for more flexibility due to a lack of prison capacity. Finding the right balance of capacity through shifting times is an ongoing challenge. Norway suffered a lack of prison capacity for a long time, which



**MARIANNE
KYLSTAD
ØSTER**

Senior Advisor,
Directorate of
Norwegian
Correctional Service

TORE ROKKAN

Associate Professor,
University College of
Norwegian
Correctional Service

Federal Sentencing Reporter, Vol. 31, No. 1, pp. 75–84, ISSN 1053-9867, electronic ISSN 1533-8363.

© 2018 Vera Institute of Justice. All rights reserved. Please direct requests for permission to photocopy or reproduce article content through the University of California Press's Reprints and Permissions web page, <http://www.ucpress.edu/journals.php?p=reprints>. DOI: <https://doi.org/10.1525/fsr.2018.31.1.75>.

Figure 1
Numbers of new entries into prison and into “front-door EM” (see text) in Norway, 2008–2017.
Data from the Norwegian Correctional Service registration system KOMPIS.

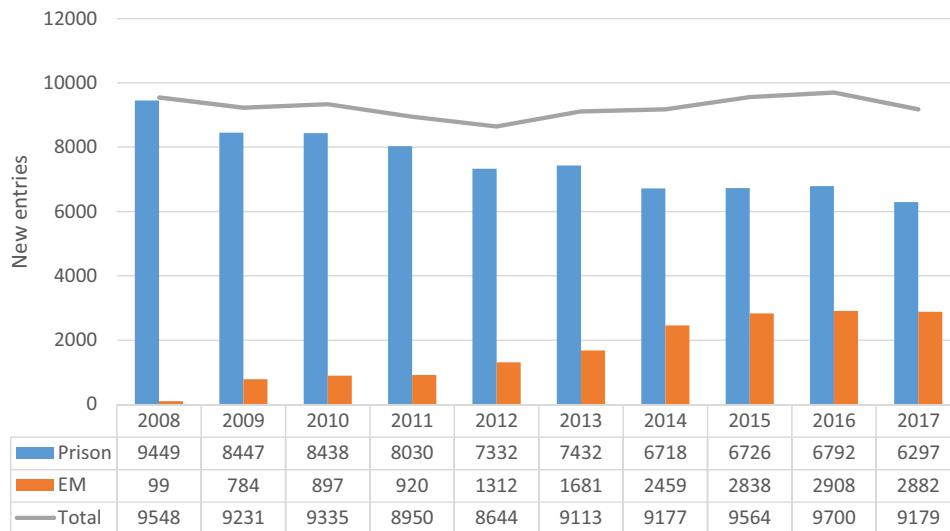
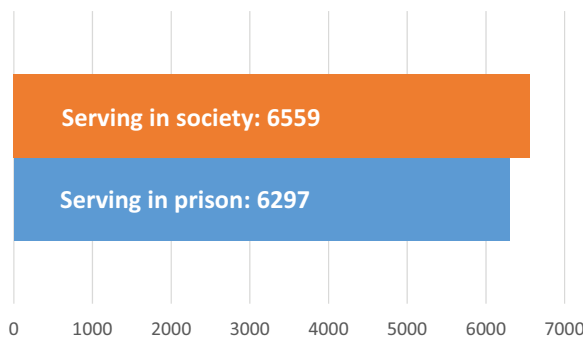


Figure 2
Numbers of convicted offenders beginning to serve their sentences in prison and in society in Norway in 2017 (N = 12,856). Data from the Norwegian Correctional Service registration system KOMPIS.



resulted in a queue of convicted offenders waiting to serve their sentence in prison. Such a waiting list for offenders is unusual in most countries, but in Norway it is considered a preferred alternative to compromising prison standards because of overcrowding. In 2006, almost 2,800 persons were waiting to serve their prison sentences, in addition to those on the waiting list for community sentences. These are mostly low-risk offenders with short sentences, much the same target group as for EM. The establishment of EM was a direct response to the queue situation, and increased capacity was clearly one of the major benefits of introducing EM. Figure 3 shows the numbers of offenders on a waiting list to serve their sentences from 2001 to 2018; the sudden drop in 2008 corresponds to the implementation of EM.

Last but not least, EM is less than half as expensive as imprisonment. In 2016, the total cost of a place in an open

prison with low security was approximately 620,000 NOK per year (80,000 USD), while for EM the cost was about 280,000 NOK (35,000 USD).¹⁰ Still, it is important to keep in mind the balance between cost-effectiveness and the quality of the scheme.

In Norway, EM is integrated into the overall national offender management program, including the Probation Service in particular. The program is designed to support offenders’ needs and reduce recidivism by maintaining and advancing the offenders’ social and economic capabilities. There is a great emphasis on dynamic security and close supervision by the staff. The obligation to participate in society is considered just as important as the obligation to stay at home.

The target group for EM in Norway is offenders sentenced to less than four months of imprisonment, or those with less than four months left of a longer sentence—known as “front-door EM” and “backdoor EM,” respectively. In principle, all offenders within this target group may serve their sentence with EM. However, as a main rule, offenders convicted of serious violence and sexual crimes are excluded. As shown in Figure 4, low-risk offenders convicted of traffic offenses (DUI and speeding) and economic crimes make up the majority. Execution of the sentence with EM shall not be approved if the purpose of the sentence or security reasons argue against it, or if there is reason to assume that the convicted person will evade execution of the sentence. When considering the applications of offenders below the age of eighteen, the ordinary limitations in the rules can be set aside.

The offender must comply with some general conditions. He or she must have access to a suitable residence with electricity installed and the possibility of a suitable telephone connection. All cohabitants over the age of

Figure 3

Numbers of convicted offenders on the waiting list for serving unconditional prison sentences in Norway, 2001–2018. Data from the Norwegian Correctional Service registration system KOMPIS.

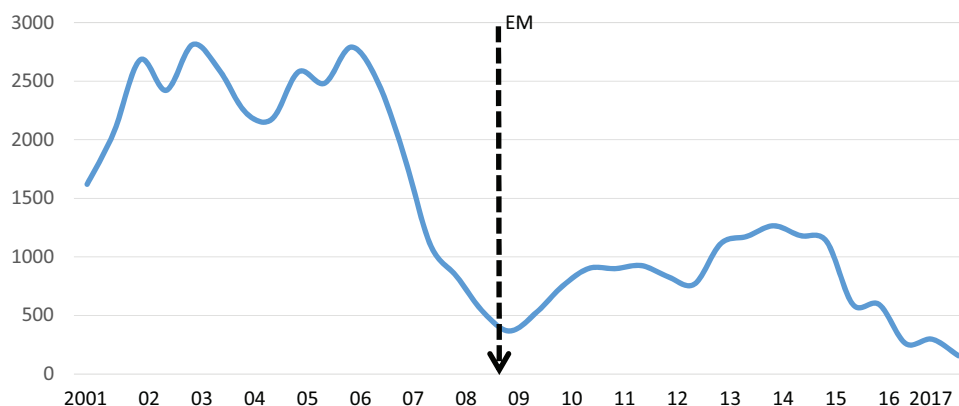
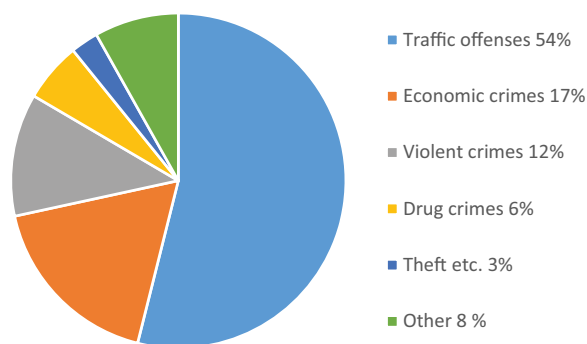


Figure 4

Distribution of types of crime among all offenders serving sentences with electronic monitoring in Norway in 2015 (N = 2,838). Data from the Norwegian Correctional Service registration system KOMPIS.



eighteen must consent; if a cohabitant later withdraws consent, this must be investigated as soon as possible. Offenders who live with juveniles or children are encouraged to inform them, according to their age and need for information, but this is not required. The offender must be willing to accept visits to the residence by the Correctional Service or others authorized by the Correctional Service. The offender is obligated to abstain from using drugs and alcohol during the entire execution of the sentence.

Suitable occupations like work or school (fifteen to forty-five hours per week) are important, and there is a high degree of flexibility in what kind of occupation is acceptable.¹¹ It could be some kind of community-sentence work provided by the Correctional Service or taking part in programs of treatment, training, or education. The offender also has to meet with the Probation Service at least twice a week for activities that individually match the offender's need for rehabilitation. These could be one-on-one meetings, group meetings, participation in motivational and

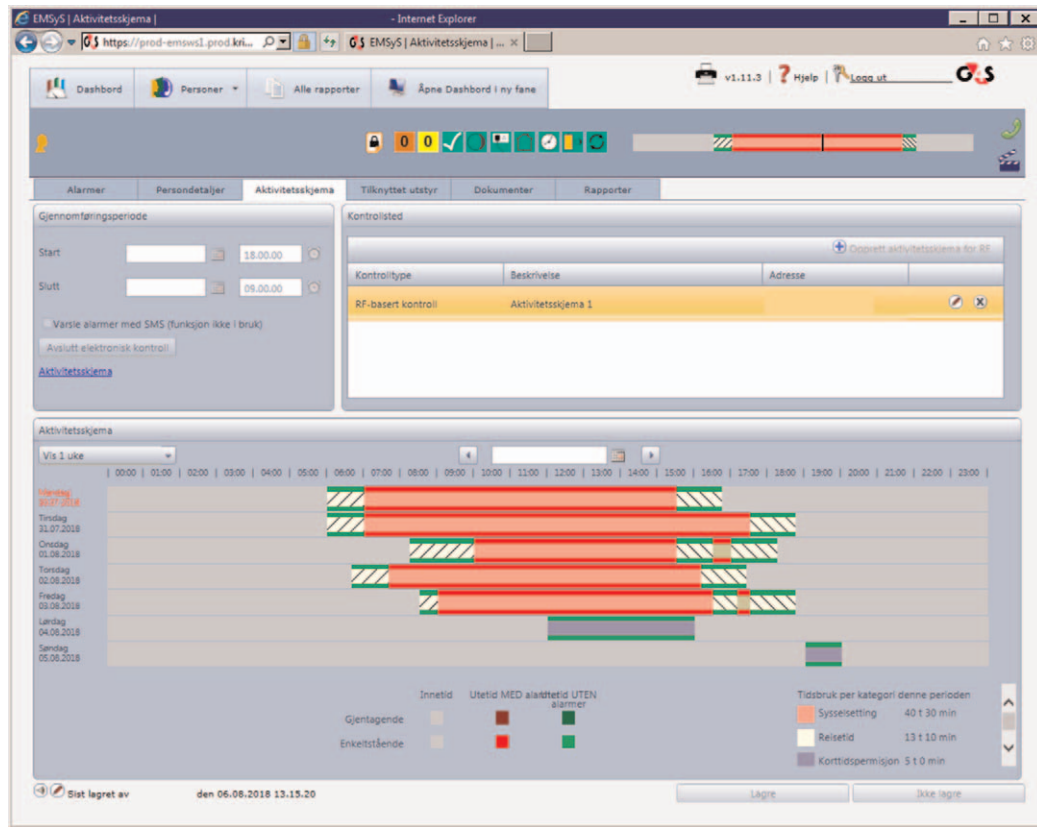
crime-prevention programs, or other activities in cooperation with relevant agencies and organizations.

A detailed and individually adjusted schedule is made by the Probation Service in close cooperation with the offender (see Figure 5). This weekly activity plan contains the schedule for occupations, travel time, voluntary leaves of absence (for a maximum of five hours a week), meetings, and time at home. It is important that the offender participates in drawing the plan, which should be flexible to allow changes if needed. This will increase the motivation to comply.

The conditions and activity schedule are closely supervised, both automatically by the control system and manually by the EM staff or other cooperating partners. The Correctional Service will carry out unannounced control visits to the home or at the place of employment to verify that the offender is in compliance. Because of the high degree of flexibility and responsibility for the offender, the reaction to a breach is quick and consistent. Rules and conditions regulate the routines when serious violations result in direct transfer to prison. What is regarded as a nonserious or a serious violation depends on the individual situation. Minor violations will often be met with a warning and, if necessary, intensification of supervision. Use of alcohol or drugs will always result in immediate transfer to prison. The number of violations is considered very low; about 4% of the offenders under EM are sent to prison after violating the conditions. This indicates a highly motivated target group.

There are eleven special units for EM, in total, within the existing local probation offices. These units have a qualified multidisciplinary staff, half of which are educated prison officers while the other half have different backgrounds in social work or probation.¹² The staff work shifts from 7 A.M. to 11 P.M. during the week and from 10 A.M. to 5 P.M. on the weekends. One of the units has the night-shift responsibility for all the units and will contact the police in case of emergency. This shift cycle, the extended hours of operation at the offices, and the combination of different

Figure 5
Activity planning with EMSYS by G4S, which provides hardware and software used for electronic monitoring in Norway. Screenshot from EMSYS 7.8.2018.



qualifications among staff are organizational adjustments at the Probation Service that resulted from implementing EM. The experiences there have been positive; the staff report being satisfied with the working hours and with the mixing of different professions.¹³ The Probation Office as a whole benefits from the extended hours, with regard to their supervision of other offender groups in addition to those under EM. At all times, a control center is actively serving and monitoring the whole of the country.

The Correctional Service has the ultimate responsibility for all activity concerning EM in Norway. Because EM is based on an administrative decision and not on a court order, that responsibility also includes the decision-making authority for both imposing and revoking EM.

The technical solution for EM in Norway is based on radio frequency technology; this is the conventional monitoring of an offender's attendance at his or her domestic residence. The offender is tagged, and the monitoring unit placed in the residence communicates continuously with the control center, making sure the offender is following the specific curfew conditions. There is no use of satellite tracking (e.g., GPS) and therefore no monitoring outside the specific zone of the residence. This aspect of the EM program is only a tool and a minor part of the scheme, and the actual monitoring merely supports the dynamic and

close supervision by staff. When the offender leave their house, the Correctional Service uses other, dynamic control measures as needed.

IV. Decision Making

The Correctional Service is given the power to implement a court-ordered sentence in various ways, based on risk and need assessment. That is, the way in which an unconditional prison sentence is served—from the highest-security prison to serving the sentence at home—is an administrative decision made by the Correctional Service. In most cases, the decision-making authority is delegated to the local level (prison or probation units), with a possibility to appeal to the regional level. This system is related to the long tradition and much-valued principle in Norwegian society that the decision-making level should be as low and as close to the person affected as possible, in order to make the best and most knowledge-based decision.

The Norwegian Parliament explicitly chose, in 2007, to implement EM in this way—as an administrative decision by the Correctional Service, not by a court. The reason for this was mainly to avoid a net-widening effect—that is, the potential risk of expanding the total volume and intensity of sentences. The model of administrative decision ensures

that EM will be used instead of, and not in addition to, prison. In addition, the decision model is more effective and enables quick reactions to breaches without sending the matter of revocation to court. Finally, this model also requires the offender to apply to have the sentence executed with EM, which increases the probability of compliance. As noted above, the low rate of noncompliance indicates a highly motivated target group.

The Council of Europe's recommendation regarding EM,¹⁴ issued in 2014, refers to this matter as follows: "Decisions to impose or revoke electronic monitoring shall be taken by the judiciary or allow for a judicial review." However, the recommendation further describes how to practice this rule, even for those countries with an administrative decision-making model:

What is important here is that in cases where a decision is taken by an administrative body, including prison and probation services, effective judicial review is available to the persons concerned. Judicial review may be undertaken by a specific judicial body, a parole board or an ombudsman—where parole boards themselves make or revoke an order involving electronic monitoring, their decisions should in turn be reviewable by a judicial authority.

The Norwegian system complies with the recommendation in this matter, allowing for a judicial review by a superior authority and the use of an ombudsman.

When an unconditional prison sentence of less than four months is confirmed, the offender receives a letter from the Correctional Service. This letter contains a short orientation on the rules and conditions for EM and the process of applying. The application itself consists of a pre-filled form on which the applicant ticks off boxes and enters his or her signature. Nearly 80% of all offenders with sentences of less than four months apply for EM.

The assessment process is divided into two parts. First is a legal review concerning the objective measures of the type and length of crime, the purpose of the sentence, and obvious security considerations. Thirty percent of applicants are turned down in this first part of the process, mainly because their crimes, such as serious sexual and violent offenses, are not eligible under the law. For the "backdoor" offenders (those who are applying for a transfer from prison to EM for the last period of their sentence), the application is sent to the Probation Service after a short review from the Prison Service concerning the offender's behavior and experiences in prison.

Second, the applications are further assessed by the officers in the EM unit at the Probation Service. A one-hour interview is focused on social and practical conditions that can influence the serving of the sentence with EM, such as family and social issues, occupation and activities, and the risk of the offender breaking the ban on use of alcohol and drugs. In connection with this assessment, the Correctional Service carries out at least one home visit during which staff investigate the offender's living conditions, including the

technical requirements for EM, and speak to any cohabitants. Based on this assessment, the executive officer provides a recommendation about whether the application should be approved or not. The same executive officer must not be involved in both the assessment and the final decision regarding the application. Another 10% of the applicants are rejected in this second part of the process. All in all, about 60% of all offenders who apply to serve their sentence with EM are granted permission.

There are no significant differences among the eleven EM units across the country regarding the relative correlation of applications and results of decisions. All administrative decisions can be appealed to a superior authority.

As noted above, one of the reasons for administrative commutation of unconditional prison sentences to EM was to avoid a net-widening effect, whereby new alternative ways of serving a sentence might increase the number of people being sentenced. At the same time, being sentenced to a conditional sentence requires the consent of the person on trial. There are some indications that defense lawyers and defendants will argue in court for an unconditional prison sentence instead of complying with a community sanction or an offered DUI program.

V. Basic Principles

According to the Norwegian Execution of Sentences Act,¹⁵ the purpose of the sentence is to prevent new criminal acts, to reassure society, and, within this framework, to ensure satisfactory conditions for inmates. The Correctional Service shall ensure proper execution of remand and prison sentences, with due regard for the security of all citizens, while attempting to prevent recidivism by enabling offenders, through their own initiative, to change their criminal behavior.

The Regulations related to the Execution of Sentences Act¹⁶ follow up on this article, stating that "a sentence shall be executed in a manner that takes into account the purpose of the sentence, that serves to prevent the commission of new criminal acts, that reassures society, and that within this framework ensures satisfactory conditions for the prisoners."

This dual purpose, both to punish and to ensure satisfactory conditions for the inmate to take the initiative to change, is a challenge for the correctional system. Four basic principles guide this work:¹⁷

- Normality
- Humanity
- Legality and equal treatment
- That the sentence is completed when the offender is released

Normality is a highly valued principle in the Norwegian Correctional Service. During the serving of a sentence, life inside prison will resemble life outside as much as possible. The principle of normality has two functions. First, it is a goal in itself and underlines a humane approach. Second, the principle of normality could reduce recidivism through

preparing the offenders for the transition to a normal life in society. *Normality* here has a double meaning: both to be treated in a normal way, as in society, and the expectation for one to act in a way that is normal, as in “not criminal.”

The “import model” ensures that the various welfare agencies present inside the prison—health care, school, work training and employment, library, and voluntary organizations—are all organized from the outside and are not run by the prison governor. This model underlines the principle that offenders should have the same rights as other citizens and therefore receive services from the same providers. It also enables correctional officers to focus on their primary task and leave such services to professionals who are better equipped to provide them. Moreover, it creates positive cross-connections and involvements between the community and the Correctional Service and can lead to better continuity in the deliverance of services, both throughout the progression of the sentence and in the return to life in the community.

However, with EM the process and expectations are different. Living at home, going to work, and eating dinner with one’s family *is* normality. At the same time, the expectations are to comply with the rules, follow the schedule, and get to appointments on time. In other words, the logic described above is turned around: normality is normal and the punishment is in the form of restrictions on everyday life. In an article on living conditions under EM, Rokkan interviewed young offenders who reported feeling “trapped” in temporary conditions, without family and with friends on the other side of town.¹⁸

The principle of normality and the right to be treated as a human being are closely linked. For example, the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations state: “The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.”¹⁹

As a main rule, nobody shall serve a sentence under stricter circumstances than are necessary for the security of the community, and the offender shall be placed in the lowest-security regime possible. Punishment is only about the deprivation or reduction of liberty, and the offender shall have the same rights as other citizens. These principles help the offender comply with obligations to society and prepare them to return to society. Along the same lines, the right to apply for EM offers an alternative way to serve a prison sentence outside of prison, based on an assessment of both general and individual terms, taking into account the crime, the risk for society, and the offender’s ability to cope with the challenges of serving a sentence with EM.

One repeated criticism of EM is based on the exclusion of those who lack stable living conditions.²⁰ In the Norwegian model of EM, offenders also need to have some kind of employment for at least fifteen hours a week and be able to manage the whole sentence without using alcohol or drugs. On average, 10% of those who are refused EM after

applying are denied because of social reasons after an assessment interview. Lack of proper housing conditions is a minor reason for this denial. The probation office also has the option to accept flexible solutions for housing or to arrange temporary employment if other terms are fulfilled.

In accordance with the principle of normality, appropriate progression through the sentence as a whole is important. Toward their final release, offenders will gradually move from high-security prisons to lower-security prisons, through halfway houses and finally to execution of the sentence outside of prison. Each of these steps is adjusted on the basis of individual risks, needs, and resources.

To facilitate an appropriate progression for each offender, there is a need for a seamless interaction between the various units in the Correctional Service. A seamless correctional system aims to apply all available resources in the most efficient manner, and in particular to remove unnecessary barriers between prisons and probation. The organization of the Norwegian Correctional Service, with both the Prison Service and the Probation Service in the same organization, results in close cooperation between prisons and probation—enabling staff, regardless of profession, to collaborate in executing the sentence as a seamless process.

As noted above, serving a sentence with EM is a way of completing either a whole prison sentence of less than four months (“front-door EM”) or the last four months of a longer sentence (“backdoor EM”). For those in backdoor EM, the offender’s individual progression is visible: EM is as a way to return to society after a longer sentence. In front-door EM, the progression is more hidden within the routine of scheduled compulsory residence time, work time, and voluntary leaves of absence for a maximum of five hours a week. For some, this schedule fits their ordinary way of life—being organized and occupied with family, work, or studies. For others, the structured way of living is more of a challenge as they have to cope with and learn the benefits of an organized life.²¹ In a Swedish study on EM, the researchers found offenders making a job into a career after showing up at work at the right time every day.²² Others ask to continue with the schedule after they have finished serving the sentence.

The role of the Correctional Service during EM is conducted with discretion. When meeting with offenders and monitoring their behavior, the officers are dressed in ordinary clothes, drive an ordinary car without identification, and give no personal information about the offender to others without the offender’s permission. As noted above, it is the offender’s responsibility to inform those who may be affected by serving the sentence at home. This includes family and other cohabitants over the age of eighteen who must approve of the arrangement, as well as friends, colleagues, and others. The Correctional Service also needs a contact person who can ensure that the offender is at work or school during the hours of employment. One respondent commented, in an EM research interview, that being

sentenced to EM was “quite all right as long as she wore long trousers,” meaning that the offender felt less stigmatized when the tag wasn’t visible.²³

Finally, the Norwegian definitions of the principles of normality, humanity, legal and equal treatment, and settlement when the sentence is completed pose a challenge for the system of corrections. These principles are seen as a guide to the process of executing a sentence and delivering associated services but also as a set of values and goals that inform the offender’s own initiative to change his or her criminal behavior.²⁴ The mixing of these two perspectives may risk an objectification of the offender’s role, whereby the principles are understood as a means of reaching goals rather than as values in themselves. This is an important discussion raised by the Correctional Service and among scholars in the field of corrections.²⁵

VI. Changing the System

Covering one-third of all unconditional sentences, EM is now a crucial part of the correctional system in Norway. It has relieved the problems of capacity in both high- and low-security prisons and has established a new way of serving a sentence that is less intrusive than other forms of serving unconditional sentences.

Figure 6 shows all new conditional and unconditional sentences being served in 2017. For the first time, the number of offenders serving the whole or a part of their sentences in society exceeds the number of offenders in prison. The numbers of offenders entering front-door EM and backdoor EM, together with those serving under other types of community sanctions, sum to 6,559, compared to 6,297 new entries into prison in 2017.

As we saw in Figure 1, numbers of unconditional prison sentences are stable at around 9,000 new sentences per year over the past ten years. The higher number of new entries into prison in 2016 was a result of an effort to end

the prison queue by renting extra capacity in the Netherlands.²⁶

Approximately half of all unconditional sentences are in the target group for EM (sentences of less than four months), even when domestic violence and sexual crimes are excluded. Nearly 3,000 of these now enter EM yearly. However, 20% do not apply for EM. We do not know the reason for this, but the figures show that the numbers of applicants differ between the geographic regions in Norway. On the other hand, we do not find any significant geographic differences between the numbers of offenders who are convicted, who apply, and who are accepted for EM.

If we compare the numbers of new entries into prison and of those beginning their sentences under front-door EM over the past ten years, we see a decline in the overall number of entries into prison corresponding to the rise in front-door EM. Figure 7 shows all unconditional prison sentences served with front-door EM or in prison during the ten-year period of EM use.

These changes influence not only the probation units that have responsibility for running the EM units, but also the prisons, which are losing one in three offenders to the probation units. The offenders under EM are still serving a prison sentence, and the leaders of the probation offices have a new role as “prison directors” responsible for the execution of unconditional prison sentences and decisions regarding release. The process has been evaluated and documented throughout the period of implementation—as reported, for example, by Øster and Rokkan in their discussion of the establishment of the “Norwegian model” of EM.²⁷

The most significant changes have also been documented in several reports during the trial period from 2008 to 2014.²⁸ The long implementation period also included significant changes to the whole organization of correctional services in Norway in regard to cooperation between prison and probation offices (which, as already noted, are parts of

Figure 6
Numbers of convicted offenders beginning to serve their sentences in Norway in 2017, by type of sentence (N = 12,856). The number of sentences served in society (EM = “front-door EM”; see text) exceeds the number of sentences served in prison.
Data from the Norwegian Correctional Service registration system KOMPIS.

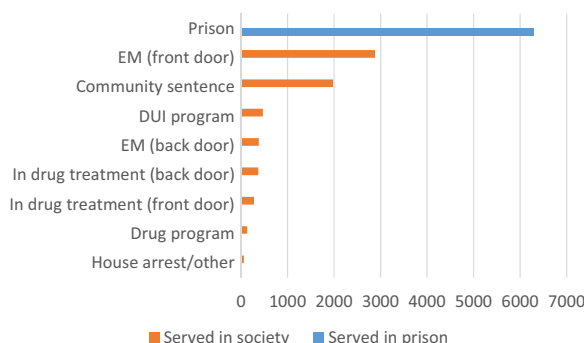
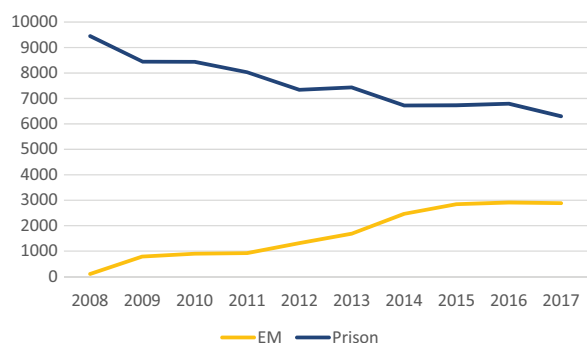


Figure 7
Numbers of convicted offenders beginning to serve their sentences in Norway during 2008–2017, comparing sentences served with “front-door EM” (see text) and those served in prison. Data from the Norwegian Correctional Service registration system KOMPIS.



the same organization), identifying needs for new technology, education of staff, and new possibilities for offenders to serve the whole or a part of their prison sentence in society.²⁹

VII. Evaluations

Evaluation and research have been a priority during the whole period of EM. This may be due, in part, to the skepticism toward EM prior to the trial period. Evaluation during the trial period served to provide feedback to the Correctional Service about the changes to the system and the experiences of the offenders. Evaluation also played a significant role in documenting the success of EM and gave the government arguments for increasing the program's capacity and establishing EM on a regular basis.

Vista Research³⁰ conducted an evaluation in 2016, initiated by the government, covering both the qualitative effects and the socioeconomic effects of EM in Norway. The evaluation concludes that EM is profitable in all ways, compared with imprisonment at a lower security level, and that offenders under EM have lower recidivism than those serving in prison. This report is focused on the effect of EM on recidivism, not on explaining why it has had this effect. However, avoiding prison stigma and maintaining workplace relations are suggested to be important factors in reducing recidivism and promoting desistance.

Andersen and Telle, in their evaluation of EM in Norway, discuss recidivism and methods for measuring it within a self-recruiting group of offenders.³¹ They find a 10% decrease in recidivism compared to a constructed control group. They also discuss several factors that, combined with being under EM, can influence a life without crime either positively or negatively. One finding is that EM has managed to positively influence those who have committed few crimes, whereas previous convictions reduce expectations of a crime-free life. Earlier reports also looked at the importance of continued connection to the labor market during sentencing.³²

Some of the evaluations³³ have involved interviewing offenders during sentencing about positive aspects of the opportunity to stay home with family, continue working, and avoid prison. The large majority of offenders under EM have never been to prison and do not regard themselves as prisoners or inmates, even though they have received a prison sentence. In one evaluation,³⁴ 25% of the offenders under front-door EM had previously experienced serving a sentence in prison. The average age of offenders is thirty years for men and a little bit older for women. In 2015, 40% of all offenders were younger than thirty years, and only 8% were younger than twenty years. As a percentage of the total population of convicted offenders, there are more women under EM (15%) than in prison (5%).³⁵

There have been several attempts to measure recidivism under EM compared with prison. The figures usually differ by 5–10%, depending on the time between release and the measurement. Among prisoners, 8% of those convicted of traffic offenses were convicted again two years after release, half of them for a new traffic offense and half for another

type of crime.³⁶ The problem, in this regard, with most crimes of offenders serving their sentences under EM is that detection of new traffic offenses and economic crimes is more random than detection of other types of crime.³⁷ Moreover, crimes like driving under the influence result in the offender's driver's license being revoked for two years; similarly, those convicted of economic crimes lose the right to set up new businesses or the right to loans, insurance, and so on. These restrictions make it harder to commit new crimes of the same kind, even if the prison sentence itself is supposed to be punishment enough to prevent recidivism.

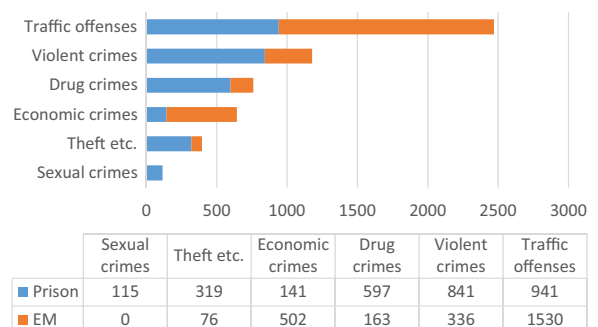
Andersen and Telle, in the study mentioned above,³⁸ attempted to determine whether the evident effect on recidivism is due to the selection of people, rather than to the way of serving a sentence, or to a combination of the two. By using experimental control groups and correcting for differences and variations, they found that the use of EM itself reduced two-year recidivism rates by about 10%.

Media coverage of the use of EM in Norway has been mostly positive. National broadcast television covered the Ministry of Justice in its preparations for the trial period, attending meetings, visiting other countries, and interviewing the minister of justice, in order to get oriented and to present correct information about the issue. Of course, there have been several cases of media coverage with a critical view, but these have been based on thorough knowledge of the matter, creating ground for discussions. This coverage has influenced and contributed to a positive conception of EM.³⁹

VIII. Making a Difference

While many changes in the correctional system are yet to come, offenders already experience the differences made by EM every day. Half of the offenders that previously would have served a prison sentence of less than four months now serve their sentence at home. The average sentence length under EM is about thirty-seven days.⁴⁰ Most offenders in the EM program have been convicted of traffic offenses; many others have been convicted of economic crimes (i.e.,

Figure 8
Numbers of offenders beginning to serve their sentences in Norway in 2015 (N = 5,561), comparing sentences served in prison and those served under “front-door EM” (see text).



different types of fraud) or drug dealing. Many offenders convicted of theft are of foreign origin and have problems applying for EM or satisfying the conditions. Violent offenders, as a general rule, are excluded from the target group. At the same time, many offenders convicted of violence are young and lack previous convictions. Sexual offenders are also excluded from the target group. Figure 8 shows the proportion of new entries into prison and those starting their sentences under EM among inmates in the target group for front-door EM (sentences of less than four months) in 2015.

Nearly 80% of individuals in the target group apply for EM, and 60% of those who apply are approved. If we look into the application process, we find that 30% of those who are denied do not fit the target group, and 10% of those who are denied are turned down after an assessment interview, many after a conclusion that the offender would be unable to comply to the conditions while under EM. Finally, 2% decide to withdraw their application, preferring prison.

When we consider the influence of the basic principles outlined above, we find that serving a prison sentence with EM is an option for some offenders but not for all. We find that offenders serving under EM are largely satisfied, especially those who live with family and continue in their work or study. Women are overrepresented among offenders serving under EM, compared to the proportion of females in the prison population; the same is true for men in their thirties. Three out of four offenders in the EM program have never been inside a prison, and at least nine out of ten never will be.

Four percent of all offenders under EM are transferred to prison during their sentence for breaking the rules of EM, most after a positive alcohol test. Any detectable amount of alcohol is a violation of the rules and implies immediate transfer to prison. Several petty violations of scheduled times for leaving or returning home, failure to attend meetings, and compliance with other agreements also may result in immediate transfer to prison. In 2017, only two offenders were transferred to prison because of a crime during their sentence under EM.

The skepticism about turning offenders' homes into prisons has disappeared. On the contrary, research shows that most families and relatives have a positive view of home confinement, which allows the offender to take part in family life and continue working or studying. Compared to the alternative of prison, which means being away from home and work, the relatives of inmates embrace the possibility of the latter serving the sentence at home with EM.

Notes

- ¹ More information about the Norwegian Correctional Service is available at <http://www.kriminalomsorgen.no/index.php?cat=265199>.
- ² World Prison Brief (2017), "Norway," retrieved from <http://www.prisonstudies.org/country/norway>.
- ³ Nordic Statistics 2014–2017. KRUS. In press.
- ⁴ Norwegian Correctional Service registration system KOMPIS.
- ⁵ Ministry of Justice and Public Security (2002), "Act relating to the execution of sentences etc." (Execution of Sentences Act), retrieved from <http://www.kriminalomsorgen.no/getfile.php/>

- 4002763.823.ztmjuzwqnumw/Lov+om+gjennomf%C3%B8ring+av+straff+mv+%28engelsk%29.pdf.
- ⁶ Council of Europe recommendation, CM/Rec (2014)4, retrieved from https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c64a7.
- ⁷ Ot.prp. nr. 31 (2006–2007), "Om lov om endringer i straffegjennomføringsloven mv. (tiltak for å avvikle soningskøen og bedre innholdet i soningen mv.)," retrieved from <https://www.regjeringen.no/no/dokumenter/otprp-nr-31-2006-2007-/id457687/>.
- ⁸ Skarøhamar, T. (2013), "Straffegjennomføring med elektronisk kontroll i Norge. Konsekvenser for straffedes sysselsetting," *Statistics Norway Reports 14/2013*, retrieved from <https://www.ssb.no/en/sosiale-forhold-og-kriminalitet/artikler-og-publikasjoner/straffegjennomforing-med-elektronisk-kontroll-i-norge>.
- ⁹ Øster, M. K., & Rokkan, T. (2012), "Curfew as a means, not as an end—electronic monitoring in Norway," *EuroVista Journal for Probation and Community Justice*, 2(2), 90–96, retrieved from <http://www.euro-vista.org/wp-content/uploads/2015/01/EuroVista-vol2-no2-5-Oster.pdf>.
- ¹⁰ Figures from the Norwegian Correctional Service 2018.
- ¹¹ Rokkan, T. (2012), "Straffegjennomføring med elektronisk kontroll: Evalueringsrapport 2: Hva er innhold i straffegjennomføring med elektronisk kontroll?" KRUS, retrieved from <https://brage.bibsys.no/xmlui/handle/11250/160608>.
- ¹² Rokkan, T. (2011), "Kompetanse hos tilsatte i EK. Delrapport 3," retrieved from <https://brage.bibsys.no/xmlui/handle/11250/160686>.
- ¹³ Rokkan, *supra* note 11.
- ¹⁴ Council of Europe, CM/Rec (2014)4, "Recommendation CM/Rec(2014)4" https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c64a7.
- ¹⁵ Ministry of Justice and Public Security, *supra* note 5.
- ¹⁶ Ministry of Justice and Public Security (2002), "Regulations Relating to the Execution of Sentences," retrieved from <http://www.kriminalomsorgen.no/getfile.php/4187062.823.qzaqtktstjtnqa/Regulations+relating+to+the+Execution+of+Sentences+-+translated+June+2018.pdf>.
- ¹⁷ Norwegian Correctional Service, "Operational Strategy 2014–2018" and Internet presentation in English "About the Norwegian Correctional Service," retrieved from <http://www.kriminalomsorgen.no/index.php?cat=265199>.
- ¹⁸ Rokkan, T. (2018), "In prison at home, how does the home situation influence the effect of a sentence with Electronic Monitoring (EM)?" in Fransson, E., Giofrè, F., & Johnsen, B. (Eds.), *Prison, Architecture and Humans* (225–240), Nordic Open Access Scholarly Publishing, retrieved from <https://press.nordicopenaccess.no/index.php/noasp/catalog/book/31>.
- ¹⁹ Standard Minimum Rules for the Treatment of Prisoners, article 60(1), retrieved from https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf.
- ²⁰ Ot.prp. nr. 31, *supra* note 7.
- ²¹ Rokkan, *supra* note 18.
- ²² Brottsforebyggande rådet (BRA) (2006), "Utvidgad användning av intensivövervakning med elektronisk kontroll. En beskrivning av de nya målgrupperna för IÖV och IÖV-utsluss," [in Swedish], WEBBRAPPORT 2006:1, retrieved from https://www.bra.se/download/18.cba82f7130f475a2f1800010310/1371914725844/2006_1_utvidgad_anvandning_intensivovervakning.pdf.
- ²³ Rokkan, *supra* note 11.
- ²⁴ Vollan, M. (2016), "'Mot normalt'? Normalitetsprinsippet i norsk straffegjennomføring," *Tidsskrift for strafferett*, 16(4), 447–461.

- ²⁵ *Id.*; Engbo, H. J. (2015), "Normalisering i nordiske fængsler og anstalter," in Scandinavian Research Council for Criminology, *NSfKs 57. forskerseminar, Stavern, Norge 2015* (241–263), retrieved from <http://www.nsfk.org/Portals/0/Archive/NSfKForskerseminarRapport2015Samlet.pdf>; Bronebakk, K. (2012), "Hvis det var mitt barn," in Hammerlin, Y., & Johnsen, B. (Eds.), *Festskrift til Inger Marie Friedhof*, Oslo: Kriminalomsorgens utdanningscenter KRUS.
- ²⁶ KRUS, "Climate Survey: PI Norgerhaven, annex of Ullersmo fengsel," retrieved from <https://brage.bibsys.no/xmlui/handle/11250/2497200>.
- ²⁷ Øster & Rokkan, *supra* note 9.
- ²⁸ Rokkan, *supra* note 11.
- ²⁹ Rokkan, T. (2009–2011), "Formative process evaluation reports made during the trial period" (in Norwegian), retrieved from <https://brage.bibsys.no/xmlui/handle/11250/160686>.
- ³⁰ Vista Research (2016), "Evaluering av soning med fotlenke," Report 2016/02, Vista Analyse, retrieved from <https://www.vista-analyse.no/no/nyheter/evaluering-av-soning-med-elektronisk-kontroll/>.
- ³¹ Andersen S. N., & Telle, K. (2016), "Electronic Monitoring and recidivism: Quasi-Experimental Evidence," in *Statistics Norway Discussion Paper no. 844*, retrieved from https://www.ssb.no/en/forskning/discussion-papers/_attachment/276183.
- ³² Skarðhamar, T. (2013), "Straffegjennomføring med elektronisk kontroll i Norge. Konsekvenser for straffedes sysselsetting," Rapport 14/2013, Oslo: Statistics of Norway (SSB), retrieved from https://www.ssb.no/en/sosiale-forhold-og-kriminalitet/artikler-og-publikasjoner/_attachment/105969?_ts=13e36fbccdc0.
- ³³ See, e.g., Rokkan, *supra* note 11; Vista Research, *supra* note 29; Rokkan, *supra* note 18.
- ³⁴ Rokkan, *supra* note 11.
- ³⁵ Vista Research, *supra* note 29.
- ³⁶ Graunbøl, H. M. m.fl. (2010), "Retur : en nordisk undersøgelse af recidiv blant klienter i kriminalforsorgen," KRUS, retrieved from <https://brage.bibsys.no/xmlui/handle/11250/160672>.
- ³⁷ Kristoffersen, R. (2014), "The case of Norway: A relapse study of the Nordic correctional services," in Ekhaugen, E., Larsen, E., & Sjøli, F. (Eds.), *Festskrift til Harald Føsker*, KRUS, retrieved from <http://tilbakefall.no/onewebmedia/The%20case%20of%20Norway.pdf>.
- ³⁸ Andersen & Telle, *supra* note 30.
- ³⁹ Media coverage of the increased used of various forms of electronic tracking in 2017 is available at <https://www.nrk.no/norge/flere-som-soner-i-samfunn-enn-i-fengsel-1.14009904>.
- ⁴⁰ This includes both front-door EM and backdoor EM ($N = 3,226$).