

**The New York City Administration for Children's Services
Laurence Busching, Executive Deputy Commissioner of the Division of Youth and
Family Justice
Testimony to the New York City Council
Committee on Juvenile Justice
January 19, 2012**

**“Oversight - Examining the Division of Youth and Family
Justice's Positive Alternative Towards Home Program.”**

Good morning Chair Gonzalez and members of the Committee on Juvenile Justice. I am Laurence Busching, Executive Deputy Commissioner of the Division of Youth and Family Justice at the Administration for Children's Services. On behalf of Commissioner Ronald E. Richter, I would like to thank you for the opportunity to be here today to speak with you about the Positive Alternative Towards Home, or “PATH” program in New York City. Joining me today to help in answering questions is Cammi Cager, Program Coordinator of PATH.

It is a top priority of Children's Services to maintain public safety while providing effective alternatives to incarceration that allow court-involved youth to remain safely with their families in their communities. As part of our efforts, Children's Services has been exploring successful strategies for safely stepping youth down from secure detention to non-secure detention, as well as from detention to community-based alternatives. In April 2011, we began piloting PATH, the program which I will describe for you today. In particular, I would like to discuss the experiences of the youth that are currently participating in or have completed the program.

PATH is an electronic monitoring program designed to help youth who are accused juvenile offenders re-enter the community with their families as they await final adjudication. It is currently a pilot program operating in Manhattan Supreme Court. The program was established through Children's Services' collaboration with the Court, District Attorneys' Offices, the Legal Aid Society and several strong community-based providers of youth services. To help design the program, we requested a study by the VERA Institute of Justice to examine the benefits and any drawbacks to youth participating in an electronic monitoring program. VERA produced a report that was based

upon information from experts in the field and the experience of a similar program in Cook County, Illinois. In addition, as we developed the program, Children's Services gained valuable insight and information from existing electronic monitoring programs in Newark, New Jersey, Detroit, Michigan and Baltimore, Maryland, as well as from programs run by the State Office of Children and Family Services (OCFS), the federal government and the Queens and Brooklyn District Attorneys' Offices.

In New York City, there are approximately 350 juvenile offenders (JOs) that are adjudicated each year in Supreme Court and Criminal Court. These are youth who are 13-15 years old and accused of crimes that are generally more serious than those heard in Family Court, including robberies with injuries, assaults with serious physical injuries, possessing guns on school grounds, murder and attempted murder. While their cases are pending, youth can be released on their own recognizance, held on bail, or remanded to detention. For youth who are released, judges can require them to participate in an alternative-to-incarceration program with a community-based organization (CBO). At the conclusion of their case, due to the seriousness of the crimes involved, JO's that are found or plead guilty receive a criminal conviction. However, judges often exercise their discretion to impose "youthful offender" treatment. If a youth receives "youthful offender" treatment, their record is sealed, and they do not suffer the significant consequences of having a criminal conviction.

Alternative programs play an important role in helping judges make the determination of what sentence to impose and whether to grant "youthful offender" treatment. If a youth is successful in an alternative program with a CBO, it can help demonstrate to the court that the youth's criminal conduct was an aberration and not likely to be repeated. For some youth, though, the court is reluctant to allow them to return to the community. Reasons for this reluctance can include concerns about public safety and whether there exists sufficient monitoring for the youth. By teaming CBO support with a robust and reliable monitoring mechanism, the PATH program permits youth to remain with their families in their community, and at the same time, minimizes safety risks. Through PATH, youth are able to remain with their families rather than be placed in a

detention or a placement facility, often leading to improved outcomes for youths' wellbeing and success.

Features of the Program

The program is currently being piloted in Manhattan Supreme Court with Judge Eduardo Padro, who adjudicates many cases involving juvenile offenders. Judge Padro takes the time to understand the youth's alleged criminal conduct in the full context of his or her family, neighborhood, and personal behavior. He worked with Children's Services to develop the program, and believes that electronic monitoring is a beneficial option for a number of youth who come before him.

Ultimately, the presiding judge, in this case Judge Padro, determines if the youth may participate in the program. Youth may be considered for PATH if they meet the following criteria:

- There is a pending juvenile offender case, and the youth is in a secure detention facility;
- The judge determines that the youth presents limited risk to the community if he is permitted to participate in the program;
- The youth demonstrates potential to lead a law-abiding and productive life if given appropriate support and supervision.

When making a determination of whether to refer a youth to the PATH program, the judge may also consider the youth's level of participation in the crime, his past record, current connections to the community, and the level of family support. Once he has determined to place the youth in the program, the judge issues an order imposing conditions on the youth including electronic monitoring and other restrictions. These can be tailored to the particular circumstances of the youth and include conditions such as house arrest, curfews, or avoiding areas that have proven troublesome for the youth in the past.

Youth that are deemed eligible for the program receive an electronic monitoring device that is worn on the ankle. There are two types of electronic monitoring devices that are used: a Radio Frequency Identification, and a Geo-Global Positioning System (GPS).

The radio frequency device, or “home monitor”, is somewhat less restrictive in that it only determines how far the youth is from a receiver that is stationary in the youth’s home. The home monitor works best for determining whether a youth is violating curfew, as it reveals whether a youth is home or not, but it cannot indicate the actual location of the youth. The GPS, on the other hand, can determine the actual location and movement of the youth, and is best used for determining whether a youth is complying with exclusion and inclusion zones. For example, this is particularly useful if a youth is involved with gang activity, and it is important that he or she not be in an area where the gang is known to operate.

The electronic monitoring equipment transmits data indicating location, compliance, violations, and equipment tampering to the monitoring personnel that include the PATH administrator and the Motion Control and Communications Unit (MCCU) of our Detention Services. Depending on the nature of the violation, the PATH Administrator or MCCU supervisor will make appropriate contacts to the family and court based on a PATH schedule of responses. The response to the first violation is a warning to the youth, and alert to the parent and the CBO. Second and third infractions require that the Judge be informed as well.

The youth and the parent or guardian sign a behavioral contract at the time that the youth enters the program. The youth is required to follow a number of restrictions or allowances as imposed by the judge that include curfew, attendance in school, participation with the assigned CBO, attendance at counseling or support programs, and not tampering with the electronic device. It is critical that the family also fully participate in the program by assisting the youth with compliance. While not required, families are encouraged to attend services with the youth at the CBO. In addition, the youth and family must keep in contact with the PATH coordinator at Children’s Services and be available for home visits by the coordinator.

As I mentioned, a critical feature of the PATH program is that youth are connected to CBOs and are expected to participate in services. Examples of services provided by CBOs include counseling, tutoring, literacy classes, health education, home assessments, emergency home visits, and emergency food and clothing. CBOs that youth in the program

have been referred to include the Dome Project, the Center for Community Alternatives, the Center for Alternative Sentencing and Employment Services (CASES), the Andrew Glover Youth Project, the Fortune Society, and Urban Youth Alliance, Inc: BronxConnect.

Barring violations, youth will wear the electronic monitoring device for a minimum of 30 days. During this time, youth may still step-down to fewer restrictions or step-up to more restrictions based upon behavior and compliance with PATH program requirements. After a maximum of 90 days in the program, the court assesses the youth's compliance with the program requirements and conditions of release in order to determine whether further monitoring is needed. If determined by the court to be appropriate, electronic monitoring can be extended up to a maximum of 180 days. At any time, serious violations may result in a summary return to detention.

Results

While the PATH program is currently in its early stages, Children's Services is encouraged by some early successes that we have achieved. Since the program began in April 2011, Judge Padro has referred 16 youth to the program that he believed met the eligibility criteria. Four of these youth were at some point sent back to detention by the Judge, but then again released to the program.

Of the 16 youth referred to the program, there are currently seven that are actively participating in the program. Five youth successfully completed the program; they demonstrated to Judge Padro's satisfaction that they met the conditions that permit them to step-down to less restrictive supervision and removal of the electronic monitoring device. In the case of these five youth, court jurisdiction and supervision will continue for one year.

There were four youth who did not successfully complete the program due to repeated violations. Two of those youth that did not satisfy the conditions of the program had significant family issues. In one case, the youth ran away because of extreme tensions in his home, and the other could no longer safely stay in his home after his mother left the

home. In both cases, it was determined by the court that the youth needed to return to detention. The third youth took off his device in violation of the program and was placed in a detention facility. The fourth was arrested for a lesser charge and was placed in a residential facility through Family Court.

I would like to describe a typical experience of one of the youth in the PATH program, which has been both a challenging and a successful experience. Eddie is a fifteen-year-old male who, with a co-defendant, was involved in a robbery in which the victim was injured; he was also excessively truant from school. Although he was initially placed in detention, Judge Padro released him provided that he be monitored by the PATH program and receive services through the Andrew Glover Youth Project, a CBO in his neighborhood. His main support system is his mother, who does not speak English. Eddie has been diagnosed with an emotional disturbance. Although initially happy to be in the program and be at home, Eddie started having problems rather quickly in that he was violating his restrictions by frequently being outside of his home for short amounts of time, and by failing to meet curfew.

Through working with Eddie's mother, the CBO case manager and the PATH program coordinator realized that Eddie was often out of his home past curfew because he was outside smoking cigarettes. Eddie also violated the agreement by leaving his school without permission, and by going out drinking one night with a friend. There was a concern that these small violations, if not addressed, would lead to larger issues for Eddie. When informed of the violations, Judge Padro strongly considered putting Eddie back in detention. However, the PATH coordinator, the CBO, and Eddie's mother developed a plan to better monitor Eddie's behavior. Eddie agreed to inform his case manager at the CBO of instances when he had to leave school, or of instances when he would not be home for any reason. Eddie's mother and case manager verified Eddie's whereabouts with the program coordinator who receives the alerts from the electronic monitoring device.

Through this close monitoring plan, Eddie had no further violations and began to show considerable changes in his academics after being enrolled in a new school. His progress was reported to Judge Padro and, after 171 days in the program, Eddie was

released and now remains at home with his mother where he continues to do well in school, and has stayed out of trouble. He will remain under the jurisdiction and monitoring of the court for one more year.

Eddie's case is typical among the youth that have been successfully served in the program thus far. There are successes, as well as challenges that we are learning to address as we gain more experience administering the program. We do know from our years of work with youth that, as with most teenagers, there will always be a level of unpredictability. We understand that teens are not always going to behave as we would want them. We understand that they will test boundaries and they will, at times, defy authority. We want the PATH program to allow for "normal" teenage behaviors while also ensuring that the youth does not cause harm to himself or the community.

We also know that youth will not succeed if electronic monitoring is the only supervision mechanism. Face-to-face contact with youth and their families, as well as phone accessibility to the program coordinator is critical. From the VERA study that examined issues that need to be addressed with an electronic monitoring program, and from the work done by similar programs, we know that electronic monitoring can reveal a host of other difficulties that a youth is experiencing other than the problems that brought the youth to court. Electronic monitoring can reveal problems such as truancy, negative social situations, or other misbehaviors. These issues are precisely where the human element that should accompany the electronic monitoring plays a role. We are finding that while youth and families are receiving support through the contracted CBOs, they are also depending on support from Ms. Cager, the program coordinator. Prior to joining ACS, Ms. Cager worked counseling young males both at Covenant House here in New York, and for the Division of Juvenile Justice in Miami, and she served as a middle and high school teacher in the New York City schools for a number of years. Youth and their families have Cammi's cell phone and reach out to her at all times when there is a problem or when they feel like they need support and advice.

We receive regular feedback from youth who are participating in or have participated in the program. Youth, in general, appreciate that wearing the electronic

monitoring system allows them to come home and not remain in a detention center. Youth have told us that they sometimes point to the devices when responding to negative peers who are attempting to induce them to engage in inappropriate behaviors or violate the Court's orders. Families appreciate that they have more control over their child, and that their child is safer because his or her whereabouts are known. We are very aware of concerns raised, by the Council and others, about the stigma and personal intrusiveness associated with wearing a monitoring device. We have heard from some youth that they do not want everyone to know that they are wearing the device, and that after awhile, it becomes "annoying" and they want to take it off. We are also assessing whether the anklets, in fact, add to a youth's negative reputation in the community. We are instituting an exit interview and three month follow-up process with youth and their families so that we can gather more regular feedback.

Conclusion

So, while it is still early to measure outcomes of the PATH program, we feel that it is beneficial for youth to have a safe option to remain with their families rather than remain in detention facility. From the early feedback we have received from youth, families, the courts, Legal Aid, and the District Attorney's office, PATH is a worthwhile program with some early successes that we think contributes to improving outcomes for juvenile offenders. As we continue to administer the program, we are learning from some of the experiences that we have had, and will continue to build upon the program design.

We appreciate the Council's interest in improving services to youth and families and keeping communities safe, and its interest in the PATH program in particular. Children's Services looks forward to working with the Council to consider other ways to build upon this, or any of our programs, and address any issues or concerns that you may have.

We are happy to answer any questions.