

**Submission
No 8**

SENTENCING OF CHILD SEXUAL ASSAULT OFFENDERS

Organisation: Department of Corrective Services
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Government of Western Australia
Department of Corrective Services

Office of the Commissioner

All enquiries: Giselle Lau, Policy Officer – (08) 9264 1715

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Mr Troy Grant MP

Chair

Joint Select Committee on Sentencing of Child Sexual Assault Offenders

Parliament of New South Wales

Parliament House, Macquarie Street

SYDNEY NSW 2000

Dear Mr Grant

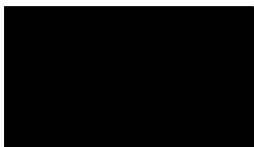
INQUIRY INTO SENTENCING CHILD SEXUAL ASSAULT OFFENDERS

Thank you for your letter dated 27 November 2013 inviting the Department to make a submission to the above inquiry.

In response to your request for information on the Department's experiences and views relating to anti-androgenic medication, I submit the enclosed paper for consideration by the Committee.

I trust that this information is of assistance and I look forward to the Committee's report on this important issue.

Yours sincerely



James McMahon
Commissioner

20 February 2014



Government of **Western Australia**
Department of **Corrective Services**

**Parliament of NSW Joint Select Committee
Inquiry into Sentencing Child Sexual Assault Offenders**

Submission from the Department of Corrective Services

February 2014

Background

The Joint Select Committee on Sentencing of Child Sexual Assault Offenders has invited the Department of Corrective Services to make a submission with regard to the Department's experiences and thoughts concerning anti-androgenic or anti-libidinal medication.

Since introduction of the *Dangerous Sexual Offenders Act 2006* (the Act) in Western Australia, anti-libidinal treatment has been one of the interventions considered by the Supreme Court when making an order in respect of an offender under sentence of imprisonment for a serious sexual offence. The objective of the Act is to provide for the detention in custody or supervision of certain sexual offenders for the purpose of ensuring the protection of the community and providing continuing control, care or treatment for these offenders.

The Act enables the Director of Public Prosecutions (DPP) to make an application to the Supreme Court for a Continuing Detention Order or a Supervision Order. The Court must find that the offender presents a serious danger to the community, and that there is an unacceptable risk that, if the person was not subject to a detention order or supervision order, the person would commit a serious sexual offence. Offenders subject to such an order are referred to as Dangerous Sexual Offenders (DSOs).

The Court's decision is informed by two psychiatric reports and other reports provided as evidence. The Act provides that an order may contain any conditions the Court considers appropriate to ensure adequate protection of the community, or for the rehabilitation, care or treatment of the offender. The Court may therefore find that the community can be adequately protected by a supervision order which includes a condition requiring the DSO take anti-libidinal medication. The supervision order applies as soon as the DSO is released from custody.

Experience in Western Australia

The Department's experience with anti-libidinal medication has been in relation to DSOs. As at November 2013, there were six DSOs undertaking anti-libidinal treatment on supervision orders in the community, and two DSOs undertaking such treatment in custody.

The anti-libidinal medication prescribed in Western Australia is cyproterone acetate (CPA), known by brand name Androcur. CPA is indicated for more dangerous paraphilias where there is a moderate to high risk for physical or violent offences. The other category of medications sanctioned for anti-libidinal purposes is selective serotonin reuptake inhibitors (SSRIs). SSRIs can be used to manage sexual obsessions and fantasies, whilst CPA is most effective for decreasing sexual urges and elevated sex drive. SSRIs tend to be recommended for less severe paraphillias, where there is comorbid depression, anxiety, or obsessive-compulsive symptoms, and/or lower levels of risk.

DSOs subject to a continuing detention order may elect to commence anti-libidinal treatment while in custody if recommended by a psychiatrist. This is thought to improve the prospect that the Court will consider the offender's release on a supervision order at a future review. The psychiatrist will also be able to assess whether the medication is effective in reducing the offender's testosterone levels. In making or reviewing an order, the Court orders independent reports by two psychiatrists on the level of risk that the offender would commit a serious sexual offence if not subject to a detention order or supervision order. The Court generally places significant weight on psychiatrists' recommendations and will include anti-libidinal medication as a condition in the order if it is recommended as a means of managing the risk of re-offending.

If the Court includes a requirement to take anti-libidinal medication as part of a supervision order, the DSO case manager is responsible for sourcing a general practitioner in the community to prescribe the medication on an ongoing basis. The management of DSOs in the community requires intensive supervision. The DSO is required to undergo regular monthly blood tests, to ensure that testosterone levels are being managed. The case manager consults with a Departmental doctor to interpret the test results and closely monitors the offender's compliance with the conditions of the order.

The Department's approach to the management of DSOs is to provide coordinated support and a range of targeted therapeutic interventions to complement anti-libidinal treatment where recommended. The DSO case manager consults with relevant agencies to ensure the risk that the offender presents to the community is appropriately managed. Western Australia has in place an Interagency Public Protection Committee which provides a structured and collaborative response from the Department, WA Police, Department of Child Protection and Family Support, Department of Housing and Department of Health.

The Department has experienced substantial difficulties in managing anti-libidinal medication for DSOs. While psychiatrists engaged by the Court may recommend anti-libidinal treatment as part of their assessment, they are not willing to treat these offenders on an ongoing basis (prescription and testing). The expectation of the Western Australian judiciary is that the Department will manage and fund the medical services required by offenders undergoing such treatment. This is untenable as the Department is resourced only to provide primary health care within custodial and detention facilities, and does not have the expertise or capacity to manage the medical needs of offenders in the community.

The Department's position is that the medical management of anti-libidinal medication is not the role of corrective services. It has therefore been necessary to find medical practitioners in the community who are willing to provide these services.

Medical and ethical concerns have been raised by medical practitioners (within the Department and in the community) in relation to the prescription of anti-libidinal medication and the potential effects on the offender's health and wellbeing. There are very few doctors in the Western Australian medical community willing to assume the medical management of anti-libidinal medication for DSOs. This is a significant issue as it affects the offender's ability to comply with the conditions of the Court Order.

Issues and Considerations

The following issues and concerns based on Western Australia's experience are provided for consideration by the Parliamentary Committee in their assessment and analyses of the potential use of anti-libidinal medication in New South Wales.

Medical

Comprehensive medical and psychological evaluations are required to assess the suitability of the offender for anti-libidinal treatment and establish the recommended dosage. These should be accompanied by baseline tests of health indicators such as a full blood count, liver and kidney function, thyroid function and bone density. Serious long term side effects which may result from anti-libidinal treatment include liver damage and liver failure, gynaecomastia, breast cancer, suppressed adrenal function, testicular atrophy and mood instability. Baseline testing is critical to determine any pre-existing conditions or risk factors.

There are a number of factors that can compromise the efficacy of anti-libidinal treatment including mood disorders, and the use of alcohol, amphetamines, steroids and other medications. In addition, anti-libidinal medication may have negative effects on the offender's health, motivation, lifestyle and personal relationships presenting a risk that the offender may discontinue the treatment. Regular monitoring of both health and psychological impacts is therefore required.

Medical practitioners have expressed reservations about the prescription and ongoing management of anti-libidinal treatment for sexual offenders. The majority of general practitioners in the community have no experience with anti-libidinal medication used for this purpose and are unfamiliar with sex offending theory and behaviour.

Concerns have also been raised in relation to the ethics of anti-libidinal treatment. Offenders are often extremely motivated to undergo treatment in order to comply with the requirements of a supervision order or to be considered favourably for release by the Court. Medical practitioners are therefore reluctant to prescribe anti-libidinal medication if they consider the patient has not given due regard to the potential side effects or if the medication would not be in the best interests of the health of the patient.

Anti-libidinal treatment is a specialised field and requires specialist knowledge of forensic psychiatry and endocrinology. It is essential that there is continuity of medical care for the offender on anti-libidinal medication from initial assessment through to ongoing prescription and monitoring in the community. It is good practice to complete all baseline testing and establish the offender on the medication while the offender is still in custody, and at least three months prior to release.

Judicial

The main focus for the court in mandating anti-libidinal treatment for a sexual offender is to reduce the risk of re-offending. Psychiatrists recommending anti-libidinal medication as a means of reducing the risk to the community should also consider medical risks to the offender and any implementation issues as these will affect the offender's ability to comply with a requirement to continue anti-libidinal treatment. It is important that the judiciary gives consideration to both the risk of re-offending, and the feasibility of implementing any order involving anti-libidinal medication. In particular, the judiciary should consider who will be responsible for the medical management of anti-libidinal medication in light of the ethical and medical concerns raised by medical practitioners.

A credentialing program for psychiatrists could be considered. This would be coordinated in collaboration with corrective services in order to ensure that any psychiatrist engaged by the court has a comprehensive understanding of the impacts and management requirements from recommending anti-libidinal treatment for an offender. Any court order involving anti-libidinal treatment should also include psychotherapy, counselling and any programs recommended by a psychologist to assist the offender in avoiding re-offending.

The inclusion of anti-libidinal treatment in a court order may be problematic depending on the specific wording of the condition. In some circumstances, the court may endorse a condition which is worded in a general manner requiring that the offender engage in a range of interventions prescribed by corrective services, one of which may include anti-libidinal medication. In other circumstances, the court leaves no discretion in the wording of the order, the consequence being that the offender would be in breach of the order in the event that anti-libidinal medication can no longer be prescribed due to deteriorating health. Alternatively, an application would need to be made to the Supreme Court to vary the order.

Management and monitoring

The management of offenders undertaking anti-libidinal treatment is complex and requires a holistic approach. There are a range of factors which will influence the effectiveness of anti-libidinal medication in reducing the risk of offending. Corrective services staff responsible for the management of offenders taking such medication require specific training and education. In addition, the offender himself needs to be educated in avoiding risks and managing lifestyle choices. This requires implementation of a through-care model from custody through to release under supervision and coordinated post-release support. It is important for the case manager to have regular contact with the offender's medical care provider and be in a position to initiate early referrals to other agencies or services enabling effective planning and provision of interventions.

A major difficulty is sourcing a medical practitioner in the community who is willing to prescribe anti-libidinal medication to an offender. Specialised expertise is also required to monitor the offender's health and treatment efficacy, and interpret test results. Blood tests are required to measure testosterone levels and it is often difficult to ascertain if the offender is taking drugs or medications which compromise the effect of anti-libidinal treatment. It is advised that the medical professional attends or provides reports to the risk management meetings to provide an important perspective on the offender's risk of re-offending.

A potential solution could be for corrective services to employ an appropriately skilled medical practitioner who would be responsible for the baseline assessment, medication prescription and subsequent monitoring and testing for offenders undergoing anti-libidinal treatment. Consideration also needs to be given to the coordination and cost of pathology, imaging and screening tests to determine patient suitability for anti-libidinal treatment. It may be necessary for corrective services to set up clinical premises where tests and prescriptions can be provided to offenders as part of supervision conditions.

The management of sexual offenders undergoing anti-libidinal treatment requires a multidisciplinary approach. Comprehensive processes and procedures should be established which include guidelines for corrective services staff, medical care providers and offenders. There needs to be collaborative interagency support (both strategic and operational) in order to deliver the interventions required to manage dangerous sexual offenders.