SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Eades* [2013] QSC 266
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) v **RAYMOND BARRY EADES** (respondent)
FILE NO/S:	BS 7253 of 2010
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court of Queensland
DELIVERED ON:	30 September 2013
DELIVERED AT:	Brisbane
HEARING DATE:	30 August 2013
JUDGE:	Philip McMurdo J

ORDERS:

1. **The decision made by Peter Lyons J on 30 November 2010, that the respondent is a serious danger to the community in the absence of an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003, be affirmed.**
2. **The continuing detention order made by Mullins J on 20 December 2011 be rescinded.**
3. **The respondent be released from custody on 30 September 2013 and from that time be subject to the following requirements until 30 September 2023:**

   The respondent must:

   1. **be under the supervision of an authorised Corrective Services officer for the duration of the order,**
   2. **report to an authorised Corrective Services officer at the Queensland Corrective Services Probation and Parole Office closest to his place of residence between 9am and 4pm on the day of release from custody and at that time advise the officer of the respondent's current name and address;**
   3. **report to, and receive visits from, an authorised Corrective Services officer at such times and at**

such frequency as determined by Queensland Corrective Services;

4. **notify and obtain the approval of the authorised Corrective Services officer for every change of the respondent's name at least two (2) business days before the change occurs;**
5. **comply with any curfew direction or monitoring direction;**
6. **comply with any reasonable direction under section 16B of the Act given to the prisoner;**
7. **comply with any reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order;**
8 **seek permission and obtain approval from an authorised Corrective Services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;**
9. **notify an authorised Corrective Services officer of the nature of his employment, or offers of employment, the hours of work each day, the name of his employer and the address of the premises where he is or will be employed at least two (2) days prior to commencement or any change;**
10. **reside at a place within the State of Queensland as approved by an authorised Corrective Services officer by way of a suitability assessment;**
11. **seek permission and obtain the approval of an authorised Corrective Services officer prior to any change of residence;**
12. **demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services if this accommodation is of a temporary or contingency nature;**
13. **comply with any regulations or rules in place whilst housed at any contingency or temporary accommodation;**
14. **not reside at a place by way of short term accommodation including overnight stays without the permission of an authorised Corrective Services officer;**
15. **not leave or stay out of Queensland without the written permission of an authorised Corrective Services officer;**
16. **not commit an offence of a sexual nature during the period of the order;**
17. **respond truthfully to enquiries by an authorised Corrective Services officer about his activities, whereabouts and movements generally;**
18. **not to have any direct or indirect contact with a**

victim of his sexual offences;

19. **disclose to an authorised Corrective Services officer upon request the name of each person with whom he associates and respond truthfully to requests for information from an authorised Corrective Services officer about the nature of the association, address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour;**
20. **notify an authorised Corrective Services officer of the make, model, colour and registration number of any vehicle owned by or generally driven by him, whether hired or otherwise obtained for his use;**
21. **submit to and discuss with an authorised Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;**
22. **if directed by an authorised Corrective Services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by authorised Corrective Services officer who may contact such persons to verify that full disclosure has occurred;**
23. **submit to any form of drug testing including both random urinalysis and breath testing as directed by an authorised Corrective Services officer;**
24. **take prescribed drugs as directed by a medical practitioner and disclose details of all prescribed medication as requested to an authorised Corrective Services officer;**
25. **attend upon and submit to assessment, treatment, and/or medical testing by a psychiatrist, psychologist, social worker, counsellor or other mental health professional as directed by an authorised Corrective Services officer at a frequency and duration which shall be recommended by the treating intervention specialist;**
26. **permit any medical, psychiatrist, psychologist, social worker, counsellor or other mental health professional to disclose details of treatment, intervention and opinions relating to level of risk of re-offending and compliance with this order to Queensland Corrective Services if such a request is made for the purposes of updating or amending the supervision order and/or ensuring compliance with this order;**
27. **attend any program, course, psychologist, social worker or counsellor, in a group or individual capacity, as directed by an authorised Corrective**

Services officer in consultation with treating medical, psychiatric, psychological or other mental health practitioners where appropriate;

28. **not establish or maintain any supervised or unsupervised contact with children under 18 years of age except with prior written approval of an authorised Corrective Services officer, but in the case of the respondent's daughter/son by way of supervised contact and communications in writing or by telephone if agreed between the respondent and the mother of the child or approved by order of a court under the *Family Law Act 1975*; The respondent is required to fully disclose the terms of the order and nature of offences to the guardians and caregivers of the children before any such contact can take place; Queensland Corrective Services may disclose information pertaining to the respondent to guardians or caregivers and external agencies (ie Department of Child Safety) in the interests of ensuring the safety of the children;**
29. **not undertake any care of children without the prior written approval of an authorised Corrective Services officer;**
30. **advise an authorised Corrective Services officer of any repeated contact with a parent of a child. The respondent shall if directed by an authorised Corrective Services officer make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by an authorised Corrective Services officer who may contact such persons to verify that full disclosure has occurred;**
31. **seek written permission from an authorised Corrective Services officer prior to joining, affiliating with or attending on the premises of any club, organisation or group;**
32. **not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either child membership or child participation without the prior written approval of an authorised Corrective Services officer;**
33. **not knowingly associate or have contact with anyone convicted of a sexual offence against children, except for contact with others during the course of fulfilling order requirements;**
34. **obtain the prior written approval of an authorised Corrective Services officer before accessing a computer or the internet;**
35. **supply to an authorised Corrective Services officer**

any password or other access code known to him to permit access to such computer or other device or content accessible through such computer or other device;

36 not access pornographic images that display photographs or images of children on a computer or on the internet or in any other format;

37. obtain the prior written approval of an authorised Corrective Services officer before possessing any equipment that enables him to take photographs or record moving images;

38. allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process;

39. allow any other device including a telephone or camera to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of an authorised Corrective Services officer;

40. advise an authorised Corrective Services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by the respondent within 24 hours of connection or commencement of use and report any changes to mobile phone details;

41. not visit or attend a caravan park without the prior written approval of an authorised Corrective Services officer;

42. not to go unsupervised to a place that houses children, intellectually disabled persons, mentally ill persons or persons with drug misuse difficulties without the prior written approval of an authorised Corrective Services officer;

43. not to own, possess or regularly utilise more than one mobile phone except with prior written approval from an authorised Corrective Services officer;

44. notify the supervising Corrective Services officer of all personal relationships entered into by the respondent.

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where the applicant seeks review of a continuing detention order – where the respondent has been diagnosed as suffering from non-exclusive homosexual paedophilia – where the respondent has an antisocial personal disorder and significant Psychopathic Personality features – where the respondent has

a history of recidivism and large number of victims – where the respondent was previously released on a supervision order – where the respondent breached that supervision order – where psychiatric evidence shows that respondent is motivated by self-interest and avoiding a return to prison – where there is an unacceptable risk that the respondent will commit a serious sexual offence upon release without a supervision order being made – where the onus is on the applicant to show that adequate protection of the community cannot be reasonably and practicably managed by the respondent being released subject to a supervision order – whether the respondent should be released on a supervision order

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s 27, s 30

Attorney-General v Francis [2007] 1 Qd R 396; [2006] QCA 324, cited

COUNSEL: J B Rolls for the applicant
L Falcongreen for the respondent

SOLICITORS: Crown Law for the applicant
Legal Aid Queensland for the respondent

[1] This is an application made by the Attorney-General for the State of Queensland pursuant to s 27 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) ("the Act") for the review of the continuing detention of the respondent.

[2] The original order made under the Act against the respondent was a supervision order made on 30 November 2010. The respondent had then served all but a few days of a term of 10 years imprisonment, which had been imposed for two offences of sodomy of a young boy.

[3] Within a few months, the respondent breached conditions of that supervision order. In March 2011, he pleaded guilty to an offence of a breach of the condition by which he was not to associate, or have contact with, anyone convicted of a sexual offence against children. That offence was committed when in January 2011, he had several telephone conversations with a prison inmate who had been convicted of such an offence. For this the respondent was fined $350. Then he pleaded guilty to a further breach of a condition of his supervision order, namely that he was to respond truthfully to inquiries made by a corrective services officer about his activities, whereabouts and movements generally. The respondent gave certain versions as to his whereabouts on a day in March 2011. This information was demonstrated to be false and he pleaded guilty to this offence in May 2011. He was fined $500 for that offence.

[4] But in May and June 2011, there were further breaches which were more serious and resulted in his return to prison. The respondent formed a relationship with a woman who was the grandmother of three boys. The respondent disclosed to a corrective services officer something of his relationship with her, but gave false information which did not disclose the respondent's contact with the grandchildren.

He was found to have breached that condition which required him to respond truthfully to inquiries by a corrective services officer about his activities, whereabouts and movements. In particular, he was untruthful about whether he was having contact with any children. He also breached the condition by which he was not to establish or maintain any supervised or unsupervised contact with children except with the prior approval of a corrective services officer. In that respect, he had supervised contact with the three boys on six occasions over a period of two to three weeks. On one of those occasions, another convicted sex offender was present. He thereby breached that condition by which he was not to associate with anyone convicted of a sexual offence against children.

[5] In consequence of the breaches to which I have referred in the previous paragraph, in June 2011 the respondent was arrested under a warrant issued under s 20 of the Act, pending the decision of the court under s 22. That decision was the judgment of Mullins J delivered on 20 December 2011, after a hearing a few days earlier. Her Honour was unpersuaded that adequate protection of the community could be ensured by the supervision order and accordingly substituted a continuing detention order.[1]

[6] The present application by the Attorney-General was filed in December 2012. The hearing of the application commenced on 11 February 2013 (before another judge) before it was adjourned to a date to be fixed to enable the respondent to undertake a sexual offender maintenance program. The respondent has undertaken that program. He has also undergone further psychiatric assessment.

[7] This review hearing is governed by s 30 of the Act which provides as follows:

> "30 Review hearing
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> (1) This section applies if, on the hearing of a review under section 27 or 28 and having regard to the required matters, the court affirms a decision that the prisoner is a serious danger to the community in the absence of a division 3 order.
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> (2) On the hearing of the review, the court may affirm the decision only if it is satisfied—
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> (a) by acceptable, cogent evidence; and
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> (b) to a high degree of probability;
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> that the evidence is of sufficient weight to affirm the decision.
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> (3) If the court affirms the decision, the court may order that the prisoner—
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> (a) continue to be subject to the continuing detention order; or

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1 *Attorney-General for the State of Queensland v Eades* [2011] QSC 408.

(b) be released from custody subject to a supervision order.

(4) In deciding whether to make an order under subsection (3)(a) or (b)—

(a) the paramount consideration is to be the need to ensure adequate protection of the community; and

(b) the court must consider whether—

(i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(ii) requirements under section 16 can be reasonably and practicably managed by corrective services officers.

(5) If the court does not make the order under subsection (3)(a), the court must rescind the continuing detention order.

(6) In this section—

required matters means all of the following—

(a) the matters mentioned in section 13(4);

(b) any report produced under section 28A."

[8] There is no controversy about the operation of s 30(1) in this case. The respondent by his counsel agrees that the court should affirm the decision within the supervision order made in 2010 that the respondent is a serious danger to the community in the absence of a Division 3 order. That concession is understandable. In particular, one of the two psychiatrists whose reports have been prepared under s 29, Dr Beech, said in his oral evidence:

> "Mr Eades is, fortunately, an uncommon case because he's psychopathic, he's got the sexual deviance of paedophilia, he's offended, he's offended recurrently, and he's … offended on supervision. I don't know [if] it gets much higher in terms of likelihood of offending in the community without supervision."[2]

[9] The question then is whether the respondent should remain subject to the continuing detention order or be released from custody subject to a supervision order. Counsel for the Attorney-General said at the commencement of this hearing that "the (written) evidence probably leans towards a supervision order". In his submissions at the end of the hearing, he submitted that a conclusion in favour of either alternative was open.

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2 T 1-24, ll 17-22.

The respondent's history

[10] The respondent was born in 1955 and is now aged 58 years. His childhood was characterised by disadvantage, neglect and abuse. At the age of five, he was taken from his family in rural New South Wales and sent to an institution in inner Sydney, where he was subjected to cruelty and sexual abuse. He says that he and other boys were regularly taken from this place into Kings Cross and used as child prostitutes. He was placed in foster care but was then abused, physically and sexually, by his foster father and a friend of his father. At the age of eight years, he attempted suicide.

[11] At the age of 14 years, he left school and ran away from home and went to the town where his natural parents lived. He was found and returned to Sydney but he again ran away, this time to Brisbane. He was transferred to the Westbrook Boys Home and then to other institutions. After his release, he began his extensive criminal history.

[12] The first of his sexual offending occurred in January 1973 when he was convicted of two charges of buggery. There followed a series of offences of dishonesty and periods of imprisonment in the 1970s. In 1980, he was convicted of the aggravated assault of a sexual nature on a male child under the age of 14, for which he received three months imprisonment.

[13] In 1982, he was convicted of the indecent dealing with a boy under 14 years for which he was sentenced to six months imprisonment. He received a further 12 months imprisonment for escaping from legal custody in 1983. In 1987, he was twice convicted of sexual offences involving children for which he received concurrent sentences of up to two years. In 1990, he was sentenced to three and a half years imprisonment upon further offences of a sexual nature involving a child. In the following year, he was sentenced to 18 months imprisonment upon some dishonesty offences and a further two and a half years for sexual offences involving a child under 12 years. In 1997, he received yet a further term of imprisonment, this time three years, for indecently dealing with a child under 16.

[14] Then in 2001, he was sentenced in the District Court to concurrent terms of up to six years for a number of offences of indecent treatment of children under 12 years. At the same time, an indefinite sentence was imposed for an offence of the unlawful sodomy of a child under 12 years. In November 2001, his appeal against those convictions was dismissed by the Court of Appeal. In 2008, the indefinite sentence was discharged and a 10 year sentence was imposed in its place.[3]

[15] He has spent most of his adult life in prison. When making the supervision order in his case, Peter Lyons J noted:

> "His record reveals that as an adult on some eight previous occasions he had been sentenced to terms of imprisonment for sexual offences for periods initially relatively short, but, not surprisingly, increasing in length as his history of offending continued."

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[3] *R v Eades* [2008] QDC 124.

The continuing detention order

[16] I have outlined already the contraventions of the supervision order. But more needs to be said about those breaches which resulted in the rescission of that order and the substitution of a continuing detention order.

[17] In early May 2011, the respondent disclosed to a corrective services officer that he was visiting a woman at her house. He was asked whether any children sometimes visited that house and he said he did not know. A few weeks later, a corrective services officer received a call from the woman's adult son who provided some information that was referred to the police. Statements were then taken from the son and his wife, which described about six occasions on which the respondent had been present at the same place as the son, his wife and their three boys. Two days later the Attorney-General took steps to have the respondent arrested and the supervision order rescinded.

[18] The hearing took place on 16 December 2011. Oral evidence was given by the woman's son, his wife and the respondent. It was conceded by the respondent that he did have contact with the three boys in breach of a condition of the supervision order. In her judgment, Mullins J referred to six occasions on which the respondent had come into contact with the boys. The first was when the respondent was working on a car at the woman's place. On that occasion, the respondent was in the company of a person described as X, a convicted sex offender. The woman's son, his wife and the three boys called in to visit the woman and there met the respondent and X.

[19] The second occasion was another visit by the son and his family to the same house, in the course of which the respondent arrived. All of them then went to a nearby hotel for lunch. Mullins J found that his conduct on this occasion was an example of the respondent seeking to ingratiate himself with the family.

[20] The third occasion was when the respondent went with the woman to her son's house, staying for two or three hours with her son and his wife with the boys being around the house.

[21] The fourth occasion was a trip to Nambour with the respondent and the woman (travelling in her car) and her son's family (travelling in their car). At Nambour they all had drinks at a café, paid for by the respondent, and then went to the park for a barbecue. The three boys went fishing there and the respondent accepted that he had helped set up one of the fishing rods for the boys. But there was no suggestion that he was with any of them by himself.

[22] Next there were two occasions on which the respondent went to the house of the woman's son when each of the boys were there. On one of these occasions, the respondent was accompanied by X. On the other occasion the respondent was with the woman.

[23] Mullins J summarised these episodes as the respondent behaving as if he was a friend of the extended family. Her Honour found that this was conduct constituting

a very serious contravention of the supervision order because it involved many occasions of contact, albeit "supervised contact", with the boys without the prior approval of a corrective services officer. Moreover, on two of these occasions the convicted sex offender X was present. In his evidence, the respondent explained X's presence as being that X had simply followed him and apparently he was not challenged on that evidence.

[24] The seriousness of these contraventions was discussed by the two psychiatrists who gave evidence in that hearing (and here), namely Dr Harden and Dr Beech. Dr Harden there noted that the respondent had not adhered to his relapse prevention plan, by failing to avoid contact with a family with children. He described the contravention by associating with a family with children as very serious. Dr Beech then wrote that the respondent's befriending a family with three young children was "in keeping with his pattern of other offences against children … point[ing] to the grooming of the family and the children … as the prelude to further offences". He described the respondent's explanations for this contact as "glib and disingenuous" and going "completely against his relapse plan". Dr Beech said that it was important that the respondent appeared to have hidden the relationship from corrective services officers despite the supervision order. In his oral evidence at that hearing, Dr Beech said that if the respondent's conduct were characterised as part of the deliberate grooming pattern, in his opinion this was a very serious contravention, showing that the respondent was "at a very high risk of reoffending in the community" and that he was "not sure what can be done at the moment to reduce that risk". But Dr Beech did say that the respondent may benefit from undertaking a sexual offenders program again.

[25] Mullins J rejected the respondent's explanation that he did not understand the requirements of the conditions, and in particular, that by which he was not to establish or maintain any contact with children except with the prior approval of a corrective services officer. Her Honour found that the respondent's "contact with the three boys was not accidental conduct" and that "it had all the hallmarks of grooming behaviour". Further in her judgment, her Honour characterised the respondent's contravention as "grooming behaviour of a nature that has been a prelude to sexual offending by the respondent in the past". She was unpersuaded that the risk of reoffending could be adequately addressed by the existing supervision order "even if amended to provide for GPS monitoring".

[26] There was no appeal from that judgment. The critical finding by her Honour, that the respondent had set about a course of "grooming" the family, was made after hearing evidence from the respondent and the family members, and I was not asked to make my own findings about that question.

Further treatment

[27] The respondent has been treated by Mr N Smith, a psychologist, since October 2012. There have been 17 treatment sessions up to the end of June. The respondent has also recently completed the Sexual Offenders Maintenance Program ("SOMP").

[28] In his report of 23 May 2013, Mr Smith wrote that the respondent continues to express a motivation to return to the community and not reoffend. The respondent's capacity, or at least willingness, to reflect on his breach has improved and there appears to Mr Smith to be a reduction in the respondent's "verbalising a sense of

victimisation about his return to custody". He wrote further that "reasonable questions will continue to be raised about his actual insight versus an intellectualised acknowledgment of the impacts of his offending … however his overall engagement appears to have improved more recently". He added that "whilst concerns will continue to exist about the likelihood of Mr Eades returning to familiar and long-standing patterns of offending behaviour, his apparent recognition that he will require lifelong support and treatment may be a positive sign".

[29] Mr Smith wrote again on 27 June 2013, after receipt of the report of the respondent's participation in the SOMP. He there wrote:

> "My documented concerns about the nature and true degree of Mr Eades' insight into his offending behaviour (ie intellectualised rather than intrinsic), appear also to be reinforced by the facilitator's experience of Mr Eades in the program. His apparent rumination on issues of his own victimisation and blaming others is also indicative of limitations in his capacity for perspective taking, victim empathy and accepting responsibility for his actions."[4]

[30] In his oral evidence, Mr Smith was asked whether he believed that the respondent's breach in 2011 may have been a lesson to him, to which he answered: "Yes. I would say that Mr Eades certainly has the capacity to understand the consequences of that sort of behaviour and to formulate alternative strategies for responding to high risk situations".

The psychiatric evidence

[31] In his most recent report (28 July 2013), Dr Harden wrote:

> "At a previous interview in 2011 following his behaviour he offered many and varied rationalisations for this behaviour, recognised little of the risk he may pose to other people and did not have a comprehensive plan for managing this risk. He now acknowledges this pattern of offending and is able to at least intellectually and somewhat inconsistently appreciate that his risk to the community is ongoing and requires management.
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> He has previously spent some significant time and thought on redeveloping his relapse prevention plan and was able to discuss it with some degree of insight. It is not clear whether he has done this preparation in association with a professional or not. As I have noted earlier in this report he does identify a number of his high risk factors however the mitigation strategies are less certain given his previous behaviour. He has undertaken further programmatic work since last reviewed with a reasonable outcome given his underlying concerning issues regarding sexual deviance and psychopathy.
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> As Mr Smith correctly identifies individuals with high psychopathy tend to predominantly be motivated by concern regarding their own situation rather than harm to others."[5]

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4 Exhibit NWWS-3 to the supplementary affidavit of Nicholas Smith, Court doc # 92, page 1-2.

5 Exhibit SH-3 to the affidavit of Scott Harden, Court doc # 96, page 28.

[32] Dr Harden restated his diagnosis of the respondent as a man who suffers from non-exclusive homosexual paedophilia, which is lifelong in duration and who has a very large number of victims and multiple occasions of recidivism. He also has an antisocial personality disorder and significant Psychopathic Personality features.

[33] In that report, Dr Harden wrote:

> "Although there is some risk reduction by strict supervision and monitoring it is difficult to be confident about the degree of such reduction of risk afforded by the supervision order given his previous degree of deception while on a supervision order.
>
> Psychological treatment and possible libido lowering medications might also reduce his risk, however once again it is difficult to be confident regarding risk reduction via these modalities in this man."[6]

[34] In his oral evidence, Dr Harden agreed that there was likely to be some reduction in the risk of reoffending from the employment of GPS monitoring as well as anti-libidinal medication, although in each case the extent of the reduction could not be quantified.

[35] In his report of 17 July 2013, Dr Beech wrote:

> "In my opinion the risk of re-offending could be reduced to moderate by a supervision order, but it would need to be stringently enforced. Mr Eades would need to account for his activities, his travels and his contacts. These will need to be checked. Any undisclosed association with children should not be tolerated. I consider that his recent programs make it more likely that he will abide by these conditions, although Mr Eades has been a deceptive man, and his progress should not be taken simply at face value.
>
> The use of an antilibidinal agent would reduce the risk further, but vigilance would still need to be maintained. He would benefit from ongoing counselling."[7]

[36] Dr Beech was asked to clarify what he had meant by "stringent enforcement" of a supervision order. He responded with a further report of 27 August, in which he explained that there were two elements to this statement. The first is that, he believed, a supervision order should be "closely and strictly applied". The other is that the respondent's compliance with the order would need to be "very closely monitored", because the respondent "is a deceptive man who has been untruthful under supervision … [which] reflects his psychopathic nature". He wrote that "[the respondent's] accounts of his contacts, travels and activities cannot be accepted at face value" and that "his activities would need to be checked and corroborated to exclude the possibility that he has been having contact with families of children whom he could groom".

[37] Dr Beech wrote:

> "On a practical level, this means that Mr Eades' activities in the community would need to be traced by other methods, such as GPS monitoring and the officers would need to actually go to the sites

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6 Exhibit SH-3 to the affidavit of Scott Harden, Court doc # 96, page 29.

7 MJB-6 to the affidavit of Michael Beech, Court doc 94, page 10-11.

> where Mr Eades visits, at times while he is there and at times when he has left, to check and to corroborate he has been truthful not only in his travels but in his accounts of those people with whom he has had contact."[8]

Dr Beech believes that there would be a need to continue what he describes as this "extreme level oversight" for three to six months, after which it could be wound back to weekly checks and from there, to random checking. He concluded this report by saying:

> "His contraventions in 2011, and his earlier offending on bail, indicate on the face of it that a return to prison is not a sufficient deterrent on its own to prevent Mr Eades from entering into situations that would escalate his risk of re-offending."[9]

[38] As to the insight or otherwise of the respondent, Dr Beech wrote that there had been a "shift into his intellectual insight particularly around the awareness of risk factors" and that he was aware of the need to avoid potential access to victims.

[39] In his oral evidence, Dr Beech was asked whether the respondent appeared to be motivated to be released into the community. Dr Beech answered that he was so motivated but added that the question was "whether, once he's in the community, the return to prison is enough to deter him on its own". When asked whether the self interest of Mr Eades (in staying out of prison) could be effective in preventing him from reoffending, Dr Beech answered:

> "It has potential to be effective. The effect of it is - really is, at any particular time, whether he sees his self-interest in having a sexual relationship with a child or staying out of prison."[10]

In his view, it would be relevant to the respondent that his movements were being monitored by GPS in that "the hope is that he would now think twice, or three times, about being truthful about where he's going, because he knows he can be checked".

[40] The respondent does not challenge any of the evidence of the psychiatrists or of the psychologist Mr Smith and there is no reason to reject any of this evidence.

[41] The evidence of the psychiatrists, particularly that of Dr Beech, gives the strong impression that it would be through very close monitoring of the respondent's activities and associations that the respondent would be motivated to comply with a supervision order and not breach its conditions relating to contact with children. The respondent is motivated effectively only by self-interest. Dr Harden wrote that individuals such as the respondent, who have high psychopathy, tend to be motivated by concern about their own situation rather than harming others. In my view, it would be his own perception of the effectiveness of the containment regime under a supervision order which would be likely to affect the prospects of his reoffending.

[42] Therefore, the effectiveness of the very strict supervision which is particularly recommended by Dr Beech is relevant in two ways. The first is in its potential to

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8 MJB-8 to the affidavit of Michael Beech, sworn 28 August 2013, page 4.

9 MJB-8 to the affidavit of Michael Beech, sworn 28 August 2013, page 5.

10 T 1-26, ll 14-16.

reveal some conduct which could be the early stage of a course which would lead to further offending. The second is in the potential impact upon the respondent, by his own perception that he would not be able to breach his supervision order without its prompt discovery by corrective services officers.

The effectiveness of supervision

[43] Evidence was given by a senior officer of Queensland Corrective Services, Mr J B Smith, about the measures available to monitor and supervise a released prisoner such as the respondent. As with the psychiatrists, there was no real challenge to this evidence.

[44] One of the measures is electronic monitoring via GPS. This was not available during the period of his release under the supervision order. It identifies the location of the person at any time and the system can be programmed to provide an alert to corrective services if and when there is some breach of a curfew or location condition. The movement of the released prisoners, who number more than 80 at present under this Act, is monitored by Corrective Services through what is called the Central Monitoring Station ("CMS"). The practice is that there is no continuous review of an offender's GPS data on an individual basis. Instead, the CMS operator will conduct random checks from time to time. Much of the work of the CMS is in responding to alerts of breaches of conditions. There are also what Mr Smith describes as periodic retrospective reviews of GPS data by the offender's supervising officer. This can take the officer about three hours at a time to go through the data generated over any week. In that way, the supervising officer is able to trace where the offender has been and the amount of time which he has spent there. But this does not identify the other person or persons at any location or the reason for the offender's presence there. This process of review is used by officers in conjunction with other measures such as interviewing the offender and comparing his version of events with that recorded by the GPS monitoring.

[45] There are limitations on the investigative powers of Corrective Services staff. Mr Smith said that before making inquiries about any specific location which has been frequented by an offender, there would have to be some belief that there was a particular risk of harm from the respondent at those premises.

[46] More generally, these measures of supervision and surveillance do not ensure that Corrective Service officers will always be informed of all of the relevant circumstances from which a particular likelihood of offending could exist. There are obvious limitations in identifying the detail of personal interactions between the respondent and others. To take the behaviour of 2011 as an example, GPS monitoring would have shown that the respondent was at the woman's house on several occasions. A visit to that house may or may not have coincided with a visit by the woman's son and his children and therefore it may or may not have revealed the potential for contact between the respondent and the children. But it would have revealed his visits to the house where the children lived. Mr Smith said that although the proposed level of GPS monitoring and physical surveillance suggested by Dr Beech was technically possible, the extent to which it could achieve the effective supervision of the respondent, so as to mitigate the risk of reoffending, is "doubtful".[11]

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[11] Affidavit of Joel Brady Smith, sworn 28 August 2013, paragraph 33.

Decision

[47] According to s 30(4)(a), in deciding the present question, the paramount consideration is the need to ensure adequate protection of the community. By s 30(4)(b), the court must consider whether adequate protection of the community can be reasonably and practically managed by a supervision order and whether the requirements of s 16 can be reasonably and practically managed by corrective services officers. I agree with Dr Beech's statement, made with the benefit of the evidence from Mr J B Smith, that corrective services have the capability to sustain a level of supervision of the order which Dr Beech thinks is required. By the monitoring system, they can be aware of the respondent's location at any time. They would have very substantial powers to confine his movements under the order to which the respondent would consent, particularly through the use of the curfew power.

[48] On one view of some of the evidence of Mr J B Smith, it would seem that there is a reluctance on the part of corrective services to devote an unusually high amount of resources to the respondent's case. But Mr Smith did not say that the employment of these resources was beyond the capacity of Corrective Services. In *Attorney-General v Francis*,[12] the Court (Keane and Holmes JJA and Dutney J) said:

> "The Act thus assumes that supervision will be available. The court should not conclude either that it will not be made available or will not be made sufficiently available in the absence of clear evidence to that effect and an explanation as to why its provision is regarded as unreasonable or impractical."

[49] I accept that the degree of supervision of this released prisoner would exceed that which is ordinarily provided. But the notion that some released prisoners require more intense supervision than others is unsurprising and of itself provides no reason for that supervision not to be provided. Similarly, the fact that this offender may require more intense supervision than any other amongst those presently released under this Act (if that be the fact), does not mean that the necessary supervision in this case should not be provided.

[50] As was fairly submitted by counsel for the Attorney-General, a factor in favour of the respondent's case is that the evidence does not suggest a substantial risk of offending in a sudden or impulsive way. It suggests that the risk is in the respondent seeking to establish relationships by which he could reoffend. That feature enhances the value of proper supervision. Against that, there is the terrible criminal history of the respondent and his tendency to deception. In particular, there was what was found to have been a serious breach of the supervision order within six months of his release.

[51] If released under supervision, he would now be subject to GPS monitoring which, in his case, could be relatively intensive. Dr Beech believes that this intensive supervision would be required only for some months. Mullins J thought that GPS monitoring would not be so significant. But it is fair to say that this particular measure has been addressed much more in the evidence in this hearing that in that before her Honour.

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12 [2007] 1 Qd R 396 at 404 [37].

[52] Further, there is a combination of new circumstances which, although not themselves providing some quantifiable reduction in risk, should together diminish the risk of reoffending: his recent participation in the Sexual Offender Maintenance Program, his ongoing treatment by a psychologist and his experience of being returned to custody now for more than two years.

[53] Ultimately, I conclude that the adequate protection of the community does not require that he remain subject to a continuing detention order. He should be released from custody subject to a supervision order in the terms proposed by the Attorney-General and to which he consents.