

# JUDGES' UPDATE

AUGUST 2002

Information for the Judiciary



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## YOUR INPUT

Welcome to the August issue of *Judges' Update* for 2002. If you have any comments or suggestions for this publication, please contact the General Manager Community Probation Service.

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## Changes to programme funding

The Community Probation Service is changing the way it funds programmes for offenders. The changes are part of a strategy to ensure high-risk offenders with identified offending needs will receive the most effective rehabilitative programmes. "We're making these changes because we want to be sure that any programme that an offender is ordered to attend will reduce their risk of re-offending," says General Manager Ann Clark. "The Department has developed programmes, based on international best practice, which address common offending needs." "We will increasingly focus our resources into the delivery of these programmes, which include Straight Thinking and 100-hour rehabilitative programmes which address driving, drug and alcohol, and violence issues."

The range of programmes currently available for offenders will continue, although there will be changes in how they are delivered and funded. In some cases these will be programmes run by Community Probation Service staff and in other cases, they will be specialist programmes run in the community, such as sex offender treatment programmes. The changes affecting community providers are mainly to alcohol/drug and violence programmes.

Another change is an increase in funding for Tikanga Maori programmes for offenders from this year. Suitably qualified Maori providers will also be encouraged and supported to deliver the Department's own programmes.

### Violence programmes

From mid-2003, Community Probation Service will only purchase violence prevention programmes from providers which are accredited or applying to be accredited, under the regulations of the Domestic Violence Act 1985. This is part of a multi-agency approach to provide a national standard for domestic violence programme providers, following the recommendations in the investigation into the death of James Whakaruru.

"We will work with our current violence prevention and anger management providers to help them apply for accreditation," Ann says.

### Alcohol and drug programmes

Alcohol and drug programme contracts with providers will not be renewed. Offenders' needs in this area will be assessed and funded on an individual basis. The Department is working with other government agencies, particularly in the health sector, to ensure that offenders have access to all the services they are entitled to, including treatment sessions funded by the health sector.

Community Probation Service also has staff trained in the Substance Abuse Prevention programme, a 100-hour rehabilitative programme for offenders with identified alcohol and drug issues related to their offending.

See story on page 2 about the Department's *Making Our Drivers Safe* programme, which is aimed at high-risk offenders with repeat driving convictions.

## From the General Manager

*July was a significant milestone for the Community Probation Service. Not only did we begin implementing the changes brought about by the introduction of the Sentencing and Parole Acts, we also saw the Integrated Offender Management project become 'business-as-usual' for the Service.*

*The IOM project began several years ago as a way for the Department to be more effective at reducing re-offending. The aim was to introduce a co-ordinated and consistent approach to assessing and managing all offenders across the Department's different services.*

*IOM introduced a targeted approach to assessment, sentence management and programme delivery, to ensure interventions were used in the most effective way.*

*We have now trained 100 managers, 550 Probation Officers, and introduced significant new tools and processes for each stage of our work with offenders. We also have trained 34 people in how to run rehabilitative programmes, in all but two of our Areas.*

*We are a long way towards achieving our goal. The IOM project has been a huge change for us, and I'm pleased with the progress we have made.*

*While most of the significant elements of IOM are implemented, as we learn more there will be continual improvements to the offender management tools, including pre-sentence reports, and to the interventions we have available for offenders. We will keep you informed of these initiatives as we implement them.*

*On a personal note, this will be my final column in Judges' Update. I am leaving Community Probation Service, having accepted a new role as General Manager of the transition Tertiary Education Commission. I have very much enjoyed my time with CPS and have appreciated the ongoing feedback and support of the judiciary.*

*Best wishes,*



Ann Clark  
General Manager  
Community Probation Service

## Driver programme effective at reducing re-offending

*This article looks at the Community Probation Service's Making Our Drivers Safe (MODS) programme for high-risk offenders with repeat driving convictions. Judges have the option of sentencing offenders to both Community Work and Supervision, so they are eligible to participate in MODS.*

Probation Officers are recommending a sentence of Supervision with a condition to attend the MODS programme for many high-risk driving offenders appearing in court for sentencing. Offenders on Home Detention and Parole can also attend a MODS programme, however offenders sentenced to Community Work will only be able to attend MODS if they are also sentenced to Supervision.

Community Probation Service General Manager Ann Clark says it is more effective for offenders to address their driving offending while serving a community sentence, because participants can practise their new skills and adopt them into their lifestyles.

MODS is available for high risk offenders of all ages and ethnic groups, with clearly identified offending needs.

The Probation Officer's pre-sentence report establishes these rehabilitative needs as well as the offender's willingness to change. MODS is the priority programme for offenders on community-based sentences with a conviction for excess breath alcohol, dangerous driving or driving while disqualified.

### Why we focus on driving offenders

Offenders who drive during periods of licence disqualification are often persistent re-offenders. Seventy percent of those convicted of driving while disqualified are re-convicted of the same offence within five years. Six percent of those convicted of driving while disqualified have five or more previous convictions for the same offence. Consequently, addressing the offending needs of these groups of people will have a significant effect on reducing re-offending.

Research has shown that offenders who drive while disqualified may break many laws in addition to traffic laws and many have had several earlier convictions. Studies also show that the motivations of repeat disqualified drivers suggest that they are a discrete offender type. They often exhibit high levels of anger, anxiety, alcohol dependence and

helplessness in relation to controlling their own behaviour. MODS addresses the risk factors which lead to offending but has a specific focus on addressing driving offences.

### How MODS was developed

The MODS programme was developed after research showed that the Driver Offender Treatment (DOT) programme run by the Community Probation Service in Christchurch had an 18 percent reduction in re-offending for those offenders who had completed the programme compared with a control group who hadn't attended the programme.

The target group for MODS is high risk, recidivist driving offenders. Both men and women can do MODS, but there has to be a minimum of two women in a mixed group.

### Link to road safety strategy

The Government has identified that one of its key priorities as part of an overall road safety strategy is the significant number of repeat disqualified drivers who are imprisoned. Research has shown that sentencing these offenders to a community sentence like Community Work or to prison has not discouraged them from further offending but that rehabilitation can. Given the Government's focus in this area and the evidence that the DOT programme (the basis for the MODS programme) works for these offenders, Community Probation Service is focusing on delivering this programme.

### What will offenders do on the MODS programme?

Offenders will identify all the factors that contribute to their offending by making their own offence map.

MODS includes modules that address the risk factors that give rise to repeat disqualified driving – anger, personal problems, lack of self-control, poor relationship skills, substance abuse, combined with a module on relapse prevention.

MODS has been progressively introduced over the past 18 months and is now available in all Areas except for Taitokerau and Invercargill. In these two Areas, offenders who are eligible for MODS can be referred to a Structured Individual Programme, which is a shorter programme targeting offending needs.

## *Inmates' work supports Special Olympics*

Hawkes Bay Prison inmates worked to provide cut lunches for the recent Special Olympics, as part of the Corrections Inmate Employment initiative. For the fourth year in a row, the kitchen at Hawkes Bay Prison prepared lunches for hundreds of participants at the games.

Hawkes Bay Prison's catering service is run by catering staff and a team of inmates. Inmates get the opportunity to learn cooking skills as well as general work skills and they can work towards gaining recognised cooking-related qualifications.

Corrections Inmate Employment aims to mirror the commercial sector as closely as possible, so inmates get a real experience of the expectations and requirements of employment. Providing inmates with employment while in prison increases the chances that they will obtain legitimate post-release employment by maintaining and promoting work habits and skills. This makes it less likely that they will re-offend.

In 1999, only 41% of sentenced inmates had income from paid employment before entering prison. Many inmates have been long-term unemployed and/or earned a living from illegal activities. Working encourages inmates to develop a sense of purpose and a sense of responsibility to someone other than themselves. It also provides the opportunity to gain valuable skills and in some cases, trade qualifications.

Approximately 690 inmates work on farms, forestry operations, horticulture and plant nurseries and more than 750 inmates are employed in workshops which include timber processing, joinery, metalwork, printing, signage and tailoring. Another 530 inmates undertake work in prison kitchens, laundries and on the upkeep of prison facilities.

Any potential impact on local business is considered before an employment initiative is introduced.

## Individual or group Community Work placement?

When Probation Officers assess an offender to decide what type of Community Work placement would be suitable, they take several factors into account.

These include the offender's suitability, the opportunity to learn work skills, whether an agency or Community Work Centre placement is suitable and whether individual placements are available.

The offender's suitability is assessed against criteria including their age, the nature of the current offence, their offending history, their previous compliance, their personal characteristics and circumstances, their physical and mental capabilities and whether they are vulnerable because of their age, gender or otherwise.

The offender will also be assessed using criteria including their location, availability of transport, employment commitments, education, religious needs, social and family needs, restrictions such as non-association orders and the availability and location of a suitable Community Work Agency.

If an offender is assessed as unsuitable, unable or unwilling for placement with a Community Work Agency, then their placement will be at a Community Work Centre.

## Community Work and the Contamination Effect

When assessing an offender for a Community Work placement, Probation Officers are obliged to make every effort to reduce the "Contamination Effect" of mixing high risk and low risk or young offenders. Careful consideration is given to the placement of offenders, particularly young offenders and vulnerable offenders, including women and offenders with intellectual or mental disabilities.

Offenders assessed as suitable for placement with an Agency are managed separately from offenders completing work through the Community Work Centre. Some offenders will complete their hours at both an agency and the centre, but only if they are considered suitable for both types of work.

Researcher Christopher Trotter examined this issue in his 1995 study, *Contamination Theory and Unpaid Community Work\**. His study of a group of offenders in Victoria, Australia, concluded that offenders who were placed on community work sites with other offenders were more likely to re-offend than those placed on work sites on their own or with other members of the community. He notes that the apparent impact of undertaking community work with other offenders was greater in relation to younger offenders. "This is perhaps expected, given that younger offenders seem more likely to be influenced by their peer group than older offenders." Trotter's study showed that the subsequent imprisonment rate for offenders under the age of 25 was 14% for those on individual work sites, compared to 31% for those on work sites with other offenders. For people under the age of 21, the difference was even more stark, with only 9% on individual work sites receiving sentences of imprisonment compared to 28% on group sites.

(\*from the *Australian and New Zealand Journal of Criminology*, volume 28, 1995).

## Deferred start dates and Home Detention

Section 100 of the Sentencing Act (2002) provides for Judges to defer the start date of a sentence of imprisonment, so an application for Home Detention can be considered by the New Zealand Parole Board.

Community Probation Service General Manager Ann Clark says the legislation provides for a deferral of up to two months.

"I would like to ask that Judges note that the Board can take at least five weeks from receiving an application, to making a decision, if everything runs according to plan. This means that allowing a deferral of six to eight weeks is the safest option."

# Translating Periodic Detention to Community Work

The table below compares common Periodic Detention sentences with the equivalent number of Community Work hours.

Months of Periodic Detention	Equivalent hours of Community Work
3 months	96 hours
6 months	192 hours
12 months	360 hours

## Sentencing Legislation Questions & Answers

Here, we cover some of the questions raised by Probation Officers during the implementation of the Sentencing and Parole Acts (2002).

### What Restorative Justice processes do Probation Officers take into account?

They mention them in pre-sentence reports and consider appropriate Community Work placements.

### Can offenders earn back their Community Work remission once they have lost it?

No. If the offender's performance has been so bad they have lost their remission instead of being breached, then remission is lost for that sentence.

### Can you have a placement with a mentor and/or an individual without going through a Community Work Agency?

No. All placements must be through an agency as defined in Section 63 of the Sentencing Act.

### Can an offender work 10 hours per day and 7 days per week?

Yes, but this would not normally be encouraged. Offenders are not to work more than 10 hours per day or more than 40 hours per week.

### If a Probation Officer is recalling an offender after 30 June but the offender was released to Parole before 30 June, which legislation should be used?

Section 97(1) of the Parole Act says that anyone released under Part IV of the Criminal Justice Act is deemed to be released under the Parole Act, therefore the new legislation would apply.

### If someone is sentenced before 30 June for a serious violent offence, do they become eligible for Home Detention after 30 June?

People sentenced for a serious violent offence prior to 30 June will be eligible to apply for Home Detention five months prior to their Parole Eligibility Date, which is at two thirds of their sentence. Their Final Release Date becomes their Parole Eligibility Date under the Parole Act.

## Odd spot

### Heard on Circuit

#### Sign of the times...

A 25-year-old man told the court, through his lawyer, that he tried to steal a \$16,000 car to pay off a debt. It was a pretty determined effort to make off with the Holden Commodore, involving towing it. The situation was made more serious by the fact that the man was on parole after a jail term at the time.

Defence counsel Rupert Glover spoke of unspecified threats being made to

the man's mother unless the money was forthcoming. The person making that threat had not only committed it to paper – he had signed it.

When the letter was passed up to Judge Colin Doherty as part of the man's explanation when he was sentenced, the judge noted the name of the man making the threat and passed the document on to the police to be dealt with as they wish.

The offender was sentenced to a year's

imprisonment with leave to apply for Home Detention.

- from Christchurch's The Press, 17 July 2002.



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