

JUDGES' UPDATE

MAY 2007

Information for the Judiciary

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Strengthening Community Sentences – Project Progress

CPS is working to finalise policies and procedures in time for the new sentencing structure 'go live' date on 1 October.

April saw a series of consultation meetings around the country to present draft policies and procedures. These covered key changes to policy and procedures from report writing to enforcement action as well as changes to sentence management, and the introduction of new sentencing options including community detention and home detention.

Throughout the development of operational policies and procedures, staff have been consulted and their comments taken into consideration with the detailed proposals, says Effective Interventions Project Matrix Manager Tracy Mellor.

"Working groups made up of field and head office staff, union representatives, and subject matter experts provided the backbone of this process. We've encouraged staff to give their feedback on any and all of the proposals – and requested their input on specific issues.

"We've undertaken extensive consultation with the field and with the judiciary on the pre-sentence process and content design. We're confident that the final outcome will satisfy the requirements of both the legislation, and the staff who'll be implementing it."

Work is also underway to update our operations manuals to ensure staff are fully supported in implementing new policies and procedures. The Department's computer-based offender management system, IOMS, is also being updated to reflect the new work and we plan to have changes tried and tested before staff are trained in their use.

New Sentences

Please note, the following outlines our current thinking and may change as we analyse feedback and finalise details.

Home Detention

The sentence of home detention will be for up to 12 months. We are redesigning our processes so that, as far as possible, the Court will get all the information it needs to make a home detention decision at a single sentencing date.

CPS will provide a detailed assessment of appropriateness for home detention if the:

- Judge indicates that they want to consider home detention as a sentencing option
- Probation Officer considers home detention to be an appropriate sentencing option.

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:

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DEPARTMENT
OF CORRECTIONS

ARA POUTAMA AOTEAROA

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From the General Manager

Welcome to the first issue of Judges' Update for 2007.

CPS is in a challenging phase as we prepare to implement the new sentencing structure to be introduced by the Criminal Justice Reform Bill (2007).

The work presents a welcome opportunity to strengthen community-based sentences through the availability of a clear hierarchy of sentencing options, and more options to deal with sentence breaches.

As you'll read in this issue, we've made significant progress on working the legislative changes into our operational thinking. We've looked closely at our policies and procedures to ensure we are ready and our staff are well equipped to handle new work as well as business as usual.

Travelling around the country in April to present the detailed proposals to staff, it was heartening to

hear the largely positive attitude towards the new areas of work. There's a definite air of anticipation about working with the new sentencing options and the prospect of managing combined sentences.

Timely and frank communication between the Judiciary and CPS will prove invaluable as we all get to grips with the changes. I hope we'll continue to hear promptly about any issues that arise.

For CPS the new measures make it possible for us to effectively manage offenders of all kinds so that their sentences are properly served and that, with the right interventions, their risk of re-offending is reduced.



Katrina Casey
General Manager
Probation and Offender Services

◀ Strengthening Community Sentences – Project Progress ... continued

Reports will include a summary of the extent to which the Probation Officer does, or does not consider home detention to be an appropriate sentence. Detailed information including the suitability of the residence and the agreement of the offender and any other relevant occupants will be provided in an Appendix to the report.

Community Detention (electronic monitoring of curfews)

Community detention will be for up to 6 months, will target offenders:

- with a pattern of offending that can be restricted by electronic monitoring curfews.
- who breach community work (eg imposing curfews from 7pm Fri to 7am Saturday before any community work to be done on the Saturday).

The sentencing option of community detention can be combined with any other sentencing option except home detention or imprisonment.

Intensive Supervision

Intensive Supervision will be for 12-24 months. It targets offenders with multiple and complex needs requiring intensive and or multiple programmes. Special conditions available to the Court include residential programmes and judicial monitoring.

Community residential centres such as Te Ihi Tu and Montgomery House are to be actively considered as an option for these offenders.

Supervision

The new sentence of supervision will be for up to 12 months and is considered appropriate for offenders who need less intensive community-funded programmes such as those targeting domestic violence prevention, alcohol and drug counselling. The number of special conditions available to the Court is limited.

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Basic Work and Living Skills in community work

A significant addition to our frontline work is the introduction of Basic Work and Living Skills training for offenders on community work, supervision and intensive supervision sentences.

We anticipate up to 30 percent of community work offenders (around 8400 per year) will be considered for BWLS.

Although we have a wide range of potential programmes to be counted as BWLS we will focus on three initially:

- Specified programmes already used by Work & Income for beneficiaries
- Literacy programmes
- Tikanga Māori Programmes

Other programmes we are hoping to develop over the next 12 months may address substance abuse, budgeting, parenting, problem solving, communication skills, other cultural programmes, and possibly driving.

At sentencing the Court may authorise offenders to serve up to 20 percent of their community work hours in BWLS training. If conversion is authorised, CPS will assess whether conversion to BWLS is needed and whether an appropriate programme is available.

Workforce and job design

As you'd expect, the new sentencing structure has major implications for our workforce – not only in the volume of

work CPS will do but also the way we'll do it.

We're now planning how best to structure our work groups to handle new work. We're also planning how to accommodate more staff around our service centres and how to provide necessary resources.

The nationwide campaign to recruit more frontline staff has seen 135 new Probation Officers start since September 2006. CPS is also targeting additional service managers, senior community work supervisors, community work supervisors, and administration officers who'll be needed to cope with the new workload.

Next Steps

Our aim is to have key operational policies and procedures for the new community-based sentences finalised for staff training purposes by 15 June.

Work's also underway to confirm the time required to manage each sentence or order and to prepare reports and this will inform our decisions about allocating resources.

We've identified changes to our computer-based offender management system considered essential for implementation by 1 October 2007. Other changes will be prioritised for completion after that date.

We are continuing to work with MoJ on the changes required to support implementation of the changes to the sentencing structure.

Combinations of Sentences available from 1 October 2007

	Reparation	Fines	Community Work	Supervision	Intensive Supervision	Community Detention	Home Detention	Prison
Reparation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Fines	Yes	Yes	Yes	Yes	Yes	Yes	Yes	If authorised by Act specifying offence
Community Work	Yes	Yes	Max cumulative 400 hrs	Yes	Yes	Yes	Yes	No
Supervision	Yes	Yes	Yes	Must be served concurrently	No	Yes	No	No
Intensive Supervision	Yes	Yes	Yes	No	Must be served concurrently	Yes	No	No
Community Detention	Yes	Yes	Yes	Yes	Yes	Max cumulative 6mths	No	No
Home Detention	Yes	Yes	Yes	No	No	No	Max cumulative 12mths	No
Prison	Yes	If authorised by Act specifying offence	No	No	No	No	No	Yes

Transition to new criminogenic programmes complete

Intervention Services has completed the transition to its new suite of criminogenic programmes including the Medium Intensity Rehabilitation Programme (MIRP) and the Short Rehabilitation Programme (SRP) for community-based offenders.

A suite of new programmes was launched last September and the old programmes have been phased out over the past seven months.

The MIRP replaces the Violence Prevention, Substance Abuse Prevention, & MODS programmes. The SRP replaces the SIP. Straight Thinking is no longer delivered.

MIRP, delivered in groups to offenders with a mix of criminogenic needs, is the preferred option for offenders. The SRP may be considered for offenders with short sentences, or those who are not suited to group situations, especially in the community. Both programmes can also be delivered in prison.

Offenders who complete a MIRP or SRP will be scheduled for maintenance groups to consolidate their rehabilitation.

IS Senior Advisor Barbara Jennings says the drive is on now to increase the volume and quality of referrals from CPS. "So far this year, IS facilitators have delivered programmes to 283 community-based offenders. Our target for the end of June is 370."

The eligibility criteria are now broad and the new programmes are designed to address multiple criminogenic needs rather than having specific programmes for specific needs. Offenders are therefore eligible for referral if they meet the criteria outlined here, and have one or more identified criminogenic needs.

In general, offenders younger than 20 and sexual offenders are not eligible for MIRP or SRP programmes. These particular programmes are designed to suit mature offenders' learning styles, while sexual offenders

require specialised treatment and that is provided elsewhere.

International evidence and our own review show that criminogenic programmes work best if they match the risk, need, and responsivity of individual offenders.

Offenders with a RoC*RoI over 0.7 will not be accepted to MIRP or SRP, and should be referred to the Psychological Service for an individual psychological assessment.

Domestic violence offenders are referred to programmes delivered by community providers approved under the Domestic Violence Act to deliver such programmes.

Key facts

The Medium Intensity Rehabilitation Programme (MIRP) is a rehabilitative programme to help participants examine the causes of their offending.

The programme addresses patterns in their thinking, emotions, and behaviours that lead them to offend and teaches them to cope with and manage difficult situations and impulsiveness.

MIRP targets medium risk offenders in the community for all offence types except sexual offending.

The programme is delivered by Intervention Services Programme Facilitators over 134.5 hours, usually to groups of up to 10 people.

Criteria for participants

Offenders can be considered for a MIRP or SRP if they:

- are over the age of 20 years and
- have a RoC*RoI score between 0.3 and 0.7 (or they are convicted of a third or subsequent EBA offence), and

- are motivated to address their offending. Motivation is assessed as being either Low, Medium or High. A motivation level of medium or above is required for acceptance onto a criminogenic programme.
- have an identified criminogenic need which can be addressed by a MIRP or SRP (this includes violence propensity (VP), criminal associates (CA), alcohol and drug (A&D), relationships, offence related emotions and cognitions (OREC), Risk Taking Arousal, Impulsivity, and Gambling. For programme eligibility, driving related offences are also considered as a criminogenic need.)

Intervention Services also delivers these programmes in prisons:

Short Motivational Programme (SMP) – designed to motivate offenders to understand their offending.

Saili Matagi – a violence prevention programme specifically for male Pacific offenders.

Focus – a four-level criminogenic programme for youth, delivered in youth units.

Kowhiritanga (delivered in conjunction with the Psychological Service) – a criminogenic programme for female offenders.

Maintenance (soon to be Relapse Prevention) – a maintenance programme for offenders who have completed a criminogenic programme

Special Treatment Unit Rehabilitation Programme – for implementation this year (to be delivered in conjunction with Psychological Services) – a high intensity rehabilitation programme to be delivered in Special Treatment Units in prisons only.

Global search for Electronic Monitoring Contractor

11 May	May/June	July	21 September	1 October
Tenders close	Evaluation Process	Contract Signed <i>(tentative, pending legislation)</i>	Testing Complete	Go live

The contract to provide electronic monitoring of offenders on community detention sentences has attracted international interest.

Community detention is a third tier, community-based sentence that can be imposed in combination with reparation orders, fines, community work, supervision, or intensive supervision.

Offenders sentenced to community detention are required to comply with electronically monitored curfews specified by the Court to a maximum of 84hrs a week for up to six months.

The Request for Proposal (RFP) was advertised on 12 March 2007.

Operations Adviser George Henderson, who's managing the RFP project from Corrections Head Office, says tenders closed on 11 May.

"We've had proposals from the United Kingdom, Australia and New Zealand and all are going through a rigorous evaluation process."

George says that all the interest has come from experienced operators working in similar areas of offender management.

"We're confident that we're dealing with the leaders in the field. We're keeping an open mind to the technology side of it. We're keen to look at alternative technology to the existing use."

Community detention is an entirely new application for electronic monitoring – with curfews applying for as little as a few hours a day or a couple of days a week.

Offenders can be required to wear ankle bracelets (or similar equipment) throughout their sentence. However, it

is anticipated that CPS will take reasonable steps to enable offenders with intermittent curfews to have this equipment removed and re-fitted at appropriate times.

"At this stage we anticipate the installation and removal of equipment will be done by CPS staff trained in that task. We estimate an annual throughput of 2500 offenders on the sentence of community detention with 640 serving at any one time.

"Our criteria are designed to find a contractor who can meet the operational requirements of the legislation, with equipment that is reliable, and easy to manage with multiple installations and removals."

George says at this stage the project is on track for implementation by 1 October.

Tighter management for high-risk offenders

High-risk offenders on parole or back-end home detention are now being managed under tighter business rules.

These include swifter enforcement action for non-compliance with parole conditions and more managerial oversight in decision making.

The changes, which took effect in April, were made following investigations into the high-profile case of Graeme Burton – a parolee who breached his parole conditions and while on the run shot one person dead and injured several others.

Explicit instructions cover all aspects of offender management from assessing offenders for the Offender Warning System, to reporting, home visits, enforcement action, and decision making.

New assessment criteria for adding offenders to the Offender Warning System (OWS) now give significant weight to concerns held by the Psychological Service and/or Parole Board about an offender's release and where they have indicated the offender requires close supervision.

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◀ Tighter management for high-risk offenders ... continued

Assessment also gives weight to whether or not the offender is charged with or suspected of serious violent offending while in prison (this already applies to offenders managed in the community).

Parole Board decisions and psychological reports are treated as key background documents to be placed on offender files, and considered in the general management of OWS offenders.

New chapters in the CPS operations manual clarify the reporting and home visit requirements for all OWS offenders.

Life parolees may only be removed from the OWS with the

approval of the Regional Manager; and once off the OWS, their reporting requirements can only be reduced with Area Manager approval.

The manual also sets out guiding principles and requirements for enforcement action for OWS offenders on parole and back-end home detention. These must be adhered to in all cases, and enforcement action must be taken without delay.

Depending on the level of non-compliance, enforcement action ranges escalate from issuing warnings to breach action and recalls to prison.

Swift sentencing for domestic violence offenders

CPS business rules have changed to remove unnecessary delays in sentencing certain domestic violence cases.

Probation Officers can now use the Level 1 (Same Day) Report for some domestic violence offenders who are being sentenced, and supervision may be recommended for these offenders from the Level 1 Report.

It is expected that these reports will be completed on a same-day basis so the Courts can deal promptly with such offenders.

If it appears, during the preparation of the Level 1 report, that there are more complex issues needing further assessment, or if imprisonment is the likely sentence recommendation, then the Probation Officer will seek an adjournment to prepare a Level 2 Report.

Until the change, CPS business rules required a Probation Officer to prepare a Level 2 Report. Generally, this meant a remand of at least two weeks.

The change follows feedback from judges wanting to deal more quickly with domestic violence cases to ensure sentences are imposed and interventions taken as soon as possible, and the increasing number of Family Violence Courts.

The new approach will give judges the relevant information they need to carry out sentencing while keeping all information gathered from interviewing offenders available and accessible within the Department.

The changes

Level 1 Reports can now be prepared for offenders whose primary offence is domestic violence and who have:

- no significant pattern of domestic violence offending
- no other significant offending history
- not previously completed a DVA programme
- not considered to be at high risk of re-offending.

Probation Officers will be able to make a recommendation for supervision in Level 1 Reports prepared for domestic violence offenders who meet the criteria set out above.

Probation Officers may also recommend special conditions such as completing a domestic violence prevention programme, alcohol or drug assessment and/or programme, and no contact with victims.

After sentencing, if it becomes evident that additional offender needs or issues exist then the Probation Officer will apply to the Court for a variation of the supervision sentence. It is not expected that large volumes of applications for variations will need to be made.