



## Summary

### Advisory report on using the electronic ankle bracelet in the case of juveniles

#### Council for the Administration of Criminal Justice and Protection of Juveniles

At the request of the State Secretary for Legal Protection, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (referred to below as: 'the Council') has issued an advisory report on the use of electronic monitoring (EM) and electronic detention (ED) in the case of juvenile offenders.

*Electronic monitoring (EM)* is a monitoring tool that uses electronic instruments to check whether offenders are complying with special conditions imposed in a criminal law framework, for example an attendance order or a barring or exclusion order. EM is used in the case of both juveniles and adults in the Netherlands.

*Electronic detention (ED)* is a sanction which obliges an offender to serve a custodial sentence (usually) at home and which involves the use of electronic monitoring devices. ED is not regulated by legislation in the Netherlands and consequently it does not actually exist.

From a legal perspective EM and ED are different concepts. EM is a means of monitoring compliance with criminal law conditions, while ED is a sanction. However, in practical terms the two are very similar because both EM and ED oblige offenders to be present at one or more specified locations, while being monitored using electronic devices.

In this advisory report the Council examines whether it would be possible to use EM more frequently in the case of juveniles, while also exploring the extent to which ED can supplement existing sanctions for juveniles.

#### Electronic monitoring (EM)

In line with the International Convention on the Rights of the Child (CRC), a cautious approach is taken to detaining juveniles under the juvenile criminal justice system in the Netherlands. The use of an electronic monitoring tool like EM fits in well with that policy. Whenever a juvenile comes into contact with the criminal justice system the Child Care and Protection Board (*Raad voor de Kinderbescherming*) assesses what is needed to prevent reoffending and what advice would be appropriate in terms of punishment. The Board also assesses whether an attendance order and/or an exclusion or barring order monitored by EM could have a positive impact. It also determines which risk factors exist in the young person's life, for example problems at school, contacts with delinquent friends or tensions at home and whether there are any contraindications for using EM, such as severe addiction and an unstable or unsafe home situation. Juveniles with a stable home environment are more likely to be allowed to go home with an electronic ankle bracelet than those for whom this does not apply. Indeed, an unstable or unsafe home situation is a contraindication when it comes to EM.

A policy framework has been drawn up for the use of EM in practice. This framework indicates in what situations EM can be used (criminal Justice methods and procedures) and also contains a methodological substantiation and guidelines for implementation. This policy framework has not been made public. The Council believes that, from the perspective of transparency towards juveniles and their parents, it should be published.

EM appears to be most commonly used for monitoring compliance to conditions for the suspension of pre-trial detention, especially an exclusion order, barring order or attendance order. Incidentally, no satisfactory records have been kept of the extent of EM usage.

EM allows young offenders to maintain ties with home, school, work and friends. EM also makes it possible for the offender in question to break ties with, for example, any contacts they might have in criminal circles. After all, a young person with an electronic ankle bracelet is no longer suitable for work as, for example, a 'drug retriever' at a port.

However, despite the positive impact, there are also limitations. For example, EM may lead to stigmatisation, young offenders may feel ashamed of the ankle bracelet and start exhibiting avoidance behaviour, many wearers say they suffer a significant psychological impact or indeed a physical impact, for example when it comes to sleeping or exercising.

The Council notes that EM is accompanied by sufficient legal safeguards. It is imposed by a judge, legal aid is available and it is possible to make a submission to the court via a lawyer for conditional release or for special conditions to be applied to the sentence.

The Council has established that it is clear under which judicial grounds and with which target groups EM can be applied. It is also apparent that certain young people would not be eligible for EM, for example, those young people whose home situation is unsafe or unstable. The Council therefore believes there are possibilities for extending the use of EM and, in any event, recommends that EM be continued in its current form.

### Electronic detention (ED)

In line with the principles of the juvenile justice system and the UNCRC, the approach is to avoid detaining juveniles wherever possible. The consequence of this is that the majority of juvenile offenders who are eligible for pre-trial detention or a custodial sentence or measure are released on the basis of a suspension of the pre-trial detention, or a conditional custodial sentence, with or without EM supervision.

The juveniles for whom this does not apply have apparently committed such serious offences that suspension under certain conditions, or a conditional custodial sentence, with or without EM, is not considered justified. If these young people are not eligible for EM, it should not automatically be assumed that they could be eligible for ED because, in practical terms, this amounts to the same thing.

For this reason the Council concludes that ED has no added value in the juvenile justice system.

*The advisory report is available on the website of the Council for the Administration of Criminal Justice and Protection of Juveniles.*

