

Introduction

The NSW Attorney General can apply to the Supreme Court of NSW for orders if an offender whose sentence is about to expire is considered to represent an unacceptable risk of serious reoffending. These are:

- A **Continuing Detention Order (CDO)** to keep the offender in prison after their sentence has ended.
- An **Extended Supervision Order (ESO)** so they can be closely supervised in the community.

The only alternative to these orders is for offenders to be in the community with no supervision by the Extended Supervision Order multidisciplinary team.

CDOs and ESOs can only be applied to certain high risk sex and violence offenders. There are only a small number of these offenders in NSW, but their crimes have a significant impact on victims, victims' families and our communities.

Continuing Detention Orders

CDOs direct that high risk offenders are kept in custody beyond the expiry of their sentences, up to a maximum period of five years.

On 30 June 2018, there were three offenders in custody on a CDO.

In making an order for a CDO, the Supreme Court must be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious offence if not kept in detention.

The safety of the community is the paramount consideration of the Supreme Court when considering a Continuing Detention Order.

Extended Supervision Orders

In making an Extended Supervision Order, the Supreme Court must be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious offence if not kept under supervision.

In determining whether or not to make an ESO, the safety of the community is the paramount consideration of the Supreme Court.

ESOs direct that a range of supervision, monitoring and management conditions (including possible electronic monitoring) are imposed on a high risk offender when they are released from prison at the end of their sentence. An ESO can be applied for up to a maximum period of five years and can be renewed by the court on its expiry.

On 30 June 2018, 98 offenders in NSW were subject to an ESO.

ESOs are not a form of parole. Parolees are on conditional liberty and their sentences have not yet expired.

Interim Supervision Orders (ISO)

The Supreme Court may make an order for the interim supervision of an offender if, during proceedings for an ESO, it appears to the Court that:

- The offender's current custody or supervision will expire before the proceedings are determined.
- The matters alleged in the supporting documentation would, if proved, justify the making of an ESO.

An Interim Supervision Order commences on the day fixed in the order (or the day the ISO is made), up to a maximum period of 28 days. An ISO may be renewed up to a maximum period totalling three months.



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What is a high risk sex and violence offender?

A high risk sex and violence offender is an offender who the Supreme Court is satisfied poses an unacceptable risk of committing a serious offence if he or she is not kept under appropriate supervision. Serious sex and violence offences are defined under the *Crimes (High Risk Offenders) Act 2006* and the *Crimes Act 1900* and include offences such as rape, aggravated sexual assault, sexual assault, abuse of a child, murder, conspiring to commit murder, and grievous bodily harm to another person.

A number of sex offences under Commonwealth legislation are also included, such as encouraging sexual offences against children outside of Australia.

What conditions may be imposed on an ESO or ISO?

An ESO or ISO may direct an offender to comply with such conditions as the Supreme Court considers appropriate to target and minimise the offender's risk of reoffending. The conditions may require the offender:

- to permit any Corrective Services NSW (CSNSW) officer to visit them at their residential address at any time
- to permit any CSNSW officer to access any computer or related equipment that is at the their residential address or in their possession
- to report regularly to a CSNSW officer
- to notify a CSNSW officer of any change of address
- to wear electronic monitoring equipment
- to reside at an address approved by CSNSW
- to engage in interventions to address offending behaviour
- not to associate or make contact with specified persons or groups
- not to engage in specific types of conduct
- not to engage in certain types of employment without CSNSW approval
- not to change their name.

Programs to reduce reoffending

The ESO or ISO may also direct the offender to participate in one or more treatment and rehabilitation programs, which aim to reduce the likelihood of reoffending and enhance community safety.

CSNSW has developed evidence-based Sex and Violent Offender Therapeutic Programs, which provide a range of treatment services for sex and violence offenders in both custody and the community.

The courts now inform all offenders who may be eligible for a CDO or ESO when they are sentenced. CSNSW further advises offenders within six months of sentence of their eligibility for this legislation.

Advising offenders earlier encourages participation in rehabilitation programs while in prison to reduce the risk of reoffending.

Further information about Sex and Violent Offender Therapeutic Programs is available in Fact Sheet 6.

What happens for breaches of ESO conditions?

Unlike a breach of parole, a breach of ESO conditions is a criminal offence.

A judge must decide whether to convict and may impose a sentence of up to five years in prison. This means time in prison that an offender would otherwise not have served.

Community Corrections and NSW Police Force are responsible for the supervision, monitoring and management of ESOs. If the team detects breaches of conditions then the offender may be arrested and charged with breach of ISO/ESO.

Management of ESO offenders includes engagement with a multidisciplinary Justice team. This includes Community Corrections, NSW Police Force, psychologists, Corrections Intelligence Group and Offenders, Services and Programs.

Together these teams work in collaboration to provide the highest level of supervision and oversight to ESO Offenders and work together to mitigate risks to the community. Community safety is the focus point of all interactions and case management plans.

