



AUDITOR GENERAL'S REPORT

FOLLOW-UP PERFORMANCE EXAMINATION

Implementing and Managing Community Based Sentences

Report 2 - May 2005



AUDITOR GENERAL for Western Australia

Serving the Public Interest



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**THE SPEAKER
LEGISLATIVE ASSEMBLY**

**THE PRESIDENT
LEGISLATIVE COUNCIL**

FOLLOW-UP PERFORMANCE EXAMINATION – Implementing and Managing Community Based Sentences

This report has been prepared consequent to an examination conducted under section 80 of the *Financial Administration and Audit Act 1985* for submission to Parliament under the provisions of section 95 of the Act.

Performance Examinations are an integral part of the overall Performance Auditing program and seek to provide Parliament with assessments of the effectiveness and efficiency of public sector programs and activities thereby identifying opportunities for improved performance.

The information provided through this approach will, I am sure, assist Parliament in better evaluating agency performance and enhance Parliamentary decision-making to the benefit of all Western Australians.

A handwritten signature in black ink, appearing to read 'D D R Pearson'.

D D R PEARSON
AUDITOR GENERAL
25 May 2005

Implementing and Managing Community Based Sentences

Overview

Community based sentences (CBSs) can be issued to adult offenders by courts as an alternative to fines, imprisonment or other options. A CBS involves one or more of four elements: unpaid community work, treatment programs, supervision and curfews. In Western Australia (WA) about 5 000 new CBSs are issued each year and about 4 000 are in force at any one time. Offenders are managed by corrections staff at the 16 branches and 13 sub-offices of the Department of Justice's Community Justice Services (CJS) directorate.

This report reviews how the Department of Justice (DoJ) has progressed since the May 2001 performance examination *Implementing and Managing Community Based Sentences*.

Key Findings

- Case management of adult offenders serving CBSs has improved. It is better resourced at the branches, better supported and monitored at the centre, and places public safety as the top priority.
- The proportion of successfully completed CBSs has remained stable in recent years. More than 40 per cent of offenders fail to complete their orders and are returned to the courts for re-sentencing.
- New information and performance measurement systems are still under development. Until they are fully implemented at the end of 2005, or later if there are delays, CJS will be limited in measuring the effectiveness of its operations and outcomes.

What Should Be Done

DoJ should carry forward its initiatives relating to CBSs with particular attention to:

- reducing the proportion of contract, casual and acting community corrections staff
- staffing branches according to the case workload and supervision ratios
- providing and evaluating more rehabilitative treatment programs
- auditing case management for consistency and compliance
- measuring the quality of services and their impact on offenders.

Background

CBSs were introduced in 1996 when probation and community service orders were discontinued. There are two types, Intensive Supervision Orders (ISOs) and Community Based Orders (CBOs). They can be issued by judges and magistrates to adults convicted across a range of offences.

The possible components of orders, which have a life of between six months and two years, are:

- *Community service* – The offender makes reparation by doing up to 240 hours of unpaid work.
- *Treatment program* – The offender participates in treatment designed to modify attitudes or behaviour and so reduce the likelihood of re-offending.
- *Supervision* – The offender reports to a community corrections officer for monitoring and intervention aimed at effecting positive behaviour change using research-led methods. Supervision may also include curfews and testing for the use of illicit drugs.

Since 1997-98, the first full year of CBSs, their use has increased by about 50 per cent, as shown in Figure 1. The increase is partly due to the abolition of prison sentences of less than six months and additions to the offences for which a CBS may be given.

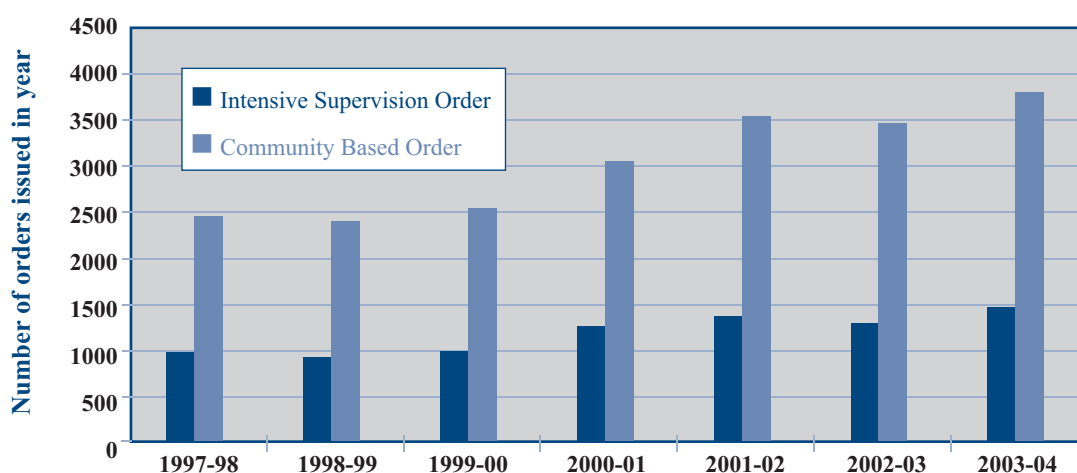


Figure 1: Community based sentences issued 1997-98 to 2003-04

The number of CBSs issued has increased by about 50 per cent.

Source: DoJ

A CBS is breached by re-offending, failing a drug test or not meeting the community work, program attendance or supervision requirements. When a breach is prosecuted, the matter is referred to the appropriate court which re-sentences the offender for the original offence, taking into account the seriousness of any re-offending and the degree of completion of the order. In some cases, often where most of the order has been completed, the offender is fined. In other cases, particularly if the breach is for serious re-offending or the original offence was serious, a term of imprisonment is imposed. About 40 per cent of CBOs and 50 per cent of ISOs are not successfully completed.

What Did We Do?

We carried out this follow-up performance examination by:

- interviewing CJS staff at head office and branches
- reviewing evidence files compiled by the Professional Practice and Standards Unit
- obtaining data from published sources and by special request
- reviewing case files
- attending the Court of Petty Sessions and interviewing the Chief Magistrate.

What Did We Find?

Case Management

Courts issue CBSs and deal with offenders who breach the terms of their orders. Case management of offenders is assigned primarily to community corrections officers (CCOs) at the branches, supported by several central units, as summarised in Figure 2. Our main concerns about case management in 2001 were:

- the lack of a common understanding among CCOs of the priorities they were expected to follow
- a lack of consistency in the management of offenders, resulting from the unclear principles, guidelines and practices
- the delegation to CCOs of decisions about whether to breach offenders in the absence of clear principles and guidelines
- the lack of supervision over how CCOs managed the offenders assigned to them.

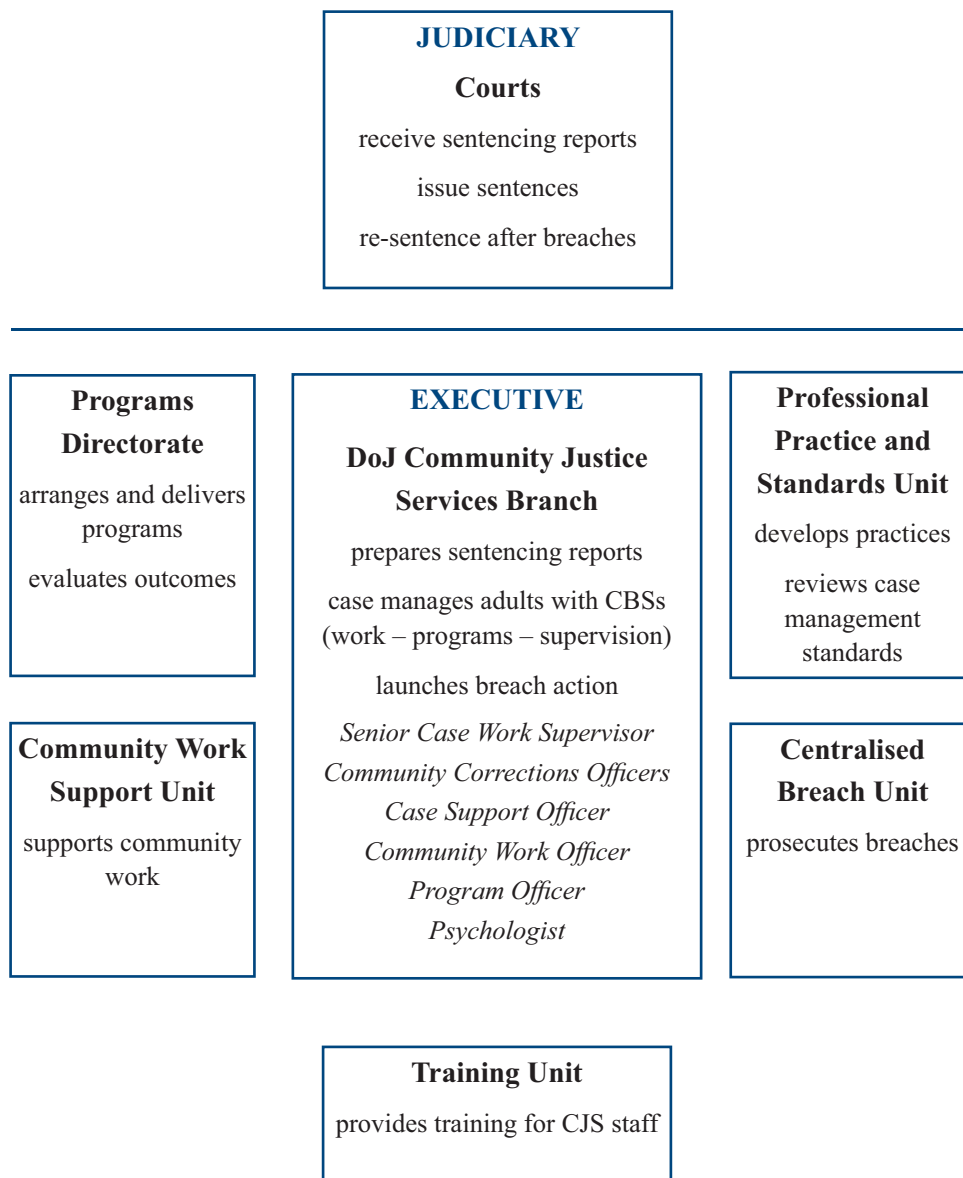


Figure 2: Roles in the management of adult community based sentences

Courts issue sentences for original offences and breaches. CJS branches case manage offenders with support from centralised units.

Source: OAG

We found that DoJ has improved many case management practices since the 2001 examination and the Smith and Skinner reports that also made recommendations in this area. The main changes relating to the 2001 findings were:

- **Importance of public safety** – CCOs are clearly told that their top priority is public safety. While CCOs are expected to assist offenders to complete their orders, unreasonable non-compliance cannot be tolerated and any risks to the public must be followed up.
- **Assessment of risk** – A new method of risk assessment and classification of offenders is in place, taking into account the risk of re-offending and the impact on the community. The information demands are greater but the assessments as ‘high’, ‘medium’ or ‘low’ are better aligned with managing offenders in the interests of public safety.
- **Supervision and review regimes** – Minimum supervision regimes have been updated for each level of risk. For example, high risk offenders must have at least 39 CCO contacts and 13 case management team reviews per year, with weekly supervision during the first six months. An offender’s risk level and supervision regime can be moved upwards or downwards during an order.
- **Work and programs** – Courts usually specify an order in general terms, such as the hours of community work to be done and whether a treatment program must be attended. The fine detail of an order is left to the CJS branch. Significantly more community work and treatment program options are now available compared to 2001.
- **Documentation** – CCOs are required to keep detailed records of the offenders they manage. This includes all contacts and attempted contacts, drug testing results, information on personal circumstances and decisions relating to the order. Documentation to the specified and auditable standards is an essential aspect of case management.
- **Reporting violations of orders** – An order can be violated by omission, such as not turning up for interviews or community work, or by re-offending. CCOs must report an offender to the branch manager or senior corrections officer after three omissions, or earlier if considered appropriate.

- **Breaching** – Breach decisions are now made by the manager and/or senior officer rather than individual CCOs, and the process is then taken over by the Centralised Breach Unit, set up in 2004. These changes have made case management more consistent, drastically reduced the elapsed time from the event that triggered the breach to the subsequent court decision, and lightened the workload of CCOs.
- **Practices and standards** – A Professional Practice and Standards Unit was set up in July 2004. Its roles include auditing how branches case manage adult offenders in the community, and providing support to promote consistency and compliance with policies and guidelines.

The main current and future challenges for case managing adult offenders with CBSs are:

- **Recruiting and retaining staff** – Delivering services to the required standard is only possible with a stable and skilled workforce. The most pressing need is for Senior CCOs to supervise and support other staff. It is also important that the CCO numbers at regional branches are adjusted for the significantly different demands made on their time, such as the need to travel to remote communities.
- **Range and suitability of programs** – Treatment programs cannot be successfully delivered on the basis that ‘one size fits all’. Some offenders are eager to change themselves while others do not regard their attitudes and behaviour as problematic. Programs are difficult to arrange in the regions, especially for offenders living in remote communities.
- **Social worker or enforcer** – CCOs have to balance their roles of engaging with offenders who often lead chaotic and dysfunctional lives and enforcing the orders issued by courts. Judgement must be exercised in deciding, for example, whether an offender ‘no show’ has a valid excuse or is a violation of an order.
- **Support, supervision and audit** – CCOs largely deal with offenders on an unobserved one-on-one basis. Ensuring consistency and compliance of case management calls for a careful balance of training, support, supervision and audit. The Professional Practice and Standards Unit will have a key role in this matter.

Staffing

The main findings in the 2001 report relating to staffing were:

- DoJ had not reviewed staff numbers despite increases in the number and complexity of orders
- workloads gave CCOs insufficient time to engage with offenders
- many CCOs were inexperienced and working on contracts of four months or less
- CCOs with permanent positions were often in other acting roles
- supervision of CCOs was often inadequate and varied between branches.

We found that DoJ has made a number of changes since 2001 that involve additional resources and organisational improvements relating to staff. They are intended to meet growing workloads and provide higher quality services.

- **Extra adult corrections staff at branches** – 16 new Senior Case Work Supervisors (SCWS, Level 6) have been appointed and the CCO workforce has increased from 65 to 120. There are now 41 Case Support Officers (CSOs) and 27 Community Work Officers compared to 9 Work Order Officers and an unrecorded number of sessional staff in 2001.
- **Higher status** – The status of CCOs is now Level 3/4 instead of Level 2/4.
- **Improved training** – The training for CCOs, including induction of new staff, has been made more comprehensive and accessible.
- **Better supervision** – SCWSs lead the branch corrections teams and act as quality controllers to ensure that case management policies and practices are observed. An SCWS does not normally have a personal caseload of offenders to manage.
- **Recruitment pools** – Pools of suitable applicants for permanent and contract CCO positions allow job offers to be made as soon as vacancies occur.
- **Program staff** – The extra \$2 million funding for rehabilitative programs has partly been used to appoint 13 Senior Programs Officers (Level 5) at the branches.
- **In-house psychologists** – More psychologists are directly employed than in 2001.
- **Central units** – New central units now support offender management at CJS branches. These include the Professional Practice and Standards Unit, the Centralised Breach Unit, the Programs Directorate and the Community Work Support Unit.

- **Workload modelling** – CJS has commenced the development of a business simulation modelling system to inform decision-making and resource deployment at each branch. The approach makes allowances for factors such as risk profiles of offenders and the extra staff travelling times at regional branches.

A number of staffing issues need to be resolved or progressed.

- **Permanent and non-permanent CCOs** – The reliance on non-permanent CCOs has risen, increasing the risks of less skilled case management and lower rates of successful completion of sentences. In February 2005, there were 120 allocated CCO positions of which 69 were held by acting, contract and casual staff. Of the 109 substantive CCOs employed by DoJ, only 53 were working as CCOs at the branches, the remainder acting in other positions.
- **Senior CCOs** – SCCOs are not yet in post at all adult corrections teams at branches to add strength and experience to the CCOs and CSOs. Funding is being sought to create the additional positions needed to provide at least one SCCO for each five junior staff.
- **Regional recruitment** – There are persistent problems in filling vacancies in less-favoured regional branches. Persons in the CCO pools often reject non-metropolitan job offers. There are no special rewards, such as salary supplements or assured transfers to Perth, to make regional positions more attractive.
- **Workload modelling** – The project is at an early stage. Its eventual usefulness will depend in part on DoJ's capacity to fund the staff numbers calculated for each branch and the success in making suitable appointments.

Information and Performance Measurement

The main concerns in the 2001 report relating to information and performance measurement were:

- the lack of reliable data about the long-term rehabilitative effects of orders
- little or no evaluation of the effectiveness of treatment programs
- limited use of information about offenders and their orders in planning
- a need for more performance measures for case managers and CJS as a whole.

We found that DoJ is improving its information systems and performance measurement, but much of the work is in progress rather than completed, most importantly:

- **Replacement of obsolete systems** – The information systems presently used for juveniles and adults are acknowledged by DoJ to be obsolete. They are due to be replaced by the Community-Based Information System (C-BIS). The C-BIS project is running behind schedule and the revised plan is that the system will be in place by the end of 2005.
- **Performance Measures Project** – CJS launched a wide-ranging project in 2004 to address the shortcomings of performance measurement within the directorate. Detailed specifications have been approved of measures for each of six outcomes. The ‘Offender Case Management and Rehabilitation’ outcome has 15 main measures, and each of these will be broken down by gender, community order type, branch, etc as appropriate.
- **Program evaluation** – Treatment programs are used, as far as possible, on the basis of ‘what works’, as reported throughout the world. The immediate aim of a program is to change attitudes. If successful, the modified attitude will lead to reduced offending. In association with the UWA Crime Research Centre, CJS is now evaluating ‘before and after’ attitudes of offenders taking programs.

Although work is under way on information and performance measurement, less has been achieved than for staffing and case management issues. To a large extent, CJS has been managing offenders since 2001 without improved information about internal processes or the impacts on offenders. Continuing concerns and suggestions include:

- **Project completion and impact** – The Performance Measures project is heavily dependent on C-BIS. Also, some of the proposed measures involve data issues and sources that are still to be resolved. When the approved measures are produced, they need to be part of a cycle of review and action.
- **Completion rates** – CJS presently publishes successful completion rates as its single key performance indicator of effectiveness in the annual report. Breakdowns of these rates by gender, order type, aboriginality and other factors are circulated within DoJ. Completions for adult CBSs have remained stable over the last six years at around 50 per cent for ISOs and 60 per cent for CBOs. The averages include rates of below 30 per cent for some identifiable groups.

Courts often issue CBSs, as a final chance of avoiding prison and modifying behaviour, to offenders at high risk of not completing them. Although higher completion rates are desirable, lower rates do not imply that CJS case management is failing. CCOs can offer a ‘helping hand’ but the prime responsibility for doing community work, attending programs or reporting for supervision lies with the offenders themselves.

The impact of better case management on completion rates is largely unknown. More disciplined breaching processes and a growing proportion of high risk offenders being issued with CBSs will tend to reduce completion rates, countering the increases that might be expected from lower CCO workloads, more programs and directly supervised community work.

Effectiveness of CJS – ‘Successful completion’ refers only to fulfilling the terms of the order. A recorded completion does not guarantee that a person has not offended while the CBS was in force or is less likely to offend later. Orders are often given for offences for which the detection or clear-up rates are low, such as burglary and theft. It is unrealistic to expect that reliable information could ever be obtained about how many offences are committed by persons while serving CBSs. Conversely, a person who fails to complete an order may nevertheless have benefited from supervision and treatment programs to become a law-abiding citizen.

While it is important for the justice system as a whole to evaluate how well CBSs are achieving their intended outcomes in comparison with other sentencing options, it is inappropriate to judge the effectiveness of CJS solely on completion rates or recidivism. The new performance measures will also cover aspects of case management that have not been closely monitored in the past.

Other Developments and Issues

The 2001 report restricted itself to adult offenders issued with CBSs. CJS clients include other groups, such as juveniles, fine defaulters on work orders and prison parolees. The future volume of CBSs will be influenced by a number of wider issues, including:

- **Sentencing legislation** – The offences for which CBSs are an option have increased. Prison sentences of less than six months were abolished in 2004, CBSs can now be issued for a wider range of offences and non-custodial options must be considered before imprisonment.

- **Sentencing preferences and policies** – Judges and magistrates issue sentences within the range of options available to them. If the judiciary has confidence in the efficacy of CBSs, more will be issued, otherwise different sentences may be preferred. The more successful CJS is at completing orders and rehabilitating offenders, the more its workload is likely to increase.
- **Juvenile justice** – Many adult offenders start to offend while juveniles. Success in removing them from the ‘revolving door’ of the justice system will reduce the number of adult offenders. CJS has recently launched a new intensive supervision program for juveniles, with the aim of preventing their progression to adult offending.

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