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Chaz Arnett is an assistant professor of law at the University of Pittsburgh School of Law, teaching courses in criminal procedure, juvenile justice, legal ethics, and education law. Prof. Arnett's research interests rest at the intersection of criminal law, technology, and surveillance studies. His most recent scholarship examines the ways in which surveillance measures are used within the criminal justice system and the impact these practices have on historically marginalized groups and vulnerable populations.

Prior to teaching, Prof. Arnett served as a trial attorney with public defender offices in Baltimore and New Orleans, and as a staff attorney with the Advancement Project, where he assisted in local and national campaigns aimed at combating the school-to-prison pipeline. As a recipient of the prestigious Satter Fellowship, through Harvard Law School's Human Rights Program, he also worked with the International Center for Transitional Justice on issues of constitutional development in Zimbabwe, and asylum cases for Zimbabwean refugees in South Africa. He has received numerous awards and accolades for his commitment toward furthering human rights through criminal justice reform.

### *From Decarceration to E-carceration*

Each year, millions of Americans experience criminal justice surveillance through electronic monitors that strap onto their ankles. These devices have fundamentally altered our understanding of incarceration, punishment, and the extent of the carceral state, as they are increasingly offered as moderate penal sanctions and viable solutions to the problem of mass incarceration. They purportedly enable decarceration, albeit with enhanced surveillance in the community as the compromise. Proponents of the devices tout the public safety and cost benefits while stressing the importance of depopulating prisons and returning individuals to their communities. In recent years, an oppositional movement has developed, focused on highlighting the social harms of electronic monitoring as part of a burgeoning e-carceration regime, where digital prisons arise, not as substitutes to brick and mortar buildings, but as net-widening correctional strategy operationalized to work in tandem.

This paper examines this debate on the effectiveness of electronic ankle monitors and proposes a new framework, centered on social marginalization, for evaluating their use. It argues that the current scholarly debate on the use of electronic ankle monitors is limited because it fails to consider the potential harm of social marginalization, particularly for historically subordinated groups subjected to this form of surveillance. It uses system avoidance theory to elucidate the argument that intensive criminal justice surveillance has the counterproductive effect of causing those subjected to surveillance to avoid institutions necessary for adequate reintegration and reduction in recidivism. It offers a theory of the carceral state as malleable, extending beyond prison walls, expanding our carceral reality, and placing great strains on privacy, liberty, and democratic participation.

Ultimately, it stresses that a move from decarceration to e-carceration, or from mass incarceration to mass surveillance, will likely fail to resolve, and may exacerbate, one of the greatest harms of mass incarceration: the maintenance of social stratification. Thus, adequately addressing this challenge will demand a more robust and transformative approach to criminal justice reform that empowers citizens to weigh in on correctional decisions to utilize surveillance technologies and shifts a punitive framework to a rehabilitative one focused on proven methods of increasing defendant's and former offender's connection to their community and civic life, such as employment assistance programming, technical and entrepreneurial skill development, supportive housing options, and mental health services.