

**IS RFID THE ANSWER TO TRACKING SEXUAL PREDATORS?
EMBRACE OR REVOLT...AMERICA WILL DECIDE**

by

**Kathy Bruckner Thompson
Rialto Police Department**

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The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

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Is RFID the Answer to Tracking Sexual Predators?
Embrace or Revolt...America Will Decide

“Oh, dear God, where is our little girl?” Can you imagine being the parent of a child who has been abducted? Can you envision a world in the future where a microchip could pinpoint the child’s whereabouts before her kidnapper could harm her...or worse?

What if paroled sex offenders were implanted with a microchip that could not only identify them upon contact by police, but could also track their movements and place them by latitude and longitude in real time? Could such technology be the remedy for prison overcrowding and the public’s concern about early release of prisoners? Those are a lot of questions, but radio frequency identification (RFID) technology is on the cusp of changing those “what ifs” into reality.

An even bigger question, though, is whether or not America is ready to change how we view our Constitutional freedoms to allow such an invasion of our bodies. Children are our nation’s most valuable resource for the future; they are also the most vulnerable of victims. When RFID is ready to protect them from sexual predators, will Americans be ready to embrace the technology that can do so?

Parolee management gone wrong

Nationally, there have been many cases that may have resulted in vastly different outcomes if RFID implants had been a condition of parole for a sex offender being released back to the general population. Three prominent California cases, in particular, highlight how RFID might have altered the tragic end to each:

- The nation was transfixed on news updates when 11-year old Polly Klaas was abducted in 1993 from her home in Petaluma, and then killed by her abductor, Richard Allen Davis. Polly’s innocent face was seen countless times on television, in the newspaper, and on

posters and billboards (Gross, 1993). Davis was a known sex offender. He was on parole. He was stopped by local police officers while Polly was believed to have been duct taped and hidden in the trunk of his car or hidden in a nearby ravine. If Davis had been implanted with an RFID microchip upon parole, he might not have been brazen enough to enter Polly's home and kidnap her. Certainly, if an RFID system made his presence in the vicinity of the crime known, police could have immediately considered him as a suspect in the crime. If voluntary implants had been an option, and if Polly's parents had chosen to have her implanted with an RFID microchip, it might also have allowed police to track and find her before harm had occurred.

- John Albert Gardner III is another sex offender, who had successfully completed his parole, even though he had seven documented parole violations. According to state prison officials, any of those violations could have been used to violate his parole and return him to prison (McDonald, 2010). He is now convicted of raping and murdering two beautiful young women in the San Diego area, Chelsea King and Amber Dubois.
- When Jaycee Dugard turned up alive in the San Francisco Bay area after her kidnapping in South Lake Tahoe 18 years earlier, the nation was stunned that she was found alive, and speechless to learn that she had been held captive all that time by paroled sexual predator, Phillip Garrido. During those 18 years, he had been paid as many as 60 visits at his home by parole officers, each while Jaycee was held hostage on the premises (Hopper, 2011).

There was significant controversy regarding how the California parole system failed with the monitoring of Gardner's GPS ankle bracelet and in the residence and premises checks by Garrido's parole agents. Gardner's arrest not only triggered concerns over his seven parole

violations while on supervised release from prison, but also the fact that prison officials admitted that field notes from Gardner's parole agents had been destroyed (McDonald). The rapes and murders of Chelsea King and Amber Dubois led to intense scrutiny of how California's parole system manages and monitors paroled sex offenders, in particular, why the Department of Corrections allowed Gardner to remain on parole when he violated a condition of parole that prohibited him from living near a school (Spagat, 2010). The perceived mishandling of the supervised monitoring of Gardner was part of the foundation of California Assembly Bill 1844, better known as Chelsea's Law, which became effective in September 2010. The law causes certain sexual offenders to receive life imprisonment without the possibility of parole, but it also provides for lifetime parole to others, requiring constant GPS tracking of those convicted of a sex crime against a child under the age of 14 years (Gardner, 2010).

In the case of Phillip Garrido, he was initially supervised by the federal government upon his parole for the 1977 rape of a 25-year old female (Oliver, 2010). In 1999, Garrido's parole was assumed by the state of California. In a federal lawsuit filed on behalf of Jaycee Dugard, it was stated that federal parole officers' mishandling of Garrido was outrageous and inexcusable and that there were numerous such incidents (Fox News, 2011). Media accounts and claims against the state of California document unfortunate lapses in the parole system that was supposed to monitor Garrido (Fagan, 2010). Additionally, the California Department of Corrections admitted a parole agent made no attempt to identify a young girl, now presumed to have been Dugard, during one of the contacts at the Garrido residence (Oliver). Garrido was a violent sex offender, and a condition of his parole was that he was not supposed to have contact with children. In Dugard's claim against the state of California, she alleged that parole agents, who were responsible for keeping track of Garrido's activities, never questioned the presence of

young girls at his residence during compliance checks (Netter, 2010). With the advent of easily implantable and trackable RFID technologies, tragedies such as these could be prevented before they start.

What RFID microchips can and cannot do

Twenty years ago, implanting human beings with RFID microchips was considered so futuristic that it almost seemed science fiction. More recently, experts in the field of emerging technologies and automatic identifications have indicated in their research that, although acceptance of microchips in humans is not yet widespread, it is expected it will be the “next big technology and will continue to become increasingly popular...” (Ip, Michael, & Michael, 2008). RFID technology could support law enforcement in solving crimes faster and in a more efficient and cost effective manner. Embracing RFIDs could also save lives. A microchip with GPS capabilities that had been implanted into a child, who was later kidnapped, could allow for the child’s whereabouts to be tracked and, therefore, the potential exists to save a life. The same scenario could apply to an Alzheimer patient who had strayed from his care provider. An advocate of such a device is John Walsh, the host of the television show *America’s Most Wanted*, whose son Adam was kidnapped and murdered in 1981. Walsh’s thoughts were that, “... even if you weren’t lucky enough to locate them [and prevent the murder], finding the body...end[s] the search and help[s] with the prosecution of the case” (Black, 2002).

Although RFID technology may never actually stop heinous crimes from occurring, it could improve parole’s tracking capabilities if we embraced mandatory implanting of paroled sexual predators, and by funded mandates that could ensure the 24/7/365 tracking of violent offender parolees by providing the necessary manpower for effective monitoring. In fact, these steps are currently being considered by Britain’s Ministry of Justice (Gutierrez, 2008). As in the

United States, Britain has been using GPS ankle bracelets to monitor released prisoners. They also face increased prison overcrowding. The Ministry of Justice hopes to use RFID microchips and a satellite uplink for surveillance capabilities to track a released prisoner's exact location. Similar to American Civil Liberties Union (ACLU) challenges in the United States, Britain's proposal met with criticisms that it would denigrate human dignity and, although it may track a person's whereabouts, it would not stop a pedophile from molesting (Gutierrez).

The challenges and the controversies

Although a controversial subject that raises Constitutional, ethical and legal challenges, RFID implants in humans could provide invaluable and immediate information about parolees, Alzheimer patients, missing or abducted persons, and help to identify human remains. Until 2007, a microchip with GPS capability had not been utilized publicly in the United States. However, in the aftermath of Hurricane Katrina, VeriChip deployed VeriTrace, an implantable microchip system with GPS capabilities that can identify and track human remains (O'Connor, 2007).

According to Kevin Warwick, a professor of cybernetics at Reading University in England, technology exists to microchip children and send a signal via mobile phone networks to a computer in the event of a kidnapping, thereby electronically pinpointing the child's location. However, the negative response Warwick received made him reconsider whether or not such use would be ethical (Lane, 2003). Although the microchip wouldn't stop an abduction, it could save the child's life by locating the child quickly, potentially before the kidnapper could cause physical harm. Although not yet perfected for use in the bodies of live human beings, GPS technology "...took a quantum leap with the development of bionics capable of being tracked by satellite once implanted in animals or humans. These tiny devices, powered by a lithium battery,

could be geographically detected, using RFID, to within inches anywhere on the surface of the planet” (Day, undated).

Proper use of RFID technology, coupled with stringent parameters and safeguards, could change how law enforcement handles certain investigations. Current investigative protocol on searching for an abducted child is exhausting, often encompassing inordinate hours spent searching for the child. A microchip could exponentially shorten the time it would take to locate a lost or abducted person. Additionally, when law enforcement officers are investigating a kidnapping or rape (unless the suspect is known to the victim) the investigation can be lengthy, and does not always lead to a suspect’s identity in a timely manner. Alas, there are many obstacles to put this invaluable technology in law enforcement’s crime solving and investigative arsenal.

RFID’s primary opposition group, Consumers Against Supermarket Privacy Invasion and Numbering (CASPIAN), staunchly opposes any use of RFID, and especially implants in human beings. Concerns are that, although implants may begin as an assist with Alzheimer patients, it would likely grow to include parolees and sex offenders. Detractors see a day where an ever-growing number of categories would allow any American to fall into one of them for microchipping purposes (Lewan, 2007). The ACLU also opposes use of RFID identity implants in humans, saying “Many people find the idea creepy” as they would allow a person’s presence to be detected and recorded at a particular location (Koprowski, 2010). Now, it appears that RFID implants for humans have suffered a setback that could further delay their use in parolees.

Interestingly, the marketing of VeriChip, the microchip used for human implant, was suspended by its parent company, Positive ID, in the first half of 2010. Shareholders sued the company for making “materially false and misleading statements” (Wikipedia, 2012). A class

action lawsuit was filed, which had a devastating effect on its business and stock prices. This upheaval was due to research that there may be links to cancer, and a discovery of inflated numbers with regard to medical use contracts. However, in the twists and turns of the marketability of the only microchip approved for human implant by the U. S. Food and Drug Administration, VeriChip was recently acquired by VeriTeQ Acquisition Corporation, a company that develops and markets implantable RFID applications to be used in humans and animals (RFID News, 2012). This acquisition brings VeriChip back into the market, albeit specifically in medical and patient management applications at this time.

Where do we go from here?

In spite of many possibilities and challenges, financing additional research and applications for law enforcement will be a major hurdle. It does no good to enact legislation to allow the implanting of a human being with a microchip for the purposes of tracking and monitoring a criminal, if the legislation doesn't include a funding source. Unfortunately, during the current economic crisis when Congress has reduced support and funding for many projects, the funding may have to come from private or corporate backing. Although some consider corporate support as beneficial, others consider it to be a threatening trend, as it is perceived to degrade the public interest of independence and objectivity (Washburn, 2007).

Microchipping paroled sex offenders could lead to identification of potential suspects whose GPS microchip showed them in the vicinity of a crime at the time of occurrence. True, it does not prove they committed the crime, but if they did, it shortens the time spent attempting to identify a suspect, thus reducing the man hours and costs of the investigation. With adequate funding and manpower, RFID implants could provide increased and improved monitoring of

paroled sex offenders by interfacing the microchips with software to pinpoint the who, where and what on a microchipped parolee at any time, day or night.

Effective management of California's parolees was scrutinized in the Chelsea King, Amber Dubois, and Jaycee Dugard cases. The State Parole system is overwhelmed, with 40,000 parolees in southern California alone. Parole agents have caseloads that often reach one agent for each 100 parolees, when studies indicate the ratio should be closer to a caseload of 40 parolees per agent. (Holguin, 2007). Additionally, reform in the state of California's Division of Adult Parole Operations documents proposed changes in the parole system that would reduce the current caseloads so that agents can "...provide intensive supervision [and] monitoring" (California Department of Corrections & Rehabilitation, 2012). These families, though, do not want to hear why John Albert Gardner III and Phillip Garrido were not properly monitored according to the terms of their parole. The potential for savings alone from revising terms of parole could pay for any changes; the restitution cost to Jaycee Dugard and her family was \$20 million from the state of California (La Ganga & Goldmacher, 2010).

Although GPS enabled microchips cannot necessarily prevent a rape, abduction, or murder, tracking a convicted sexual predator may be a deterrent for some cases and the convicting evidence in others. In the future, RFID microchips may ensure that if we cannot keep sexual predators where they might really belong (in prison), then by embracing their use we could improve the effectiveness of tracking and monitoring capabilities to know who they are, where they are, and what they may be doing.

The United States government recognizes the value in the GPS microchip tracking of sexual predators. In 2010, Congress considered a beta project that involved inserting GPS enable microchips into the shoulders of 100 sex offenders as a means of tracking and monitoring their

activities (Lane, 2010). However, concerns for cloning an RFID signal from an implanted human, as well as health concerns from the risks incurred with human implant, all indicate that the path for use in law enforcement will likely be a lengthy one.

Conclusion

Undoubtedly, law enforcement officers would like nothing more than to find a stellar way to monitor and track criminals who prey on the most vulnerable of victims...our children. No matter how well it might assist law enforcement in the tracking of sex offenders and the solvability of crime, is this really the direction we want to take as a nation? The negatives seem to outweigh any positives in the debate of whether or not to use RFID implants to track and monitor sex offenders. It's pretty clear we are still a very long way off from Americans accepting a non-voluntary, 16-digit control number embedded under the skin of anyone for any reason (Nikolettos, 2010). RFID microchips offer a myriad of ways to save money, track merchandise, and monitor consumer trends. However, at least for now, police officers are likely to continue to use tried and true crime solving techniques; parole needs to improve traditional tracking methods; and we should leave RFID for retail and medical applications.

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