SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Francis* [2013] QSC 321
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **DARREN ANTHONY FRANCIS** (respondent)
FILE NO:	BS 3069 of 2004
DIVISION:	Trial Division
PROCEEDING:	Application
DELIVERED ON:	22 November 2013
DELIVERED AT:	Brisbane
HEARING DATE:	11 November 2013
JUDGE:	Margaret Wilson J
ORDER:	**Order in terms of the draft continuing supervision order submitted by counsel for the applicant.**
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 respondent was subject to a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) – where the respondent contravened the supervision order – where the respondent had demonstrated a repeated pattern of release subject to the supervision order, contravention by use of illicit drugs, and interim detention – where the risk of serious sexual offending was very specific, requiring the coalescence of three factors – where the conditions of the supervision order had been effective in identifying illicit drug use promptly – where the respondent had not reoffended by the commission of a serious sexual offence whilst in the community – whether, despite contravention, adequate protection of the community could be ensured by a supervision order – whether, if supervision order is made, it must contain a requirement to comply with a curfew direction or monitoring direction under s 16(1)(da) *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) s 16(1), s 16A, s 16C, s 19A(3) s 22(2), s 22(7) *Attorney-General for the State of Queensland v Ellis* [2012]

QCA 182, cited
Attorney-General for the State of Queensland v Francis [2004] QSC 233, cited
Attorney-General for the State of Queensland v Francis [2005] QSC 381, cited
Attorney-General for the State of Queensland v Francis [2006] QCA 324, cited
Attorney-General for the State of Queensland v Francis [2006] QCA 372, cited
Attorney-General for the State of Queensland v Francis [2007] QSC 328, cited
Attorney-General for the State of Queensland v Francis [2008] QSC 69, cited
Attorney-General for the State of Queensland v Francis [2009] QSC 312, cited
Attorney-General for the State of Queensland v Francis [2010] QSC 465, cited
Attorney-General for the State of Queensland v Francis [2012] QSC 275, considered

COUNSEL: AD Scott for the applicant
CL Morgan for the respondent

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

[1] **MARGARET WILSON J:** The respondent is subject to a supervision order under part 2 division 3 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 ("the Act"). He has admitted contravening the order.

[2] In the circumstances, the Court must rescind the order and make a continuing detention order, unless the respondent satisfies it, on the balance of probabilities, that the adequate protection of the community can be ensured by the existing order as amended under s 22(7) despite the contravention.[1] As Byrne SJA observed in a proceeding arising out of one of the respondent's earlier contraventions of the order, the inquiry focuses on whether a supervision order would be efficacious in preventing the commission of a violent sexual offence.[2]

Background

[3] The respondent was born on 27 May 1973. In January 1999 he was convicted of multiple sexual and other offences committed between August and October 1996 and arising out of his relationship with two separate women. He was sentenced to six years imprisonment, with a full-time release date (after allowing for pre-sentence custody) of 8 May 2004.

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1 *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) s 22(2).

2 *Attorney-General for the State of Queensland v Francis* [2012] QSC 275 at [65]. See also *Attorney-General for the State of Queensland v Ellis* [2012] QCA 182 at [89]-[92].

[4] Prior to his release, an application for a continuing detention order pursuant to the Act was made. That application was granted on 13 August 2004,[3] and when the continuing detention order was subsequently reviewed as required under the Act, it was affirmed on 21 December 2005.[4] The Court of Appeal set aside the decision affirming the continuing detention order, and ordered that the respondent be released on 28 September 2006, subject to a supervision order of six years' duration.[5] In its reasons for judgment the Court of Appeal said –

> "The evidence before the learned primary judge supported his Honour's findings that the incidents which led to the appellant's imprisonment were 'violent and sadistic' incidents exhibiting psychopathy and an anti-social personality disorder in relation to which amphetamine and alcohol abuse were contributing factors. But the evidence did not suggest that the appellant was a danger to children. The risk which the appellant's dangerous propensities posed for the community was to women with whom he formed an intimate relationship, especially if he consumed amphetamines or alcohol. At the time of the hearing before the learned primary judge, that risk was placed, on the evidence, at 'moderate to high to high'."[6] (*footnotes omitted*)

[5] There have been four earlier contravention decisions (arising out of five contraventions).[7] In the most recent, Byrne SJA extended the supervision order until 28 September 2017.[8]

[6] The various contraventions have led to the respondent's arrest and spending time in custody pending the determination of proceedings under part 2 division 5 of the Act, whereupon he has been released subject to the (amended) supervision order. He has spent 41 months actually in the community subject to the supervision order.[9] In that time he has not committed a serious sexual offence, and there has been no evidence of his using alcohol. However, he has repeatedly breached the condition of the supervision order that he abstain from the use of illicit drugs.

The most recent contraventions

[7] This application relates to contraventions of the following conditions of the supervision order:

(a) on 20 and 28 January and 6 February 2013 – condition (xi): comply with every reasonable direction of a corrective services officer that is not directly inconsistent with a requirement of this order;

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3 [2004] QSC 233.
4 [2005] QSC 381.
5 [2006] QCA 324; [2006] QCA 372.
6 [2006] QCA 324 at [13].
7 [2007] QSC 328 (Philippides J); [2009] QSC 312 (Ann Lyons J); [2010] QSC 465 (Mullins J); and [2012] QSC 275 (Byrne SJA).
8 In BS 3069 of 2004, order Byrne SJA 13 September 2012 (court document no 239).
9 Submissions filed on behalf of the respondent dated 4 November 2013 (court document no 267 para [9]).

(b) on 4 February and 10 and 12 March 2013 – condition (xii): respond truthfully to enquiries by the supervising corrective services officer about his whereabouts and movements generally;
(c) on 9 April 2013 – condition (xxx) comply with a curfew direction given by an authorized corrective services officer;
(d) on 18 April 2013 – condition (xvi): abstain from the use of illicit drugs for the duration of this order.

[8] It appears from Queensland Corrective Services ("QCS") records that the contraventions of conditions (xi) and (xii) were dealt with shortly after they occurred, and they may not have come to the Court's attention but for the incident on 9 April 2013.

Contravention of condition (xi)

[9] On 26 September 2012 the respondent was issued with a direction that he "must be contactable at all times and return all voicemail messages left by a Queensland Corrective Services officer within 24 hours."

[10] On 20 January 2013 a QCS officer tried to contact the respondent on his mobile phone five times within the space of half an hour. Each time the officer was informed that the phone was either off or not in a mobile service area. When questioned about this two days later, the respondent said he had obtained a new mobile phone number, which he then provided.

[11] On 28 January 2013 a QCS officer tried to contact the respondent on his mobile phone, which diverted to message bank.

[12] On 6 February 2013 a QCS officer attempted to contact the respondent on his mobile phone. There was no answer, and no option of leaving a message.

Contravention of condition (xii)

[13] On 4 February and 10 and 12 March 2013 the respondent failed to provide information about his movements or claimed to be unable to do so.

Contravention of condition (xxx)

[14] On 16 April 2013 QCS received information from the Queensland Police Service that police had had cause to speak to the respondent at 11.50 pm on 9 April 2013. At that time he was subject to a curfew requiring him to be at his residence between 10.00 pm and 6.00 am.

[15] At about 11.50 pm on 9 April 2013, police intercepted a vehicle owned and driven by the respondent at Oxley. There were three passengers in the vehicle, which was carrying various tools police suspected had been or were to be used as break implements. In the event, police took no action because their inquiries failed to identify any relevant offences in the vicinity. But they did inform QCS of the respondent's presence at the scene, which was in contravention of his curfew.

[16] It was this incident that led QCS to review its records relating to the contraventions of conditions (xi) and (xii).

[17] Further, QCS suspected that the respondent was likely to contravene condition (xxiv) – that he not commit an indictable offence during the period of the order. Such a likely contravention was initially included in the present application, but removed by the amended application filed by leave at the hearing.

Contravention of condition (xvi)

[18] On 18 April 2013 the respondent submitted to a random urinalysis test, as he was required to do by another condition of the supervision order.

[19] After extensive testing, the sample was found to contain a low concentration of methylamphetamine – 150 micrograms per litre, and an even lower concentration of amphetamine. The Australian and New Zealand standard confirmation for amphetamine and methylamphetamine is 150 micrograms per litre.

The Attorney-General's submissions

[20] Counsel for the applicant Attorney-General submitted that the supervision order should be rescinded and that an order for indefinite detention should be made.

[21] Counsel for the applicant submitted that the repeated pattern of release subject to the supervision order, contravention by use of illicit drugs, interim detention, re-release into the community and further contravention by the use of illicit drugs demonstrated that the existing supervision order has not been actually ensuring the adequate protection of the community. He submitted that all the existing supervision order has been effective in doing is preventing the respondent from using illicit drugs for a short period of time; that it has not deterred him from behaviour central to the risk of his committing further serious sexual offences; and that it has not motivated him to take meaningful steps to address the causes of his behaviour.

[22] Counsel for the applicant submitted that the interim detention is what has been efficacious in preventing the commission of a violent sexual offence. However, he submitted, the question is whether the adequate protection of the community can be ensured by a supervision order, rather than whether it can be ensured by a supervision order coupled with an interim detention regime. He submitted that interim detention, which is put in place when there has been a suspected contravention, is not itself intended to be part of a supervision order.

The respondent's submissions

[23] Counsel for the respondent submitted that the Court should be satisfied that the adequate protection of the community can be ensured by the existing supervision order, notwithstanding the contraventions now before the Court.

[24] Counsel for the respondent submitted that the supervision order has been very effective in protecting the community from the risk that the respondent will commit another serious sexual offence. She submitted that the risk posed by the applicant is a very specific one, dependent on the co-existence of three circumstances – the respondent's being in an intimate relationship with a woman, instability in that relationship, and the use of amphetamines. She submitted that the effectiveness of the supervision order is demonstrated by the fact that the respondent has not reoffended by the commission of another serious sexual offence whilst in the community, in aggregate for about three and a half years.

[25] Counsel for the respondent submitted that it is not unusual for someone with a drug dependency to be able to remain abstinent for a period and then take a backward step by using the substance again. In the respondent's case, she submitted, the supervision order has been effective in protecting the community by the very quick identification of the use of illicit drugs.

The evidence

[26] The risk of serious sexual offending posed by the respondent is a very specific one, which is present when he is in an intimate relationship with a woman, he becomes jealous and aggressive in consequence of real or perceived problems in the relationship, and he has used amphetamines for a week or more and/or is withdrawing from such drug usage.

[27] The respondent has an antisocial personality disorder, described by Dr Donald Grant as severe and above the cut-off point for a psychopathic personality disorder, and by Professor Barry Nurcombe as having borderline psychopathic traits. He also has a long history of alcohol and drug abuse. There is no evidence of alcohol use since 1996. However, he has an amphetamine dependency, which goes into remission when he is in custody but reasserts itself some months after he is released.

[28] Abstinence followed by relapse, or, as counsel for the respondent described it, two steps forward followed by one step back, is a common phenomenon in persons trying to overcome drug dependencies. It does not necessarily mean that such a person will resume constant drug use.

[29] Dr Grant told the Court that the treatment of amphetamine dependency is reliant on counselling and treatment support from drug counsellors. There is no drug therapy which can be administered as preventative medication. The respondent has been very negative about more group therapy, either in the community or in custody, saying that it brings him into contact with other drug users and makes his own problem worse. When asked about individual counselling in the community, Dr Grant said that if the respondent were to engage honestly and sincerely with an individual counsellor he trusted, that would be a good step. However, he obviously had some reservations about the likelihood of the respondent's doing so.

[30] Professor Nurcombe shared Dr Grant's views in this regard. He noted that the respondent was not motivated to undertake a drug rehabilitation program in custody, and that when he last saw him, which was several months before the hearing, there was no indication he was motivated to undertake therapy in the community, or that he would genuinely engage in it.

[31] The respondent was last released into the community on 28 September 2012. He was returned to custody in consequence of the presence of methylamphetamine in the urine sample taken on 18 April 2013. As his counsel submitted, the low level concentration of the drug was consistent with a single usage.

[32] While in custody he returned a positive urine screen for buprenorphine, which is a medication used to treat opioid addiction. On the evidence, there is no explanation for his use of that drug.

[33] There was another incident in which a passenger in the vehicle in which someone visiting the respondent travelled to the prison was found to be carrying a clipseal bag containing white crystals, a foil package containing green leaf material and a syringe. However, there is no evidence that those items were destined for the respondent.

[34] In February 2011 the respondent and his partner M rekindled an old relationship. He visited her at the caravan park where she was living, and after a time she went to live with him at his mother's house. There was some turbulence in the relationship, and they were prevented from living together until he participated in relationship counselling by Dr Tom Hogan, a psychiatrist. The respondent contravened the supervision order by using methylamphetamine, and was taken back into custody in mid August 2011. He suspected that M was unfaithful to him while he was in custody. In intercepted telephone conversations between them, the respondent presented as pathologically suspicious of M and highly abusive towards her; he made threats against her, including threats of sexual violence.

[35] Nevertheless, they resumed their relationship when he was released in late September 2012, and it continued during the period of almost 6 months he was in the community, albeit with further turbulence. There were heated arguments, and QCS suspected domestic violence. In October 2011 QCS informed the respondent that M would not be allowed to stay overnight at his residence until they had engaged in relationship counselling with Dr Hogan. The respondent continued to receive one on one relationship counselling from Dr Hogan. The Court was told from the Bar table (without objection) that M may have attended one or two of the sessions, and that sometimes Dr Hogan telephoned her to discuss or verify matters the respondent raised during the counselling. However, there was no requirement that she participate in the counselling sessions, and nor could there be. While Dr Hogan could have provided one on one drug and alcohol counselling as well as relationship counselling, he did not do so in the absence of a specific requirement for it.

[36] While in custody, the respondent was seen by Professor Nurcombe and Dr Grant. Those psychiatrists both considered that he should be allowed to co-habit with M if he undertook relationship counselling, Dr Grant adding that the relationship would need to be monitored closely.

[37] Both the respondent and M wish the relationship to continue, despite the difficulties they have had. M was present in Court during the hearing of this application, accompanied by her grandmother.

[38] If released, the respondent will probably reside at the Wacol Precinct on an interim basis, until he finds other accommodation assessed by QCS as suitable. M would not be allowed to live with him at the Wacol Precinct; nor would she be allowed to stay overnight with him there. At the hearing of this application, it seemed to be common ground that whether they should be allowed to cohabit elsewhere would best be left for determination by QCS on a case by case basis under the terms of the supervision order.

[39] In his report dated 5 July 2013, Professor Nurcombe assessed the risk of serious sexual offending in these terms –

> "14. If Mr Francis is in an intimate relationship with a female partner and intoxicated or withdrawing from amphetamine, the risk of sexual violence toward his partner is ***high.*** Under supervision, and in the absence of amphetamine use, the risk of future violence is no more than ***moderate.*** In the total of 41 months during which he has been in the community on a Supervision Order, there has been no recurrence of physically or sexually violent behaviour. On the other hand, there have been six separate breaches of the Order involving illicit drugs, including amphetamine."

He did not wish to alter that opinion in light of the buprenorphine incident.

[40] Dr Grant referred to the respondent's anger and hostility about the *Dangerous Prisoners (Sexual Offenders) Act* processes and the fact he is on a long supervision order. He resented having to wear a GPS device, being subject to a curfew, having to live at the Wacol Precinct, and being banned from licensed premises secondary to the requirement that he abstain from alcohol use. In his report of 18 August 2013 Dr Grant assessed the risk in these terms –

> "In my opinion, the major risks in terms of future sexual offending are Mr Francis' personality disorder, the abuse of drugs, particularly amphetamines, and the presence of severe relationship instability. As he gets older Mr Francis' personality problems are likely to mellow to some extent, with less likelihood of violence, especially in the absence of alcohol or drug abuse.
>
> In my opinion, the risk for future sexual violence remains moderate to high and would be increased to high in the presence of ongoing substance abuse and severe relationship instability. I believe that the risk of sexual violence can be reduced by the continued application of a supervision order. The important aspects of supervision would be the monitoring of relationships and ensuring abstinence from drugs and alcohol, particularly stimulant drugs such as amphetamines. Regular drug testing and close relationship monitoring and counselling would help to address these risks in the community and identify problematic areas that might be developing, enabling early intervention."

[41] After the buprenorphine incident, Dr Grant said in a supplementary report dated 5 November 2013 –

> "This positive test indicates Mr Francis' ongoing problem with the abuse of illicit substances, even when he is detained in custody. It indicates that he is very likely to abuse illicit drugs when in the community and that the risk of a further breach of a supervision order for drug abuse is high. It bodes poorly for his ability to survive breach-free in the community for any length of time.
>
> My previous risk assessment, as outlined in my report of 18 August, remains my opinion – that is, that the risk for future sexual offending is moderate to high, but would be increased to high in the presence of on-going drug abuse and relationship instability. Abuse of amphetamines

> would be more dangerous than buprenorphine in terms of sexual risk, by virtue of its stimulating properties. However, any drug abuse is likely to increase risk and Mr Francis is more likely to choose amphetamines if they are available to him, as he has repeatedly demonstrated.
>
> The drug use in custody demonstrates Mr Francis' inability to control his urge to use drugs. Whilst a supervision order will probably detect drug use in the community at an early stage, the repeated breaches render the overall utility of a supervision order, in terms of achieving long-term rehabilitation, of little value.
>
> Mr Francis has expressed to me his opposition to undergoing another drug and alcohol treatment program in custody, but this breach would indicate that such further treatment might be indicated prior to his further release into the community."

In oral evidence Dr Grant described amphetamines as a very important aspect of the risk. They stimulate the respondent causing him to be more aggressive, they increase his sexual drive, and they probably also make him more paranoid and potentially more jealous and, therefore, more violent. He said that the existing supervision order has been effective in picking up substance abuse fairly quickly.

[42] The respondent is now aged 40. The psychiatrists agreed that, with progression into middle age, some mellowing is generally to be expected, although in the respondent's case there is little evidence of it so far. Professor Nurcombe thought it may be more apparent after the age of 50, while Dr Grant conceded that the fact the respondent has managed to maintain a relationship for some time without charges being laid is perhaps an indication of some degree of maturation having occurred.

Discussion

[43] Section 22 of the Act provides (relevantly) –

> "(2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by the existing order as amended under subsection (7), the court must—
>
> (a) if the existing order is a supervision order, rescind it and make a continuing detention order; or
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> (b) if the existing order is an interim supervision order, rescind it and make an order that the released prisoner be detained in custody for the period stated in the order.
>
> …
>
> (7) If the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by a supervision order or interim supervision order, the court—

(a) must amend the existing order to include all of the requirements under section 16(1) if the order does not already include all of those requirements; and
(b) may otherwise amend the existing order in a way the court considers appropriate—
(i) to ensure adequate protection of the community; or
(ii) for the prisoner's rehabilitation or care or treatment."

[44] The question is whether the adequate protection of the community can be ensured by the existing supervision order as amended under subsection (7), and not whether it can be ensured by a supervision order coupled with an interim detention regime. The respondent bears the onus of persuading the court that such protection can be ensured by the existing supervision order as amended under subsection (7).

[45] In assessing whether it can be, it is necessary to consider the applicant's conduct since the order was made, the various conditions of the existing order and their operation, and any amendments to the order pursuant to subsection (7).

[46] The respondent has been in the community, subject to the supervision order, for about three and a half years in aggregate. In that time, he has not reoffended by the commission of another serious sexual offence.

[47] Since about February 2011, the respondent has been in an intimate relationship with M. The continuity of the relationship has been interrupted by interim custody between August 2011 and September 2012 and between April 2013 and the present. There have been difficulties in the relationship, but both of them want it to continue.

[48] Condition (xx) mandates attendance with Dr Hogan or another approved psychiatrist or mental health practitioner. Dr Hogan has provided one on one relationship counselling over a considerable period. The respondent seems to have engaged with Dr Hogan, and I infer that he has come to trust Dr Hogan

[49] The respondent has contravened the order six times by using amphetamines.

[50] In addition to conditions (xv) and (xvi) which mandate abstinence from the consumption or alcohol and the use of illicit drugs, there is condition (xviii) by which the respondent is obliged to submit to alcohol and drug testing as directed by a QCS officer. The latter condition has been most effective in identifying illicit drug use promptly – in this instance before there was an opportunity for it to escalate beyond a single instance. That in turn has diffused, if not avoided, a high risk coalescence of the three factors of an intimate relationship, instability in that relationship, and intoxication by or withdrawal from amphetamine use.

[51] In September 2012 Byrne SJA said –

"Asking the correct question

[63] The highly likely prospect of further drug use – a contravention of a requirement that is important to reducing the risk of serious sexual violence – is said for the Attorney-General to require continuing detention.

> [64] But where contravention of a supervision order is proved, the *Act* does not require continuing detention unless the prisoner can show that the supervision order would in future be complied with. Rather, continuing detention is the consequence unless 'adequate protection of the community' can be ensured by 'a' supervision order.
>
> [65] The inquiry focuses on whether a supervision order would be efficacious in preventing the commission of a violent sexual offence.
>
> [66] If, therefore, the likely future drug use would not jeopardise the 'adequate protection of the community…', continuing detention is not mandated.
>
> [67] The slim chance of abstention from drugs during supervision is an important consideration in deciding whether Mr Francis has discharged the s 22(7) burden. But it does not matter for its own sake. It is important because that prospect bears on the risk of sexual violence. It is that potential which is critical: not illicit drug use as such."[10]

I respectfully adopt those observations as pertinent to the present application.

[52] The order already contains all but one of the requirements under s 16(1) – a requirement to comply with a curfew or monitoring direction.

[53] By s 16(1)(da) the order must contain a requirement to "comply with a curfew direction or monitoring direction". Condition (xxx) of the existing order requires the respondent only to "comply with a curfew direction given by an authorised corrective services officer." By s 16A a QCS officer may give a released prisoner one or both of a curfew direction and a monitoring direction. The criteria for giving such a direction are prescribed in s 16C.

[54] I am satisfied that what must be included by s 16(1)(da) is a requirement to "comply with a curfew direction or monitoring direction".

[55] In September 2012, on an application pursuant to s 19A, Byrne SJA removed the requirement to comply with a monitoring direction, which was then in the supervision order. In doing so, his Honour accepted the views of Professor Nurcombe and Dr Grant that electronic monitoring was not needed to ensure adequate protection against the particular risk that the respondent poses. While the psychiatrists remain of that view, if the adequate protection of the community can be ensured by a supervision order, the existing order must be amended to include a condition as prescribed by s 16(1)(da). Counsel for the respondent made an oral application for the removal of the requirement to comply with a monitoring direction. However, having regard to s 19A(3), such an application may only be made after two years from the date that the requirement is included in the supervision order. The application was therefore premature and must be refused.

[56] Condition (iii) of the existing supervision order requires to respondent to –

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10 [2012] QSC 275 at [63]-[67].

> "(iii) reside at the property inhabited by the Respondent's mother immediately prior to her death in June 2010 (unless it has been assessed as unsuitable by QCS) and thereafter at such other place within the State of Queensland as approved by a corrective services officer by way of suitability assessment and not stay overnight at any other address without prior written permission of the supervising corrective services officer."

In light of current circumstances, this should be replaced by –

> "(iii) reside at a place within the State of Queensland as approved by an authorised Corrective Services officer by way of a suitability assessment and not stay overnight at any other address without prior written permission of the supervising corrective services officer."

Such an amendment to the existing order would be for the adequate protection of the community and for the respondent's rehabilitation.[11]

[57] The respondent's resistance to drug counselling has hitherto been resistance to group therapy. Dr Hogan could also provide one on one drug and alcohol counselling, which the respondent could be directed to attend under conditions (xx), (xxii), (xxiii) and/or (xxvi) of the supervision order. Whether he should be required to do so should be left for assessment and direction by QCS rather than mandated by a specific condition of the supervision order.

[58] By condition (xix) of the existing supervision order, the respondent must "not visit premises licensed to supply or serve alcohol without the prior permission of the supervising corrective services officer." The ban extends to all licensed premises, including sporting venues and restaurants.

[59] In his report of 18 August 2013 Dr Grant described such a wide prohibition as unnecessary, and expressed the view that alcohol abstinence would "be better addressed by banning him simply from bars, pubs and nightclubs (where drinking is the prime purpose)."

[60] In my view whether he should be allowed to attend licensed premises should be left for determination by QCS on a case by case basis in the terms of the existing supervision order.

Conclusion

[61] The respondent has satisfied me on the balance of probabilities that, despite the present contraventions of the existing supervision order, the adequate protection of the community can be ensured by a supervision order. Pursuant to s 22(7) of the Act, conditions (iii) and (xxx) of the existing supervision order should be amended.

[62] Accordingly, I will order that the respondent continue to be subject to the existing order and that those conditions of it be amended.

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11 *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) s 22(7)(b).

[63] I make an order in terms of the draft continuing supervision order submitted by counsel for the applicant, which provides (inter alia) that the respondent be released from custody by mid-day on 25 November 2013.