

JUDGES' UPDATE

APRIL 2006

Information for the Judiciary

CONTENTS	page
<i>Community Work - it's working</i>	1
<i>From the General Manager</i>	2
<i>Changes to programmes</i>	2
<i>Information Services - statistics on reports to courts</i>	4
<i>Psychological Service pilots separation of Treatment and Assessment functions</i>	5
<i>Improving pre-sentence reports</i>	5
<i>Closer ties with CYF</i>	6
<i>Electronic Monitoring - the next step</i>	6

COMMUNITY WORK - IT'S WORKING

Statistics show a steady trend in the volumes of community work sentences and their satisfactory completion.

With community work nearing the end of its third year, unfavourable comparisons are still being made with the previous sanctions of periodic detention and community service.

We have identified some false impressions that we think may be contributing to these comparisons, and address these in this article.

Enforcement action

There is a perception that community work may not be a successful sentence because of the level of enforcement action being brought before the courts.

With periodic detention, Probation Officers could impose penalty days on offenders who breached their sentence. The courts were not involved at this level of enforcement action.

However, the Government decided it was more appropriate for the judiciary to impose penalties and introduced this approach in the Sentencing Act 2002. The law requires that offenders who breach their community work are taken back to court.

This may have created a false impression in terms of the level of enforcement, simply because action that was once handled "in-house" is now brought before the courts.

Certainly, the profile of enforcement action has been raised, but not the level of non-compliance.

Handling Breaches

CPS follows consistent processes for dealing with offenders not reporting as directed. These measures range from verbal warnings, to written warnings and, ultimately, breach action.

- **First failure to report - verbal warning.** In the first instance offenders who fail to report without reasonable excuse are contacted by phone and/or in person and given a verbal warning that subsequent non-compliance will result in further enforcement action by a Probation Officer.

Continued on page 3 

YOUR INPUT

Judges' Update is distributed quarterly to the judiciary, courts, and Parole Board. If you have any comments or suggestions for this publication, please contact:

Jacqui Kerr-Bell
CPS Communications Adviser
Community Probation Service
Department of Corrections
Private Box 1206
Wellington

DDI 04 4603025
Fax 04 4603203

ISSN 1174-8141

Email jacqui.kerr-bell@corrections.govt.nz



DEPARTMENT
OF CORRECTIONS

From the General Manager

Tena koutou katoa and welcome to the first issue of Judges' Update for 2006.

I'd like to take this opportunity to bring to your attention the various publications CPS produces for its stakeholders and the general public. These range from regular newsletters, such as this, to website information sheets, media releases and practical resources about specific topics.

Effective communication tools help raise awareness of our work and manage the expectations of the general public about reducing re-offending.

For instance, we need to make more people aware that our role is to manage offenders serving community-based sentences and not to decide whether they are imprisoned or whether they are granted parole or home detention.

Some of our publications seek to recognise the positive aspects of our work and our partnerships with stakeholders in the justice sector.

We create resources for our staff and stakeholders, such as the booklet on community-based interventions.

You'll find a copy enclosed with this newsletter. Our staff are also working on a new resource helping Probation Officers work through the process of selecting appropriate interventions.

Also enclosed are copies of Snapshot - an annual review of CPS activity, and Community Works highlighting successful projects involving offenders on community work sentences.

Our website www.corrections.govt.nz also contains much more information and reference material that can provide insight into what we do and why.



Katrina Casey, General Manager
Probation and Offender Services

Changes to programmes

The Department of Corrections recently announced some changes to the suite of rehabilitative programmes provided to offenders.

Judges will have received a letter outlining plans to redesign our suite of criminogenic programmes and the offenders we target with these. We have also decided to cease delivery of Straight Thinking and one of our rehabilitative programmes, the Mixed Programme (M-PRO), immediately.

These changes follow in-depth analysis of recent findings from international best practice as well as specific results from one of the Department's recidivism measurement tools.

Our new programmes will deliver medium-intensity programmes to medium-risk offenders, and high intensity programmes to high-risk offenders. We expect the new suite of programmes to be fully implemented by 30 June 2007.

Our underlying approach to reducing re-offending through programmes remains unchanged, as does our commitment to using high quality, well-trained specialist staff to deliver these programmes.

Intervention Services will continue to deliver the new suite of programmes to offenders in the community and in prisons. Our focus is on retaining the staff expertise we currently have in this area.

Judges' Update will keep you informed of our progress in these plans.

To give you more detailed information about these changes, and to answer any questions you may have, one of our Regional Managers will contact you within the next few weeks.

◀ Community Work - It's Working - continued from front page

- **Second failure to report - written warning.** Offenders who continue to fail to report are then given a first written warning indicating that future non-compliance will result in enforcement action.
- **Further non-compliance - second written warning.** Continued non-compliance will result in a second written warning advising the offender that if they continue to fail to report for Community Work, breach action will be taken.
- **Breach action** - Further failure to report after a second written warning will lead to a formal charge of breaching community work, which is heard by the court. Judges often handle breaches in the following ways: a first breach charge results in a conviction and discharge together with a clear warning about the consequences of further breaches, and a second breach may lead to more community work or, in some cases, to imprisonment.

Dealing with breaches in a consistent way can have positive effects on both compliance and attitude among offenders on community work. It's important that offenders know there will be consequences if they do not comply with their sentence.

On the positive side, the law now enables Probation Officers to reward good compliance by remitting up to 10 percent of the hours imposed, providing an effective incentive for many offenders. Neither periodic detention nor community service provided for remission of hours.

Amended summaries

In Palmerston North, CPS staff are amending breach of community work summaries of facts to better inform the court how many times the offender has failed to report before breach action is taken. Often, counsel refer to the non-reporting of one specific day only as outlined in the summary of facts when in fact there may have been more than one day the offender has failed to report.

Palmerston North Service Manager Carmen Park says recent discussions with local judges have broadened everyone's understanding of managing and enforcing community work sentences. She hopes this will lead to increased compliance and less need for enforcement action. CPS is monitoring the effect of these more detailed summaries with a view to using the same approach around the country.

Successful completion

The level of community work completion nationwide is actually higher than it was in 2001/02, the last year for either periodic detention or community service.

In 2004/05, almost 21,000 (75 percent) community work sentences were successfully completed. It's notable that many of those offenders subject to enforcement action for breaches do go on to successfully complete their community work sentences.

Let the record show

In the 2001/02 year before community work was introduced the completion rates for periodic detention and community service were 70 percent and 67 percent respectively. In the 2004/05 year, the completion rate for community work was 75 percent. The total volumes were comparable.

Sentence	Volume		
	2001/02	Completion*	Standard
Community service	7557	67%	74%
Periodic detention	20,404	70%	70%

Sentence	Volume		
	2004/05	Completion*	Standard
Community work	27,928	75%	70%

**Completion refers to the percentage of offenders who completed their sentence hours as required.*

Community work today

The sentence of community work represents around 70 percent of the new community-based sentences and orders we manage each year. Our staff monitor hundreds of thousands of hours of work by offenders all over the country in cities, small towns, and remote rural areas.

The sight of supervised work gangs in the community is no longer limited to Saturdays and this has also led to a false impression that there is less community work occurring. Many centres now operate community work five or six days a week. This accommodates offenders who have full-time jobs and child care responsibilities. It also suits our community work project partners who can work with us through the week or on weekends.

Information Services - statistics on reports to courts

Providing information about offenders to the courts and the NZ Parole Board is part of our core business.

This article gives the statistics for each type of report and a brief outline of what's involved in preparing such reports.

CPS reports to Courts

In the 2004/05 financial year, staff spent 63,809 hours in attendance at court - up around 4000 hours on the previous year. They prepared 29,115 written and oral reports to courts.

Included in those were 9850 Level 2 pre-sentence reports each taking an average of 11.5 hours to prepare.

A Level 2 report gives information about an offender's social circumstances, attitude and motivation to change. It covers sentencing options and recommendations about special conditions such as non-association clauses and interventions.

In preparing a Level 2 report, Probation Officers conduct a structured interview with the offender, analyse the results, and make enquiries with others to verify and clarify the offender's information.

Probation Officers also prepared 8628 Level 1 reports, each taking an average of 4.5 hours. Many completed and presented to the court on the same day.

Information includes the offender's social and domestic circumstances, health, willingness to make amends and response to previous sentences.

(See article in this issue on Pre-sentence Report Project)

Oral reports to courts numbered 8297. These brief reports are prepared for first time offenders or those likely to get a community work sentence or those currently serving a community work sentence.

CPS prepared 2340 Reparation Reports providing information about the extent of the victim's monetary loss, results of any restorative justice process, the offender's ability to make reparation, and other relevant information, such as the victim impact statement.

Each report took an average of 3.2 hours to prepare including an interview with the offender, their victim, and follow-up inquiries. The courts made 2727 reparation orders.

Other reports

Home Detention reports to the New Zealand Parole Board numbered 3438 and each took an average of nine hours to prepare. These reports give detailed information about the offender's proposed address, its suitability for electronic monitoring, and other occupants of the address - especially children.

Preparation of these reports involves interviews with the offender or liaison through the Public Prisons Service, home visits, and interviews with other occupants and any employers.

CPS also helps with pre-release enquiries to the NZPB for prisoners up for parole. Staff spent an average of 3.6 hours on each of the 3659 written enquiries prepared.

Psychological Reports are prepared by Psychological Service staff and provided to courts to help judges decide the appropriate sentence for an offender, and to the NZPB to decide whether a prisoner should be released. Staff prepared 154 reports for courts and 987 for the NZPB.

This table: Figures in the text refer to detail from the 2004/05 year. This table updates high level year to date figures for the first 6 months of the 2005/06 year (1 July-31 December 2005)

Provided to	Measure	Actual volumes 2004/05	Actual volumes at 31/12/05
Courts	The number of reports to courts from CPS including same-day, pre-sentence, reparation/emotional harm, and special purpose reports	29,115	13,643
" "	The number of hours for attendance at courts (CPS) including time spent in CPS-initiated proceedings	63,809	28,845
" "	The number of extended supervision applications for child sex offenders to courts	64	25
" "	The number of psychological reports to courts from the Psychological Service	154	73
NZPB	The number of psychological reports to the NZPB from the Psychological Service	987	509
" "	The number of home detention specialist reports, assessing the rehabilitative needs of the offender and their suitability for home detention	3438	1579
" "	The number of pre-release enquiries done by CPS for reports provided to the NZ Parole Board about a prisoner's proposed residence and work, and potential programmes the offender should undertake on release	3659	1905
" "	The number of applications to the NZPB for special conditions for offenders subject to an extended supervision order	21	18

Psychological Service pilots separation of Treatment and Assessment functions

by David Riley, Director of the Psychological Service, Department of Corrections

Traditionally, Department psychologists have undertaken both treatment and assessment functions. This situation has become increasingly difficult for a number of reasons. First, there remain questions as to how objective an assessment might be when it is provided to, for example, the New Zealand Parole Board by the practitioner who has invested considerable time and effort in assisting an offender in their rehabilitative efforts.

The situation can easily arise where there is a loss of objectivity when both the offender and the therapist over-estimate the gains that may have been made, while at the same time minimising the difficulties which may face that person on release.

Conversely, more balanced opinions provided by treating psychologists may well leave the offender feeling let down or betrayed in some way, believing that their honest self disclosure during treatment is now being used against them.

With increasing emphasis being placed on specialist risk assessments by both the courts and the Parole Board, the blurring of assessment and treatment roles is creating confusion in the minds of prisoners who may fear that engaging in treatment with a psychologist could compromise their chances of release when they are eventually considered by the Parole Board.

This situation is exacerbated by the increasing number of applications that have been made by the Department for the retention in prison of high-risk offenders pursuant to

Section 107 of the Parole Act, and applications to the court for an order of extended supervision.

Also, sentencing judges are increasingly requesting expert assessments from the Psychological Service when considering whether to impose sentences of preventive detention for high-risk violent and sexual offenders.

In response to these problems posed by psychologists performing dual roles, the service is trialling a specialist assessment team in the Northern region. Three experienced staff members have been appointed to undertake formal assessments for the Parole Board (particularly those relating to Section 107), health assessments for extended supervision, and requests from the courts for assessments pursuant to Section 88 of the Sentencing Act 2002.

This team will operate in the CPS Northern region and will free staff in Psychological Service offices from Palmerston North northwards to undertake treatment work in prisons without prisoners feeling that this may compromise them at some later date when their treating psychologist might provide a report to the Parole Board.

In addition to enabling the separation of treatment and assessment roles, it is anticipated that this exercise will also result in economies of scale and an enhanced level of technical skill among those persons specialising in assessment functions.

The timeframe for this pilot is February - June 2006, after which this initiative will be evaluated prior to any decision being made about implementing it nationally.

Improving pre-sentence reports

Pre-sentence reports from the Community Probation Service are intended help the court make informed sentencing decisions.

These reports typically contain information from the offender, court and Corrections records, victims, family members, and community contacts.

Corrections is now working with the judiciary to find ways to ensure pre-sentence reports more effectively provide the necessary information in an appropriate format.

Operational Policy and Planning Manager Tracy Mellor says the pre-sentence report project will look at both

style and content of reports to ensure they best meet the needs of their target audience - the judiciary.

"In preparing these reports our staff follow detailed and structured processes that mean a large amount of information is collected and analysed.

"Relevant parts of this information may be used in a number of ways - in particular to help the court make decisions on sentencing and to help CPS plan the management of the offender once sentenced.

"The focus of the project is to make sure the courts get only what they need

in our reports, which may not be the case at present."

Wellington Region Executive Judge John Walker has agreed to represent judges on a working group.

Judges' Update will keep you informed of further developments or changes resulting from this project.

Feedback

Judges who wish to offer some comments or suggestions to the project team can contact Operations Adviser Andrea Seymour on 04 4603252 or andrea.seymour@corrections.govt.nz.

CLOSER TIES WITH CYF

Corrections is building closer ties with Child, Youth and Family to implement new agreements on sharing information about child sex offenders.

Eleven joint workshops were held around the country in February and March to outline the national agreement between CYF and Corrections. Each agency is designating liaison people to ensure the right information is shared at the right time.

Under the agreement, CYF and CPS have a streamlined, comprehensive system for sharing information when dealing with suspected child abuse and/or neglect and when processing home detention applications.

The schedules setting out what information can be shared have taken into account the agencies' legal obligations and privacy legislation.

Probation Officers must seek information from CYF when the offender seeking home detention has convictions for child abuse or neglect, or if children will be living at the proposed residence or regularly visiting.

Sharing the information is expected to help address the safety and welfare of a home detainee's fellow occupants - particularly children.

Recent law changes also allow Corrections to share information about child sex offenders with the NZ Police, Ministry of Social Development, and Housing NZ with the intention of best managing offenders so their risk to children is minimised.

Corrections is preparing measures to notify child sex offenders already on strength how this agreement might affect them.

Electronic Monitoring - the next step

The Department of Corrections is moving into the next phase of trialling new technologies that could expand the use of electronic monitoring for offenders in the community.

The new tools - voice verification and GPS tracking - are designed to monitor offenders' compliance with community-based sentences and orders.

Electronic monitoring is an area of our work that continues to attract much interest from the media and the general public.

The trials

Thorough testing is planned before a final decision is made on whether or how the technologies might be rolled out nationwide.

Phase One involved around 60 staff and volunteers and demonstrated that both technologies can be used in New Zealand with similar levels of accuracy and consistency being reported overseas.

Phase Two will involve using up to 40 offenders already subject to community-based sentences and orders such as parole, supervision, release on conditions, and extended supervision.

During the trials offenders will be subject to electronic monitoring in addition to currently available monitoring techniques. The new technologies will not be used in place of existing arrangements.

Detailed policies and procedures will be drawn up before the offender trials start about the middle of the year. Results are expected later this year or early in 2007.

The trial results will inform decisions on whether and how these new technologies could be used to enhance current offender management techniques in the community.

The technologies

Voice verification recognises an offenders' voice over the phone and can confirm their location at a given time to enforce conditions such as curfews.

GPS tracking uses satellites and a GPS locating unit to record an offender's whereabouts. This technology could be used to confirm an offender's compliance with conditions such as inclusion and exclusion zones.

For more information on electronic monitoring visit the Corrections website www.corrections.govt.nz.