

# Appendix F

## Mapping Queensland's diversionary and specialist court interventions

**Prepared by:** Drug and Specialist Courts Review Team  
Courts Innovation Program  
Department of Justice and Attorney-General  
**P:** 07 3006 2538 (**ext:** 12538) **I E:** [QLD-Drug-and-Specialist-Courts-Review-Team@justice.qld.gov.au](mailto:QLD-Drug-and-Specialist-Courts-Review-Team@justice.qld.gov.au)  
PO Box 1649 Brisbane QLD 4001

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# 1 Introduction

## 1.1 Overview of Drug and Specialist Courts Review

The Queensland Government has committed \$8.7 million over four years commencing in the 2016/17 financial year to reinstate specialist courts and court diversionary processes, including the Drug Court, Murri Court and the Special Circumstances Court Diversion Program (SCCDP).

The Courts Innovation Program (CIP) in the Department of Justice and Attorney-General (DJAG) is leading the reinstatement of these specialist courts and court diversionary processes.

Stage one of the reinstatement project focused on the reinstatement of the Murri Court and SCCDP. As at November 2016, 13 Murri Courts have been reinstated. QICR is operational in Brisbane and Cairns with Southport and Ipswich scheduled for commencement in December 2016. Other locations are under consideration for 2017.

The Drug and Specialist Courts Review forms the second stage of the reinstatement project and is being led by the Drug and Specialist Courts Review Team (Review Team) in CIP. The team is supported by an Interagency Project Team with representatives of key partner agencies. A Working Group has also been formed with government and non-government representatives to inform the review.

The objective of the review is to identify options for government for a sustainable and best-practice justice model for reinstatement of the Drug Court and a framework for specialist court responses in Queensland to:

- reduce the level of criminal offending by addressing underlying issues associated with that offending (such as drug dependency, homelessness, mental illness and cognitive impairment);
- reduce the health risks associated with drug use;
- promote the rehabilitation and wellbeing of eligible persons and their re-integration into the community; and
- reduce pressure on resources in the court and prison systems.

By identifying effective service responses to address underlying issues associated with offending, the review has potential to contribute to improved social and health outcomes for family members of offenders and to the Queensland Government's objective of building safe Queensland communities by reducing the risks of offending.

The review will also take into account the role of victims in the court process and the need to ensure that offenders are held accountable for their offending and that the options developed are appropriate taking into account the seriousness of the offending concerned and issues of community safety.

## 1.2 Purpose

The purpose of the report is to provide a conceptual map of Queensland's diversionary and specialist court interventions to inform the development of an overarching framework. The development of an overarching framework for all specialist courts and court diversionary programs in Queensland as part of the review will ensure that these programs work together effectively and in an integrated way. The review will include consideration of how courts and court programs can be best structured and targeted to meet the needs of vulnerable Queenslanders experiencing issues contributing to their offending.

It is also important to consider how specialist courts and court diversionary programs interact with other diversionary programs coordinated by Queensland Police Service.

## 2 Overview of Queensland's diversionary and specialist court interventions

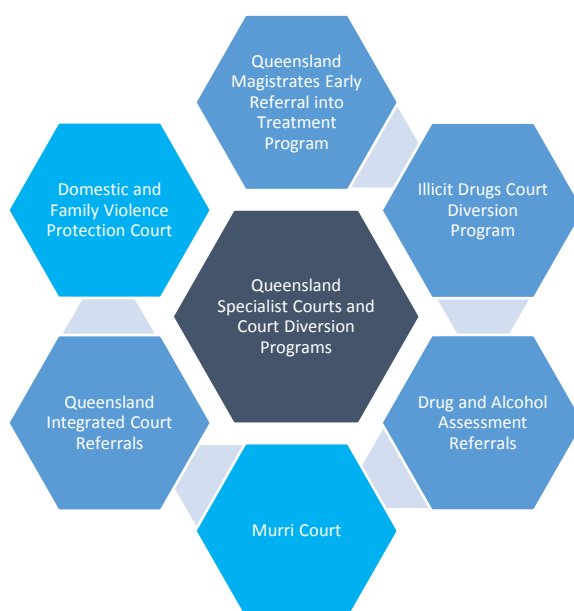
### 2.1 Police Drug Diversion

The Queensland Police Service facilitates the Police Drug Diversion Program (PDDP). This is a legislated diversion program that enables police to offer eligible persons, apprehended for a minor drugs offence, with an opportunity to attend and complete a Drug Diversion Assessment Program (DDAP) instead of having to go through the normal court process. The PDDP does not decriminalise or legalise the possession or use of cannabis.

### 2.2 Court diversion

DJAG currently coordinates and supports a range of court-based referral programs and specialist courts (**Figure 1**) that respond to issues being faced by defendants with mental health issues (including impaired decision making capacity), drug and alcohol misuse issues or who are otherwise vulnerable, such as defendants who are homeless, where these issues have contributed to them coming into contact with the criminal justice system.

Queensland Courts has recently re-established Murri Court and introduced Queensland Integrated Court Referrals (to replace Queensland Court Referrals and Specialist Circumstances Court Diversion Program) in targeted locations throughout Queensland. It has also commenced a pilot of a specialist domestic and family violence court in Southport.



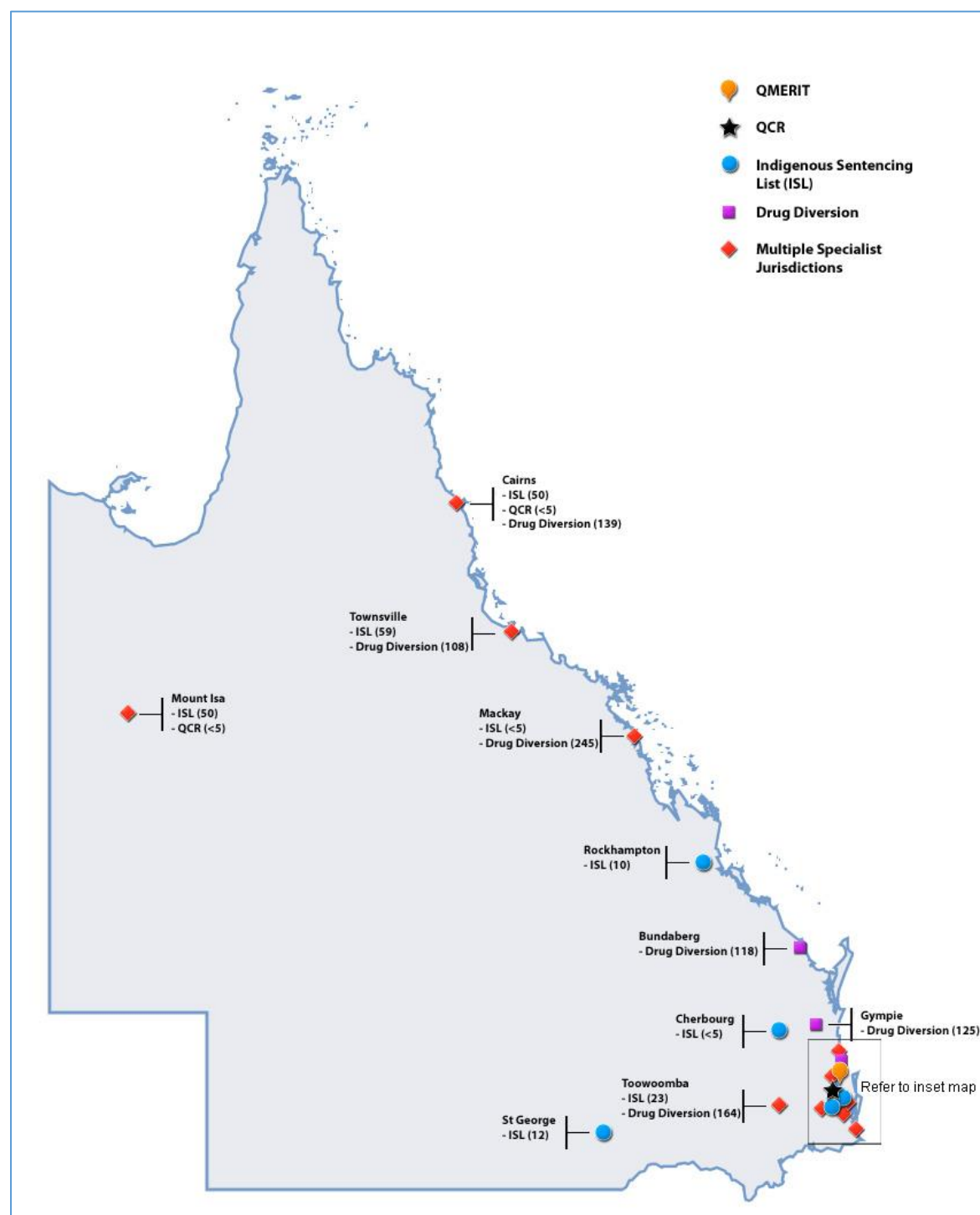
*Figure 1: Queensland's current specialist courts and court diversionary programs*

Map 1 and Map 2 show the distribution of Queensland's specialist courts and court diversionary programs and referral numbers to the programs in 2014-2015. It is noted that these maps represent Queensland's specialist courts and court diversionary programs prior to the reinstatement of the Murri Court and QCR (currently being replaced by QICR). These were reinstated in 2016. The ISL is now known as the Murri Court.

As at November 2016, QCR has been replaced with QICR at Brisbane and Cairns and is scheduled to be replaced at Southport and Ipswich in early December 2016. QCR is still in place at the remaining locations on Maps 1 and 2. Further details of the QICR proposed roll-out can be found in the QICR section of the report (Chapter 7).

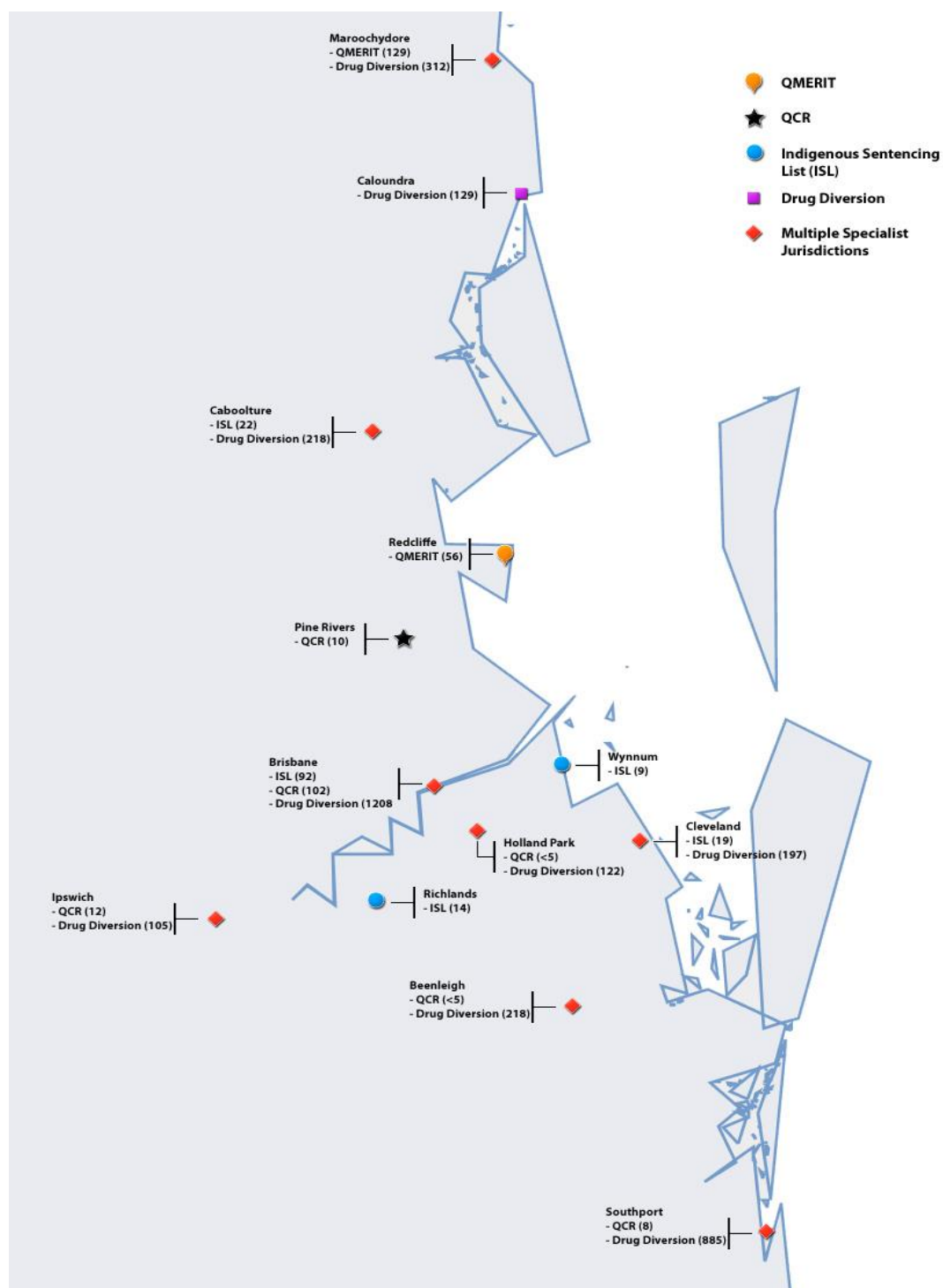
DAAR is not included on the map. This is a relatively new state wide program that has already been subject to changes that have impacted upon referral numbers. More detailed information on DAAR can be found at chapter 6 of the report.

Map 1: Queensland specialist courts and court diversionary programs – locations and number of referrals 2014-15 in Queensland



Prepared by: Queensland Courts Digital Transformation Team  
Source of referral numbers: Queensland Courts CIPES

Map 2: Queensland specialist courts and court diversionary programs – locations and number of referrals 2014-15 in South-East Queensland



Prepared by: Queensland Courts Digital Transformation Team  
Source of referral numbers: Queensland Courts CIPES

## 3 Police Drug Diversion Program

### 3.1 History

The Queensland Illicit Drug Diversion Initiative (QIDDI) is a joint initiative of the Commonwealth and Queensland Governments funded under the 'Tough on Drugs in the Community' component of the National Illicit Drug Strategy.

This strategy was endorsed by the Council of Australian Governments (COAG) in April 1999. QIDDI was endorsed by the Queensland Government in July 2000. Queensland signed a Deed of Agreement with the Commonwealth in 2001 to provide for the implementation of the Illicit Drug Diversion Initiative (IDDI) in Queensland.<sup>1</sup>

The Queensland Illicit Drug Diversion Initiative (QIDDI) is comprised of three programs:

- The Police Drug Diversion Program;
- The Illicit Drugs Court Diversion Program; and
- The Queensland Magistrates Early Referral into Treatment program (QMERIT).

The Police Drug Diversion Program (PDDP) for persons arrested for, or being questioned in relation to, a minor drugs offence (involving cannabis) was implemented as part of this initiative in 2001.

Prior to the commencement of the PDDP in June 2001, Queensland's only existing drug diversion program was the Drug Court Pilot Program, which commenced in south-east Queensland in June 2000. The second QIDDI initiative, the pilot Illicit Drugs Court Diversion Program was introduced in March 2003 and QMERIT, in mid-2006.

The objectives of the QIDDI and police and court diversion initiatives that sit under it are to:

- provide people with incentives to address their drug use early, in many cases before incurring a criminal record;
- increase the number of illicit drug users diverted into drug education, assessment and treatment; and
- reduce the number of people appearing before the courts for possession of small quantities of illicit drugs.<sup>2</sup>

### 3.2 Program objective/goals

The PDDP aims to offer people apprehended for a minor drug offence an alternative to proceeding through the usual criminal justice processes to court.

Consistent with the National Framework for the COAG Illicit Drug Diversion Initiative (IDDI), the PDDP has the following objectives:

- to provide people apprehended for a drugs offence with an incentive to address their drug use early and, in many cases, before incurring a criminal record;

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<sup>1</sup> Australia. Intergovernmental Committee on Drugs, *National Drug Strategic Framework Annual Report 2001 to the Ministerial Council on Drug Strategy* (2002), p. 19.

<sup>2</sup> The original third objective under the IDDI – to reduce the number of people being incarcerated for use or possession of small quantities of illicit drugs – was modified by the Australian Government Department of Health and Ageing to its current form to reflect the emergence of court-based models of drug diversion.

- to increase the number of illicit drug users accessing assessment, education and treatment; and
- to reduce the number of people appearing before the courts for possession of small quantities of cannabis.

The PDDP in Queensland is described as involving “a positive approach which offers people access to a professional health intervention, education about the wide-ranging effects and consequences of illicit drug use, and assistance to stop using illicit drugs”.<sup>3</sup>

### 3.3 Program logic / theory of change

Reflecting the objective of the program, the program aims to reduce the number of people appearing before the courts for possession of small quantities of cannabis, while also increasing access to assessments, education and treatment for drug users and providing an incentive to individuals to address their drug use early.

### 3.4 Policy/legislative context of program

- *Police Powers and Responsibilities Act 2000* (PPRA), s 379
- *Youth Justice Act 1992*, s 11(1)(d)
- *Drugs Misuse Act 1986*, s 122A
- (QPS) Operational Procedures Manual (OPMs)

The Police Diversion Program is provided for under section 379 of the *Police Powers and Responsibilities Act 2000* (PPRA).

Police are not able to make an offer for a person to attend and complete a diversion program until the eligibility criteria outlined in section 379(1) are satisfied.

Section 379(1) (e), requires the person to admit committing the offence in an electronically recorded interview. Police will not discuss the diversion program until such admissions are made.

The offer to attend a Drug Diversion Assessment Program (DDAP) is made only once by police. If the person rejects the offer or, after accepting the offer they fail to attend the DDAP, they will not be offered diversion, by the Police, if they are apprehended again for a minor drugs offence.

There is also a power for a court to order a person attend and complete a drug diversion assessment program under s 122A of the *Drugs Misuse Act 1986* if the person pleads guilty and is eligible under s 370 of the PPRA.

### 3.5 Eligibility and exclusionary criteria

To be eligible for a DDAP, the person must meet the following criteria under section 339(1) of the PPRA:

- have been arrested for, or is be questioned by a police officer about, a minor drugs offence;
- have not committed another indictable offence in circumstances that are related to the minor drugs offence;
- have not previously been sentenced to serve a term of imprisonment for an offence against the *Drugs Misuse Act 1986*, section 5, 6, 8 or 9D;

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<sup>3</sup> Queensland Police Service (2013), ‘Police Drug Diversion Program for a Minor Drug Offence: Information for Legal Advisors’.

- have not previously been convicted of an offence involving violence against a person or has been convicted of an offence involving violence against a person for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired;
- during an electronically recorded interview, have admitted to having committed the offence; and
- have not previously been offered the opportunity to attend a drug diversion assessment program.

A **minor drugs offence** is defined to mean an offence against sections 9, 10(1) or 10(2) of the Drug Misuse Act involving either:

- possession of not more than 50 grams of cannabis; and/or
- possessing a thing for use, or that has been used, for smoking cannabis;

but does not include an offence if the possession is an element of an offence against the Drug Misuse Act involving production or supply of cannabis or trafficking in cannabis.

In these circumstances, a police officer must offer the person the opportunity to attend a DDAP if either the person:

- is an adult; or
- is a child who has previously been cautioned under the *Youth Justice Act 1992* for a minor drugs offence.

A police officer may also offer a child who has not previously been cautioned under the *Youth Justice Act 1992* with the opportunity to attend a DDAP.

People offered an opportunity to attend a DDAP as an alternative to being charged with a minor drugs offence and attending court are required to attend and complete an authorised assessment and education/brief intervention program. This consists of a single session lasting approximately two hours. Under normal circumstances the DDAP appointment will be within 28 days of apprehension. However, this may not be possible in some rural and remote locations of Queensland, particularly if the provider for that location is available only on a periodic outreach basis.

Provided that the person attends the assessment and education/brief intervention as agreed, they are not charged with a criminal offence, do not have to attend court and do not risk a criminal record in relation to the minor drugs offence. The DDAP provider is responsible for advising police that the requirement has been complied with.

If the person fails to attend and complete the DDAP the provider will advise police that the requirement has not been complied with. An officer will investigate the matter and determine if the person should be charged with an offence of 'Contravene direction or requirement of police officer' under the PPRA 2000. The maximum penalty for this offence is 40 penalty units. The person will not be charged with the original minor drugs offence.

### 3.6 Funding

The PDDP is one of three programs funded jointly by the Commonwealth and State Government under the IDDI. The other two programs funded under this initiative are the Illicit Drugs Court Diversion Program and Queensland Magistrates' Early Referral into Treatment (QMERIT) program.

### 3.7 Case management

There is no ongoing case management of those referred.

The DDAP last approximately two hours. The drug diversion assessment program provider advises of the outcome of the offender's drug diversion assessment program by faxing written advice to the

Diversion Coordination Service. The Diversion Coordination Service provides daily updates of outcomes to the Drug Diversion Coordinator, Drug and Alcohol Coordination Unit, Engagement Branch, Strategy Division, QPS. The information is to the effect that the person attended and completed a drug diversion assessment program.

### **3.8 Screening and assessment tools**

Offenders are screened for eligibility by the referring officer.

### **3.9 Types of drugs**

Cannabis only

### **3.10 Location**

Queensland state-wide

### **3.11 Target group**

Low level/minor drug offenders.

### **3.12 Referral pathway**

Police are not able to make an offer for a person to attend and complete a diversion program until the eligibility criteria are met.

Under Section 379 (1) (e) of the *Police Powers and Responsibilities Act 2000*, the defendant must admit committing the offence in an electronically recorded interview. Police will not discuss the diversion program until such admissions are made.

The offer of attendance at a Drug Diversion Assessment Program (DDAP) is then made. The defendant should be made aware by their legal representative that the offer of attendance at the DDAP will only be made once by the police. If the person rejects the offer, or after accepting the offer, fails to attend the DDAP, there is no opportunity to be offered diversion again if they are apprehended for a minor drugs offence.

### **3.13 Stakeholders**

Queensland Police Service, Queensland Health, Redbourne.

### **3.14 Statistics**

The Police Drug Diversion program commenced on 24 June 2001, and as of 30 June 2016 referred more than 115,476 offenders.

In 2015-16, 9,428 people were referred to a DDAP.

On 30 June 2016, the following figures have been verified:

- number of accepted referrals: 115,476
- number of intervention completions: 90,526
- referral breakdown by Aboriginal and Torres Strait Islander: 11,182 – total ATSI male 7618, total ATSI female 3866.

### 3.15 Evaluations / program efficacy

Health Outcomes International Pty Ltd (2004), *Evaluation of Queensland Illicit Drug Diversion Initiative (QIDDI) Police Diversion Program*  
<http://www.health.qld.gov.au/atods/Documents/22145dmp.htm> .

Joudo, Jacqueline (2009), *Responding to Substance Abuse and Offending in Indigenous Communities: Review of Diversion Programs*, Research and Public Policy Series No. 88, Australian Institute of Criminology

Payne, Jason, Kwiatkowski, Max and Wundersitz, Joy (2008), *Police Drug Diversion: A Study of Criminal Offending Outcomes*, Research and Public Policy Series No. 97, Australian Institute of Criminology <http://www.aic.gov.au/publications/current%20series/rpp/81-99/rpp97.html>

Australian Institute of Health and Welfare (2008), *The Effectiveness of the Illicit Drug Diversion Initiative in Rural and Remote Australia*

### 3.16 Interstate comparisons

Most other states have similar drug diversion programs including Victoria, South Australia, Western Australia, Tasmania as well as the ACT.

## 4 Illicit Drugs Court Diversion Program

Illicit Drugs Court Diversion Program (Court Diversion) is a specialised program aimed at diverting minor drug offenders from the criminal justice system. Offenders who plead guilty in a Magistrates Court or a Children's Court (Magistrates Court) can be referred by the magistrate to an information and education session as part of their order rather than having a traditional penalty like a fine imposed upon them.

### 4.1 History

Along with Police Diversion and QMERIT, the Court Diversion Program was introduced as one component of the Queensland Illicit Drug Diversion Initiative (QIDDI). QIDDI was a joint initiative of the Commonwealth and Queensland Governments funded under the 'Tough on Drugs in the Community' component of the National Illicit Drug Strategy. Further details are outlined in section 3.1.

The pilot Court Diversion Program was introduced in March 2003.

### 4.2 Program objective/goals

The program aims to:

- provide people with an incentive to address their drug use early and, in many cases, before incurring a criminal record;
- increase the number of illicit drug users accessing assessment, education and treatment; and
- reduce the number of people being convicted before the courts for possession of small quantities of illicit drugs.

### 4.3 Program logic / theory of change

None specifically stated.

### 4.4 Policy/legislative context of program

- *Penalties and Sentences Act 1992*, pt 3, div1, subdiv 1 and 19(2A)
- *Youth Justice Act 1992*, pt 7, div 3, subdiv 1 and subdiv 2
- *Drugs Misuse Act 1986*

The *Drugs Misuse Act 1986* is the underpinning legislation for Court Diversion as defendants must have been charged with offences under this Act.

Referral to Court Diversion is then made as a condition of a recognisance order with a condition of attending a Drug Assessment and Education Session under the *Penalties and Sentences Act 1992*.

Under section 19 (1)(b), the court may make an order that the offender be released if the offender enters into a recognisance on the condition that the offender must:

- (i) be of good behaviour; and
- (ii) appear for conviction and sentence if called on at any time during such period (not longer than 3 years) as is stated in the order.

In making an order under section 19(1)(b), the court may impose any additional conditions that it considers appropriate, including, as provided for under subsection (2), a condition that an offender

attend a drug assessment and education session by a stated date (referred to as a 'drug diversion condition'). Such a condition can be imposed in circumstances where:

- the court is a drug diversion court (prescribed for the purposes of the definition of 'drug diversion court' in section 15B of the Act by section 5 of the *Penalties and Sentences Regulation 2015* to mean each Magistrates Court and each Children's Court constituted by a magistrate);
- the offender is an eligible drug offender (defined in section 15C of the Act as a person charged with an eligible drug offence who has pleaded guilty to the offence where exclusionary criteria do not apply); and
- the offender consents to attending a drug assessment and education session.

In the case of young offenders, the *Youth Justice Act 1992* is applicable.

#### 4.5 Eligibility and exclusionary criteria

To be eligible for Court Diversion, the defendant must have been charged with one of the following offences under the *Drugs Misuse Act 1986*:

- possess dangerous drug (section 9);
- possess things (section 10(1));
- possess utensil (section 10(2))
- fail to take reasonable care (section 10 (4))
- fail to dispose (section 10 (4A)) (PSA, s 15D).

In the case of unlawful possession of a dangerous drug, for each dangerous drug mentioned in the charge, the drug must be a prescribed dangerous drug and the total quantity of the substances, preparations, solutions and admixtures in the person's possession containing the dangerous drug must not be more than the prescribed quantity in relation to the dangerous drug (PSA, s 15D(1)(a)). As provided for under section 6 of the *Penalties and Sentences Regulation 2015*, prescribed drugs and maximum quantities are set for each drug type in Schedule 1 of the *Penalties and Sentences Regulation 2015*. Common drugs and weight restrictions include:

- MDMA/Ecstasy – 1.0g;
- amphetamine – 1.0g;
- cannabis – 50.0g;
- cocaine – 1.0g;
- heroin – 1.0g;
- Lysergic acid (LSD) – 3 tickets or tabs.

The court must consider each dangerous drug mentioned in the charge was for the person's personal use (PSA, s 15D(1)(a)(iii)). The defendant must also have pleaded guilty to the offence (PSA, s 15C(1)).

If the defendant has previously been convicted of a disqualifying offence or has a disqualifying offence pending in the court, they are ineligible for the program (PSA, s 15C(2)). A 'disqualifying offence' is defined under section 15E of the *Penalties and Sentences Act* as:

- an offence of a sexual nature; or
- an indictable offence (including dealt with summarily) involving violence against another person, but excluding the Criminal Code offences of:
  - common assault (section 335);

- serious assault, where the offence is the assault of another with intent to resist or prevent lawful arrest or detention (part application of s 340(1)(a));
- serious assaults, where acts involve assaults, resisting or wilfully obstructing a police officer acting in execution of their duty or other person assisting (s 340(1)(b)); or
- an offence against sections 5, 6, 8 or 9 of the Drugs Misuse Act, other than offence dealt with, or to be dealt with, summarily.

The same eligibility criteria apply to young offenders sentenced under the *Youth Justice Act 1992* (see ss 167–170), however in this case, there is no requirement that the young person have pleaded guilty (the requirement is for a finding of guilt only (Youth Justice Act, s 172(1))).

The process followed for young people is also slightly different. On making the referral, the proceeding is adjourned. Successful participation brings the court proceeding to an end and no further prosecution action for the offence can be taken. On the day the notice of attendance at the session is received by the court, the child is taken to have been found guilty by the court of the offence without a conviction being recorded (Youth Justice Act, s 173).

## **4.6 Funding**

Queensland Health funds the assessment and brief intervention sessions undertaken by participants of the Illicit Drugs Court Diversion program

Health funding also covers some DJAG positions to support the program.

## **4.7 Screening and assessment tools**

Defendants are screened for eligibility only. To be eligible for the Illicit Drugs Court Diversion program, defendants must have been charged with one of a number of specific drug related offences detailed above.

Once subject to a recognisance, the offender is referred to a Queensland Health or non- government organisation service. The intervention includes a semi structured psycho social assessment of the individual's drug and alcohol use combined with a brief intervention.

This non-actuarial assessment covers the Alcohol, Tobacco and Other Drugs (ATODs) mandatory domains associated with addictive behaviour and other health and social factors.

## **4.8 Case management**

Case management is not provided. The Illicit Drugs Court Diversion Program offers a one off drug and alcohol assessment and brief intervention only.

## **4.9 Types of drugs**

The program targets users of illicit drugs only.

## **4.10 Location**

The Illicit Drugs Court Diversion program is available at all Magistrates and Children's Courts in Queensland.

#### **4.11 Target group**

The target group for this program is minor drug offenders.

#### **4.12 Referral pathway**

When charged with an eligible drug offence, the Court Diversion officer or Legal Aid Duty Solicitor identifies and discusses the option of diversion with eligible offenders.

The matter is heard in court and the Court Diversion Officer or Duty Solicitor informs the court of the defendant's eligibility for attending a Drug Assessment and Education session.

If eligible and the magistrate deems it appropriate, the offender is placed on a recognisance order with a condition to attend a Drug Assessment and Education session.

#### **4.13 Stakeholders**

The primary stakeholders are DJAG, Queensland Health and contracted non-government alcohol and other drug services.

#### **4.14 Statistics**

CIP reported that in 2015-16, 5759 defendants were assessed for the Illicit Drugs Court Diversion Program. Of these, 5310 recognisance orders were made. This amounted to 6563 sessions, taking into consideration reschedules.

In 2014–15, 5,949 defendants were referred to the IDCDP, 91% of referrals were completed (n=5,443) and 88% of accepted referrals (n=4,792) resulted in a completed program. See Figure 2. The average age of defendants referred to the IDCDP was 27 years and most were men (76%).<sup>4</sup>

The number of defendants referred to IDCDP is substantially higher than the number referred to other court-referred illicit drug programs. For example, in 2014–15, 188 defendants were referred Queensland Court Referral and 265 defendants were referred to the QMERIT program.

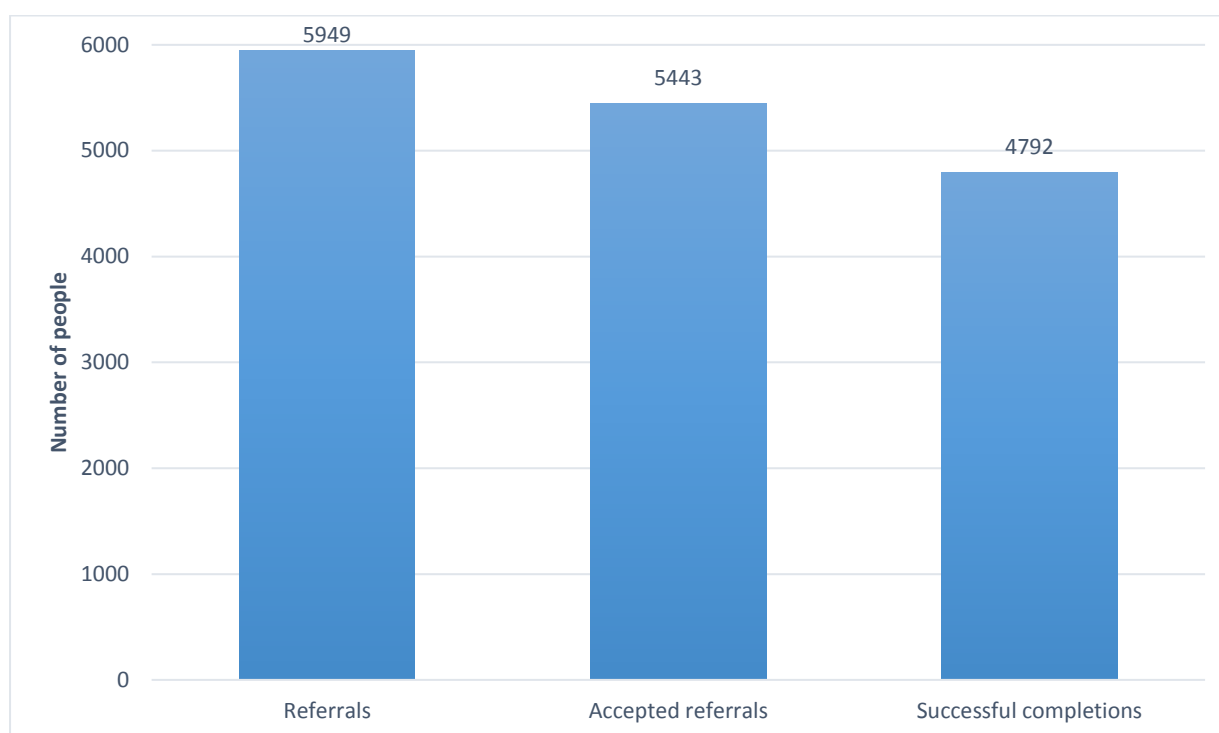
The high use of education and information treatment interventions is apparent in alcohol and drug treatment services information which shows that Queensland is characterised by three times more use of these types of interventions when compared with national use.<sup>5</sup>

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<sup>4</sup> DJAG courts program unit data.

<sup>5</sup> Australian Institute of Health and Welfare 2016. Alcohol and other drug treatment services in Australia 2014–15: state and territory summaries. AIHW: Canberra.

**Figure 2: Number of defendants referred and accepted into IDCDP, 2014–15**



Source: DJAG court program unit data

#### **4.15 Evaluations / program efficacy**

Health Outcomes International Pty Ltd (2005), *Evaluation of Queensland Illicit Drugs Court Diversion Program*.

Hughes, C. & Ritter, A. (2008), 'A Summary of Diversion Programs for Drug and Drug- Related Offenders in Australia', Drug Policy Modelling Program Monograph 16.

#### **4.16 Interstate comparisons**

The Western Australian Pre-Sentence Opportunity Program (POP) is the closest equivalent to the Illicit Drugs Court Diversion program. Both targeted at early or low-level offenders with substance use problems who plead guilty to an offence, the POP diverges from the Illicit Drugs Court Diversion in relation to the program length. The POP program provides for four or five drug and alcohol treatment sessions during a 6-8 week adjournment period.

## 5 Queensland Magistrates Early Referral into Treatment Program

Queensland Magistrates Early Referral into Treatment (QMERIT) program is a bail-based diversion program for defendants with illicit drug use issues. The QMERIT program operates in the Maroochydore and Redcliffe Magistrates Courts only. The program is a pre-plea diversion program that is not dependant on the person's guilt or innocence.

The program engages defendants charged with an offence relating to illicit drug use with drug rehabilitation services through bail conditions. QMERIT combines treatment and support services for defendants with problematic drug use during their contact with the criminal justice system.

QMERIT provides an opportunity for eligible defendants to participate in a structured intervention that aims to give defendants the skills and confidence needed to improve their health and wellbeing and significantly reduce offending behaviour.

### 5.1 History

QMERIT arose from the Queensland Illicit Drug Diversion Initiative (QIDDI) along with two other initiatives; Police Diversion and the Illicit Drugs Court Diversion Program. Further details are provided in section 3.1.

The QMERIT Program commenced as a two year pilot in Redcliffe and Maroochydore in July 2006. This timeframe was subsequently extended and is still in operation in those locations.

### 5.2 Program objective/goals

QMERIT aims to help suitably motivated drug offenders to overcome their problematic drug use and end their associated criminal behaviour through court enforced and supervised treatment programs. The program operates on a health service delivery model but with regular court reviews during the program.

### 5.3 Program logic / theory of change

Program logic not specifically stated.

### 5.4 Policy/legislative context of program

There is no legislative provisions for QMERIT however the Chief Magistrate has issued [Practice Direction No 1 of 2016 Queensland Magistrates Early Referral into Treatment \(QMERIT\) Program](#). This Practice Direction repeals Practice Direction No. 2 of 2008.

The Practice Direction outlines the nature and purpose of the program, referral pathways, eligibility criteria, screening and suitability assessments, judicial monitoring, treatment, graduation/completion of the program, and non-compliance and withdrawal from the program.

## 5.5 Eligibility and exclusionary criteria

To participate in QMERIT, defendants must meet the following criteria:

- a) the defendant must be an adult;
- b) the defendant must have a demonstrable drug problem;
- c) the offences charged must be related to illicit drug use;
- d) the alleged offences are to be dealt with summarily (a defendant will still be eligible in relation to charges connected to a charge which is to be dealt with on indictment);
- e) the defendant must be eligible for bail and suitable for release on bail to the QMERIT program;
- f) the defendant must provide written informed consent;
- g) the defendant must be assessed as suitable for the program (based on information obtained from a clinical assessment by the QMERIT Health Team); and
- h) the defendant should usually reside in an area where they can participate in the program.

Where the defendant has previously been convicted or is charged with offences involving allegations of a sexual nature or of personal violence, the QMERIT Health Team can take that circumstance into account in assessing suitability for program with a mind to the protection of treating staff. A defendant is not automatically excluded from entering the program if they have been convicted or charged with offences involving allegations of a sexual nature or of personal violence.

## 5.6 Funding

Under the former Queensland Illicit Drugs Diversion Initiative (QIDDI), the Commonwealth Government provided a Special Purpose Payment for diversion programs (including QMERIT, Police Drug Diversion Program and Illicit Drugs Court Diversion Program). However, this specific funding mechanism was phased out (some years ago) and the funds for these programs are now located in the base funding for the Hospital and Health Services that provide services for court based interventions. The Department of Health retains some of that funding for procuring services from the non – government organisations.

QMERIT has allocated beds in three residential rehabilitation facilities; WHOS Najara (6 beds), Moonyah, Salvation Army (3 beds) and Logan House (3beds). As residential rehabilitation and other services receive an overall annual allocation of funds from Queensland Health for the provision of court and police diversion services, it is not possible to obtain a breakdown of costs for the QMERIT dedicated beds.

Queensland Health provides dedicated staff to the QMERIT team.

## 5.7 Screening and assessment tools

During the initial court process, defendants are screened for eligibility against the program criteria and an Initial Eligibility Screening Report is completed. At Redcliffe Magistrates Court, this is completed by the QMERIT Co-ordinator (DJAG) and by Queensland Health staff at Redcliffe. The report is provided to the court and if the court is satisfied that the defendant meets the eligibility criteria, the magistrate grants bail for up to two weeks and refers the defendant for a suitability assessment.

The suitability assessment is undertaken by the QMERIT health team who must complete a Treatment Suitability Court Report. The assessment incorporates a comprehensive psycho social assessment. The suitability report which also contains a proposed treatment plan is submitted to the court. The magistrate makes the final decision regarding the defendant's suitability for the program.

## 5.8 Case management

The program is planned as a 12-16 week intensive program and may be extended in special circumstances. Once on the program the defendant is subject to the supervision of the QMERIT Health Team with respect to program treatment and rehabilitation matters. The determination of an appropriate treatment modality is a matter solely for the discretion of the QMERIT Health Team. Examples of available drug treatment services include:

- medically supervised and community-based withdrawal (for dependent clients);
- residential rehabilitation;
- individual counselling (incorporating goal setting, motivational interviewing and decision making, problem solving and relapse prevention and management strategies);
- pharmacotherapies;
- family therapy;
- day treatment and welfare support programs; and
- group programs

The court cases manages the process by conducting reviews at appropriate intervals to monitor the progress of the defendant, through the attendance of the defendant at the QMERIT call over.

Whilst the aim of QMERIT is that participants become drug-free resulting in program graduation, if a defendant reduces their drug use but has committed to the program in all other respects, they are deemed to have completed the program. Both completion and graduation are considered as success.

At the conclusion of the program, the court will call upon the defendant to enter a plea and proceed to sentence the defendant in accordance with the *Penalties and Sentences Act 1992*. Successful completion or the extent of unsuccessful completion of the program is a matter which the court may take into account in sentencing the defendant with a view to consideration of mitigation of penalty.

## 5.9 Types of drugs

QMERIT is available to defendants with a demonstrable illicit drug problem. Alcohol and non-illicit drugs are accepted as a secondary problem only.

## 5.10 Location

QMERIT is only available at Redcliffe and Maroochydore Magistrates Courts.

## 5.11 Target group

There is no specific target group nominated beyond those meeting the eligibility criteria.

## 5.12 Referral pathway

Referrals to the program may come from sources including:

- police;
- the defendant;
- the defendant's legal representative (including duty lawyers and the Aboriginal and Torres Strait Islander Legal Service);
- State Government agencies;
- the presiding magistrate; and
- any other person (such as family, friend, community organisations, or health professionals).

### 5.13 Stakeholders

Queensland Health and the Department of Justice and Attorney General are the joint lead agencies involved in QMERIT. Queensland Police Service (QPS) is also a key agency as QMERIT requires QPS cooperation in effectively case managing QMERIT clients.

The Queensland Illicit Drug Diversion Reference Group chaired by the Department of Premier and Cabinet has high level oversight of the program. Reporting to the Commonwealth and Queensland Government on the implementation of QIDDI, the group includes representatives from QPS, Queensland Health, DJAG, Queensland Corrective Services, Commonwealth Department of Health and Ageing, the Crime and Misconduct Commission and the Australian National Council on Drugs.

Local steering committees have been established in Redcliffe and Maroochydore (the two QMERIT locations). These committees include the QMERIT Coordinator, the DJAG Regional Services Manager, regional representatives of the QPS, Legal Aid Queensland and relevant non-government treatment providers and central office staff from participating agencies.

### 5.14 Statistics

In 2011-12, 105 people completed the QMERIT program.<sup>6</sup> A total of 512 have completed the program since it commenced in 2006.<sup>7</sup>

In 2014–15, 265 people were referred to the QMERIT program and 70% of these referrals (n=185) were accepted. It is estimated that 43% of accepted referrals resulted in program completion.<sup>8</sup> See Figure 3. The majority of QMERIT referrals were men (74%) and aged 17 years or over (98%). The average of defendants referred to the QMERIT program was 31 years.

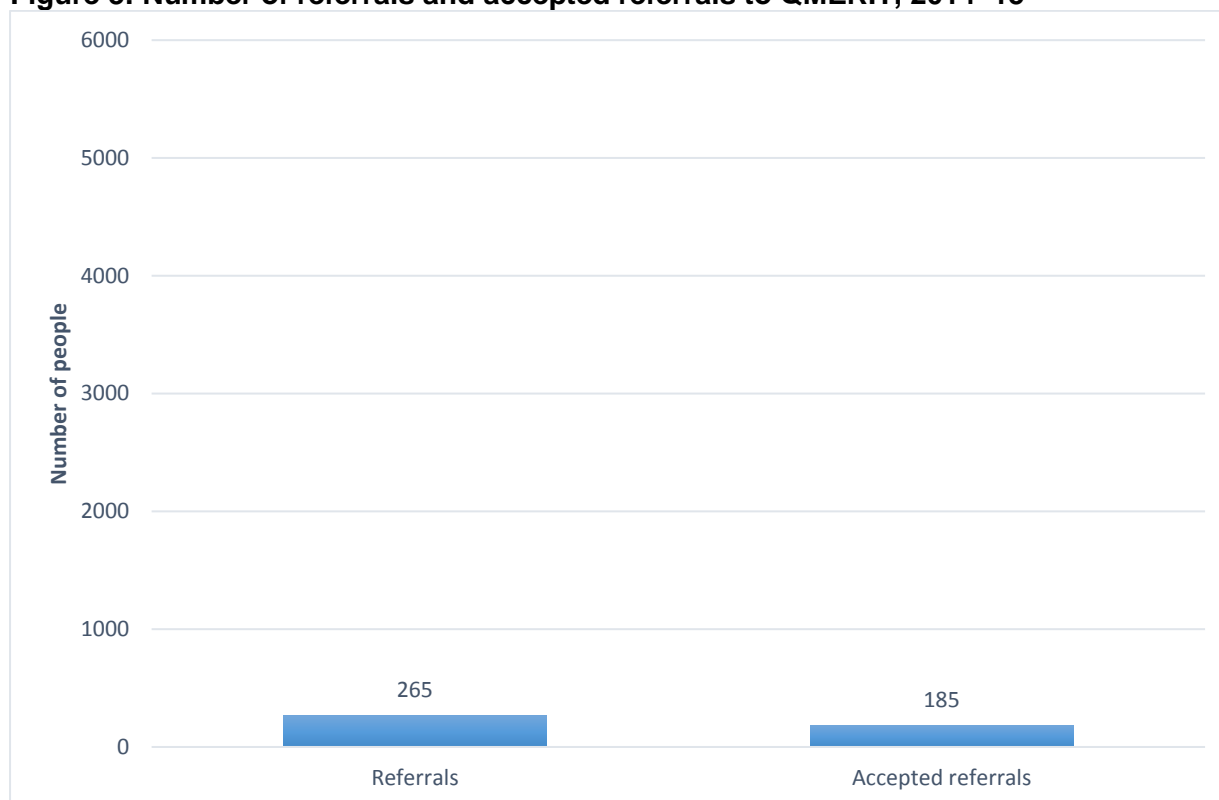
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<sup>6</sup> Australia. Intergovernmental Committee on Drugs (2013), above n 1, p. 76.

<sup>7</sup> Ibid.

<sup>8</sup> DJAG court program unit data.

**Figure 3: Number of referrals and accepted referrals to QMERIT, 2014–15**



Source: DJAG court program unit data

Information on QMERIT program participant characteristics evident in DJAG data is consistent with Queensland Health data.<sup>9 10</sup> According to this data, 75% of closed QMERIT treatment episodes in 2014–15 related to men and the average age of people provided with treatment was 30 years. These data also indicated that the majority of closed treatment episodes (96%) involved a non-Indigenous client and program participation involved multiple referral pathways including self, police and court referrals.<sup>11</sup>

Figure 4 shows the reason for program cessation for closed QMERIT treatment episodes. This data indicates that about half of QMERIT program participants complete the program successfully, with 52% of closed treatment episodes ceasing due to completed treatment or program expiration.<sup>12</sup> Some closed treatment episodes did not result in program completion and were closed due to imprisonment/some other criminal justice sanction (4%), without notice (9%) or with mutual agreement (8%).

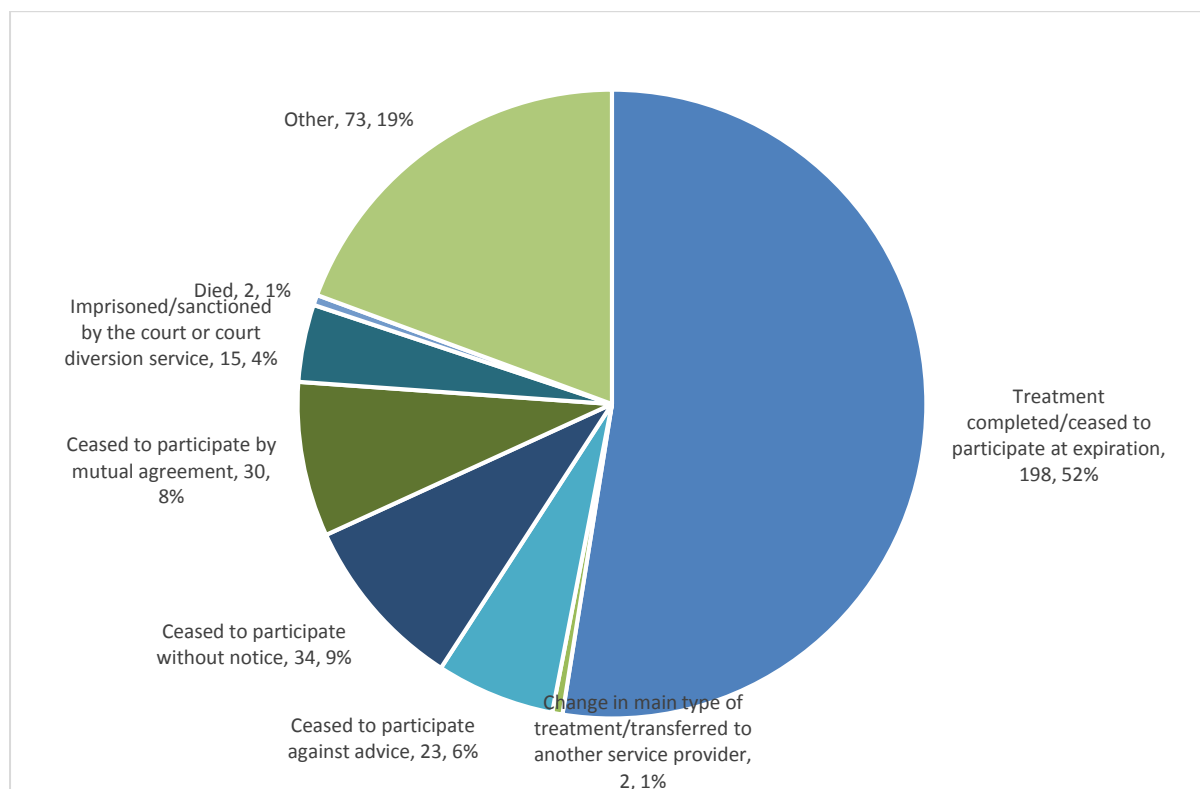
<sup>9</sup> Queensland Health collect information on alcohol and other drug treatment services as part of a National Minimum Data Set for the Australian Institute of Health and Welfare. Further information on the DAAR and QMERIT programs (than that available publicly) is available on special request and is included here. The Queensland Health data counts closed treatment episodes, while DJAG courts program data counts referrals to the program. As with all administrative data, the DJAG courts program data and Queensland Health data is subject to quality assurance issues such as accuracy of data entry. Not all services providers submit data for inclusion in the National Minimum Data Set.

<sup>10</sup> DJAG court program referral data indicates that 185 people were accepted into the QMERIT program in 2014–15, while Queensland Health data shows that 379 closed QMERIT treatment episodes. This difference will reflect the different counting rules used by the different data sets.

<sup>11</sup> Self-referrals to QMERIT are likely to include those advised by legal representation.

<sup>12</sup> Ceased to participate at expiration includes matters where clients have participated in a treatment program to avoid having a criminal conviction being recorded against them and choose not to continue with further treatment. Estimations using DJAG court program data indicate that approximately 43% of accepted referrals to QMERIT result in program completion.

**Figure 4: Closed QMERIT treatment episodes by reason for treatment cessation, Queensland, 2014–15 (n=377)**



Source: Queensland Health Alcohol and Other Drug Treatment Services data

Note: Missing data has been excluded from analyses.

Queensland Health data also indicates that most treatment relating to the QMERIT program is provided in the community. In 2014–15, only 4% of closed QMERIT treatment episodes took place in a residential treatment setting and 95% took place in a non-residential treatment facility.<sup>13</sup>

Information presented in Table 1 shows that cannabis and amphetamines were the principal drugs of concern for the QMERIT program in 2014–15. Over half (58%) of closed QMERIT treatment episodes had cannabis as the principle drug of concern and just under one third (30%) had amphetamines as the principal drug of concern. A small number of treatment episodes (2%) had heroin or alcohol as the principal drug of concern.

These data suggest that the QMERIT program targets different types of drug users than those involved in the DAAR program (which largely responds to alcohol and some cannabis use).

**Table 1: Closed QMERIT treatment episodes by main drug of concern, Queensland, 2014–15**

Main drug of concern	% within closed QMERIT treatment episodes
Cannabis	57.7
Meth/amphetamines	30.3
Heroin	2.4
Alcohol	2.1
Morphine	1.6

<sup>13</sup> Queensland Health Alcohol and Drug Treatment Services data

Phenethylamines	1.6
Benzodiazepines	1.1
Oxycodine	0.8
Inadequately described	0.5
Synthetic opioid analgesics	0.5
Other	0.5
Cocaine	0.3
Nicotine	0.3
Opioid antagonist	0.3
<b>Total (n)</b>	<b>378</b>

Source: Queensland Health Alcohol and Drug Treatment Services data

### 5.15 Evaluations / program efficacy

Allard, T., Manning, M., & Stewart, A. (2006). *QMERIT and Drug Court: Process and Impact Evaluation*, 1–58.

Reilley, R., Scantelton, J. & Didcott, P. (2009), Magistrates Early Referral into Treatment (MERIT): Preliminary findings of a 12 month court diversion trial for drug offenders.

### 4.16 Interstate comparisons

QMERIT is based on the Merit Program, NSW. There are very close similarities in terms of their model, criteria and operation.

## 6 Drug and Alcohol Assessment Referrals

Drug and Alcohol Assessment Referrals (DAAR) was introduced in mid-2014, initially as part of package of reforms to better respond to alcohol-fuelled violence and has since been modified.

A DAAR course is a bio-psychosocial assessment and brief intervention delivered to clients where their drug or alcohol use is associated with their offending behaviour. It is designed to identify any alcohol or drug related issues that need to be addressed, while providing an opportunity for the client to receive information and access to further treatment if desired.

### 6.1 History

Drug and Alcohol Assessment Referrals (DAAR) were first introduced as part of a package of reforms introduced under the former LNP Government's *Safe Night Out Strategy* released in June 2014 to tackle alcohol-fuelled violence. The strategy's purpose was "to restore responsible behaviour and respect, stamp out alcohol and drug-related violence and ensure Queensland's nightlife is safe for all". Through these initiatives, the then Government sought to address violence, anti-social behaviour and safety issues around licensed venues.

The introduction of DAAR and other related legislative reforms were introduced under the mandate of making clear that 'bad behaviour won't be tolerated' and reported in the *Safe Night Out Strategy* as being supported by 85% of Queenslanders who responded to an online survey which received over 12,000 responses.

As originally introduced in December 2014, a DAAR bail condition under the *Bail Act 1980* had to be applied if a person was charged with a prescribed offence and it was alleged the offence was committed in a public place while the person was adversely affected by alcohol or by another intoxicating substance. The prescribed offences for the purposes of this section were the following offences under the Criminal Code:

- affray (s 72);
- grievous bodily harm (s 320);
- wounding (s 323);
- common assault (s 335);
- assaults occasioning bodily harm (s 339);
- serious assault, where assault etc of a police officer or a person acting to assist a police officer (s 340(1)(b); and
- serious assault, where assault, resisting or obstructing a public officer (such as a child protection officer) performing a public function or because the officer has performed a function of their office (s 340(2AA).

The offence of assault or obstruction of a police officer in the performance of their duties under section 790 of the *Police Powers and Responsibilities Act 2000* was also captured.

This section did not apply if the person was under 18 years of age, had already completed two DAAR courses within the previous five years or had been released under section 11A of the Act (which provides for a police officer or court to release a person without bail if the person is, or appears to be, a person with an impairment of the mind who does not, or appears not to, understand the nature and effect of entering into a bail undertaking).

In March 2016, changes introduced by the current ALP Government came into effect following the passage of the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016*.

These legislative amendments:

- a) changed the existing framework for the application of a DAAR bail condition by:
  - removing the mandatory nature of the condition;
  - ensuring the court has discretion to include the condition as part of the grant of bail for any offence to which the Bail Act applies by a stated date;
  - confining the imposition of the condition to cases where the bail granting authority is a court;
  - no longer criminalising a failure to complete the condition, in recognition of its therapeutic nature; and
- b) allow a sentencing judge, with the consent of the defendant, to include the completion of a DAAR course as a condition of a recognisance order under section 19 of the *Penalties and Sentences Act 1992* by a stated date.

## 6.2 Program objective/goals

A DAAR course is a bio-psychosocial assessment and brief intervention delivered to clients where their drug or alcohol use is associated with their offending behaviour. It is designed to identify any alcohol or drug related issues that need to be addressed, while providing an opportunity for the client to receive information and access to further treatment if desired.

A **DAAR course** is defined under section 11AB(6) of the Bail Act to mean:

A course provided to a person by an approved provider in which—

- (a) the person's drug or alcohol use is assessed; and
- (b) the person is given information about appropriate options for treatment and may be offered counselling or education.

## 6.3 Program logic / theory of change

The *Safe Night Out* strategy's purpose was "to restore responsible behaviour and respect, stamp out alcohol and drug-related violence and ensure Queensland's nightlife is safe for all".

However, a specific program logic is not stated for DAAR.

## 6.4 Policy/legislative context of program

### Legislation

- *Bail Act 1980*, s 11AB
- *Penalties and Sentences Act 1992*, s 19(2B) (PSA)

A DAAR course condition can be imposed either as a condition of bail or as part of a recognisance order post-sentence.

Under the Bail Act, the court may impose a condition for the person's release that the person complete a DAAR course by a stated day. If the person fails to complete the course as required, the person's bail may be varied or revoked as permitted under section 30 of the Act. However, failure to comply does not constitute an offence under section 29 of the Act.

In deciding whether to impose a DAAR course condition as a condition of bail, the court must have regard to—

- (a) the nature of the offence in relation to which bail is proposed to be granted;
- (b) the person's circumstances, including any benefit the person may derive by completing a DAAR course; and
- (c) the public interest.<sup>14</sup>

Under the PSA, no criteria are listed to guide whether the court imposes a DAAR condition as part of a recognisance order other than that the offender must consent to completing the DAAR course.

The primary objective of the Act to tackle alcohol-fuelled violence, particularly late at night, through an evidence based, multi-faceted approach through amendments to various Acts, including the *Bail Act 1980* and the *Penalties and Sentences Act 1992*.

A DAAR course is a bio-psychosocial assessment and brief intervention delivered to clients where their drug or alcohol use is associated with their offending behaviour. It is designed to identify any alcohol or drug related issues that need to be addressed, while providing an opportunity for the client to receive information and access to further treatment if desired.

## 6.5 Eligibility and exclusionary criteria

To be eligible for a DAAR condition, the defendant must be:

- 18 years or over at the time of the offence;
- identify that their alcohol and/or drug use is directly associated with their offending behaviour;
- have not completed two DAAR sessions within the previous five years; and
- the person is released without bail under s 11A on the basis they are, or appear to be, a person with an impairment of the mind<sup>15</sup> and does not, or appears not to, understand the nature and effect of entering into a bail undertaking.

While not excluded from being eligible, if the person has pending, or has previously been convicted of an offence of a sexual nature or involving violence (excluding ss 335, 340(1)(a) or 340(1)(b) of the Criminal Code), the DAAR course will be conducted by telephone.

## 6.6 Funding

Lives Lived Well are contracted by Queensland Health to deliver courses to up to 5,000 sessions per annum.

## 6.7 Referral pathway

An initial determination that a person may benefit from completing a DAAR is made by the police prosecutor, the defendants' solicitor or duty lawyer.

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<sup>14</sup> *Bail Act 1980*, s 11AB(3).

<sup>15</sup> A **person with an impairment of the mind** for the purpose of this section means a person who has a disability that: (a) is attributable to an intellectual, psychiatric, cognitive or neurological impairment or a combination of these; and (b) results in—(i) a substantial reduction of the person's capacity for communication, social interaction or learning; and (ii) the person needing support.

If the person's legal representative or prosecutor identifies that the client meets the criteria for the DAAR condition, that legal representative assists their client in completing Part A of the DAAR form. The client is then directed to the Registry counter or, if available, a Queensland Courts' Diversion and Referral Service (DRS) officer.

If the prosecutor is the one who identifies that the person may benefit from completing a DAAR course, the form is completed by the person with the assistance of Registry staff or a DRS Officer.

If suitable, a DAAR session will be booked and the form tendered to the court.

DRS requires the DAAR form to be completed and the booking made prior to the defendant's matter being dealt with by the court.

If required to complete a DAAR course, the defendant is provided with a copy of the form when entering into the bail or recognisance. If, for any reason the DAAR condition is not imposed on that day, (i.e. if bail is not granted or the defendant is not sentenced to a recognisance) DRS cancels the booking.

## **6.8 Screening and assessment tools**

A simple suitability assessment is completed by a legal representative or prosecutor if the defendant is considered to meet the criteria for the DAAR course.

Court Services Officers are responsible for checking the form and determining whether the defendant appears to be eligible. If this is unclear, the officer must refer the matter to be determined by a senior member of staff.

Checks must then be done with the DAAR coordination service to determine if the defendant has previously completed a DAAR course and if so, the details of these courses, and book the next available convenient course for the defendant.

## **6.9 Case management**

The course does not provide case management. DAAR is a one-session course that includes the completion of the Alcohol, Smoking and Substance Involvement Screening Test (ASSIST) and a brief intervention designed to address the identified drug and alcohol issues.

## **6.10 Types of drugs**

Defendants with illicit and licit drug and alcohol issues can access the course.

## **6.11 Location**

DAAR is a state-wide program and is available at Magistrates Courts across Queensland.

## **6.12 Target group**

Under the original *Safe Night Out* Strategy, the primary target group was individuals whose alleged offences were committed in a public place while the person was adversely affected by alcohol or by another intoxicating substance.

### 6.13 Stakeholders

Key stakeholders include DJAG, Queensland Health, non-government organisations to whom DAAR sessions are outsourced, legal representatives (defence solicitors and Police Prosecution).

### 6.14 Statistics

CIP reports that, in 2015-16, 565 defendants were assessed for DAAR. Of these, 528 orders were completed. This amounted to 710 sessions taking reschedules into consideration.

In 2014–15, 394 defendants were referred to the DAAR program, 96% of these referrals were accepted (n=378) and 68% of accepted referrals (n=256) resulted in a completed program. See Figure 5. The average age of DAAR referrals was 30 years and most referrals were male defendants (81%).<sup>16</sup> Although Queensland is characterised by a substantially high use of information and education treatment modality than that apparent nationally,<sup>17</sup> comparison between the number of DAAR and IDC DP referrals suggests that the use of this type of treatment is largely driven by the IDC DP.

Information on DAAR program participant characteristics evident in DJAG data is consistent with Queensland Health data.<sup>18</sup> According to this data, 79% of closed DAAR treatment episodes in 2014–15 related to men and the average age of people provided with treatment was 30 years. These data also indicated that the majority of closed treatment episodes (85%) involved a non-Indigenous client and that most of the referrals to DAAR were from the Queensland Police Service (76% of closed treatment episodes).

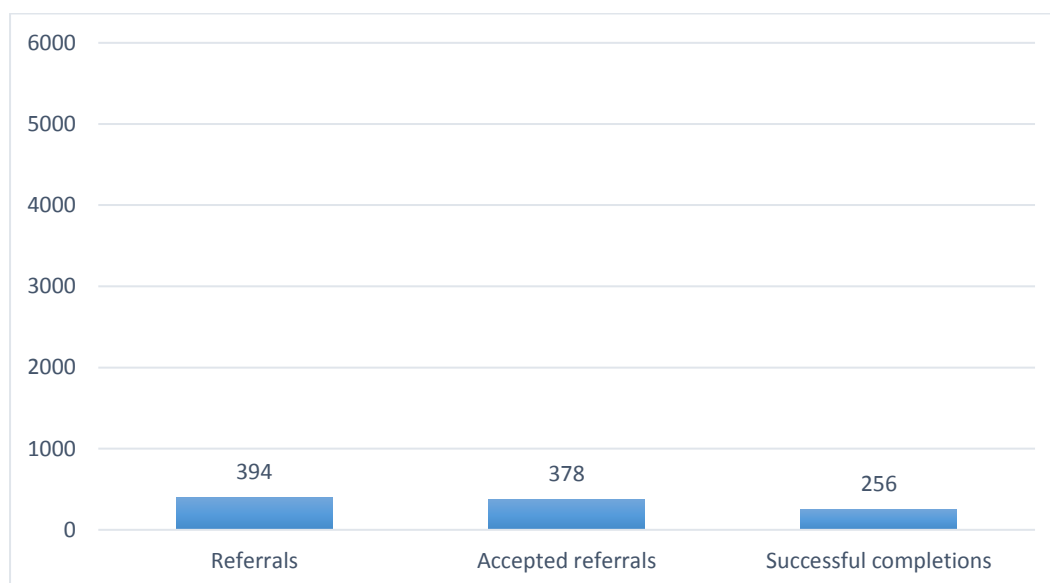
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<sup>16</sup> DJAG courts program unit data

<sup>17</sup> Australian Institute of Health and Welfare 2016. *Alcohol and other drug treatment services in Australia 2014–15: supplementary tables*. AIHW: Canberra.

<sup>18</sup> Queensland Health collect information on alcohol and other drug treatment services as part of a National Minimum Data Set for the Australian Institute of Health and Welfare. Further information on the DAAR and QMERIT programs (than that available publicly) is available on special request and is included here. The Queensland Health data counts closed treatment episodes, while DJAG courts program data counts referrals to the program. As with all administrative data, the DJAG courts program data and Queensland Health data is subject to quality assurance issues such as accuracy of data entry. Not all services providers submit data for inclusion in the National Minimum Data Set.

**Figure 5: Number of DAAR referrals, accepted referrals and program completions, 2014–15**



Source: DJAG court program unit data

Note: Queensland Health data indicate that the number of closed DAAR treatment episodes to in 2014–15 was 310. Not all services providing DAAR treatment necessarily report closed treatment episode information to Queensland Health.

Information presented in **Table 2** shows that alcohol was the most common principal drug of concern for the majority of people attending a DAAR intervention (77% of closed treatment episodes), although cannabis use was also evident being the principal drug of concern for 16% of closed treatment episodes. No treatment episodes related to heroin or heroin-type substances as a principal drug of concern and about 4% of treatment episodes related to amphetamine use as a principal drug of concern. This compares with total Queensland alcohol and drug treatment services data that shows that alcohol was the principal drug of concern for 36% of closed treatment episodes and cannabis was the principal drug of concern for 34% of closed treatment episodes.<sup>19</sup>

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<sup>19</sup> Australian Institute of Health and Welfare 2016. *Alcohol and other drug treatment services in Australia 2014–15: state and territory summaries*. AIHW: Canberra.

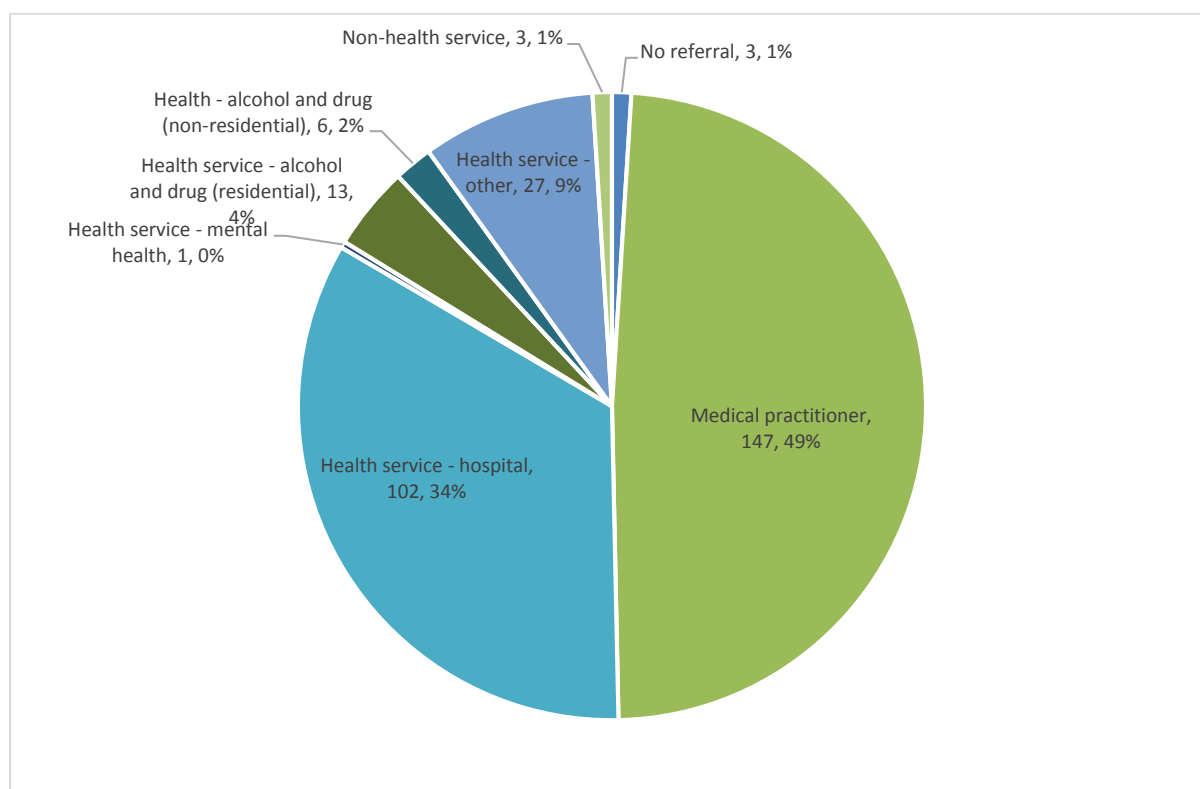
**Table 2: Closed DAAR treatment episodes by main drug of concern, Queensland, 2014–15**

Main drug of concern	% within DAAR closed treatment episode
Alcohol	76.8
Amphetamines	4.2
Phenethylamines	1.3
Cocaine	0.3
Nicotine	0.3
Cannabis	15.8
Inadequately described	1.3
<b>Total (n)</b>	<b>310</b>

Source: Queensland Health Alcohol and Other Drug Treatment Services data

Queensland Health data also indicates that completion of the DAAR program also involved a referral to another agency to support any identified health issues – especially those relating to alcohol and/or illicit drug use. Figure 6 shows that most of these referrals involved a referral to a medical practitioner or hospital (80%). Some closed treatment episodes involved a referral to a residential alcohol and drug treatment service (4%) and 9% of closed treatment episodes resulted in a referral to other health services (such as sexual health services).

**Figure 6: Closed DAAR treatment episodes by referral to other agencies, Queensland, 2014 – 15 (n=302)**



Source: Queensland Health Alcohol and Other Drug Treatment Services data

Note: Missing data has been excluded from analyses.

### **6.15 Evaluations/program efficacy**

The DAAR program has not been evaluated. However, court diversion programs for minor drug/drug related offenders are included in the following report:

Hughes, C. & Ritter, A. (2008), 'A Summary of Diversion Programs for Drug and Drug- Related Offenders in Australia', Drug Policy Modelling Program Monograph 16

### **6.16 Interstate comparisons**

There are no interstate diversionary programs offering one-off drug and alcohol intervention programs.

## 7 Queensland Integrated Court Referrals

Queensland Integrated Court Referrals (QICR) provides an opportunity for defendants' to engage with service providers through short-term bail-based referrals and longer-term treatment and rehabilitation post-sentence to address the underlying causes of their offending behaviour

### 7.1 History

The Special Circumstances Court Diversion program (SCCDP) operated as a specialist court in Brisbane from 2009- 2012 and was a court based rehabilitation program for offenders who were homeless or suffered from impaired decision making capacity.

Following the abolition of the SCCDP in December 2012, the Queensland Courts Referral (QCR) process was initiated in eight locations: Brisbane, Beenleigh, Cairns, Holland Park, Ipswich, Mount Isa, Pine Rivers, and Southport.

Following the Queensland's Government election commitment to reinstate specialist court and court diversionary programs, QCR was enhanced and became QICR.

### 7.2 Program objective/goals

The aims of QICR are to:

- improve defendant's engagement with, and understanding of, the court process;
- encourage defendants to attend treatment and support services while on bail and after sentence;
- provide accurate and detailed information to magistrates to allow them to consider at sentence how a defendant's personal circumstances contribute to their offending;
- facilitate improvements in defendant's self-reported physical and psychological health and quality of life;
- reduce the frequency and seriousness of any subsequent contact offenders may have with the criminal justice system.

### 7.3 Program logic / theory of change

The logic underpinning QICR is that by linking defendants with appropriate treatment and support, and using the influence of the court to monitor and encourage progress, QICR will reduce recidivism and improve defendants' physical and psychological health and quality of life.

### 7.4 Policy/legislative context of program

The court may grant bail (*Bail Act 1980*) with a condition that the defendant participates in QICR.

If the court considers the defendant may benefit from participation in QICR post sentence, they may make a probation order or recognisance order, in accordance with the *Penalties and Sentences Act 1992*. The court should impose a condition on these orders that the offender continue to participate and engage in the activities contained in their QICR engagement plan.

## 7.5 Eligibility and exclusionary criteria

To be eligible to participate in QICR, the defendant must:

- have current alleged offences before the court which are to be dealt with summarily (by right or election). A defendant is ineligible for QICR where any offences must be dealt with on indictment;
- be on bail or have been granted bail but yet to sign an undertaking as to bail;
- intend to plead guilty or have entered a plea of guilty;
- have or is likely to have one or more of the following contributions to their offending:
  - problematic substance use;
  - mental illness;
  - impaired decision- making capacity;
  - is homeless or at risk of homelessness.
- be prepared to voluntarily participate in QICR, and
- provide written informed consent to participate in QICR.

A suitability assessment is also undertaken. Potential participants may be deemed unsuitable for QICR if:

- Queensland Corrective Services has advised there is pending or current breach action against the defendant;
- Mental Health Court Liaison Service has diverted the defendant from QICR in order to continue with their service; and
- the Case Management Assessment Group, having had regard to the circumstances of the defendant, has assessed the defendant as unsuitable because:
  - the service provider has been unable to contact the defendant;
  - there is no capacity to support the defendant;
  - the defendant is not considered suitable (reasons have to be provided); or
  - another stated reason.

## 7.6 Funding

QICR is funded from the Courts Innovation Program budget. This funds DJAG positions, brokerage for service delivery and administrative and miscellaneous costs.

## 7.7 Screening and assessment tools

Prospective QICR participants are subject to a three stage assessment process. An initial eligibility assessment against the program criteria is completed by the QICR facilitator. If the defendant is found to be eligible and the magistrate decides that the defendant should participate in QICR, the QICR facilitator completes a Screening and Referral Form (SRF). This covers a range of factors associated with the defendant's personal circumstances, attendance at support services, offending history, current and previous participation in diversion programs and supervision by Queensland Corrective Services. The mental health section is completed by the Mental Health Court Liaison Service.

Once complete, the SRF is sent to a dedicated Case Management Group (CAG). This group makes a decision about suitability of the defendant and whether the CAG has capacity to support the defendant.

## 7.8 Case management

The defendant is engaged with relevant services to address the issues associated with his/ her offending. The nature of the service is defined by the Case Management Group.

## 7.9 Types of drugs

QICR is not a specific drug and alcohol intervention. Defendants with any alcohol or drug issues may be referred to the program.

## 7.10 Location

QICR is operational in Brisbane and Cairns with Southport and Ipswich scheduled for commencement in December 2016. Other locations are under consideration for 2017.

## 7.11 Target group

There is no target group specified at this stage. However, there is an unwritten guideline that the program is aimed at offenders charged with low level offences who do not yet have an entrenched criminal history.

## 7.12 Referral pathway

There are no limitations as to who may refer a defendant to QICR. Referrals can be made by the Queensland Police Service prosecutor and legal representatives may choose to refer a defendant where they become aware that he/she may meet the eligibility criteria.

Where possible, defendants should be referred to QICR before their court appearance. Police prosecutors are expected to review the QICR reports provided to them before each court appearance in order to address any concerns raised by the court. Similarly, legal representatives must review the QICR reports to recommend appropriate adjournment periods and raise any relevant issues with the court.

## 7.13 Stakeholders

Key stakeholders include:

- *Queensland Police Prosecutor*: role outlined in referral process
- *Legal Representatives*: role outlined in referral process
- *Queensland Corrective Services (QCS)*: has responsibility for advising when a defendant who may be referred to QICR is already subject to the supervision of QCS and responding to reports of non-compliance of offenders on probation orders with a QICR condition, including initiating breach action when necessary.
- *QICR facilitator*: acts as a conduit between the court, defendant and the case management group. Also responsible for liaising with the Queensland Police Service (QPS), legal representatives and QCS.

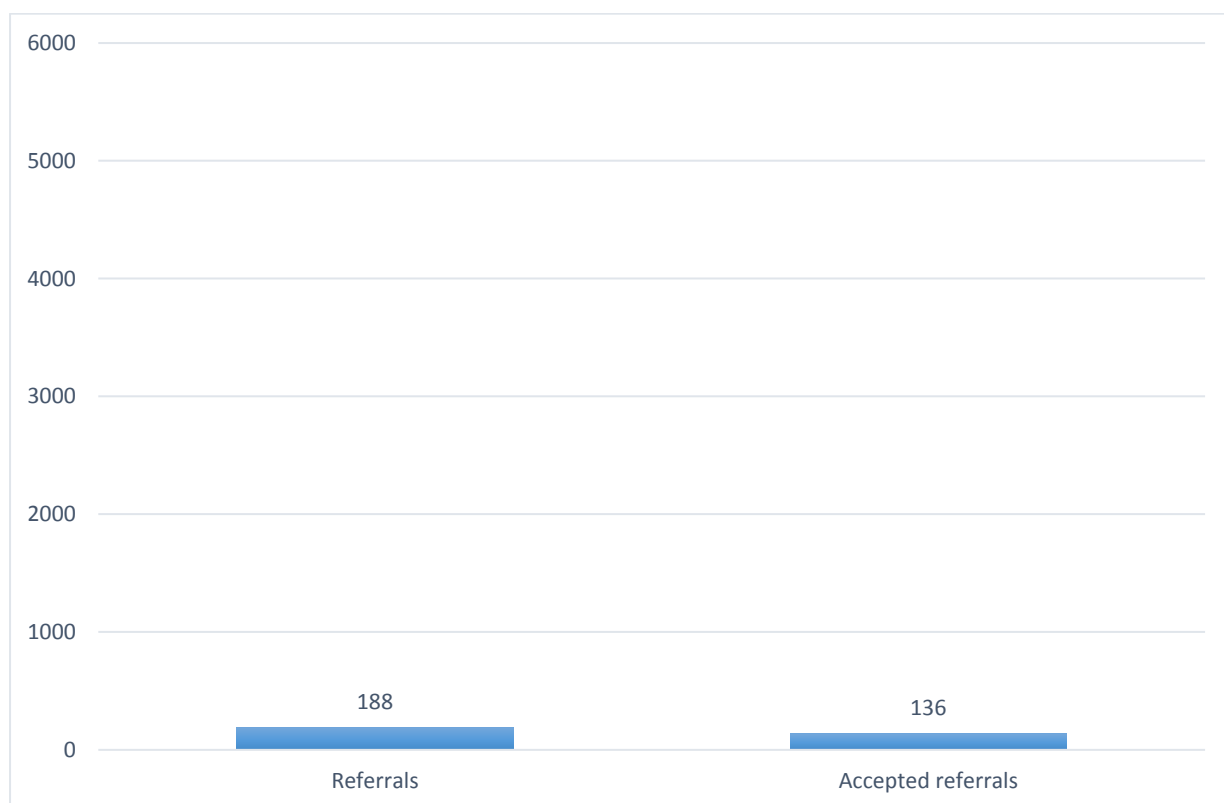
- *Case Management Group (CAG)*: this is comprised of representatives of local service providers that have chosen to be involved in QICR. These are services that can meet the needs of the QICR client groups.
- Governance of QICR rests with Case Assessment Groups, Local Stakeholder Groups and a State-wide Reference Group

## 7.14 Statistics

The Queensland Court Referral (QCR) program preceded, and is very similar to, the QICR program.

In 2014–15, 188 defendants were referred QCR and 72% of these referrals were accepted. See Figure 7. The average age of defendants referred to QCR referrals was 35 years and 72% were men.<sup>20</sup>

**Figure 7: Number of QCR referrals and accepted referrals, 2014–15**



Source: DJAG court program unit data

## 7.15 Evaluations / program efficacy

As QICR commenced in June 2016 under a new format, it has not been evaluated. However, an evaluation framework has been developed.

An evaluation was undertaken of the Special Circumstances Court that was the pre-cursor to Queensland Courts Referral which has now become QICR.

Walsh, T. (2011), *A Special Court for Special Cases*, The University of Queensland, October 2011

<sup>20</sup> DJAG courts program unit data

## 7.16 Interstate comparisons

QICR has comparisons with the following interstate court diversion programs:

*Court Integrated Services Program (CISP), Victoria:* this is a 4 month bail program addressing the causes of offending through individual case management support.

*CREDIT, Victoria:* aimed at minor, younger offenders who are not eligible for the Police diversionary program, this is a 12 week program providing case management support to increase the likelihood of the defendant being granted and successfully completing bail.

*CREDIT, NSW:* this is a 6 month bail program aiming to provide defendants support to assist in reducing their chances of reoffending.

*Life on Track, NSW:* the program aims to reduce offending and create safer communities by assisting defendants to make positive changes in their life. Program length is from 3-9 months.

## 8 Murri Court

Murri Court is a culturally appropriate court process that respects and acknowledges Aboriginal and Torres Strait Islander culture and provides an opportunity for members of the Aboriginal and Torres Strait Islander community (including Elders and victims) to participate in the court process.

Defendants are required to take responsibility for their offending in front of their Elders as well as the Magistrate and are provided with the of support Elders and support services while on bail to address the underlying causes of offending and to make changes to their behaviour

### 8.1 History

The first Queensland Murri Court was established in 2002. Prior to it being defunded in 2012, it operated in 17 locations across Queensland. Murri Courts operated within a Magistrates Court framework, but provided opportunities for greater involvement of Indigenous Elders and respected persons, the offender's family, Indigenous community organisations and community justice groups in the sentencing of Indigenous offenders. While the program began as a sentence-based program, it evolved into a bail-based rehabilitation program in a number of locations.

Following the de-funding of the Murri Court, Indigenous Sentencing Lists (ISLs) were established across 13 locations across Queensland.

As part of the ALP Queensland State Government's election commitment, the Murri Court was relaunched in Rockhampton on 13 April 2016 and reinstated in 13 locations in 2016. Murri Court operates within the Magistrates Courts in Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Inala, Mackay, Mount Isa, Rockhampton, St George, Toowoomba, Townsville, and Wynnum.

### 8.2 Program objective/goals

Murri Court provides for a pre-sentence diversion of eligible defendants to address the underlying contributors to their offending and encourages magistrates, when making a sentencing decision, to give consideration to:

- cultural and other advice provided by Elders and Respected Persons; and
- a defendant's engagement with treatment services and other support during the pre-sentence referral process.

The goals of Murri Court include:

- to reduce the frequency and seriousness of any subsequent contact Murri Court defendants might have with the criminal justice system;
- to encourage defendants' to take responsibility for their offending and increase defendants' awareness of the consequences of their actions for victims and community;
- to encourage magistrates to consider at sentence how a defendants cultural and personal circumstances contribute to his / her offending;
- to encourage defendant's attendance and engagement with support services while on bail;
- to facilitate in defendant's self- reported physical and psychological health and quality of life;
- to improve defendant's engagement with, and understanding of the court process; and
- to improve Aboriginal and Torres Strait Islander Elders' and Respected Person's confidence and knowledge in the court process.

In achieving these goals, Murri Court hopes to contribute to:

- improvements in the appropriateness of the criminal justice system for Aboriginal and/or Torres Strait Islander defendants by being inclusive and responsive to culture;
- the reduction of Aboriginal and/or Torres Strait Islander defendants' overrepresentation in the criminal justice system;
- increasing Aboriginal and/or Torres Strait Islander communities' confidence in the criminal justice system; and
- a fair, safe and just Queensland.

### **8.3 Program logic / theory of change**

A culturally appropriate court process (which delivers procedural and distributive justice) and the support provided (by Elders and support services) to address the underlying contributors of offending encourages behaviour change in the defendant. (i.e. less offending/less serious offending).

### **8.4 Policy/legislative context of program**

Participation in Murri Court is subject to the *Bail Act 1980*. In determining whether to grant bail the magistrate may consider submissions made by a representative of the community justice group pursuant to section 16(2) of the *Bail Act 1980*.

The Murri Court magistrate proceeds to sentence the defendant in accordance with the *Penalties and Sentences Act 1992* or the *Youth Justice Act 1992*. Successful completion of the Murri Court pre-sentence referral process may be taken into account in mitigation when sentencing the defendant.

### **8.5 Eligibility and exclusionary criteria**

To be eligible for the Murri Court, the defendant must:

- identify as an Aboriginal and/or Torres Strait Islander, or has a kinship or appropriate connection to an Aboriginal and/or Torres Strait Islander community;
- the offence falls within the jurisdiction of the Magistrates Court or Children's Court, that is the charges can be finally determined in the jurisdiction;
- a guilty plea is entered or the defendant intends to plead guilty;
- the defendant is on bail or has been granted bail; and
- the defendant consents to participate fully in the Murri Court process.

To be suitable for Murri Court, an Assessment Panel must feel able to support the defendant, whether directly or indirectly through referrals, to address the underlying contributors to his or her offending. Elders may also give consideration to the offence type.

Exclusionary criteria are not specifically defined. If the defendant has been assessed as eligible for Murri Court, the overriding factor determining the defendant's suitability is the Assessment Panel's decision whether they can support the defendant, as outlined above.

### **8.6 Funding**

The Murri Court is funded from the Courts Innovation Program budget. This covers DJAG positions, Elder and Criminal Justice Program payments, brokerage and other miscellaneous costs.

## **8.7 Screening and assessment tools**

Eligibility and suitability screening is based upon identification as an Aboriginal and Torres Strait Islander person, kinship/connection with Aboriginal and Torres Strait Islander communities and a decision made by the Assessment Panel that it is able to support the defendant whether directly or via referrals to services to address underlying contributors to offending.

## **8.8 Case management**

Case management is provided by relevant local service providers.

## **8.9 Types of drugs**

The Murri Court accepts defendants with drug and alcohol issues although the court does not have a specific drug and alcohol focus.

## **8.10 Location**

Murri Courts operate at the Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Mackay, Mt Isa, Richlands, Rockhampton, St George, Toowoomba, Townsville and Wynnum Magistrates Courts.

## **8.11 Target group**

Defendants identifying as an Aboriginal and Torres Strait Islander person. There is no other specification of target group beyond this.

## **8.12 Referral pathway**

Referral of a defendant to the Murri Court may only be made with the defendants consent but may be made in the following instances:

- self-referral;
- referral by a defendant's legal representative;
- referral on recommendation by the community justice group representative; or
- at the instigation of the magistrate.

The referring party submits an eligibility assessment form to the Magistrates Court in order to seek referral to Murri Court.

Where the referring magistrate is satisfied that the eligibility criteria have been met, there is presumption in favour of adjourning the matter to Murri Court.

The court may adjourn the matter for between two to four weeks to allow for the suitability assessment to occur.

## **8.13 Stakeholders**

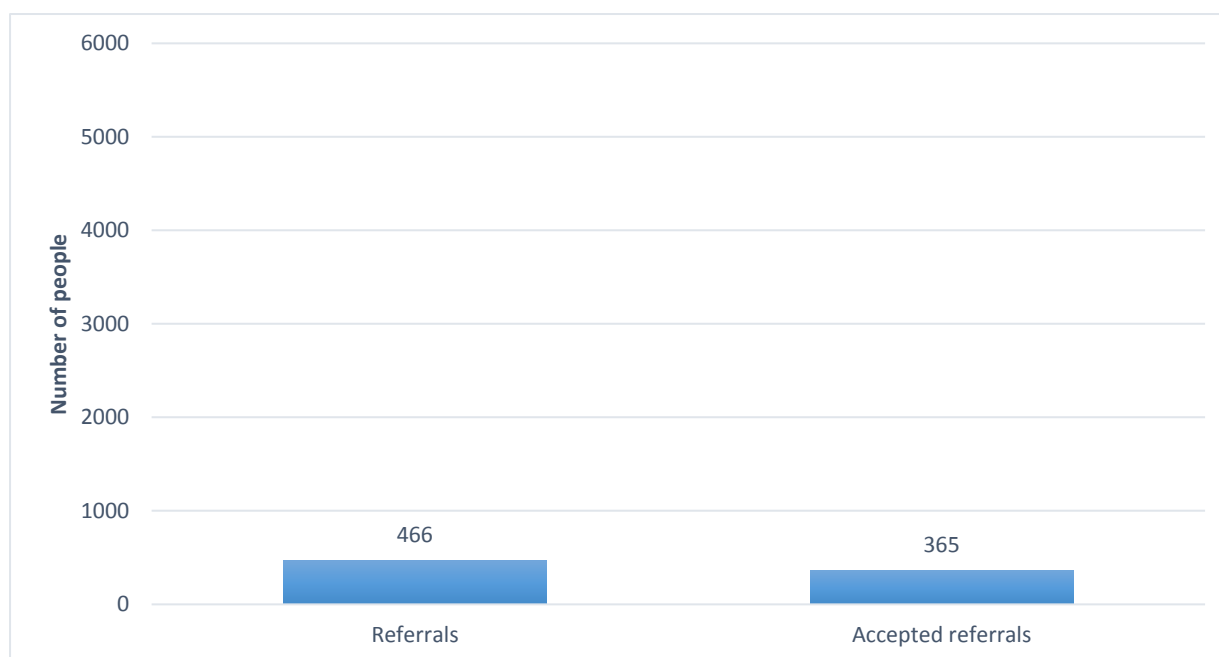
Department of Attorney General and Justice, Murri Court Elders or Respected Persons, Community Justice Groups, and legal representatives.

## 8.14 Statistics

The Indigenous Sentencing List (ISL) operated between the closure and reinstatement of the Murri Court program.<sup>21</sup> The key difference between the ISL and the Murri Court was that the ISL program was not funded to reimburse Elders for their participation.

In 2014–15, 466 Aboriginal and Torres Strait Islander defendants were referred to the ISL and 78% of these referrals (n=365) were accepted. See Figure 8. The average age of defendants referred to the ISL was 31 years and the majority were men (77%).<sup>22</sup>

**Figure 8: Number of ISL referrals and accepted referrals, 2014–15**



Source: DJAG court program unit data

## 8.15 Evaluations / program efficacy

An evaluation of the Queensland Murri Court was conducted by Anthony Morgan and Erin Louis, Australian Institute of Criminology, October 2010.

Dawkins, Z., Brookes, M., Middlin, K., & Crossley, P. (2011), *County Koori Court: County Court of Victoria and Department of Justice: Final Evaluation Report*.

Fitzgerald, J. (2008), *Does Circle Sentencing Reduce Aboriginal Offending?* in Crime and Justice Bulletin No 115, NSW Bureau of Crime Research and Statistics, May 2008

Shelby Consulting, (2009), *Evaluation of the Aboriginal Sentencing Court of Kalgoorlie*, October 2009.

Marchetti, E. (2009), *Indigenous Sentencing Courts*, written for the Indigenous Justice Clearing House.

<sup>21</sup> The former Murri Court was closed in 2012.

<sup>22</sup> DJAG courts program unit data

## **8.16 Interstate comparisons**

Comparative interstate programs include;

- Circle Sentencing, NSW,
- Galambany Court, ACT,
- Nunga Court, South Australia
- Koori Court, Victoria
- Kalgoorlie- Boulder Community Court, Western Australia

## 9 Domestic and Family Violence Specialist Court

The Domestic and Family Violence Specialist Court (DFVSC) provides an opportunity for dedicated magistrates to hear both applications for Domestic Violence Orders (DVOs) and related criminal matters. The listing of these matters at the DFVSC is compulsory. The trial model will remain in place until 30 June 2017.

An evaluation of the trial is currently underway and will inform a state-wide approach to how courts deal with domestic violence matters.

Dedicated magistrates are supported by a DFV Registry and a Court Coordinator. Additional duty lawyers through Legal Aid Queensland (LAQ) and prosecutors through Queensland Police Service (QPS) are allocated to support the court convened by the dedicated magistrate. Local services relevant to the work of the DFV court are co-located, to offer support and information to the aggrieved and information for respondents

### 9.1 History

The Domestic and Family Violence Specialist Court (DFVSC) was established at the Southport Magistrates court on 1 September 2015 in response to the recommendations in the Special Task Force on Domestic and Family Violence in Queensland chaired by Honourable Dame Quentin Bryce.

The Domestic and Family Violence Specialist Court is in trial phase until 30 June 2017.

### 9.2 Program objective/goals

The goals of the trial are to:

- provide a co-ordinated , consistent and timely response to domestic and family violence matters;
- enhanced safety for victims of domestic violence;
- making perpetrators accountable for their violence; and
- building stronger collaboration across the service system to support the court

### 9.3 Program logic / theory of change

A complex Program Logic Map has been produced. Outcomes, activities and underlying principles flow down from the DFV Prevention Strategy Vision and DJAG Strategic Plan objectives.

The DFV Prevention Strategy Vision states that 'Queensland is free from domestic and family violence, so that all Queenslanders feel safe in their own homes and children can grow and develop in safe environments'.

The DFV Court also aligns to the DJAG strategic objectives that 'Queensland is fair and just' and 'Queensland has a legal system that protects the rights and interests of vulnerable Queenslanders'

Long term stated outcomes include:

- specialised court provides a coordinated, consistent and timely response to DV matters;
- consistent, timely and transparent court outcomes (due to sole Magistrate and court coordination);
- perpetrators are appropriately held to account for their actions; and
- better court experience for victims.

## 9.4 Policy/legislative context of program

*Domestic and Family Violence Protection Act 2012*

## 9.5 Eligibility and exclusionary criteria

To be eligible to participate in the criminal list of the Domestic and Family Violence Specialist Court, the defendant must be charged with one of the following matters:

- Breaches of Protection Orders (PO) or Temporary Protection Orders (TPO) under the Act and other charges factually connected\* with the charged breach (\*“Factually connected” means an offence where evidence of the same is admissible on a trial of the defendant for the breach of the PO or TPO);
- Matters such as assaults, wounding, deprivation of liberty and wilful damage where an application for a PO or TPO has been made arising out of the alleged offence or the offence is a “domestic violence offence” as defined in section 1 of the Criminal Code;
- Bail Applications for all charges when one of the charges is a contravention of a PO coming before the court on Monday to Friday inclusive;
- Sentences for other offences when the defendant is to be sentenced for the matters listed in 1 and 2 above when;
  - the court may declare pre-sentence custody as time served for the sentence for all of the offences before the court; or
  - when it is the first appearance for all matters before a court
- Sentences for breaches of community based orders (CBO) where:
  - a. the offence which gives rise to the breach is a breach of a PO or TPO; or
  - b. the offences upon which the CBO was made included a breach of a PO or TPO.

Exceptions to the above include:

- A charge of murder or manslaughter would only be heard by the specialist court even if it is alleged to have occurred in the context of a “relevant relationship”, if there was an existing PO or TPO;
- When a defendant is pleading guilty to a breach of a PO or TPO and there are other charges not factually connected with the breaching charge then those other matters are not to be dealt with by the Specialist Court unless they fall within the exceptions listed in 4 (a) and (b) above;
- Where a CBO was made on a sentence of a defendant for charges set out in 1 or 2 above and the CBO is breached by the defendant either committing further offences or by not attending appointments then this would be a matter to be dealt with by the Specialist Court.

## 9.6 Funding

The Domestic and Family Violence Court is a specifically funded government project.

## 9.7 Screening and Assessment Tools

There are no screening and assessments undertaken as part of the referral and eligibility process for inclusion of matters at the DFVSC.

The Gold Coast Domestic Violence Prevention Centre (GCDVPC) has developed a safety assessment form to be completed by private applicants for domestic violence protections orders. The

safety assessment form will be used by the GCDVPC to assess the level of risk to victims of domestic violence so that appropriate steps can be taken to assist those at risk of serious harm or death as soon as possible.

This assessment is retained by the GCDVPC.

## **9.8 Case management**

The DFVSC is a court focussing on domestic violence and employing staff with knowledge of the issue. Whilst information is provided to victims and perpetrators in relation to ongoing case management/ support, this is purely voluntary and there is no ongoing monitoring of engagement with these services by the court.

Centacare workers and volunteers provide a support and advocacy role for victims, including at the court and by making referrals to ongoing support services

A Men's Worker is available to perpetrators at the court. This worker is able to provide information about the court process, domestic violence generally and the opportunities available through Voluntary Intervention Orders and attendance at men's behaviour change programs. A Court Risk Assessment Worker (CRAW) is a domestic violence prevention worker employed by the GCDVPC is also in attendance at the registry to assist female applicants only.

## **9.9 Types of drugs**

Drugs are not the focus of this program although defendants may be users of drugs.

## **9.10 Location**

Southport Magistrates Court

## **9.11 Target group**

All civil applications and criminal domestic violence matters are compulsorily listed at the Domestic and Family Violence Specialist Court. Exceptions are detailed in exclusionary criteria above.

## **9.12 Referral pathway**

As outlined above.

An additional feature of the DFVSC is the use of 'case conferencing'. This is a negotiation between prosecution and defence lawyers on domestic and family violence criminal matters to discuss issues in dispute and to bring about an early resolution of proceedings. This process is complemented by the Queensland Police Service implementing an Accelerated Evidence Procedure with respect to all domestic violence incidents.

## **9.13 Stakeholders**

- Southport Magistrates Court Registry
- Domestic Violence Prevention Centre Gold Coast
- Legal Aid Queensland
- Centacare (Family Relationship Services (CFRS) & Centacare Pastoral Ministries)
- Queensland Police Service (Police Prosecutions Southport)
- Queensland Corrective Services (Probation and Parole)
- Southport Court Support Volunteers

## **9.14 Statistics**

From September 1 2015 to 18 July 2016, a total of 3325 domestic violence applications were lodged at the Southport Magistrates Court. 2209 were police applications and 1116 private applications.

## **9.15 Evaluations / program efficacy**

*Interim Evaluation of the Trial Specialist Domestic and Family Violence Court in Southport:* released 16 May 2016.

## **9.16 Interstate comparisons**

Family Violence Courts Programs, Ballarat and Heidelberg Magistrates Courts, Victoria

Abuse Prevention Program and Family Violence Court, Elizabeth and Adelaide Magistrates, South Australia.

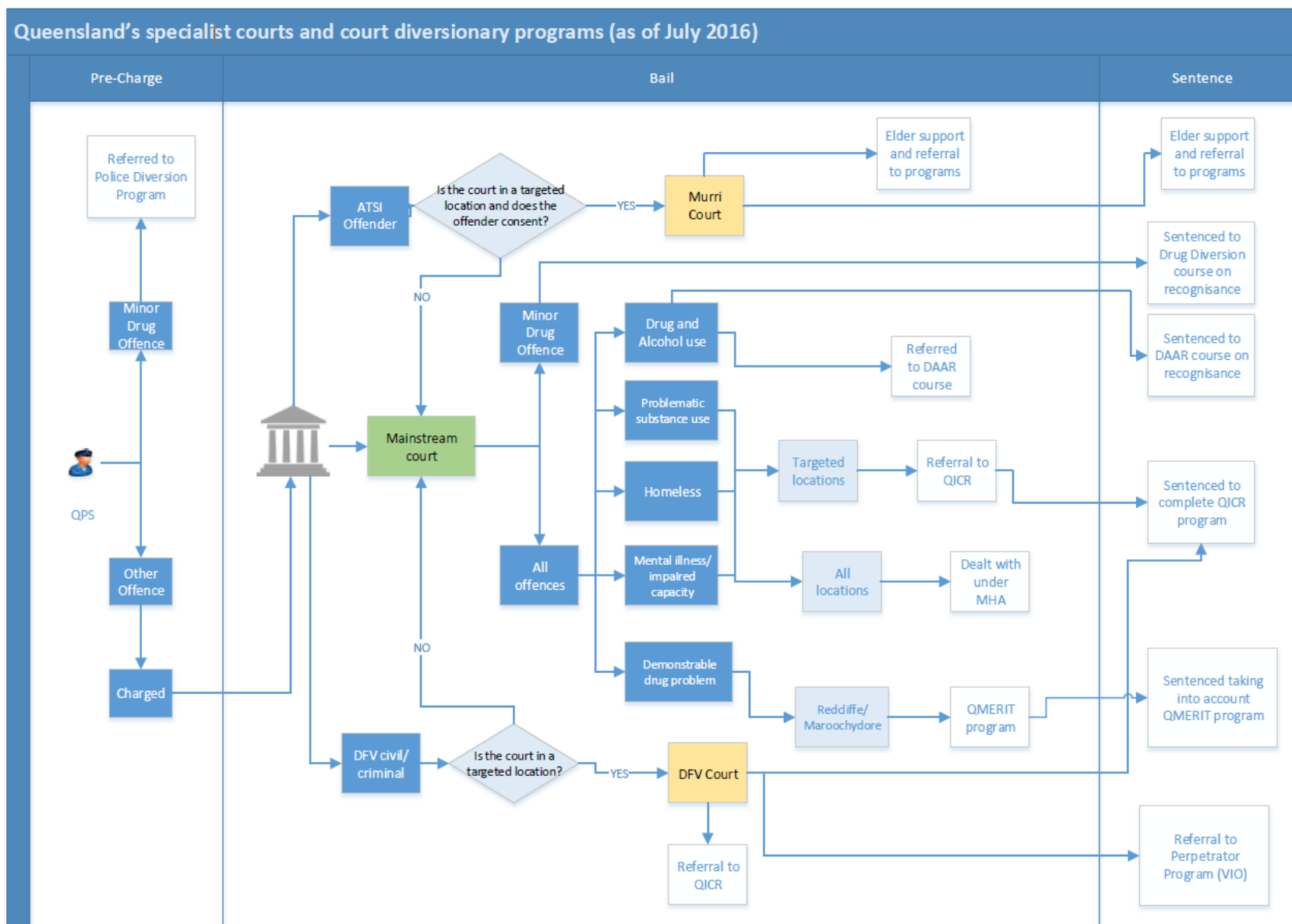
Domestic Violence Court Intervention Model (DVCIM), Wagga Wagga and Campbelltown Local Courts, NSW.

Family Violence Support Lists, Western Australia (currently under review and being remodelled).

Geraldton Family and Domestic Violence Project (Barndimalgu), Western Australia.

## 10 Conceptual Map

The following conceptual map outlines the specialist courts and court diversionary programs that are available in Queensland.



### Key:

- ATSI: Aboriginal and Torres Strait Islander
- DAAR: Drug and Alcohol Assessment Referral
- DFV: Domestic and Family Violence
- QICR: Queensland Integrated Court Referrals
- QMERIT: Queensland Magistrates Early Referral Into Treatment
- MHA: *Mental Health Act 2016*
- Minor Drug Offence (QPS Diversion): Possession of 50grms or less of cannabis and/or possessing a thing for use for smoking cannabis
- Minor Drug Offence (court diversion): Offences under ss 9, 10(1), 10(2), 10(4) and 10(4A) *Drugs Misuse Act 1986*
- Targeted Locations for DFV Court: Southport
- Targeted Locations for QICR: Brisbane, Cairns (Southport and Ipswich to be implemented in Dec 2016)
- Targeted Locations for Murri Court: Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Inala, Mackay, Mount Isa, Rockhampton, St George, Toowoomba, Townsville, Wynnun