DRUG AND SPECIALIST COURTS REVIEW

PART C

DRUG COURT

QUEENSLAND COURTS

November 2016

14 OVERVIEW OF THE FORMER QUEENSLAND DRUG COURT (2000-2013)

14.1 INTRODUCTION

Part A of this report established that there is significant demand for a more effective and efficient criminal justice response to drug- and alcohol-related offending in Queensland. Part B of the report considered each stage of the system in order to create a more integrated criminal justice model.

Part C, incorporating this chapter and those following (through to Chapter 36), focuses specifically on the reinstatement of a Queensland Drug Court. After briefly describing the former iteration of the Drug Court, Part C examines the evidence on the effectiveness of drug courts and then applies evidence-based best-practice standards in developing a new Drug Court model for Queensland.

14.2 ESTABLISHMENT AND OPERATION

The Queensland Drug Court program commenced on 13 June 2000 as a pilot program in the Beenleigh, Southport and Ipswich Magistrates Courts and was intended to trial a new way of responding to drug addiction and drug-related criminal activity.

In the Explanatory Notes to the Drug Rehabilitation (Court Diversion) Bill 1999 establishing the pilot program, the reasons for seeking to establish the program were identified as including:

- the rate of imprisonment for drug and property offences now exceeding the rate of population increases in Queensland;
- Queensland having the highest rate of imprisonment in Australia at more than 40 per cent above the national rate;
- the high rate of prisoners with a drug dependency (approximately 60 per cent at that time), supporting anecdotal evidence that many property and other offences are committed to feed drug habits; and
- the absence of a drug diversion scheme in operation in Queensland courts (pp. 1–2).

In December 2002, the pilot program temporarily ceased operation pending the outcomes of a number of reports and evaluations. Following the outcomes of these evaluations the Queensland Drug Courts in South-East Queensland re-commenced their operation as extended programs in September 2003. Two additional pilot drug court programs were established in Cairns and Townsville in 2002.

Prior to its closure, the total operating costs of the program to government across the five court locations where it operated was $14.4 million per annum across a range of agencies including Queensland Courts, Queensland Health, QCS, the former Department of Communities (for Housing), LAQ and QPS.

In 2012, the former Liberal National Party Government ceased funding to the Drug Court as part of its efficiency and savings measures. In evidence to the Legal Affairs and Community Safety Committee provided during the Estimates hearings, the then Attorney-General and Minister for Justice, Jarrod Bleijie, cited as one of the reasons for the court's closure the significant costs of the program considered against the number of graduates each year (around $400,000 per graduate) (11 October 2012, pp.35 and 40).

The *Drug Court Act 2000* was repealed on 30 June 2013.

14.3 KEY ELEMENTS OF THE FORMER DRUG COURT

The former drug court was a holistic response to drug abuse and related offending behaviour. It involved multiple government agencies and NGOs.

The former Drug Court operated as a post-sentence program that referred offenders into rehabilitation by way of an Intensive Drug Rehabilitation Order (IDRO), combining drug treatment, case management and supervision. An IDRO was comprised of three elements:

- an initial sentence, being a term of imprisonment, which was wholly suspended;
- the requirements or conditions of the order; and
- a rehabilitation program decided by the drug court magistrate.

The core conditions attached to every order were that the offender must:

- not commit an offence during the period of the order;
- notify an authorised corrective services officer any change of address or employment;
- not leave or stay out of Queensland without the permission of an authorised corrective services officer;
- comply with every reasonable direction of an authorised corrective services officer; and
- attend before a Drug Court magistrate at the times and placed stated in the order.

Other additional requirements of the order could include that the offender make restitution or pay compensation, perform community service of up to 240 hours, and do another thing the Drug Court magistrate considered may help the offender's rehabilitation.

To be eligible for an IDRO under the *Drug Court Act 2000* (the Act), the person was required to meet the following criteria:

- be drug dependent where that dependency contributed to the person committing the offence;
- be charged with an offence permitted to be dealt with by the drug court (offences excluded referred to under the Act as a 'disqualifying offence' included those of sexual nature and offences involving violence against the person, with some exceptions);
- have pleaded guilty to the offence;
- agree to the order being made and to comply with the order and its conditions;
- not be suffering from any mental condition that could prevent their active participation in a rehabilitation program;
- live within certain postcodes within the relevant Drug Court jurisdiction; and
- not be serving a term of imprisonment (other than an Intensive Correction Order being served in the community), not have a charge for a disqualifying offence pending, and not be subject to a parole order that had been cancelled.

Before making an IDRO, the magistrate was also required to be satisfied that:

- they would have otherwise sentenced the person to a term of imprisonment for the offences for which they were currently appearing in court;
- there were reasonable prospects the offender would comply with the order and it would otherwise be appropriate for the order to be made; and
- the maximum number of active IDROs had not been exceeded (Cairns – 40; Townsville – 40; South-East Queensland – 141).

The Drug Court rehabilitation program was a three-phase intervention requiring participation in a detoxification, residential or non-residential treatment program. Offenders were required to attend regular court hearings (weekly in phase 1) and be submitted to random urinalysis testing. The Drug Court program

was designed as a minimum nine-month intervention with both attendance and compliance monitoring requirements that decreased over time in recognition of positive performance and continued compliance. Non-compliance was sanctioned by the Drug Court magistrate, compliance was rewarded, and continued non-compliance could result in termination of the offender's participation in the program. Successful completion of the drug court program was taken into account on final sentencing. Participants who were unsuccessful in completing the program and exited from the Drug Court were returned to the mainstream criminal justice court process for resentencing, which typically involved the imposition of a term of imprisonment (Payne 2008).

15 BUILDING AN EFFECTIVE DRUG COURT

15.1 INTRODUCTION

One of the objectives of the current Review is to ensure that the Drug Court model to be reinstated in Queensland is consistent with contemporary best practice and meets the needs of the Queensland community in responding to drug-related offending.

Inherent in the former Government's decision to cease funding to the former Queensland Drug Court was a suggestion that it was not cost-effective and did not deliver a clear benefit or cost saving to the Queensland community.

In reinstating the Drug Court, it is important to reconsider the evidence supporting the efficacy of drug courts and to consider why they work, in what circumstances and for whom. In this chapter, we review some of this evidence against which we consider in later chapters the key elements that we recommend should form part of a future Queensland Drug Court.

15.2 DO DRUG COURTS WORK AND FOR WHOM?

15.2.1 Overview of the evidence – adult drug courts

In section 6.3.3 of this report we reviewed previous evaluations of the Queensland Drug Court, including recidivism outcomes. The 2008 study on recidivism outcomes for the first 100 Drug Court graduates reported reductions in overall offending frequency when compared to the previous 12 months, with 59% of Drug Court graduates compared with 77% of Drug Court terminates having reoffended within two years of completing the program, or in the case of drug court terminates, exiting custody. The average time to reoffend was also longer for graduates than terminates (379 days compared with 139 days). While both graduates and terminates committed fewer offences after program involvement, decreases were greater among graduates (80% decrease) than for terminates (63% decrease) (Payne 2008).

In recent decades, few criminal justice interventions have been subjected to the same level of evaluation activity as drug courts (Marlowe 2010). Given the volume of program evaluations that have been completed, several systematic reviews and meta-analyses have now been conducted (Table 1). Overall, the results lend support for drug courts in terms of their ability to reduce reoffending, although the strength of this evidence has been questioned in light of the relatively small number of experimental studies (Perry 2016). Mean effect sizes from meta-analyses estimate the impact of drug court programs on reoffending as being somewhere between eight and 13 percentage points (Table 1). Results vary because of the different inclusion criteria, follow-up periods (including within and post-program) and methodological rigour applied in selecting studies.

Table 1: Mean effects of adult drug court programs, by study

Source	Number of programs	Mean effect size (percentage point change in offending)
Mitchell et al. 2012	92	-12
Shaffer 2006	82	-9
Wilson, Mitchell & MacKenzie 2006	55	-12
Latimer, Morton-Bourgon & Chretien 2006	66	-14
Drake, Aos & Miller & 2009	57	-8
Lowenkamp, Holsinger & Latessa 2005	22	-8

Adapted from Marlowe 2010

In 2005, the Government Accountability Office in the United States reviewed experimental and quasi-experimental evaluations of adult drug court programs in which the comparison group comprised non-drug court participants with adequate matching or statistical controls, focusing on recidivism, substance use relapse or program completion outcomes. They identified 27 'relatively rigorous' studies of 39 unique programs from a total of 117 studies. Their review concluded that, overall, a lower percentage of drug court program participants than comparison group members were rearrested or reconvicted while they were in the program, with fewer incidents and a longer delay until re-arrest or reconviction. This was consistent for all offence types, and the differences endured up to one year post-program. There was limited and mixed evidence in terms of substance use relapse outcomes, given the relatively small number of studies that examined drug use (only eight) and the conflicting results from urinalysis and self-report studies. Importantly, in one of the first reviews of the cost-effectiveness of drug courts, the Government Accountability Office found that the benefits outweighed program costs in all evaluations in which this information had been reported. Finally, there was no conclusive evidence that specific drug court program components, such as the behaviour of the judge, the amount of treatment received, the level of supervision provided, and the sanctions for not complying with program requirements, affected participants' within-program recidivism.

In one of the earlier meta-analytic reviews, Latimer, Morton-Bourgon & Chretien (2006) analysed 66 drug treatment court programs between 1993 and 2005 in which the study used a comparison or control group comprising non-participants. They concluded that drug treatment courts reduced recidivism by 14% when compared to traditional criminal justice responses, but also found there was considerable variation in effect size estimates across the studies, indicating a degree of heterogeneity. Importantly, however, 85% of drug treatment courts demonstrated a positive impact. Several factors were associated with improved outcomes. Drug treatment courts were more effective for adult offenders—the effect size for youth was not statistically significant different from zero (based on small number of studies), meaning it was not possible to conclude with any certainty that drug treatment courts work for young offenders. Studies with longer follow-up periods produced larger effects, while there were diminished effects for more rigorous studies, including random assignment and studies that used non-participants as the comparison group rather than dropouts or non-completers. Finally, programs that provided services for 12-18 months demonstrated a significant reduction in recidivism when compared with shorter and longer programs, which they argued demonstrated the need to allow sufficient time for CBT to take effect, but not lead to treatment fatigue.

Like Latimer et al. (2006), Wilson, Mitchell & MacKenzie (2006) conducted a meta-analysis of experimental and quasi-experimental evaluations of adult and juvenile drug courts. They applied stricter methodological criteria in selecting studies, excluding studies that did not utilise a comparison group subject to routine processing (e.g. dropouts or participants of some other alternative program). Based on 50 studies of 55 drug court programs—the majority of which were unpublished (62%), unlike in earlier reviews—they concluded that drug offenders participating in a drug court program were less likely to reoffend than similar offenders sentenced to traditional options, such as probation. These findings held for reoffending during and after program. The reduction in overall offending was 13 percentage points across all studies, although the effect size of the two high quality randomised control trials was smaller (7 percentage points). There was little evidence that juvenile drug courts reduced reoffending. Wilson et al. (2006) were critical of the overall methodological quality of evaluations, noting that only five studies involved random assignment and half made no attempt to include statistical controls for differences between the intervention and comparison groups.

In the most recent review of adult drug courts, Sevigny, Fuleihan & Ferdik (2013) conducted a meta-analysis of studies that examined the impact of drug courts in terms of reducing incarceration. This was on the basis that one of the principal reasons for introducing drug courts was as a jail diversion strategy to reduce the burden on the criminal justice system. Despite the large number of evaluations that have been completed, Sevigny et al. were only able to locate 19 studies that measured incarceration outcomes. They concluded that there was a lower incidence of incarceration among drug court participants, with an estimated 32 percent of drug court participants receiving a term of imprisonment compared with an assumed rate of 50 percent of non-drug court participants. However, there was no difference in the total time served when compared with

conventional supervision. They concluded that the benefit associated with the lower incarceration rate was offset by long sentences for drug court participants when they failed to comply with the conditions of the program. These findings suggest that, while drug courts may work as a jail diversion strategy, they may be less effective in reducing the overall burden to the criminal justice system of prolific drug offenders.

These findings also raise questions regarding the overall cost effectiveness of drug courts. Two recent studies have specifically addressed the question of drug court costs and benefits. The Washington State Institute of Public Policy (WSIPP 2016), as part of a broader program of work reviewing the costs and benefits of criminal justice policy options, concluded that the estimated program costs per drug court participant was $4,984. This was significantly lower than the estimated benefits of $13,015, based on 70 effect sizes, which produces a benefit to cost ratio of $2.61 and a saving of $8,031 per participant (all figures in $USD).

15.2.2 Youth drug courts

In Queensland, the *Youth Justice Act 1992*, governs the sentencing of children aged 10–16 years old for criminal offences.

The former Queensland Drug Court operated for offenders sentenced as adults only.

Western Australia operates a Childrens Court Drug Court program in Perth that, based on advice provided to the Review team, accepts a maximum of 12 young people at any one time.

Both NSW and the ACT established Youth Drug Courts but subsequently closed these down. The NSW program ceased operating in July 2012, with the NSW Government at the time citing insufficient evidence of its effectiveness in reducing reoffending and high cost given small number of graduates (around 20 young people per annum at an annual cost of $4 million per annum) (Harvey 2012).

As discussed above, the majority of evaluations of drug courts have focused on the effectiveness of adult drug courts rather than youth focused drug courts. A 2004 evaluation of the NSW Youth Drug Court Pilot Program reported that while it had "not been possible to state definitively that the Youth Drug Court program has been achieving outcomes superior than might have been gained through other forms of intervention", the overall view of the evaluators was that the program was having "an important, positive impact on the lives of many of those participating" and also that the unit costs of achieving these impacts did not appear to be greater than involved in keeping these young people in custody (University of New South Wales Evaluation Consortium 2004, p. v).

Consultation with Youth Justice highlighted a number of possible explanations for the lower efficacy of drug courts when treating young people including:

- developmentally, young people are less mature than adults and may be less suitable for cognitive behavioural programs and less responsive to developing a therapeutic relationship with the judiciary;
- the requirement to work with young people for extended periods of time to effect behavioural change (often longer than the length of orders); and
- young people may also be less likely than adults to comply with intensive interventions attached to orders.

The relatively small number of children sentenced to detention for terms greater than one year means that relatively few young people would be eligible for an intensive drug court-type intervention, assuming the eligibility criteria were similar as for an adult drug court program.

The Review found recent growth in the number of children with an illicit drug offence as their principal offence (similar that that apparent among adult offenders) and a level of problematic drug use among children in contact with the criminal justice system that would benefit from a therapeutic response.

In consultations, Youth Justice noted that while there are young people who have a high risk of reoffending and who might benefit from a court-based therapeutic response to their drug use, any intervention would need to be youth-specific, family-centred and supported by appropriate services.

While the Review does not discount the potential utility of alcohol and other drug treatment responses for young offenders, we consider that further investigation is required to identify the types of interventions most likely to benefit young people and to be cost-effective.

The Review also suggests that other court programs that might provide integrated assessment, referral and support for young offenders pre-sentence, and the availability of alternative sentencing options, could be considered in future to enhance current responses.

15.3 THE KEY PRINCIPLES OF AN EFFECTIVE DRUG COURT

The international drug court movement can be traced to Dade County, Miami Florida, where in 1989 a group of justice professionals sought to transform the local criminal justice response to drug-related crime (Goldkamp 1994; Goldkamp & Weiland 1993). Within 10 years, a further 492 drug courts had been established across the United States (NADCP) and the first Australian drug court in NSW was in its first year of operation. By mid-2012, almost 3,000 drug courts were in operation across the United States – with at least one in every state and territory – while in Australia, drug courts had emerged in Queensland, Victoria, South Australia and Western Australia (see Payne 2007).

The report *Defining Drug Courts: The Key Components* (OJP, 1997/2004) was produced by a Drug Court Standards Committee convened by the NADCP. The Drug Court Standards Committee comprised an expert panel of drug court professionals (prosecutors, judicial officers, and public defenders), researchers, and federal administrators who, on the basis of their experience, distilled "the basic elements that define drug courts" (OJP, 1997/2004, p. 4). These basic elements have since been widely recognised as the Ten Key Components, representing a "consensus statement about how a drug courts should operate and what components should be included" for effective implementation (Hiller et al. 2010, p. 935). The components, intended as a guide to policy makers and practitioners considering the design and implementation of new drug courts, were:

1. Integration of alcohol and other drug treatment with justice system case processing.
2. Using a non-adversarial approach, prosecution and defence counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participants' compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organisations generates local support and enhances drug court program effectiveness.

Underpinning each of these 10 components was a series of performance benchmarks against which existing drug courts could assess the extent to which the "drug court ideal" had been realised in their own location. For newly developed courts, the performance benchmarks have since been interpreted as providing a roadmap to successful implementation and outcomes (Carey, Finigan & Pukstas 2008). Indeed, addressing the extent to which drug courts (existing or newly developed) will implement the 10 key components has become a requirement for drug courts wishing to receive federal funding (Bureau of Justice Assistance, 2005a, 2005b).

For more than a decade, the OJP's 10 Key Components and their associated performance benchmarks existed as the only available tool for policymakers and practitioners considering the implementation of new drug courts.

15.4 HOW DO DRUG COURTS WORK?

15.4.1 Introduction

There is no single or unifying theory for why drug courts produce better outcomes than their alternatives. Given the complexity of the underlying intervention model, the length of its implementation, and the diversity of the offenders likely to access drug courts, there is unlikely to be a single causal mechanism that determines their effectiveness. The challenge for policy makers and practitioners, therefore, is to understand the mechanisms that are likely to contribute (and when) to the realisation of relatively better outcomes across the full length of the intervention.

To do this requires asking two separate questions. The first is *why do drug court graduates offend less often*? Understanding the factors that contribute to improved outcomes for drug court graduates is a necessary first step to understanding how and why the drug court model works. The second question then is *how do drug courts create successful graduates?* The mechanisms that help to facilitate the transition of offenders to the point of graduation are not necessarily the same as those which later influence post-graduation re-offending. Parsing the drug court into long-term outcomes and short-to-medium-term mechanisms is an important step in understanding how and why these multifaceted and longitudinally dynamic programs are relatively more effective.

15.4.2 Why do drug court graduates commit fewer crimes?

Graduates have fewer criminogenic needs. By design, drug courts require participants to undertake treatment and intervention sub-programs that seek to address their criminogenic needs.

Substance use is not the only criminogenic target of a well-designed and implemented drug court program. In addition, drug courts have the capacity to facilitate change across a number of criminogenic domains, including the stabilisation of accommodation and housing, the repatriation or reconnection to family, the reengagement with education and employment, the stabilisation or management of physical and mental health needs, the disconnection with antisocial and criminal peers, and the development of essential pro-social life skills. In all, drug court graduates should have less reason to commit crime by necessity and should be less often confronted with criminal opportunities.

As a community-based treatment alternative to imprisonment, lower rates of post-program offending may be attributed to the fact that graduates avoid the negative consequences of imprisonment. Much has been written about the criminogenic nature of incarceration; that time spent in custody can increase the likelihood of reoffending whether as a consequence of greater associations with criminal peers, the internalisation of criminal identities and labels, or the foreclosure of post-incarceration employment, education and other pro-social opportunities. In any case, drug court graduates avoid further exacerbating their criminogenic needs by avoiding lengthy terms of imprisonment. As a consequence, the process of desistence may be activated through the drug court earlier than would otherwise be the case.

A considerable body of literature now confirms that individuals with positive perceptions of procedural justice and fairness are less likely to commit crime. Therefore, it is argued that drug courts produce more favourable outcomes because graduates have an enhanced respect for the law and the legitimacy of legal institutions. Specifically, it is thought that the architecture and procedures of a drug court foster greater respect among participants for the authority of the police and judicial officer and a greater appreciation of the criminal justice system's obligations to protect community safety. This in turn limits criminal offending by enhancing pro-social attachment to formal institutions and strengthening broader social bonds.

Reaching the end of a drug court program as a 'drug free and crime free success' is often the largest and most significant lifetime achievement for many drug court clients. The process of graduation and the

acknowledgement of success is potentially transformative in its own right. At graduation, it is likely that drug court clients enter the post-program phase with new or stronger pro-social relationships (including to formal institutions such as the court, police, corrective services), a more enhanced sense of self-worth, and a positive outlook on their own individual capacity to maintain a pro-social lifestyle – each of which contributes to lower rates of drug use relapse and consequent reoffending.

15.4.3 How do drug courts create successful graduates?

Understanding why drug court graduates commit fewer crimes is only part of the drug court's complex story. What matters most is how drug courts manage, unlike other interventions, to transition previously high-risk and high-need offenders to the point of graduation such that the benefits of the program can be realised.

Perhaps most importantly, the select and specialised nature of the drug court model maximises the likelihood that offenders receive drug use and criminal justice programs and treatments that are best practice. Whereas in traditional contexts drug treatment and criminal thinking programs are geographically disparate, often underfunded and thus not widely available, in drug courts, the emerging coalition of judicial, law enforcement, corrections and health practitioners brings with it the funding and commitment to ensure that all drug court participants are afforded the necessary treatments and interventions, and more importantly, that those treatments and interventions meet standards considered best practice. This capacity of the drug court model is likely to be the single most significant contributor to their long-term success.

15.4.4 How do drug courts encourage participants to start the process of change?

Although drug courts may be able to call on significant financial and policy investment to deliver best-practice treatments to their participants, there still remains the difficult challenge of encouraging high-risk and high-need clients to engage. It is here that the drug court itself has the greatest impact by leveraging otherwise unwilling participants into treatment and motivating participants to respond positively to treatment goals and objectives.

Leverage (see Longshore et al. 2001) is the most oft cited mechanism by which it is believed drug courts encourage and achieve relatively more positive outcomes than alternative criminal justice interventions. Specifically, the ability to afford successful clients a significant penalty reduction upon graduation has the power to leverage early engagement and encourage treatment retention during the initial phases of the program. Soon after, the compliance monitoring mechanisms of the court namely the use of frequent and random drug testing, coupled with regular court appearances, send strong signals about the consequences of continued criminal or antisocial conduct, again adding to the leveraging capacity of the court to encourage persistent and proactive engagement in treatment.

Activating the motivation for change among an otherwise unmotivated and high-need population is a challenging prospect for any criminal justice intervention. However, motivating participants to be receptive to change most likely requires more than just leverage, drug testing and the fear or threat of sanctions – especially if the resulting change is to last in the longer-term. To this end, drug courts must activate individual responsivity by challenging pre-existing perceptions of the criminal justice system, identifying personal motivators for change, and rewarding success and progress in treatment.

16 OVERVIEW OF THE BEST PRACTICE STANDARDS

16.1 INTRODUCITON

The United States National Association of Drug Court Professionals has produced the A*dult Drug Court Best Practice Standards* (Standards), published in 2013. These Standards are the result of exhaustive work reviewing scientific research on best practices in substance abuse treatment and correctional rehabilitation and distilling the vast literature into measurable and enforceable practice recommendations for drug court professionals. The Standards were drafted by a diverse and multidisciplinary committee comprising drug court practitioners, subject matter experts, researchers and state and federal policymakers.

The ten Standards, summarised below, encapsulate what is considered to be best practice in the establishment and operation of drug courts. The Standards have been taken into account in identifying key components of a future Queensland Drug Court.

16.2 BEST PRACTICE STANDARD 1: TARGET POPULATION

Eligibility and exclusion criteria for the drug court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in drug courts. Candidates are evaluated for admission to the drug court using evidence-based assessment tools and procedures.

Components include: objective eligibility and exclusion criteria, high-risk and high-need participants, validated eligibility assessments, criminal history disqualifications and clinical disqualifications.

16.3 BEST PRACTICE STANDARD 2: HISTORICALLY DISADVANTAGED GROUPS

Citizens who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion or socio economic status receive the same opportunities to participate in the drug court.

Components include: equivalent access, equivalent retention, equivalent treatment, equivalent incentives and sanctions, equivalent dispositions and team training.

16.4 BEST PRACTICE STANDARD 3: ROLES AND RESPONSIBILITIES OF THE JUDGE

The drug court judge stays abreast of current law and research on best practices in drug court, participates regularly in team meetings, interacts frequently and respectfully with participants and gives due consideration to the input of other team members.

Components include: professional training, length of term (no less than two consecutive years), consistent docket, participation in pre-court staff meetings, frequency of status hearings, length of court interactions, judicial demeanour and judicial decision-making.

16.5 BEST PRACTICE STANDARD 4: INCENTIVES, SANCTIONS AND THERAPEUTIC ADJUSTMENTS

Consequences for participants' behaviour are predictable, fair, consistent and administered in accordance with evidence-based principles of effective behaviour modification.

Components include: advance notice, opportunity to be heard, equivalent consequences, professional demeanour, progressive sanctions, licit addictive or intoxicating substances, therapeutic adjustments, incentivising productivity, phase promotion, jail sanctions, terminations and consequences of graduation and termination.

16.6 BEST PRACTICE STANDARD 5: SUBSTANCE ABUSE TREATMENT

Participants receive substance abuse treatment based on a standardised assessment of their treatment needs. Substance abuse treatment is not provided to reward desired behaviours, punish infractions or to serve other non-clinically indicated goals. Treatment providers are trained and supervised to deliver a continuum of evidence based interventions that are documented in treatment manuals.

Components include: continuum of care, in-custody treatment, team representation, treatment dosage and duration, treatment modalities, evidence-based treatments, medications, provider training and credentials, peer support groups and continuing care.

16.7 BEST PRACTICE STANDARD 6: COMPLEMENTARY TREATMENT AND SOCIAL SERVICES

Participants receive complementary treatment and social services for conditions that co-occur with substance abuse and are likely to interfere with their compliance in drug court, increase criminal recidivism or diminish treatment gains.

Components include: Scope of complementary services, sequence of timing of services, clinical case management, housing assistance, mental health treatment, trauma-informed services, criminal thinking interventions, family and interpersonal counselling, vocational and educational services, medical and dental treatment, prevention of health-risk behaviours and overdose prevention and reversal.

16.8 BEST PRACTICE STANDARD 7: DRUG AND ALCOHOL TESTING

Drug and alcohol testing provides an accurate, timely and comprehensive assessment of unauthorised substance use through participants' enrolment in the drug court.

Components include: frequent testing, random testing, duration of testing, breadth of testing, witnessed collection, valid specimen, accurate and reliable testing procedures, rapid results and participant contract.

16.9 BEST PRACTICE STANDARD 8: MULTIDISCIPLINARY TEAM

A dedicated multi-disciplinary team of professionals manages the day to day operations of the drug court, including reviewing participant progress during the pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise and delivering or overseeing the delivery of legal, treatment and supervision services.

Components include: team composition, pre-court staff meetings, sharing information, team communication and decision making, status hearings and team training.

16.10 BEST PRACTICE STANDARD 9: CENSUS AND CASELOADS

The drug court serves as many eligible individuals as practicable while maintaining continuous fidelity to best practice standards.

Components include: drug court census (optimal 125 participants) supervision caseloads and clinical caseloads.

16.11 BEST PRACTICE STANDARD 10: MONITORING AND EVALUATION

The drug court routinely monitors its adherence to best practice standards and employs scientifically valid and reliable procedures to evaluate its effectiveness.

Components include: adherence to best practice, in-program outcomes, criminal recidivism, independent evaluations, historically disadvantaged groups, electronic database, timely and reliable data entry, intent-to-treat analysis, comparison groups and time at risk.

17 AIMS AND OBJECTIVES OF A DRUG COURT

17.1 BEST PRACTICE STANDARDS – SETTING CLEAR OBJECTIVES

While the best practice standards do not include suggested purposes, in the preface to the standards, the NADCP acknowledges that:

> Drug Courts improve communities by successfully getting justice-involved individuals clean and sober, stopping drug-related crime, reuniting broken families, intervening with juveniles before they embark on a debilitating life of addiction and crime, and preventing impaired driving. (NADCP 2013, vi)

It is important to set clear objectives for a drug court that can be used to develop performance measures for evaluation. The United States National Institute of Justice recommends performance measures be developed for drug court programs based on program goals (e.g. promote public safety by treating drug dependent offenders) and objectives (e.g. reduce recidivism).

Setting out legislative purposes through an objectives clause can also be of assistance to courts and others in interpreting legislation (see, for example, *Tickner v Bropho* (1993) ALR 409). The Queensland *Acts Interpretation Act 1954* relevantly provides that: "In the interpretation of a provision of an Act, the interpretation that will best achieve the purposes of the Act is to be preferred to any other interpretation" (s 14A(1)).

17.2 FORMER QUEENSLAND MODEL

The objectives of the former Queensland *Drug Court Act 2000* prior to its repeal were to:

- reduce the level of drug dependency in the community and the drug dependency of eligible persons;
- reduce the level of criminal activity associated with drug dependency;
- reduce the health risks associated with drug dependency of eligible persons;
- promote the rehabilitation of eligible persons and their re-integration into the community; and
- reduce pressure on resources in the court and prison systems (s 3).

As they originally appeared in the *Drug Rehabilitation (Court Diversion) Act 2000*, when the Drug Court operated as a pilot, the objectives of promoting the rehabilitation of eligible persons or reducing their drug dependency were not included. Instead, the Act set out the ways that it would achieve this rehabilitative purpose through the identification of drug-dependent people suitable to receive intensive drug rehabilitation, improve the ability of those people to function as law abiding citizens, and improve both their employability and health.

The objectives were changed in 2006 when the Drug Court was put on a permanent footing and the Act was retitled as the *Drug Court Act 2000.* The rationale for this was to ensure that the legislative objects "more accurately reflect the drug dependency of individual offenders" and "to provide an increased focus on the needs of individual participants before the court" (Explanatory Memorandum, Drug Legislation Amendment Bill 2005 (Qld), pp.5, 13).

17.3 POSITION IN OTHER JURISDICTIONS

NSW and Victoria both include legislative purposes for their drug court programs. In NSW, these purposes are set out as legislative objectives under section 3 of the *Drug Court Act 1998* (NSW). In Victoria, these purposes attach to the order itself (known as the 'Drug Treatment Order').

The specific objectives of the NSW Drug Court are:

- to reduce the drug dependency of eligible persons and eligible convicted offenders;
- to promote the re-integration of such drug dependent persons into the community; and

- to reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies.

The NSW *Drug Court Act* provides that the Act: "achieves its objectives by establishing a scheme under which drug dependent persons who are charged with criminal offences can be diverted into programs designed to eliminate, or at least reduce, their dependency on drugs" in recognition that "reducing a person's dependency on drugs should reduce the person's need to resort to criminal activity to support that dependency and should also increase the person's ability to function as a law abiding citizen" (ss 3(3)–(4)).

The objectives of the NSW Act have been relied upon in a numbers of decisions of the NSW Drug Court as a basis for interpreting relevant provisions (see, for example, *R v Wilson* [1999] NSWDRGC 4 (25 February 1999; *R v Ranse* [1999] NSWDRGC 2). The objectives clause has also been used as a basis to justify the categorisation of the NSW Act as 'beneficial' legislation, as it allows offenders the benefit of participating in a drug court program, thereby supporting any ambiguous provisions being construed in a way that is most favourable to those offenders (see, for example, *R v Sloane* [1999] NSWDRGC 3 (13 April 1999), Murrell J).

The purposes of a Drug Treatment Order in Victoria under section 18X of the *Sentencing Act 1991* (Vic) are to:

- facilitate the rehabilitation of the offender by providing a judicially-supervised, therapeutically-oriented, integrated drug or alcohol treatment and supervision regime;
- take account of an offender's drug or alcohol dependency;
- reduce the level of criminal activity associated with drug or alcohol dependency; and
- reduce the offender's health risks associated with drug or alcohol dependency.

This section further provides that if considering making a DTO, the Drug Court must regard the rehabilitation of the offender and the protection of the community from the offender (achieved through the offender's rehabilitation) as having greater importance than the other general purposes of sentencing set out under section 5(1) of that Act. These provisions have not been judicially construed since their enactment in 2002.

Drug courts operating as pre-sentence programs, such as in WA and New Zealand, have similar objectives. For example, the stated principal objective of the NZ Alcohol and Other Drugs Treatment (AODT) Court is 'to reduce drug use and associated offending through supervising the defendant and providing them with treatment programmes and life skills support, while still holding them to account for their offending' (NZ Ministry of Justice 2014). The desired outcomes of the NZ AODT Court are to:

- reduce reoffending;
- reduce alcohol and other drug consumption and dependency;
- reduce the use of imprisonment;
- positively impact on health and well-being; and
- be cost effective. (NZ Ministry of Justice 2014)

17.4 WHAT DOES THE EVIDENCE SAY?

The NADCP Standards identify that one of the primary aims of a drug court is to rehabilitate seriously addicted individuals, which means that retaining participants in treatment, reducing alcohol and other drug use, and helping participants to complete treatment successfully are important indicators of short-term progress.

The Standards also acknowledge that policymakers, the public, and other stakeholders are likely to judge the merits of a drug court by how well it reduces crime, incarceration rates, and taxpayer expenditures. Therefore, drug courts need to measure in-program outcomes that not only reflect clinical progress, but are also significant predictors of post-program criminal recidivism and other long-term outcomes.

17.5 CONSULTATION VIEWS AND ISSUES

Feedback from stakeholders indicate that it is unrealistic to expect a drug court in and of itself to:

- reduce the general level of drug dependency in the community overall; and
- reduce pressure on the court and prison system.

Drug courts can only deal with a very small number of offenders (around 125 per year) and even if they were wholly successful, they would not significantly reduce the number of offenders entering, or staying, in the prison population which currently stands at over 7,700 prisoners.

A drug court can only contribute to reducing the level of drug dependency in the community and reducing pressure on the courts and prison when an individual comes into contact with the justice system. While any new model should consider establishing mechanisms and processes that recognise the underlying social, psychological, economic and environmental issues that may have an effect on the offender, it needs to be clear what is within the purview and control of a drug court.

A recent study undertaken by QNADA for the Queensland Police Service found 98 percent of people voluntarily entering treatment had at least one prior interaction with the criminal justice system, primarily through the issuing of cautions from police or the courts, although 15 percent of young people and 25 percent of adults had experienced incarceration (which they often identified as related to their substance use).

The objectives of a drug court should serve as a reminder that problematic substance use is a health issue, and the drug court process can be a tool to identify people who need help. By developing a process that can identify when a person needs support, the drug court presents an opportunity to intervene and provide linkages to support and rehabilitation.

17.6 RECOMMENDATIONS

Taking into account that the main objective of a drug court is to address factors contributing to an individual's offending, in particular their drug dependency, we support a focus on individual-level benefits over program-related or community-level outcomes to ensure the objectives are appropriately targeted and measurable. A focus on the means by which those objectives are achieved should also be reflected in the legislative objectives of the Act.

Recommendation 11 Objectives of the Drug Court

Reflecting the therapeutic jurisprudential framework that underpins a drug court, the legislative objectives of the Act or provisions establishing the Queensland Drug Court program should focus on the individual-level benefits of participation in the drug court program. In particular, to:

- **facilitate the rehabilitation of eligible persons by providing a judicially-supervised, therapeutically-oriented, integrated drug or alcohol treatment and supervision regime;**
- **reduce the drug or alcohol dependency of eligible persons;**
- **reduce the level of criminal activity associated with alcohol and other drug dependency;**
- **reduce the health risks associated with alcohol and other drug dependency of eligible persons; and**
- **promote the rehabilitation of eligible persons and their re-integration into the community.**

18 PRE- OR POST-SENTENCE MODEL, PLEA AND LEGISLATIVE BASIS

18.1 FORMER QUEENSLAND MODEL

The former Queensland Drug Court was a post-sentence option and required the offender to plead guilty or indicate an intention to plead guilty before being referred for an assessment of eligibility and suitability.

As a post-sentence program, the program was supported by legislation (initially the *Drug Rehabilitation (Court Diversion) Act 2000* retitled as the *Drug Court Act 2000* in 2006 once established on a permanent basis) which provided for the sentencing of offenders to this alternative form of sentencing order.

The Queensland *Drug Court Act 2000* was repealed on 30 June 2013 giving effect to the abolition of the Drug Court.

18.2 POSITION IN OTHER JURISDICTIONS

Jurisdictions in Australia and New Zealand with a drug court have either a pre-sentence model, involving the management of a defendant appearing before the drug court while on bail, or a post-sentence model, involving the sentencing of an offender to undertake treatment and to appear before the drug court for the duration of the order.

Table 2 outlines the sentencing model for jurisdictions in Australia and New Zealand with a drug court. It shows that those jurisdictions that have a pre-sentence model (South Australia, WA and New Zealand) do not have a specific legislative basis for their drug court. This can be compared to the jurisdictions that have a post-sentence model (Queensland, Victoria, and NSW), which have a specific legislative basis, whether that be a stand-alone Drug Court Act, or provisions supporting its operation incorporated into relevant sentencing legislation. In the latter case, additional provisions are required to support the establishment of the Drug Court and the appointment of magistrates.

All jurisdictions have a requirement for the offender to plead guilty or indicate an intention to plead guilty whether or not these schemes operate as pre-sentence or post-sentence models.

Table 2: Sentencing model of drug court jurisdictions in Australia and New Zealand

Jurisdiction	Pre- or post-sentence model	Specific legislative basis
South Australia	Post-plea, pre-sentence	No - supported by the general provisions of the *Bail Act 1985* (SA)
Western Australia	Post-plea, pre-sentence	No - supported by the *Magistrates Courts Act 2004* (WA)
New Zealand	Post-plea, pre-sentence	No - supported by the general provisions of the *Bail Act 2000* (NZ)
Queensland (Former Drug Court)	Post-sentence	Yes - *Drug Court Act 2000* (repealed)
Victoria	Post-sentence	Yes - *Sentencing Act 1991* (Vic) (sentencing provisions) *Magistrates' Court Act 1989* (Drug Court establishment provisions)
New South Wales	Post-sentence	Yes - *Drug Court Act 1998* (NSW)

18.3 WHAT DOES THE EVIDENCE SAY?

The international literature is largely silent on the question of whether drug courts perform more or less favourably as post-sentence or pre-sentence courts. Instead, where research exists there has been a focus more on the value of a court's operational mechanism and its capacity to 'leverage' offenders into complying with essential program requirements, such as treatment attendance, drug abstinence and the cessation of reoffending. 'Leverage' is conceptualised as the severity of the sanction or outcome upon program failure or termination. Post-plea and post-sentencing programs are thought to have greater leverage over offenders because the maximum sentence (sometimes described as the 'head sentence') is known to the offender from the beginning of their participation and thus the consequences of failure are certain, if not significant and severe. In pre-plea style programs, there is no such indication of the 'head sentence' and so there is no certainty about the outcome of non-compliance and termination (Longshore et al. 2001). A core consideration in the design of criminal justice-based drug treatment interventions is, therefore, the extent to which the legal framework can leverage offenders into longer and more active treatment such that there is sufficient time for best-practice interventions to have their greatest effect.

In some Australian jurisdictions with pre-sentence programs, and also in New Zealand, an indicated sentence is given on acceptance into the program (that is, an indication of the sentence that would otherwise have been imposed had the person not participated in the drug court program). For example, in WA, the Drug Court magistrate nominates an Indicated Sentence (the sentence the person would receive if their matters were dealt with immediately) and the participant has the option at any time of terminating their involvement in the program and receiving this sentence. The relative merits of a pre-sentence drug court program in comparison to a post-sentence model as identified by the New Zealand Law Commission are summarised in Table 3 below:

Table 3: Comparison of advantages and disadvantages of pre-sentence vs post-sentence drug court models (based on issues identified by the NZ Law Commission 2011)

	Pre-sentence	Post-sentence
Advantages	Provides more powerful incentive for offenders as sentencing process has not yet been completed and offender may feel he or she has more influence over the final sentence Allows greater flexibility of the court when dealing with breaches May more easily accommodate victim concerns about undue leniency (victims might be more accepting of the eventual sentence than they would have been if a treatment programme had been imposed as a sentence) Can be implemented more rapidly since can be done without supporting legislation	Is more transparent than a pre-sentence model and would be subject to ordinarily sentencing principles, thus ensuring a degree of proportionality between the offence and proposed programme from the outset Creates greater certainty as to the consequences of non-compliance Would avoid unnecessary delays between plea and sentencing of the offender, which could benefit victims Through the use of legislation, may allow greater certainty around roles and responsibilities of agencies involved
Disadvantages	Potential net-widening and over-punishment - some offenders may end up with greater sanctions than their offending would otherwise have attracted (due to need to comply with	As conditions are part of a sentence imposed by the court, there may be much greater pressure on probation officers and judges to respond to

	the terms of the program and then receiving a sentence similar to what they otherwise would have received) As sentencing will need to be adjourned for more than a year, could potentially have adverse impacts for some victims due to delays in sentencing There could be some practical problems in identifying and mandating an appropriate agency to coordinate services and support to the court and participants under this model	breaches of conditions with formal sanctions Would require legislative changes

The New Zealand Law Commission, which ultimately recommended a pre-sentence model, specifically rejected the form of Drug Court model that formerly existed in Queensland, and which currently exists in NSW and Victoria, on the basis of its objections to the use of suspended sentences, including due to the potential for net-widening.

Whether to offer a pre- or post-sentence drug court will depend largely on the nature of the target population. High-risk offenders, for example, require greater leverage in order to initiate and maintain ongoing contact with treatment services. For this population, especially given the likelihood of incarceration, pre-sentence programs that do not provide some certainty around the likely sentence are unlikely to be sufficient. In other Australia jurisdictions, where drug courts are conceptualised as a last-resort intervention before incarceration, post-sentence programs are formalised through legislation. The NSW and Victorian drug courts, for example, deal with serious offences committed by offenders with an extensive criminal record and a history of failed legal interventions. The high likelihood of reoffending, coupled with probable incarceration, means that in these two jurisdictions post-sentence programs have been preferred to bail-based programs that are not considered appropriate for serious offenders.

The Law Reform Commission of Western Australia (2008)[1] recommended in a consultation paper on court intervention programs that these programs be underpinned by legislation 'in order to ensure that the programs are able to meet the aim of rehabilitating offenders and reducing crime'. The Commission argued that legislation had an important role in:

- ensuring programs are valued and understood in the criminal justice system and by the wider community;
- promoting consistency, accountability and confidence in programs;
- strengthening rehabilitative efforts and preventing future offending;
- promoting equality of justice;
- promoting awareness of a program and the benefits;
- providing legitimacy of a program and engendering community support by clearly stating the purpose of the program;
- promoting the objectives of a program and encouraging systemic change;
- giving judicial officers confidence to use a program; and
- ensuring that programs are appropriately resourced.

Both pre- and post-sentence drug courts have been criticised on the basis of the requirement that to be eligible, participants must plead guilty. Concerns have been raised, in particular, under the former Queensland Drug Court, that requiring offenders to plead guilty to access the Drug Court program unduly coerces them to

1 See also Richardson (2016:329-330).

undertake treatment when they might not otherwise do so. Alternatively, there are also concerns that in order to avoid imprisonment and to receive treatment that is otherwise difficult to access outside of the criminal justice system, an offender might plead guilty to offences that he or she would otherwise contest. Although drug court participants generally are required to consent to participate in the drug court program, the coercive nature of drug courts that involve the threat of an alternative sanction that would otherwise be imposed, such as imprisonment, remains a key criticism. However, the net-widening and ethical concerns are balanced against strong evidence that mandated treatment works and that those who are required by court order to participate in treatment perform equally, if not more favourably than those who enter treatment voluntarily. Specifically, there is now a large body of research that confirms that criminally mandated clients do not underperform others who access treatment from outside the criminal justice sector (Kelly, Finney, & Moos 2005; McSweeney, Stevens, Hunt, & Turnbull 2007; Perron & Bright 2008; Young & Belenko 2002). Whereas during the early days of US drug courts there was concern that criminally mandated clients would monopolise the scarce resources of the health and treatment sectors, such fears have not been realised. To the contrary, the evidence supporting equality for legally-coerced or mandated clients shows that allocating treatment places and resources to criminal justice-led interventions is a worthwhile policy objective.

18.4 CONSULTATION VIEWS AND ISSUES

Stakeholders supported the post-sentence model of the former Queensland Drug Court as being effective and appropriate given the intensity of the program requirements and the seriousness of the offences with which offenders are likely to be charged. This guaranteed offenders who would otherwise be incarcerated had an incentive to complete the order and gave offenders clarity about the consequences of completing the program.

Feedback provided over the course of consultations has suggested that participation in the program, including weekly court appearances, drug testing and treatment and supervision, requires a strong commitment and resolve by participants and could well be experienced by participants as far more onerous than serving a straight term of imprisonment with the option of court-ordered or board-ordered parole. This was supported by those who pointed to the availability of court-ordered parole as reducing the attractiveness of the former Drug Court program and as having contributed to decisions made by some participants to terminate part-way through the program in the hope of receiving immediate release on parole with less onerous requirements.

Many stakeholders acknowledged that a legislative and regulatory framework and clear policies and procedures are required to achieve the objectives of the drug court irrespective of the model adopted. Specific legislation, such as a Drug Court Act, was supported, however there were different views about whether the provisions were appropriately positioned in a stand-alone Act, or would be better integrated into the *Penalties and Sentences Act 1992* so that a drug court order would be regarded as one of a number of interventions or sanctions that could be imposed upon an offender.

On the one hand, creating a stand-alone Act was considered by those who had been involved with the former Drug Court, as a useful way to navigate the provisions as they were all included in a single piece of legislation. As all the provisions were collected together in the Act and regulations made under the Act, it was suggested that it was easy for those who were called upon to participate in the Drug Court to understand quickly the key stages and processes involved without the need to refer to multiple Acts and provisions.

On the other hand, the inclusion of the main provisions supporting the Drug Court program in the *Penalties and Sentences Act*, similar to the approach in Victoria, was seen as having the benefit of establishing the order as one of a number of sentencing dispositions or sanctions that can be imposed upon an offender as part of the sentencing continuum and better integrating its provisions with the broader principles of sentencing set out under the *Penalties and Sentences Act*. Orders made by the Drug Court would not then be regarded as separate and distinct from other sentencing dispositions. Incorporating the provisions in the *Penalties and Sentences Act*, it was further suggested, may also serve to promote cultural change amongst the legal profession and judiciary. It could serve to diffuse the non-adversarial and therapeutic jurisprudence philosophies employed by the drug court through regular contact by criminal lawyers and judicial officers who

might not otherwise regularly be involved with Drug Court matters. Should this approach be taken, provisions to establish the Drug Court, including its objectives and the appointment of Drug Court magistrates, would need to be legislated in the *Justices Act 1886.*

18.5 RECOMMENDATIONS

We support the adoption of a post-sentence model in order to create greater certainty and transparency in the program's operation and to better ensure proportionality between the overall length of the program and treatment conditions and the offence or offences that have led to an offender's eligibility for the order (see Chapter 20 of this report).

Both the duration of the program and its intensity, in our view, would be too onerous to expect an offender to complete as a pre-sentence option and, regardless of the program's intent to support an offender's rehabilitation, will be experienced by offenders as having coercive and punitive elements.

Given the differences of views expressed during consultation about the appropriate positioning of the provisions to support the Drug Court's operation, we consider this is a matter best left to the Queensland Government to determine during the development of the legislation. However, in the event the model of inclusion in the *Penalties and Sentences Act* is preferred, we suggest that a provision similar to section 18X(2) of the *Sentencing Act 1991* (Vic) should be included to create clarity around the relationship between the purposes of an order made by the Drug Court and the general purposes of sentencing set out under section 9(1) of the Act.

Recommendation 12	**Post-sentence model**
The Queensland Drug Court program should operate as a post-sentence model and require the offender to plead guilty or indicate an intention to plead guilty before being referred for an assessment of eligibility and suitability. Under this model, potential participants should be permitted to contest any additional charges to which they do not wish to plead guilty and to have these charges determined separately, in an appropriate forum.	

Recommendation 13	**As a post-sentence program, the Drug Court program should be established in legislation**
13.1	**As a post-sentence program, the Drug Court program should be established in legislation. The most appropriate form of legislation, whether a stand-alone Drug Court Act or as a Part in the *Penalties and Sentences Act 1992* and *Justices Act 1886*, should be determined by the Queensland Government.**
13.2	**Whether the provisions that support the Drug Court appear in a stand-alone Act or are included in the *Penalties and Sentences Act 1992*, a provision similar to section 18X(2) of the *Sentencing Act 1991* (Vic) should be included to clarify the relationship between the general purposes of sentencing set out under section 9(1) of the Act and the purposes of an order made the Drug Court by providing that while the purposes of the order are not intended to affect the operation of section 9(1), if considering whether to make an order, the Drug Court must regard the rehabilitation of the offender and the protection of the community from the offender (achieved through the offender's rehabilitation) as having greater importance than the other general purposes of sentencing set out under section 9(1).**

19 CASELOADS AND LOCATIONS

19.1 BEST PRACTICE STANDARDS

The NADCP Standards provide that a drug court should serve as many eligible individuals as practicable while maintaining fidelity to best practice standards.

More detailed standards set out additional background around specific considerations relating to drug court, supervision and clinical caseloads.

The Standards provide that a drug court should not impose arbitrary restrictions on the number of participants it serves, but rather be predicated on local need, available resources, and the program's ability to apply best practices. The Standards recommend that when the caseload reaches 125 active participants, program operations should be monitored carefully to ensure they remain consistent with best practice standards. If evidence suggests some operations are moving from best practice, the drug court team should be required to develop a remedial action plan and timetable to rectify the deficiencies and monitor the effectiveness of the remedial actions.

19.2 FORMER QUEENSLAND MODEL

The former Drug Court prescribed the maximum number of active orders under the *Drug Court Regulation 2006*. Prior to its closure, the Drug Court operated in five Magistrates Court locations across Queensland: Beenleigh, Southport, Ipswich, Cairns and Townsville. The maximum number of active orders that could be made under the program was as follows:

- Cairns – 40;
- Townsville – 40;
- Beenleigh, Ipswich and Southport – a total of 141 (Drug Court Regulation, s 10).

In Townsville and Cairns, one magistrate was allocated per court location on a part-time basis (sitting four days per fortnight), while in south-east Queensland, coverage of all three centres was by one magistrate (four days per fortnight in both Beenleigh and in Southport, and two days per fortnight in Ipswich).

The maximum number of active orders prescribed determined whether a person could be referred for an initial (known as 'indicative') assessment under Part 3A of the Act or full assessment under Part 4 of the Act and whether an order could be made under section 19 of the Act, with no more orders being permitted to be made once the maximum number had been exceeded.

Additional guidance was provided relating to the referral for an indicative assessment under a Practice Direction (Magistrates Courts, *Practice Direction No.4 of 2008 — Adjournments for Indicative Assessment to Drug Court Magistrates*). The Practice Direction provided that where the maximum number of active orders had been reached and there was no place available in the Drug Court program, the referring magistrate was not permitted to make an order adjourning the proceedings before a Drug Court magistrate for an indicative assessment. The defendant was instead to be dealt with in the Magistrates Court by way of a further adjournment, by sentencing or a committal hearing. If the defendant appeared on a later date charged with the same offences or different offences, the defendant was not precluded from being referred for an assessment only because they had been previously refused an adjournment to the Drug Court due to no places being available in the Drug Court program.

19.3 POSITION IN OTHER JURISDICTIONS

Other jurisdictions in Australia including NSW and Victoria, do not set a statutory maximum number of participants. Instead this is dealt with under guidelines.

19.3.1 NSW Drug Court

In NSW, the Drug Court must be satisfied that facilities to supervise and control the person's participation in a program are available, and have been allocated to the person, in accordance with the guidelines prescribed. As the number of referrals made may exceed the number of drug court places available, a ballot is held to determine who can be referred from the Local Court in NSW to the Drug Court. If the offender is successful in the ballot process, the charges are adjourned to the Drug Court. If the offender is unsuccessful in the ballot process, the charges remain in the Local Court to be dealt with.

The NSW Drug Court operates in three locations: Downing Centre, Parramatta and Toronto. The maximum number of participants outlined in guidelines for each location is 160 (Parramatta), 40 (Downing Centre) and 80 (Toronto).

19.3.2 Drug Court of Victoria

Similar to NSW, there is no legislative cap on the numbers of active orders or participants in Victoria. Instead, the availability of facilities and programs is a factor in assessing whether the Drug Court is satisfied in all the circumstances it is appropriate to make the order. In circumstances where the Drug Court does not consider it appropriate to make the order, the Drug Court is required to either sentence the offender in relation to the offence or offences, if the offender consents for the Drug Court to do so, or adjourn the matter for sentencing to the appropriate venue of the Magistrates' Court.

KPMG noted in its evaluation of the drug court in 2014, that the court has consistently had 60 or more participants throughout the evaluation period, peaking at a maximum of 77, and only falling below 60 for six months in 2012.

Victoria currently has one drug court operating in Dandenong. In April 2016, the Victorian Government announced $32 million to be set aside in the state budget to expand the drug court's operations into the Melbourne Magistrates' Court. It is estimated the Melbourne Drug Court, which is to operate as two lists, will have a caseload of approximately 170 participants. The Melbourne Drug Court is expected to be operational in early 2017.

19.3.3 New Zealand

New Zealand has two pilot AODT Courts operating in the Auckland and Waitakere District Courts. The caseload for each court is 50 participants at any one time (NZ Ministry of Justice 2014). In determining caseloads, consideration is also given to the capacity of the AODT Court team and treatment and testing service providers.

19.4 DEMAND FOR A DRUG COURT

The Review undertook an analysis based on QCS administrative data and identified the following Queensland court locations as having the highest demand for a drug court in terms of overall volume of matters:

- Brisbane;
- Southport;
- Beenleigh;
- Ipswich;
- Townsville;
- Toowoomba;
- Cairns;
- Rockhampton;
- Caboolture; and
- Maroochydore.

This analysis is based on the assumption that the Drug Court will target offenders assessed as having a high risk of problematic substance use who would otherwise be sentenced in the Magistrates Courts to an immediate term of imprisonment (excluding suspended sentences) of between one and three years' imprisonment for any offence, or be sentenced in the District Court to a term of imprisonment of one year or more, but not more than four years, for an illicit drug offence or property offence.

19.5 CONSULTATION VIEWS AND ISSUES

Initial feedback from a number of stakeholders suggested that a drug court should be offered on a broader statewide basis than the former Drug Court to ensure that individuals identified as needing assistance with their substance use are not disadvantaged because their place of residence. On this basis, it was suggested that the reinstated drug court should be available in a greater number of locations across the State, but with a smaller number of places allocated for each court and longer period of time between appearances to facilitate engagement in treatment.

In later consultations, it was proposed that the preferred approach would be to commit to one initial Drug Court location before considering roll-out to other locations. This would provide an opportunity to test and refine the model and ensure there is fidelity to program design, taking into consideration the research findings about the importance of the regularity of drug court hearings and drug testing, the need for intensive treatment, and the time and resourcing commitment required by drug court team members.

There was general support in consultations for this model.

All stakeholders supported a cap on the maximum number of active participants in the drug court and were supportive that the cap should not be specified in legislation but dealt with administratively to allow flexibility and consideration of staff, resources and availability of services.

19.6 RECOMMENDATIONS

In our view, the maximum number of drug court participants should be determined as a matter of policy rather than prescribed in legislation. This approach will ensure flexibility and allow the court to consider the availability of treatment places when making a referral for an assessment to the drug court.

The number of active participants will depend on the location or locations of the drug court and resourcing.

Although it is desirable to expand the number of drug court locations to meet the needs of offenders across the State, the effectiveness of the drug court model depends upon the availability of services, of capable and willing judicial officers and staff and intensity and continuity of treatment. Until these conditions can be met, we recommend that the number of locations should be limited and identified based on need, court caseloads and availability of services. To allow for the model to be tested and refined before rolling out to other court locations, we recommend commencing the drug court in one location.

Recommendation 14	**Maximum number of active participants**
The maximum number of active participants in the drug court should be determined as a matter of policy under administrative guidelines, rather than being prescribed in legislation.	

Recommendation 15	**Locations based on need, court caseloads and availability of services**
The location(s) of the Queensland Drug Court should be identified based on need, court caseloads and availability of services, commencing with one drug court location, to test and refine the model.	

20 TARGET POPULATION AND ELIGIBILITY

20.1 BEST PRACTICE STANDARDS

The target population of a drug court is outlined in Best Practice Standard I. Eligibility and exclusion criteria for the drug court are predicated on empirical evidence indicating the types of offenders that can be treated safely and effectively in drug courts. Candidates are evaluated for admission to the drug court using evidence-based assessment tools and procedures.

20.1.1 Objective eligibility and exclusion criteria

Eligibility and exclusion criteria are defined objectively, specified in writing, and communicated to potential referral sources including judges, law enforcement, defence attorneys, prosecutors, treatment professionals, and community supervision officers. The drug court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.

20.1.2 High-risk and high-need participants

The drug court targets offenders for admission who are addicted to, or dependent upon, illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pre-trial supervision. These individuals are commonly referred to as high-risk and high-need offenders.

20.1.3 Criminal history disqualifications

Current or prior offences may disqualify candidates from participation in the drug court if empirical evidence demonstrates that offenders with such records cannot be managed safely or effectively in a drug court. Barring legal prohibitions, offenders charged with drug dealing or those with histories of violent offending should not automatically be excluded from participation in the drug court.

20.1.4 Clinical disqualifications

If adequate treatment is available, candidates are not disqualified from participation in the drug court because of co-occurring mental health or medical conditions.

PROGRAM PARTICIPANTS

20.2 FORMER QUEENSLAND MODEL

Under the former Queensland Drug Court model, a person was eligible to participate in the Drug Court program if:

- the person was not a person who must be dealt with as a child under the *Youth Justice Act 1992*;
- the person was drug dependent and that dependency contributed to the person committing the offence;
- it was likely the person would, if convicted of the offence, be sentenced to imprisonment; and
- the person satisfied other criteria prescribed under a regulation.

The Drug Court Regulation included requirements that the person must live within specified postcodes at the time the person was referred for an indicative assessment or assessment. The person was required to live within one of the postcodes included in the Drug Court's jurisdiction at the time an IDRO was made and intended to continue to live within that catchment area. The relevant postcodes were set out in the schedules to the Regulation.

20.3 POSITION IN OTHER JURISDICTIONS

20.3.1 NSW Drug Court

Similar to Queensland, the eligibility criteria prescribed for the NSW Drug Court under section 5 of the *Drug Court Act 1998* (NSW) and section 4 of the Drug Court Regulation 2010 are that:

- the person must be aged 18 years or over;
- the person must appear to be dependent on the use of prohibited drugs (within the meaning of the *Drug Misuse and Trafficking Act 1985*) or other drugs prescribed by the regulations;
- the facts alleged in connection with the offence, together with the person's antecedents and any other information available to the court, indicate that it is highly likely that the person will, if convicted, be required to serve a sentence of full-time imprisonment; and
- the person's usual place of residence must be within one of the identified local government areas.

20.3.2 Drug Court of Victoria

The eligibility criteria for the Drug Court of Victoria are also consistent with the NSW and the former Queensland Drug Court program and include that:

- the person must be over the age of 18 years;
- the Drug Court must be satisfied that the offender is dependent on drugs or alcohol and this dependency has contributed to the commission of the offence;
- a sentence of imprisonment would otherwise be appropriate and it would not have suspended the sentence in whole or in part;[2] and
- the offender's usual place of residence must be within a postcode area serviced by the drug court as specified in the Government Gazette.

Unlike NSW and the former Queensland Drug Court, the Drug Court of Victoria also allows offenders into the Drug Court program whose primary drug of concern in terms of their drug dependency is alcohol.

20.4 WHAT DOES THE EVIDENCE SAY?

Like any criminal justice intervention, drug courts are not designed to work for everyone. An important consideration in designing an effective drug court is ensuring that the target population is appropriate and, where possible, narrowly defined. This is particularly relevant given the limited number of participants who will likely be able to participate in a drug court at any one time. Understanding which offenders are most likely to benefit from drug court, and also the needs of specific offender groups within a drug court model, can help to inform both the eligibility criteria for the program and also the specific components that may be matched or tailored to individual participants based on need.

There are two main requirements for participation in drug court. First, that the offender has a drug and/or alcohol dependency, and this dependency is directly associated with their offending behaviour. Second, that they would be unlikely to succeed under minimal to moderate supervision arrangements, such as a probation order or court-ordered parole. Recalling the earlier section on prognostic and criminogenic risk, this essentially refers to offenders who are high risk and high need.

According to Marlowe (2012), the focus of drug courts on offenders who are high risk and high need is well supported by evidence. Research suggests these offenders are the most suited and likely to benefit from a drug court intervention that employs the ten NADCP Standards. In a meta-analysis by Lowenkamp et al. (2006), the effect size for drug courts in terms of their impact on recidivism was found to be twice as high for high-

[2] Suspended sentences have now been abolished in Victoria.

risk participants, when compared with participants characterised as low-risk. Summarising the accumulated evidence from several other studies, Marlowe (2012) concluded that drug courts have the greatest effect on offenders who are comparatively young, have more serious prior convictions, have been diagnosed with an antisocial personality disorder, or have failed in less intensive alternatives.

20.5 CONSULTATION VIEWS AND ISSUES

20.5.1 Alcohol

Most stakeholders suggested that consideration should be given to including participants with alcohol addiction (and addictions to other legal drugs commonly abused in the community). It was submitted that this approach would reflect the community experience that problematic substance use and links to criminal offending is not limited to the use of illicit drugs.

The former Queensland Drug Court extended to the use of all dangerous drugs as defined in the *Drugs Misuse Act 1986* which included pharmaceutical drugs such as codeine, valium/diazepam, oxycodone (e.g. OxyContin), morphine and Xanax (alprazolam).

Stakeholders supported the full spectrum of substances being included in recognition that drug trends change rapidly. Providing for the inclusion of alcohol would also capture a broader range of potential drug court clients, such as repeat drink driving offenders. QNADA noted that alcohol is the most commonly cited principal drug of concern for people seeking specialist alcohol and other drug treatment in Queensland.

20.5.2 Imprisonment

One of the identified benefits of the former Queensland Drug Court was the provision of an alternative to imprisonment for offenders with entrenched drug use.

In order to simplify the process and remove doubt about whether a person 'would be sentenced to imprisonment' it was suggested that it would be simpler and clearer to provide from the outset that in making a Drug Court order, the court must impose a term of imprisonment. The court must there and then be satisfied that a sentence of imprisonment is warranted.

20.5.3 Catchment area

Stakeholders did not support the use of postcodes as a means of identifying Drug Court participants as they considered this reduced the scope of possible participants and the ability to identify and address issues relating to the reintegration of participants whose permanent residence was outside of a prescribed postcode area. The use of postcodes was also considered to restrict the ability of people in contact with the criminal justice system who may want help to address their substance use issues from accessing the Drug Court.

If postcode schedules are reintroduced, stakeholders requested greater flexibility in the legislation to enable participants in the latter stages of the drug court program to move to outside of the designated drug court area.

20.6 RECOMMENDATIONS

For the reasons set out at section 15.2.2, we support the Drug Court maintaining a focus on dealing with adult offenders with entrenched drug use issues rather than being extended in the initial period of reinstatement to young offenders.

It is also important that given the nature, duration and intensity of the program that offenders who are to be eligible for the program would otherwise have been sentenced to serve a term of imprisonment. However, to ensure that the Drug Court does not lead to net widening and the imposition of intensive treatment requirements that would not otherwise be warranted, it is recommended that the court should be required

to be satisfied that it would not otherwise have suspended the term of imprisonment in whole or in part, as was the case under the former *Drug Court Act*.

In contrast to the former Drug Court, we recommend that a future Queensland drug court should target the full range of licit and illicit drugs, including alcohol, in recognition that dependency is not confined only to licit drugs and that polydrug use is not uncommon. This approach would also allow for offenders committing serious offences linked to their alcohol dependency to be targeted for appropriate intervention and bring the Queensland model in line with the approach now taken in Victoria and New Zealand.

We also recommend that the former requirement that participants should live in certain postcodes in order to be eligible for the program should not be reinstated. Instead, we propose that at the point of acceptance into the program, eligibility should be based on the person living within relevant Magistrates Courts districts or Local Government Area boundaries. This approach will still maintain practical limits on who can participate in the program, taking into account the importance of ensuring that Drug Court participants can comply with the ongoing requirements of the program, including regular court appearances, and be adequately monitored and supervised.

Once accepted into the program, there should be some flexibility around participants moving outside of the Drug Court boundary provided services can still be reasonably provided under the program. The court should be satisfied that the offender's place of residence does not unduly affect an offender's ability to comply with the conditions of the order, including regular court appearances.

Recommendation 16	**Eligibility of drug court participants and catchment area**
16.1	**A person should be eligible to participate in the drug court program if:** **(a) the person is not a person who must be dealt with as a child under the Youth Justice Act 1992;** **(b) the person was alcohol and/or drug dependent and that dependency has contributed to the person committing the offence;** **(c) it is likely the person would, if convicted of the offence, be sentenced to imprisonment; and** **(d) the person satisfies any other criteria prescribed under a regulation.**
16.2	**Catchment areas for drug court participants should be defined by Magistrates Courts districts or Local Government Area boundaries, rather than by postcodes. Participants should be able to move outside the drug court boundary after acceptance into the program with approval, so long as the operation of the order is still considered viable.**

OFFENDERS WITH A MENTAL ILLNESS

20.7 FORMER QUEENSLAND MODEL

Under the former Queensland *Drug Court Act*, an offender was excluded from the former drug court program if they were suffering a mental condition that could prevent their active participation in a rehabilitation program.

The term 'mental condition' was not defined under the previous Act, and can be quite broad ranging from mood disorders to psychotic disorders.

20.8 POSITION IN OTHER JURISDICTIONS

Neither the NSW Drug Court nor the Drug Court of Victoria automatically excludes individuals suffering from a mental condition. Instead, assessments are undertaken that consider whether an individual can be stabilised and able to participate actively in the order.

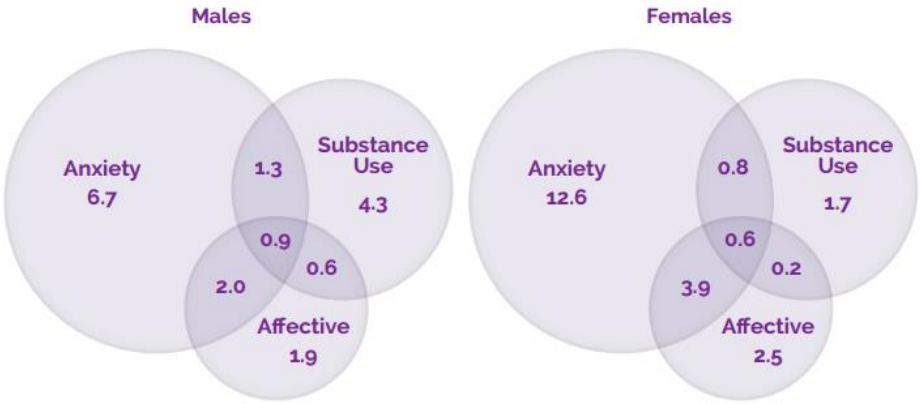
This process is consistent with NADCP Standards stating that citizens who have historically experienced discrimination or reduced social opportunities due to factors such as mental disability should receive the same opportunities to participate in drug court.

Identification of mental health issues can then be addressed, alongside the offender's substance misuse, in the case management plan.

20.9 WHAT DOES THE EVIDENCE SAY?

For drug courts, a key consideration is the extent to which those with a substance use disorder are also likely to present with other co-occurring mental health disorders. Figure 1 identifies the estimated prevalence of single and co-occurring mental health and substance use disorders in the Australian male and female population. Although these data are population estimates and are not limited to those who have regular contact with the criminal justice system, they are nevertheless informative. For example, of those males estimated to have a substance use disorder, one in three (31%) are estimated also to have at least one co-occurring anxiety or affective disorder. For women, the estimate is closer to one in two (44%) (Teeson et al. 2009).

Figure 1: Prevalence (%) of single and comorbid DSV-IV affective, anxiety and substance use disorders amongst Australian males and females in the past 12 months



In criminal justice populations, it has long been established that both substance use and other mental health related issues are disproportionately over-represented, so these population estimates are just the starting point. Although difficult to measure among criminal justice populations, the most recent Australian research nevertheless suggests a high incidence of comorbidity. For example, Forsythe and Gaffney (2012) report on a series of pilot mental health data from the AIC's Drug Use Monitoring in Australia project. In particular, the sample of police detainees in that study were asked to answer a series of questions that comprise the Corrections Mental Health Screening tool. Overall, 46 percent of male detainees, and 64 percent of female detainees were screened as likely suffering a diagnosable mental health condition not including substance abuse disorders.

20.10 CONSULTATION VIEWS AND ISSUES

Stakeholders supported reconsideration of whether defendants with a mental illness or condition should be excluded from the program as was the case under the former program.

Given the relationship between substance abuse, mental health conditions, and criminal offending and the fact that a mental health condition may not always be apparent at the pre-assessment phase, it was suggested that a psychiatric or psychological assessment of participants be included as part of the assessment process. This could identify the range and complexity of a participant's problems (including a mental health condition that could prevent or restrict participation in the program) and their competency to consent to the drug court program.

20.11 RECOMMENDATIONS

We support an approach that would allow issues such as an offender's mental illness or cognitive impairment that may affect their ability to participate in the Drug Court program to be considered as part of the assessment of the appropriateness of the person to participate in the program rather than being identified as an exclusionary criterion under legislation.

Recommendation 17	**Mental illness should be a factor when determining the suitability for the order but should not preclude participation in the program.**
Mental illness/cognitive impairment is an issue to be considered in determining the appropriateness of the order, taking into account the assessment report, whether the defendant's mental health is able to be stabilised and he/she is able to participate and there are treatment facilities/programs available.	

21 OFFENCES AND COURT JURISDICTION

ELIGIBLE OFFENCES

21.1 FORMER QUEENSLAND MODEL

As the former Drug Court operated within the jurisdiction of the Magistrates Courts, relevant offences that could be dealt with under the former Drug Court were:

- summary offences;
- indictable offences dealt with summarily;
- a prescribed drug offence; or
- another offence prescribed under a regulation that is punishable by imprisonment for a term of not more than 7 years.

Provisions requiring or permitting indictable offences to be dealt with summarily include:

- Criminal Code, section 552A (Charges of indictable offences that must be heard and decided summarily on prosecution election);
- Criminal Code, section 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial);
- Criminal Code, section 552BA (Charges of indictable offences that must be heard and decided summarily); and
- *Drugs Misuse Act 1986*, section 13 (Certain offences may be dealt with summarily) and section 14 (Other offences that may be dealt with summarily if no commercial purpose alleged).

A 'prescribed drug offence' was defined in schedule 4 of the Drug Court Regulation to expand the usual summary jurisdiction of the Magistrates Courts and included the following offences under the *Drugs Misuse Act 1986* that carry a 20-year maximum penalty:

- section 8 (Producing dangerous drugs), if the offence is punishable under paragraph (b)(i), (c) or (d) of the penalty for the offence;
- section 8A(1) (Publishing or possessing instructions for producing dangerous drugs), if the offence is punishable under paragraph (b) of the penalty for the offence; and
- section 9 (Possessing dangerous drugs), if the offence is punishable under paragraph (b)(i) or (c) of the penalty for the offence.

The *Drug Legislation Amendment Act 2006* amended section 20 of the *Drug Court Act* and section 552H(1)(a) of the Criminal Code (Qld) to allow offenders to be dealt with by the Drug Court if facing a term of imprisonment of more than three years and up to four years provided that the prosecution and defence consent on the ground that the person will be adequately punished on summary conviction. These changes allowed a Drug Court magistrate to issue an order sentencing the offender to serve a term of imprisonment of more than three years and up to four years where the requisite consent was given.

Almost all offenders referred to the drug court were facing one or more property charges (93%), while half (51%) were facing drug charges. In all, offenders were facing an average of around eight charges at the time of their referral (Payne 2008).

21.2 POSITION IN OTHER JURISDICTIONS

Offences that can be dealt with by the NSW Drug Court must be within the jurisdiction of the Local Court and District Court. This includes:

- summary drug offences (includes possession of prohibited drugs and equipment) – two year maximum penalty [possession of traffickable quantity taken to be for supply unless person proves otherwise];
- indictable drug offences capable of being dealt with summarily (e.g. where charged with production or supply but court satisfied involves a small quantity or not more than the indictable quantity applicable (e.g. 5g amphetamine or heroin, 1,000g cannabis leaf, 1.25g ecstasy).

Similarly, the Drug Court of Victoria hears matters where a person has been charged with a summary offence or an indictable offence triable summarily. KMPG noted in its evaluation of the Drug Court that the most common offences dealt with in the Drug Court include:

- burglary/obtain property by deception/financial advantage;
- drug dealing/trafficking (amphetamines, drug of dependence, ecstasy etc.);
- weapons possession offences;
- assault with weapon, recklessly/intentionally cause injury, robbery, assault of police officer, unlawful assault; and
- theft/attempted theft of or from a motor vehicle.

21.3 WHAT DOES THE EVIDENCE SAY?

On the question of offence-type eligibility, the best available evidence comes from a multi-site comparison conducted by Carey et al. (2012) where the outcomes of 69 US-based adult drug courts were compared. Specifically, courts of different composition and eligibility were compared in terms of their recidivism rates—measured as the number of new arrests within two years of program commencement—and cost outcomes. At the outset, the authors recognised that courts with comparatively high-risk populations—higher rates of mental illness, more severe addictions, lower educational levels and fewer economic opportunities—were more likely to have fewer positive outcomes. Nevertheless, they found that drug courts that allowed non-drug charges (i.e. not just drug possession offences), such as theft offences, had reductions in reoffending that were 95 percent higher than drug courts that only allowed drug possession charges.

21.4 CONSULTATION VIEWS AND ISSUES

Stakeholders supported the retention of offences that could be dealt with by the former Drug Court while broadening the scope of the Drug Court's jurisdiction in relation to offences of violence.

There was also support for consideration being given to changes to allow offenders with both State and Commonwealth offences to be eligible to participate in the drug court program. Under the former Drug Court, if an offender had dual state and Commonwealth offences, they were required to split the charges and deal with them separately.

Section 20AB of the *Crimes Act 1914* (Cth) and *Crimes Regulations 1990* (Cth) provide for additional sentencing alternatives that can be imposed on offenders being sentenced for Commonwealth offences.

In *Commonwealth DPP v Costanzo & Anor* [2005] QSC 79, the Supreme Court considered whether the second respondent could be sentenced to an IDRO where the offence before the Drug Court was a Commonwealth offence. Wilson J found that an IDRO was not a 'similar sentence or order' within the meaning of section 20AB(1) *Crimes Act* (Cth) to the sentencing types then listed. The order made by the first defendant was found to have been made without jurisdiction and declared void.

The Commonwealth *Crimes Act* has since been amended to expand the range of state and territory alternative sentencing options listed in the *Crimes Act* as being applicable to federal offenders, while retaining the ability

to prescribe additional types of alternative sentences and orders in the regulations. The alternative sentencing options listed now include "a drug or alcohol treatment order or rehabilitation order" (s 20AB(1AA)(a)(vii)).

21.5 RECOMMENDATIONS

We recommend that the offences that could be dealt with under the former *Drug Court Act* should be retained. In our view, these strike the appropriate balance between ensuring the offences are not so serious as to require determination by a higher court, while expanding the range of offences the Drug Court can deal with by prescribing certain drug offences as offences that can be dealt with by the Drug Court where the person's drug dependency has contributed to their commission.

Under this approach, some offences will continue to be excluded from the operation of the drug court, such as non-drug offences that are strictly indictable and drug offences that are not prescribed.

While we do not have any objections in principle to Commonwealth offences being dealt with by the Drug Court, the ability to impose a DTO is a matter governed by Commonwealth legislation rather than by State legislation. Further discussions with the Australian Government may be warranted to determine whether a an order imposed by the Drug Court would fall within the scope of "a drug or alcohol treatment order or rehabilitation order" following recent amendments to section 20AB of the Act, and any other consequential amendments that may be necessary to enable Commonwealth offenders to be dealt with by the Drug Court.

Recommendation 18 Relevant offences

Offences that could be dealt with under the former *Drug Court Act 2000* should be retained. Accordingly, the offences that may be dealt with by the Queensland Drug Court should include:

- **a summary offence;**
- **an indictable offence dealt with summarily;**
- **a prescribed drug offence; or**
- **another offence prescribed under a regulation that is punishable by imprisonment for a term of not more than 7 years (a list of offences can be found in Schedule 3 of the former Regulation).**

INELIGIBLE OFFENCES

21.6 FORMER QUEENSLAND MODEL

Under section 6(3) the former *Drug Court Act*, a person was not eligible to participate in the program if:

- the person was serving a term of imprisonment other than a community term of imprisonment (defined under s 7A of the Act as a term of imprisonment to be served by way of intensive correction in the community under an ICO, or in a similar way under an order made under a law of another State of the Commonwealth);
- the person was the subject of a parole order that had been cancelled by a parole board and the person was to serve the unexpired portion of the person's period of imprisonment; or
- a charge against the person for a disqualifying offence was pending in a court.

A disqualifying offence was defined as:

- an offence of a sexual nature (not including prostitution); or
- an offence involving violence against another person with some exceptions (i.e. common assault, serious assault of a police officer and assault with intent to steal).

21.7 POSITION IN OTHER JURISDICTIONS

In NSW, a person is not eligible for the drug court if they are charged with an offence involving violent conduct or sexual assault (*Drug Court Act 1998* (NSW), s 5(2)). "Involving violent conduct" has been interpreted to apply to offences such as:

- assault of a police officer;
- robbery in company;
- armed robbery (presence of weapon as part of robbery sufficient to constitute 'violent conduct'); and
- wielding a knife in a public place.

In Victoria, a person is ineligible to participate in the Drug Court under the *Sentencing Act 1991* (Vic), s 18Z(2) if:

- the person is currently subject to a sentence imposed by the County Court or Supreme Court;
- the person is currently subject to a parole order;
- the person is charged with a sexual offence (including rape, sexual assault, incest, sexual penetration of child, indecent act with a child under the age of 16 and grooming); or
- the person is charged with an offence involving the infliction of actual bodily harm, although the court can still make an order if satisfied the harm was of a minor nature.

21.8 WHAT DOES THE EVIDENCE SAY?

The NADCP Standards state that research reveals that drug courts yielded nearly twice the cost savings when they served addicted individuals charged with felony theft and property crimes. Drug courts that served only drug-possession cases typically offset crimes that did not involve high victimisation or incarceration costs, such as petty theft, drug possession, trespassing, and traffic offences. As a result, the investment costs of the programs were not recouped by the modest cost savings that were achieved from reduced recidivism. The most cost-effective drug courts focused their efforts on reducing serious offences that are most costly to their communities.

Mixed outcomes have been reported for violent offenders in drug courts. Several studies found that participants who were charged with violent crimes or had histories of violence performed as well or better than nonviolent participants in drug courts. However, meta-analyses reported significantly smaller effects for drug courts that admitted violent offenders (Mitchell et al. 2012). The most likely explanation for this discrepancy is that some of the drug courts might not have provided adequate services to meet the need and risk levels of violent offenders. If adequate treatment and supervision are available, there is no empirical justification for routinely excluding violent offenders from participation in drug courts.

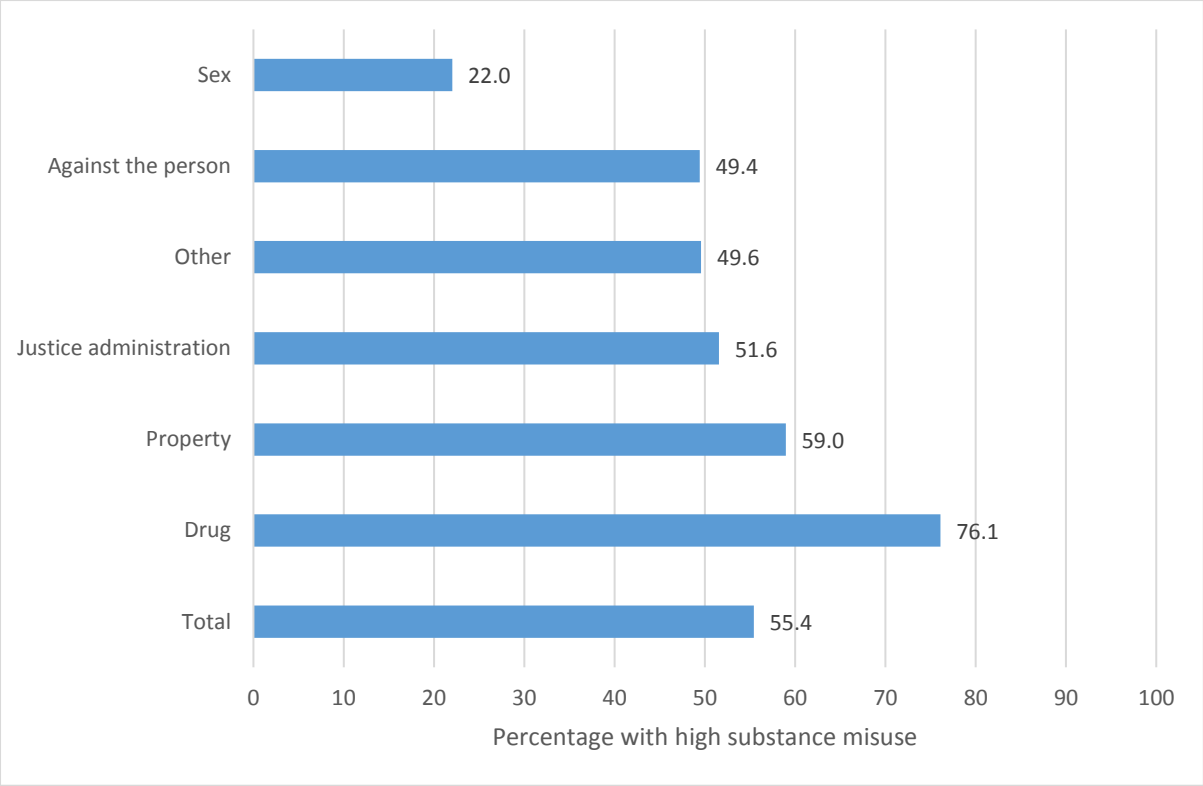
Carey et al. (2012) also concluded that drug courts that allowed participants with current charges involving violence or prior convictions for violent offences had recidivism or cost outcomes that were no better or worse than other courts. They conclude that this finding is consistent with 'other research [that] suggests allowing violent offenders into drug court programs can have a bigger positive effect on recidivism and cost outcomes than allowing only non-violent offenders because greater savings are achieved when violent crimes are prevented rather than less serious (less costly) crimes' (p. 35). This does not mean that it is not still important to consider carefully the types of violence charges that are allowed because the safety of staff and other drug court participants remains an important consideration.

Although research is sparse on this point, there also appears to be no justification for routinely excluding individuals charged with drug dealing from participation in drug courts, providing they are drug addicted.

Evidence suggests such individuals can perform as well (Marlowe et al. 2008) or better (Cissner et al. 2013) than other participants in drug court programs. An important factor to consider in this regard is whether the offender was dealing drugs to support an addiction or solely for purposes of financial gain. If drug dealing serves to support an addiction, the participant might be a good candidate for a drug court.

The relationship between sex offending and substance misuse is not as strong as the relationship between problematic substance use and other types of offending. Figure 2 shows the prevalence of high risk of problematic substance use among offenders by their principal offence. The likelihood of problematic substance use is substantially lower among offenders with a sexual offence for their principal offence (22%) than other offenders. In comparison, three in four offenders (76%) with drugs as their principal offence, 59% of offenders with a property offence as their principal offence and half (49%) of offenders with a principal offence relating to offences against the person, were assessed as having a high risk of substance misuse.

Figure 2: Percentage of offenders under QCS supervision assessed as having high risk of substance misuse within principal offence type, Queensland, 2010–11 to 2014–15



Source: QCS administrative data.

Further, the number of offenders sentenced to imprisonment for sex offences is relatively small when compared with other types of offending.

21.9 CONSULTATION VIEWS AND ISSUES

A number of stakeholders supported the adoption of broader eligibility criteria to ensure the drug court program is available to the widest pool of potential program participants. In particular, stakeholders were generally supportive of violent offences, including offences involving domestic and family violence, not being automatically excluded but rather assessed for suitability based on the circumstances of the offence and the availability of treatment.

QPS submitted that issues of violence should be examined carefully due to associated safety concerns. It further suggested that defendants subject to pending serious violent indictable offences (robbery, grievous bodily harm and the like) should be ineligible for the program and these offences should be clearly defined as excluded from the program. It also submitted that more explanation of how a magistrate's discretion should be exercised should be provided. LAQ nominated as potential candidates for a drug court program, offenders who are high level/multiple property offenders facing imprisonment, who have not been able to break the cycle of addiction and who have a significant criminal history or current charges.

QNADA supported an approach that would only exclude offenders from the program if charged with a prescribed sexual offence, rather than applying a blanket exclusion.

QPS supported excluding individuals charged with supply of a dangerous drug on the basis of the risks that these individuals may cause problems in rehabilitation programs or services. It also supported offenders with either prior sexual offences or current sexual offences being excluded from the program.

QPS also submitted that defendants on bail for any offence punishable by imprisonment who have committed a subsequence offence should be ineligible to be transferred to the Drug Court on the basis of their incapacity to comply with a court order.

21.10 RECOMMENDATIONS

We support an approach that would not prima facie exclude people charged with offences of violence from being eligible for the Drug Court program taking into account:

- the intensive nature of the program that provides a higher level of support and supervision (including judicial monitoring) of progress, than is necessarily delivered under alternative orders (such as court-ordered parole);
- the ability for the order to be terminated in the case of failure to comply with its conditions (meaning the person can be resentenced for the offence thereby ensuring similar safeguards to alternative forms of orders);
- the significant cost-benefits that can result from the inclusion of violent offences in the program (because greater cost savings are achieved when violent crimes are prevented than less serious and less costly forms of offending); and
- changes in the nature of drug-related offending, including use of crystal methamphetamine (ice), which stakeholders have identified as being associated with more violent offending and offending that escalates more quickly than other types of drugs.

On this basis we recommend that the appropriateness of the order for violent offenders should be assessed by the Drug Court magistrate taking into account the nature and seriousness of the offence, including whether actual bodily harm was inflicted. We do not see a need to define specific offences for exclusion. Rather, suitability for the order should be determined by the magistrate taking into account all the individual circumstances of the offence.

Given the small numbers of sexual offenders convicted of a sexual offence presenting with a high risk of alcohol and other drug use, we support the continued exclusion of offenders whose current or pending charges relate to the commission of a sexual offence. However, we consider that this should not exclude offenders with prior sexual offences from participating in the program, provided they are otherwise assessed as suitable to participate and there are service providers who are willing to work with them.

Some stakeholders, including QPS, also submitted that an offender should not be able to serve two imprisonment orders at the same time and recommended that consideration be given to excluding offenders who are the subject of a suspended sentence. Under the former Drug Court, if the suspended sentence was made by the District or Supreme Court, the Drug Court magistrate adjourned the breach of the suspended sentence to the relevant Supreme or District Court, as required under section 146 of the *Penalties and Sentences Act 1992*. Feedback provided to the Review suggested that in these circumstances the courts were loath to take action on the breach while the person was still participating in the Drug Court program, thereby delaying the matter being finally dealt with.

The Victorian provisions avoid this problem by providing that an order cannot be made if the person is currently subject to a sentence imposed by the County Court or Supreme Court. The stated rationale for this at the time the provision was introduced, was:

> to ensure that there is no conflict between the intensive treatment and supervision regime which an offender undergoes under a drug treatment order, and the supervision of both offenders on higher court orders and offenders after release from imprisonment. (Explanatory Memorandum, Sentencing (Amendment) Bill 2002 (Vic), p.3)

While the reason for introducing this provision did not specifically relate to issues of breach of suspended sentences imposed by a higher court, a similar legislative approach could be considered in Queensland to exclude a person from being eligible for a Drug Court order in circumstances where the person is subject to a sentence imposed by the District Court or Supreme Court.

Recommendation 19	**Ineligibility of an offender to participate in the Drug Court**
19.1	**A person should not eligible to participate in the Queensland Drug Court if:** **(a) the person is serving a term of imprisonment;** **(b) the person is the currently subject to a sentence imposed by the District Court or Supreme Court;** **(c) the person is the subject of a parole order that is cancelled by a parole board and the person is to serve the unexpired portion of the person's period of imprisonment; or** **(d) the person is charged with an offence of a sexual nature.**
19.2	**The fact the person has been charged with an offence involving violence should not be treated as an automatic exclusionary criterion. Instead, the legislation should provide that when determining if it is appropriate in all the circumstances to make the order, magistrates must have regard to the nature and seriousness of the offence including whether actual bodily harm was inflicted. The availability of services that are willing to accept these clients will also need to be considered as part of the assessment of the offender's suitability for the program.**

22 REFERRALS, SCREENING AND ASSESSMENT

22.1 BEST PRACTICE STANDARDS

NADCP Standards indicate that candidates should be evaluated for admission to the drug court using evidence-based risk-assessment and clinical-assessment tools. Risk-assessment tools must have been demonstrated empirically to predict criminal recidivism or failure on community supervision and are equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. Clinical-assessment tools should evaluate the formal diagnostic symptoms of substance dependence or addiction. Assessors must be trained and proficient in the administration of the assessment tools and interpretation of the results of the assessment.

22.2 FORMER QLD MODEL

Under the former Drug Court, an indicative assessment was required to be completed followed by a full assessment.

The indicative assessment was described as an initial screen to check the defendant's eligibility and suitability for the drug court. The initial assessment focused on legal eligibility and a preliminary assessment of drug dependency; the latter completed by Queensland Health. Feedback from former drug court personnel indicated that this assessment was more akin to a screening process, the results of which were not presented to the court in a formal report.

Following a defendant's assessment of eligibility for the drug court program, an adjournment of approximately six weeks was granted for the purpose of obtaining more comprehensive reports to assess the defendant's suitability for the program.

A pre-sentence report was completed by QCS. This provided information on the most suitable treatment (as indicated by Queensland Health), offender willingness to participate in drug court, offence details, attitude towards offences, criminal history, response to community based supervision, family background, accommodation, education, employment, relationships, motivation, summary and recommendation to suitability (including recommended conditions of the order). A risk of re-offending assessment was not completed.

A health assessment was undertaken by an approved Health Assessor employed by Queensland Health. The report included an assessment of drug dependence based on the DSM-IV and recommendations for treatment.

22.3 POSITION IN OTHER JURISDICTIONS

Similar to the former Queensland Drug Court, the drug courts in NSW and Victoria utilise a dual stage screening and assessment process. While lengthy, this process is largely unavoidable as the initial screening aims to rule out legally ineligible defendants. The second assessment of drug dependency and offending behaviour is more comprehensive and requires time for the relevant interviews and inquiries to be made.

The Drug Court of Victoria and the NZ AODT Court have the additional benefit of a formalised risk of reoffending assessment being conducted, which ensures that the targeted cohort of offenders is accepted onto the drug court program.

NSW Drug Court differs from the Drug Court of Victoria in its use of a random ballot when drug court places are oversubscribed, its compulsory detoxification of all referred individuals in a correctional centre and its requirement that co-residents consent to a drug court participant residing at their accommodation.

22.4 WHAT DOES THE EVIDENCE SAY?

Determining the eligibility of the offender for a drug court program and then subsequently addressing his/ her individual treatment needs is an essential component to the successful workings of a drug court program.

Existing as complementary systems, screening processes ensure that drug court clients meet formal legal and clinical criteria, while assessments provide an in-depth understanding of individual treatment and service level need. It is important that drug courts adequately differentiate between screening and assessment as two distinct processes.

Screening is typically the process by which the eligibility of the offender is determined. This is usually a two-stage process beginning with a review of legal and demographic eligibility, focusing on the current offence and criminal history specific factors that must be satisfied before program placement may be approved. This is followed by a second screening to determine the clinical appropriateness of the offender for admission to the drug court program.

Assessment is differentiated from screening by being a more comprehensive and thorough process used to determine an offender's suitability for specific treatment types and levels of service intensity. Assessment usually occurs after an offender is deemed eligible for the drug court program. In this context, the assessment is intended to provide an in-depth dynamic picture of the offender's prognostic and criminogenic needs, leading to the identification of appropriate levels and types of interventions.

Validated and standardised assessment instruments have been shown to be more effective than professional judgement in the matching of offenders to appropriate levels and types of interventions. This is supported by the NADCP Standards that indicate that candidates should be evaluated for admission to the drug court using evidence-based risk-assessment and clinical-assessment tools.

22.5 CONSULTATION VIEWS AND ISSUES

Stakeholder feedback indicated that the two-stage assessment affected the intrinsic motivation of the offender. It was, therefore, suggested that the screening and assessment process be more streamlined. Concerns were also raised that assessments were based on a defendant's self-reported drug use and that verification of information was not undertaken.

22.6 RECOMMENDATIONS

As the Drug Court is a resource-intensive program that needs to be managed effectively, we consider that it is imperative that individuals accepted onto the program match the targeted Drug Court cohort; that is, are high risk offenders with an alcohol and/or drug dependency. This can only be successfully achieved by the use of validated screening and assessment tools to determine the suitability of defendants for the program.

Recommendation 20	**A two stage process to assess eligibility and suitability be adopted**
20.1	**A two stage process to assess eligibility and suitability should be adopted.**
20.2	**In relation to eligibility, the initial screen should include a review of legal eligibility, preliminary assessment of dependency and the completion of a risk of re-offending assessment to ensure that inappropriate referrals are filtered out at the first opportunity.**
20.3	**Once deemed eligible for the drug court, a suitability assessment is conducted. This would include a full bio-psycho-social health assessment, including an assessment of drug dependency utilising an accredited tool and the development of a preliminary treatment plan. A pre-sentence or specific drug court report should be prepared by Queensland Corrective Services identifying the defendant's criminogenic needs. A preliminary case management plan would be completed taking into consideration the results of the health assessment.**

23 STRUCTURE OF THE ORDER

23.1 FORMER QUEENSLAND MODEL

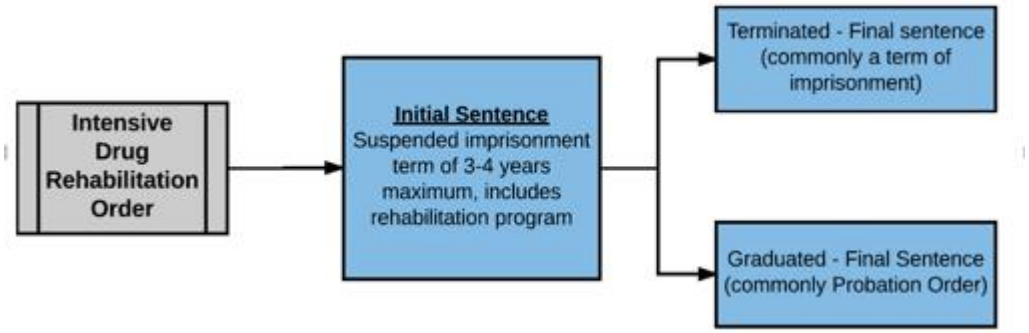
Under the former Queensland Drug Court program, upon being accepted into the program, the offender received an Intensive Drug Rehabilitation Order (IDRO). The IDRO consisted of three separate components:

1. an order sentencing the offender to serve a term of imprisonment (the *initial sentence)* and suspending the term of imprisonment;
2. the requirements of the order; and
3. a rehabilitation program (*Drug Court Act*, s 20).

The term of imprisonment was for a maximum term of three years, however under amendments to the Act in 2006, [3] the jurisdiction of the Drug Court was expanded to allow the court to impose a sentence of imprisonment of up to four years if the prosecutor appearing before the court and the offender consented to the offence being prosecuted summarily, on the ground that the defendant would be adequately punished on summary conviction.

The initial sentence of imprisonment was wholly suspended while the offender completed a rehabilitation program decided by the Drug Court magistrate. Upon termination or graduation, this initial sentence was revoked and a final sentence was imposed. See section 24.2 of this Report for more information on graduation and termination provisions.

Figure 3 Sentencing order of former Queensland Drug Court



23.1.1 Core conditions of the order

An IDRO was subject to the following core conditions:

- the offender must not commit an offence, in or outside Queensland, during the period of the order;
- the offender must notify an authorised corrective services officer of every change of the offender's place of residence or employment within two business days after the change happens;
- the offender must not leave or stay out of Queensland without an authorised corrective services officer's permission;
- the offender must comply with every reasonable direction of an authorised corrective services officer, including a direction to appear before a Drug Court magistrate at a stated time and place; and
- the offender must attend before a Drug Court magistrate at the times and places stated in the order (*Drug Court Act*, s 22).

[3] *Drug Legislation Amendment Act 2006*, s 71 (amending s 552H of the Criminal Code) and s 27 (amending s 20 of the *Drug Court Act 2000* (Qld) to insert s 20(2) of the Act).

23.1.2 Additional requirements

The IDRO could also contain requirements that the offender:

- make restitution, or pay compensation; and
- satisfactorily perform community service of up to 240 hours; and
- do another thing that the magistrate considers may help the offender's rehabilitation (*Drug Court Act*, s 23).

23.1.3 Contents and requirements of rehabilitation program

The IDRO was also required to set out, as far as practicable, details about the rehabilitation program that the offender was required to undertake, including, for example, that the offender must:

- report to, or receive visits from, an authorised corrective services officer;
- report for drug testing to an authorised corrective services officer;
- attend vocational education and employment courses; or
- submit to medical, psychiatric or psychological treatment (*Drug Court Act*, s 24(1)).

23.1.4 Detoxification

The Act also allowed the court to order that commencement of suspension of the sentence be delayed for up to 15 days, including for the purposes of detoxification, and to commit the offender to prison at any time if considered necessary to facilitate the offender's detoxification (up to 22 days) or the assessment of the offender's participation in the program (up to 15 days, or 30 days if due to the offender not attending a program as required) (Drug Court Act, ss 21, 24(3)–24(6)). However, the Act provided that the offender must not be committed to a prison unless the magistrate was satisfied no other suitable facilities are immediately available (Drug Court Act, s 24(4)).

23.2 POSITION IN OTHER JURISDICTIONS

23.2.1 NSW Drug Court

Under the NSW Drug Court Act, once an offender is accepted into the program, they are sentenced in accordance with the *Crimes (Sentencing Procedure) Act 1999* (NSW) (*Drug Court Act 1998* (NSW), s 7A(3)). Within 14 days of sentencing the offender the Drug Court must make an order:

- imposing conditions that the person has accepted; and
- suspending the execution of the sentence for the duration of the person's program (s 7A(5)).

The NSW Drug Court program has similar core conditions and rehabilitation requirements as the former Queensland Drug Court program, as well as the option to incarcerate an offender for detoxification for up to 21 days at a time (s 8A). However, the NSW Drug Court Act does not provide for any additional requirements to be imposed under the Act, such as restitution or community service.

Similar to the former Queensland model, once the program has been completed, on terminating a drug offender's program, the Drug Court is required to reconsider the person's initial sentence and to determine the final sentence taking into account the nature of their participation in the program, any sanctions imposed during the program and any time the offender has been held in custody (s 12).

23.2.2 Drug Court of Victoria

Under the Victorian Drug Court program, upon being accepted into the program, the offender is sentenced to a Drug Treatment Order (DTO) which consists of two parts referred to as: 'the treatment and supervision part', and 'the custodial part' (*Sentencing Act 1991* (Vic), ss 18Z and 18ZC).

The custodial part is a sentence of imprisonment of no longer than two years that the Drug Court must impose, applying the usual sentencing principles, in respect of the offences before the court (s 18ZD). However, the sentence of imprisonment is not activated and instead the offender must serve the term in the community while undertaking the treatment and supervision part (ss 18ZC and 18ZE).

If, applying the usual sentencing principles, the offences before the Drug Court would attract a term of imprisonment of more than two years, the defendant does not qualify for a DTO.

The DTO operates for a period of two years unless it is cancelled earlier (s 18ZC(2)(b)).

The Drug Court of Victoria has similar core conditions and rehabilitation requirements as the former Queensland Drug Court program, as well as the option to order restitution or compensation. The Drug Court of Victoria does not provide for an additional requirement to be attached to the order of community service, although community service may be imposed as a sanction.

23.3 CONSULTATION VIEWS AND ISSUES

Most people consulted supported recasting the former IDRO as a straight sentencing order to create greater certainty and transparency in its operation.

While there was some support for the concept of an initial and final sentence, this was based on the assumption that a probation order could be made if the offender still required support after completing the program rather than it providing an effective incentive for completion. Most of those consulted considered the transition of offenders from the program should be able to be achieved without the need to resort to the making of a new sentencing order for this purpose, exposing the offender to the risk of breach. It was also generally agreed that it was important, given the intensity of the program, to ensure that treatment and other requirements do not extend beyond what would otherwise be proportionate given the nature of the offence and level of offending.

In relation to additional conditions that can be imposed on the order, one of the criticisms of the former Queensland Drug Court program was that offenders were overloaded at the start of the program with commitments such as community service, appointments with treatment providers, case management appointments with Probation and Parole, urinalysis testing and court appearances.

Most people consulted supported retaining the expanded jurisdiction of the former Drug Court to deal with offenders who otherwise would have been sentenced to up to four years' imprisonment. Those involved with the former Drug Court noted that the court did have a number of participants who had received sentences of between three and four years. The recommended length of the sentence was partly driven by the need to generate a sufficient pool of offenders for the court, given the alterative option available to offenders of court-ordered parole, which is far less onerous. In Victoria the maximum length of an order is two years.

In comparing the length of order to the Victorian DTO, it was observed that sentencing levels in Queensland do not necessarily correspond to those in Victoria. In *R v Donald* [2000] QCA 399, Chief Justice de Jersey (with whom Pincus and Thomas JJA agreed) said that a three year term for breaking and entering committed by an offender who was a drug addict was "at least mid-range…and arguably low range" in circumstances where an offender has a substantial criminal history (see *R v Donald* [2000] QCA 399, de Jersey CJ), however, this observation does not take into consideration the onerous nature of a drug treatment order. The average (median) length of imprisonment sentence imposed in 2014–15 of offenders convicted of unlawful entry with intent/burglary, break and enter as their principal proven offence was 12 months, although 22% of those convicted of this offence who were sentenced to imprisonment (270 offenders) received a sentence of between two years and less than five years (ABS 2016b).

23.4 RECOMMENDATIONS

A straight sentencing order is recommended to address concerns raised about the uncertainty of the final sentence following the completion of an IDRO under the former Queensland Drug Court. This would mean

that, in most cases, offenders should be able to complete their treatment program successfully within the two-year period provided for under the order. However, in the event that a further period of treatment is warranted, we recommend that the treatment and supervision component of the order should be able to be extended, provided it does not extend beyond the term of imprisonment that is ordered under the custodial part of the order.

While some stakeholders raised concerns that the nature of the incentive provided by having an initial and final sentence will be removed, there are other, better ways to encourage offenders to comply with the conditions of the order and successfully complete their treatment. Under the proposed order, it would be possible to cancel the rehabilitation part of the order, allowing the person to be subject only to the core conditions of the order for the remainder of the two year treatment and supervision part of the order. This should provide a significant incentive even in the case of breach, provided it does not involve offending outside of the drug court's jurisdiction. The drug court would have the option of supporting the offender by reactivating the rehabilitation program and placing them back into treatment.

It is also proposed that the maximum penalty of imprisonment able to be imposed should be retained at four years, as was the case under the former Drug Court program. This is primarily to ensure a large enough pool of eligible offenders who may be suitable and motivated to complete a Drug Court program, rather than being an ideal length for a program such as this. The maximum penalty is set in the context of a sentencing system in which some offenders will view a drug court order as overly onerous and may be more attracted to alternative sentences such as a straight sentence of imprisonment with court- ordered parole. In the absence of changes to sentencing laws, a longer than optimal maximum penalty may be required to ensure the viability of the drug court.

In order to allow persons sentenced to this order to focus on the treatment aspect of their order rather than be overloaded with other commitments such as community service, we recommend that the only additional conditions that can be attached are restitution and compensation orders but not community work. However, community work would be available as a sanction for non-compliance with the conditions of the order and it would still be possible for an offender to undertake community service voluntarily towards the end of the order should they want, for example, to discharge a monetary debt with the State Penalties and Enforcement Registry.

Evidence supports the exclusion of community work as an option, with a meta-study by Shaffer (2011) finding that courts that utilised other criminal justice options alongside the treatment order (including the imposition of fines and community service orders) were among the least effective. It is possible that adding such requirements created opportunities for breach and sanctioning that, if it occurs early in the program, may undermine the therapeutic alliance.

Recommendation 21 Sentencing structure of a Drug Treatment Order

21.1 The Queensland order should operate as a straight sentence comprised of:

(a) a term of imprisonment which is not activated. The term is the same length as the court would have made had the drug court not made the order.

Maximum term: 4 years imprisonment

(b) a treatment and supervision part which operates for 2 years and consists of:

- **i. core conditions; and**
- **ii. a rehabilitation program which consists of the treatment conditions attached to the order.**

21.2 The court should be permitted to activate part of the imprisonment order in certain circumstances (i.e. as a sanction for failure to comply or upon termination of the order).

Recommendation 22 Core conditions

The new form of Drug Treatment Order (DTO) should retain the core conditions that were imposed under the former Queensland IDRO, namely that the offender:

- **not commit another offence, in or outside Queensland, during the period of the order;**
- **notify an authorised corrective services officer of every change of the offender's place of residence or employment within 2 business days after this change;**
- **not leave or stay out of Queensland without permission given by an authorised corrective services officer;**
- **comply with every reasonable direction of an authorised corrective services officer, including a direction to appear before a Drug Court magistrate; and**
- **attend before a Drug Court magistrate at the times and places stated in the order.**

Recommendation 23 Requirements of rehabilitation program

The new form of DTO should retain the requirements of the rehabilitation program that were imposed under the former Queensland IDRO, which would set out the details of the rehabilitation program that the offender must undertake including, for example, that the offender must:

- **report to, or receive visits from, an authorised corrective services officer;**
- **report for drug testing to an authorised corrective services officer;**
- **attend vocational education and employment courses; or**
- **submit to medical, psychiatric or psychological treatment.**

Recommendation 24 Additional requirements

The drug court should retain the ability to attach other requirements that a Drug Court magistrate considers may help the offender's rehabilitation, and also to require that the offender pay restitution or compensation.

These additional requirements should not, however, include any requirements that would interfere with or reduce the offender's capacity to meet the core conditions of the order and treatment conditions, such as imposing community service.

24 TERMINATION, CANCELLATION AND GRADUATION

24.1 BEST PRACTICE STANDARDS

The NADCP Standards provide that the consequences for participants' behaviour should be predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behaviour modification. They provide that policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments should be specified in writing and communicated in advance to drug court participants and team members. Policies and procedures should provide a clear indication of matters including: criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.

In accordance with these standards, participants may be terminated from the drug court if they can no longer be managed safely in the community or if they fail repeatedly to comply with treatment or supervision requirements. Participants are not to be terminated from the drug court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. This recognises that the cessation of drug use is a distal goal and difficult to achieve for someone with a long history of serious drug use, whereas compliance with supervision requirements, such as keeping appointments, is a proximal goal and should be achievable for participants.

If a participant is terminated from the drug court because adequate treatment is not available, the NADCP Standards suggest the participant should not receive an augmented sentence or disposition for failing to complete the program. Rather, they should receive a sentence or disposition that is appropriate for the underlying offence that brought them into the drug court. In the event that an augmented sentence is to be imposed for failure to complete the drug court program, the Standards provide that participants should be informed in advance of the circumstances under which this might occur.

24.2 FORMER QUEENSLAND DRUG COURT MODEL

Under section 34 of the former Queensland *Drug Court Act*, there was a range of circumstances in which an offender could be terminated from the program either on application or on the Drug Court magistrate's own initiative. These circumstances were:

- if the participant asked the magistrate to terminate the rehabilitation program (for example, because they decided they no longer wanted to be on the program or their circumstances had changed);
- if the participant did not agree to comply with an amended order;
- if the participant did not attend before a magistrate as required;
- if the offender had otherwise failed to comply with the IDRO; or
- the magistrate was satisfied that there were not reasonable prospects of the person satisfactorily complying with the IDRO.

Whilst there were minimum drug-free periods required for progression between stages, the former Drug Court did not provide clear graduation criteria.

Upon graduation or termination, as required under section 36 of the Act, the court was required to reconsider the initial sentence, vacate the IDRO and impose a final sentence taking into consideration the offender's participation on the program including, whether any rewards or sanctions were given to or imposed, including if sanctions imposed included the imposition of a term of imprisonment, the number and length of those terms. There was a limiting provision that provided that if the person was ordered to serve a term of

imprisonment, with or without it being ordered to be suspended, the term of imprisonment must not be greater than the term imposed in the initial sentence.

The most common final sentence imposed for Drug court participants who graduated from the program was probation (90%), with offenders terminating from the program most likely to receive a sentence of imprisonment (91%) (Payne 2008).

24.3 POSITION IN OTHER JURISDICTIONS

24.3.1 NSW Drug Court

The position under the NSW legislation is similar to that under the former Queensland *Drug Court Act*. Section 11 of the *Drug Court Act 1998* (NSW) provides that an offender may be terminated from the program if:

- the Drug Court is satisfied that the offender has substantially complied with the program (that is, has progressed successfully through all the program phases);
- if the offender asks the Drug Court to terminate the program; or
- if the Drug Court decides to terminate the program on the basis that the offender is unlikely to make any further progress on the program, or that the person's further participation poses an unacceptable risk to the community that they may reoffend (ss 10(1)(b) and 11).

Similar to Queensland, on terminating the program, the Drug Court is required to reconsider the initial sentence imposed taking into consideration the nature of the offender's participation, any sanctions imposed and any time spent in custody. The Drug Court then imposes a final sentence (*Drug Court Act* (NSW), s 12). This can include an order confirming the initial sentence imposed.

24.3.2 Drug Court of Victoria

In Victoria, as discussed in section 23.2.2 of this Report, a Drug Treatment Order is a straight sentence comprised of an unactivated term of imprisonment (the 'custodial part') and a 'treatment and supervision part' – the Drug Court program, which lasts for a period of two years unless it is cancelled.

Cancellation under the Act can occur for the same types of reasons as in NSW, including poor compliance, a lack of willingness to comply with one or more conditions attached to the order, a lack of progress, or for committing offences whilst on the DTO (*Sentencing Act* (Vic), s 18ZP). If the DTO is cancelled, the court may activate some or all of the custodial part but is required to subtract from the length of imprisonment imposed any pre-sentence detention declared as time served under the sentence and time served in custody as sanctions (*Sentencing Act* (Vic), s 18ZE). Also, if the total of the remaining length of the custodial part of the order and the period during which the treatment and supervision part of the order has already operated is more than two years, the court must reduce the remaining length of the custodial part so the total is two years. In activating the custodial part of the sentence, the Drug Court may also fix a non-parole period as if the court had just sentenced the person to serve the term of imprisonment.

The court may also, on its own initiative, cancel both the treatment and supervision part and custodial part of a DTO early if it considers that the offender has substantially complied with the conditions attached to the order and the continuation of the order is no longer necessary to meet the purposes for which it was made.

24.4 CONSULTATION VIEWS AND ISSUES

There was general consensus that the criteria for 'graduation' from the rehabilitation component of the Drug Court program should be completion of the three program phases and substantial compliance with the program (see further Chapter 31). On successful completion of the program, it was suggested that the order should either continue with some form of supervisory requirement (such as requiring the offender to continue to comply with the core conditions of the order) or continue on as an unactivated sentence. If there were a breach of conditions, or further offending, during the remaining part of the sentence, the offender may be required to serve part of the original custodial sentence imposed as well as any additional sentence for the breaching offence.

There was a variety of views as to whether an option should be included, similar to the Victorian model, of terminating the order in its entirety for substantial compliance. While it was considered this would offer a potentially powerful incentive for those who otherwise would have been sentenced to a substantial term of imprisonment, there were concerns about the equity of enabling an offender to serve a significantly shorter sentence than they otherwise would have served on this basis. This might create a perception of undue disparity between the original court-imposed sentence and the time actually served under the order. On the other hand, it might provide an incentive for offenders to consent to the order where they might otherwise be sentenced to court-ordered parole, possibly for a longer period.

Past experience of the Drug Court was that some offenders self-terminated from the program if or when they realised that they could be sentenced to court-ordered parole, which was considered to be less onerous. Some consultees suggested that there should be a minimum period before an offender could apply to terminate from the program.

In relation to the criteria for adverse termination, that is, by non-compliance with the order, there was some concern that under the former model there were no consistent criteria as to when an application should be made for termination. Some offenders continued on the program who some considered should have been terminated from the program earlier. There was general agreement that while clear lines should be drawn where it was apparent that an offender would fail to comply with the program, equally, there needs to be some measure of flexibility, particularly during the early phases of a person's participation in the program when lapses could be expected.

In relation to termination for further offending, some were of the view that any further offending was unacceptable whilst others were of the view that termination should depend upon the nature of the new offence and the context in which it was committed. Most were of the view that the commission of a serious offence should result in the termination of a drug court order. There was agreement that the exercise of discretion in relation to terminations should not compromise the integrity of the Drug Court program.

24.5 RECOMMENDATIONS

We recommend a clear legislative structure for the new Queensland Drug Treatment Order (DTO) that details the circumstances in which a participant is able to complete, graduate or be terminated from the DTO (see below). However, in its application, we recommend some flexibility should be retained around the completion and graduation criteria taking into account an offender's history of past drug use and progress on the order.

We recommend that the legislation clearly specifies the powers available to the court when an offender fails to comply with the conditions of the order

Where the offender has substantially complied with the order, we also support consideration being given to permitting the court to cancel the treatment and supervision part of the order. The court must be satisfied that the continuation of the order is no longer necessary to meet the purposes for which is it made.

This course of action should only be taken by the drug court on its own initiative, not by the participant or other parties on application. In deciding whether the order's continuation is necessary to meet the purposes

for which it was made, the court may continue to consider whether the nature and seriousness of the original offence warrants the order continuing.

Recommendation 25 Graduation and completion of the DTO

25.1 A person should be considered as having completed the treatment and supervision part of a DTO:

(a) at the end of the two-year treatment and supervision period (unless the court varies the order by extending the period of treatment and supervision); or

(b) if it has been cancelled by the court earlier for full or substantial compliance with the treatment and supervision conditions.

25.2 In circumstances where a person completes and graduates from the rehabilitation program before the two year treatment and supervision part of the DTO has expired, and the order has not otherwise been cancelled by the Drug Court, they should be required to serve the remaining term of the treatment and supervision part by being subject to the core conditions of the order.

25.3 If the person completes and graduates from the treatment and supervision part of the order and there is still time remaining on the order, the court, on its own initiative, should have the power to cancel the whole treatment and supervision part of the order if it considers that:

(a) the offender has fully or substantially complied with the conditions attached to the order; and

(b) the continuation of the order is no longer necessary to meet the purposes for which it was made.

25.4 If the operational period of the custodial term is longer than the 2 year treatment and supervision part of the order, the offender will still be subject to the suspended sentence. The offender will be liable to serve the remaining term of imprisonment if they commit an offence during this period.

Recommendation 26 Variation of the DTO

26.1 The court should be permitted to vary the treatment and supervision part of the order to extend beyond two years if the person still requires treatment and/or supervision. However the court should not be permitted to extend the treatment and supervision part beyond the original term of imprisonment ordered under the DTO.

26.2 The court should also be permitted, on application or on the court's own initiative, to vary the order the requirements of a DTO by adding new conditions to, or varying or revoking existing conditions.

Recommendation 27 Cancellation of the DTO

In circumstances where an offender's DTO is cancelled other than for compliance with the order the court should be required to either:

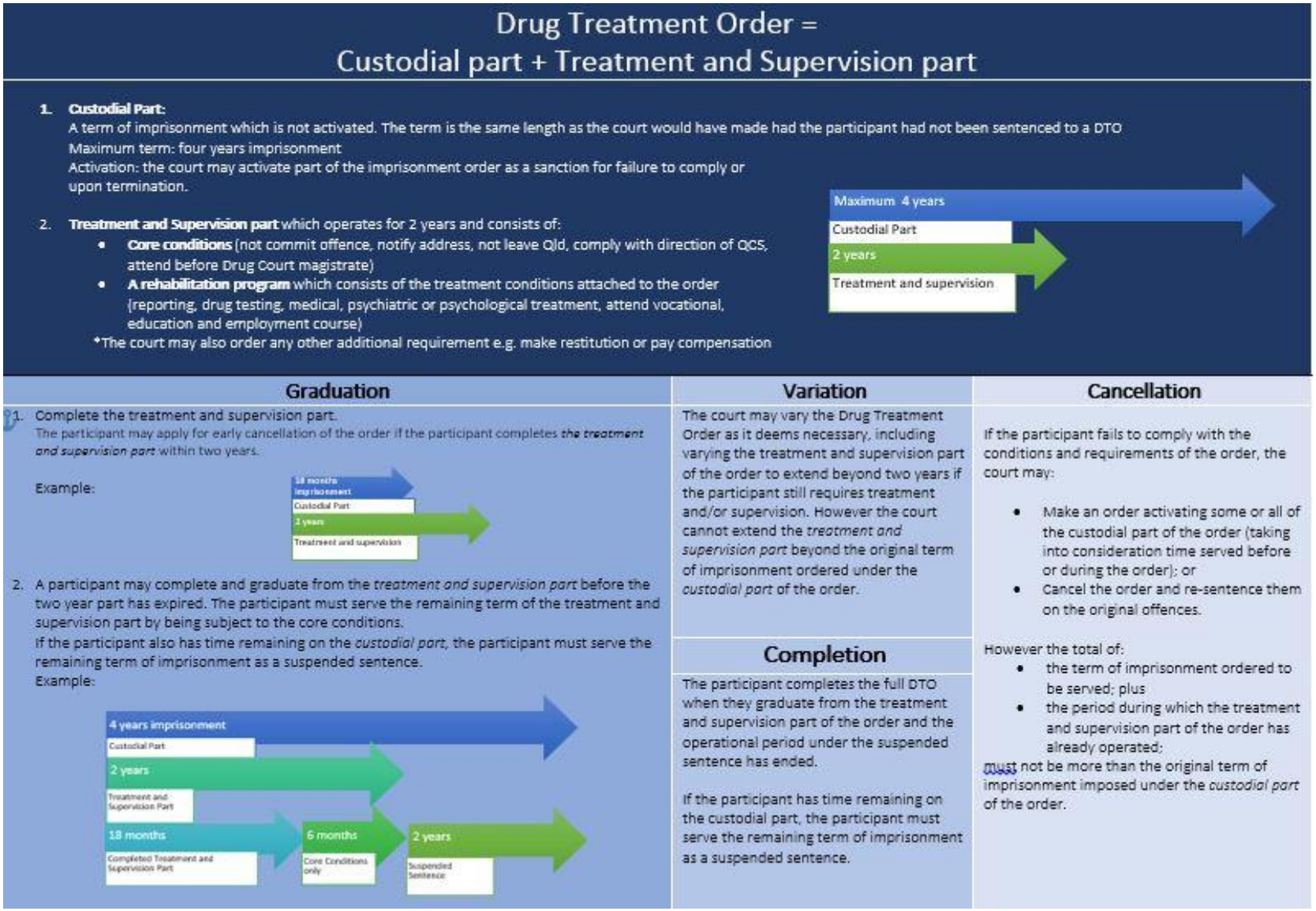
- **make an order activating some or all of the custodial part of the order (taking into consideration any time served before or during the order including as a sanction); or**
- **cancel the order and deal with offender in any way it could deal with the offender as if just convicted of the offence.**

However, the total of:

- **the term of imprisonment ordered to be served upon termination; plus**
- **the period during which the treatment and supervision part of the order has already operated;**

should not be longer than the original term of imprisonment imposed on the DTO.

Figure 4 Proposed sentencing order (Drug Treatment Order)



25 DRUG COURT TEAM

25.1 BEST PRACTICE STANDARDS

The drug court team is a multidisciplinary group of professionals responsible for administering the day-to-day operations of a drug court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment, and supervision services.

25.1.1 Team composition

According to the NADCP's Adult Drug Court Best Practice Standards:

> "The drug court team comprises representatives from all partner agencies involved in the creation of the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer" (NADCP 2013, p. 38).

Each member of the team plays an important and unique role in facilitating the criminal justice and therapeutic aims of the court.

The roles of the team are summarised as follows:

Judicial officer: most often the leader of the Drug Court team, responsible for authorising sanctions and actions which impose restrictions on the liberties of participants.

Program coordinator: an administrative officer or clerk, typically employed by the court, to manage the court schedule, organise team meetings, and undertake the relevant administrative tasks of the court.

Prosecutor: usually a police representative whose responsibility it is to advocate on behalf of the community and in the interests of public safety. The prosecutor represents victim interests and plays an important role in holding participants accountable for meeting their legal obligations.

Public defence representative**:** (LAQ Officer) representing the responsibility to ensure participants' legal rights are protected.

Community supervision officer: typically responsible for overseeing or implementing the court's alcohol and other drug testing program, conducting home or employment visits, and enforcing curfews and travel restrictions, where applicable. Ideally, community supervision professionals also deliver or make available through referral, cognitive-behavioural interventions designed to improve participants' problem-solving skills and challenge dysfunctional criminal-thinking patterns.

Alcohol and Other Drug representative: represents the therapeutic interests of each participant. The health and clinical expertise of the AOD representative is vital to the decision-making process of the court – especially as it relates to the interpretation of relapse-related non-compliance and the value of sanctions and rewards.

Law enforcement officer: it is not uncommon for a law enforcement officer to be included in the drug court team. In the US context, this is considered essential as the public prosecutor is not necessarily a representative of the state police agency. The involvement of law enforcement is seen as essential in reshaping offender attitudes towards the criminal system, especially as it is the police with whom participants will have the most criminal justice-related interaction once in the community.

There is no substantial or direct evidence in favour of a particular drug court team model. Where there are variations between different courts, there has been no direct examination of their differences in terms of individual or program level outcomes. Some meta-studies have pointed to the potential importance of particular key agencies, although in most cases this analysis has focused on the consistency of participation and attendance, rather than on the specific roles each team member performs. The one exception to this was Zweig et al.'s (2012) meta-study of 69 adult drug courts in which it was found that recidivism reductions were 87 percent greater in drug courts where law enforcement was specifically identified as a member of the drug court team. Barring this, teams are often brought together by necessity, given the complex legal and therapeutic functions and objectives of the court program. What seems to matter most is that each party to the drug court team manages their responsibilities through a non-adversarial approach and shares in the court's overarching therapeutic philosophy and objectives.

25.1.2 Pre-court team meetings

It is standard practice for drug court status hearings to be preceded by a pre-court team meeting at which the matters relevant to and/or affecting drug court clients are discussed within the confines of a closed court. Nominally, all team members are encouraged to participate, regularly and consistently. According to the NADCP's Adult Drug Court Best Practice Standards:

> "Team members consistently attend pre-court staff meetings to review participant progress, determine appropriate actions to improve outcomes, and prepare for status hearings in court. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case." *(NADCP 2013, p. 38)*

According to various meta-studies, consistent attendance fosters stronger inter-departmental relationships and has been shown to be linked to significantly better drug court outcomes (Carey et al. 2012; Cissner et al. 2013; Rossman et al. 2011; Shaffer 2011).

Unfortunately, between-court comparisons have only examined the general consistency of attendance by drug court team members and agency representative. They have not examined whether the presence of specific agencies or individuals are critical to overall success.

25.1.3 Information sharing and communication

For every member of the drug court team, the court process and procedures will be unfamiliar and differ significantly from traditional practice. Though each member of the team will bring an individual perspective and philosophy, the combined effort of the court and its underlying therapeutic focus will be a significant challenge for all members of the program. Key to ensuring inter-agency and intra-agency success of the drug court program is the ability and willingness of drug court team members to commit to sharing information (via the execution of memoranda of understanding) about clients that would not otherwise be shared in a criminal justice context. For a drug court to work most effectively, the magistrate and drug court team must establish a trusted therapeutic relationship with its participants and this requires all drug court team members to share information that is important and relevant to each client's therapeutic and criminal justice management.

The need for inter-agency data and information sharing has been recognised as a key practice principle by the NADCP:

> "Team members share information as necessary to appraise participants' progress in treatment and compliance with the conditions of the Drug Court. Partner agencies execute memoranda of understanding (MOUs) specifying what information will be shared among team members. Participants provide voluntary

and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. Defense attorneys make it clear to participants and other team members whether they will share communications from participants with the Drug Court team." (NADCP 2013, p. 38)

Similarly, the importance of intra-team communication, specifically as it relates to client participation and progress, has been noted as essential for an effective drug court program:

> "Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. The judge considers the perspectives of all team members before making decisions that affect participants' welfare or liberty interests and explains the rationale for such decisions to team members and participant." (NADCP 2013, pp. 38-39)

25.1.4 Team training

All members of the drug court team, including new members, should be adequately and appropriately trained before taking their position within the court. Commitment to the overall drug court philosophy and understanding the therapeutic inclination of the court is essential so that all team members work in unison for the sake of participants. Training should be thorough and ongoing. It should educate practitioners not only about their agency-specific requirements, but about the roles and responsibilities of other agencies represented on the court. Accordingly, the NADCP notes that:

> "Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behaviour modification, community supervision, alcohol and other drug testing, team decision making, and constitutional and legal issues in Drug Courts. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter." (NADCP 2013, p. 39)

25.2 FORMER QUEENSLAND MODEL

The former Queensland Drug Court team was led by a dedicated magistrate and comprised four other core members. These were representatives from QCS; Queensland Health, LAQ and QPS (Prosecutor). Their roles were as follows.

25.2.1 Magistrate

In addition to the usual functions of a mainstream magistrate, the dedicated Drug Court magistrate adopted a therapeutic jurisprudence role in the management of drug court participants. This included the chairing of all pre-court interagency team meetings and presiding over regular interactive court hearings with participants.

25.2.2 Queensland Health

The representative conducted the indicative assessment of the offender's drug dependency at court and would also be involved in the subsequent full assessment regarding suitability for the IDRO. Once individuals were placed on IDROs, the role of the representative was to coordinate information and reports undertaken by other prescribed Drug Court assessors, usually Alcohol Tobacco and Other Drug Services (ATODS) officers and from service providers regarding the progress of the offender on the Drug Court program. This position contributed to the Drug Court team meetings in respect of all decisions to be made regarding the offender's case management.

25.2.3 Queensland Corrective Services

Like Queensland Health, QCS provided a coordinator position to the Drug Court team to gather pre-sentence reports and information updates to the court from community corrections officers assessing and managing drug court participants. This position represented QCS views on the on ongoing management of the Drug Court participant.

25.2.4 Queensland Police

The prosecution representative dealt with all prosecution tasks associated with individuals proceeding through the Drug Court. As with other agencies on the team, this position also offered QPS's views about the management of each Drug Court participant.

25.2.5 Legal Aid Queensland

The LAQ represented the defendant's interests in the adversarial process prior to the making of the IDRO and in ongoing issues throughout the duration of the IDRO.

Although some team members were not directly involved with drug court participants, a relationship was still developed with the individual through ongoing court hearings. Government agencies were required to provide staff to the drug court team. Some staff worked exclusively on the Drug Court whilst for others, this formed only a part of their workload. The Drug Court team was not co-located and staff remained based within their agency. A primary case manager was not identified. Both QCS and QH concurrently worked with the drug court participants addressing their criminogenic and health needs.

25.3 POSITION IN OTHER JURISDICTIONS

The NSW and Victorian Drug Courts both include the same team representation as in Queensland but with some variations to the model.

In the case of NSW, a District Court Judge presides over all matters as District Court cases are also eligible for inclusion. A representative from the Office of the Director of Public Prosecutions is also included in the team. Staff from all agencies are seconded into the drug court for designated periods, but team members are not co-located. Case management of the offender is shared by NSW Corrective Services and NSW Health staff.

The Drug Court of Victoria model is a mixture of staff directly employed by the court or seconded from partner agencies. In the case of the case manager role, whilst staff are employed by the court, they retain positions with Corrections Victoria. The model differs from the typical drug court team in that Victorian Police supplies an administrative position only. The reliance upon mainstream prosecutors is reported to cause some difficulties because of their unfamiliarity with and lack of connection to the program. The inclusion of housing support workers on the team is considered to be a major benefit as they are directly involved in assisting drug court participants with accommodation issues. With the exception of QPS and LAQ, all other team members are co-located close to the drug court. Corrections Victoria has primary responsibility for the case management of the offender.

Other than the exceptions identified, the roles of drug court team members are similar in NSW, Victoria and under the former Queensland model.

The AODT Court in New Zealand includes a Maori advisor (Pou Oranga). This position is intended to make the court more appropriate and meaningful for Maori participants. Staff in this role provide advice on how to engage with Maori participants and work alongside the team and participants to ensure that Maori aspects are included in the court process and treatment plan. The Maori advisor brings knowledge of Te Reo and tikanga Maori (correct Maori procedure) and opens and closes the court with karakia (Maori incantations and prayers used to invoke spiritual guidance and protection).

25.4 CONSULTATION VIEWS AND ISSUES

The multi-disciplinary team approach was viewed as a strength of the former drug court model. However, the team needs to be coordinated and cohesive with a broad commitment to the drug court's underlying goals.

Involving Drug Court team members in the selection of new team members was identified as one strategy that could be considered to help maintain its philosophy, ability to work with offenders with complex needs and to build a shared understanding of the nature of drug dependency and effective drug treatment. It was also considered important that staff supporting the court should have a dedicated Drug Court caseload, rather than carrying a mixed caseload to ensure fidelity to the Drug Court principles and philosophy and appropriate levels of support and service provision.

The lack of a lead agency coordinating or case-managing the defendant throughout the Drug Court program was viewed by some as problematic, as was staff having to cover several court locations under the former South East Queensland model.

In relation to the composition of the Drug Court team, there was general support for the continued involvement of QCS, QPS, Queensland Health and LAQ as all playing an important role in a future Drug Court. Some also suggested there could be benefits in having a housing service provider on the drug court team, similar to the approach in Victoria.

QNADA advocated for alcohol and other drug service providers to be directly involved as members of the drug court team, both in the interests of promoting better information sharing and providing appropriate advice to the team about treatment interventions. QNADA also suggested this approach would support the effectiveness of the Drug Court program by improving understanding between the magistrate and broader court team and treatment providers to ensure treatment interventions are correctly targeted.

There was support for a central coordinating agency or position to manage the court and court process and for this position being located within Queensland Courts. The central coordinator role should sit with Queensland Courts and operate as the drug court manager.

It was generally agreed that all roles within the drug court team should be clearly defined and articulated in policies and procedures and that all team members should be involved in ongoing professional development and joint training.

25.5 RECOMMENDATIONS

We consider the non-adversarial and inter-disciplinary approach of the drug court to be one of its key strengths. Where possible, we recommend, multidisciplinary teams should be developed for each Drug Court established in Queensland with representation from each of the key agencies – courts, corrections, health, legal aid, and police. We also recommend that consideration be given to include a housing representative on the team, given that access to accommodation is a priority need for many Drug Court participants.

While resource intensive, we also consider it necessary for the effective functioning of the team and promotion of a consistent Drug Court philosophy that, wherever possible, dedicated Drug Court officers should be recruited to the team, either directly employed or employed by their home agency, and that team members should be co-located.

The Drug Court manager should be employed by DJAG and manage all of the administrative aspects of the court on behalf of the Drug Court magistrate. This will ensure clear leadership is provided to the Drug Court team at times when the Drug Court magistrate is unavailable or in circumstances where their direct involvement may not be required (e.g. to deal with administrative and routine operational matters).

While we consider the direct involvement of alcohol and other drug treatment providers on the Drug Court team has potential benefits, such as the team receiving more direct input about the participant's performance and for relationship-building purposes, further consideration will need to be given as to how these arrangements might operate in practice given the logistical issues and time commitment involved in attending court on a weekly, if not daily, basis.

Recommendation 28	**Drug Court Team**
28.1	**A multidisciplinary team should be developed having representation from each of the key agencies – courts, corrections, health, legal aid, and police. Consequently, the drug court team should include as a minimum, a corrective services representative, a health representative, a Legal Aid representative and a police prosecution representative as well as a Drug Court manager. The direct involvement of housing service providers on the team should be considered, as is the case in Victoria.**
28.2	**Where appropriate, representatives from external treatment agencies should be afforded an opportunity to participate in the drug court team and share in the drug court's broader therapeutic and jurisprudential philosophy.**
28.3	**Drug court team members should be required to consistently attend pre-court team meetings and formal drug court hearings. The presiding magistrate should also attend pre-court meetings.**
28.4	**Administrative support, including the administration of the drug court program and individual drug court orders be undertaken by a DJAG appointed Drug Court manager. The Drug Court manager should be a member of the drug court team and be responsible for coordinating and managing the court's day-to-day administrative activities.**
28.5	**As the drug court team members are required to perform their duties in a non-traditional, non-adversarial and therapeutic environment, dedicated personnel with both an interest in the philosophy of the court and skills necessary to operate in a non-traditional capacity should be appointed to the team. Nomination to the drug court team should require a selection process through which these skills can be formally tested.**
28.6	**All drug court team members should be required to undertake training before joining the team and at regular intervals throughout their service.**
28.7	**Where new agency staff are invited or required to participate in the drug court team, a period of 'shadowing' (watching the practice of an existing team member) and formal training should be facilitated.**

26 DRUG TESTING REGIME

26.1 INTRODUCTION

Mandatory drug testing is widely regarded as an essential component of the drug court model. Specifically, drug testing provides readily available and objective information to the judicial officer, other justice system officials, treatment practitioners and caseworkers about a participant's progress in treatment. The drug testing process, coupled with immediate program responses, encourages participants to address their substance abuse problems immediately and continuously.

26.2 WHAT DOES THE RESEARCH SAY?

Drug testing is an essential feature of any drug court program and is almost universally recognised as key to both individual-level and court-level success. Evaluation results have consistently recognised that without drug testing, drug courts would be significantly less successful in navigating high-need offenders through drug treatment. Importantly, drug testing serves the drug court model in two ways. First, it provides participants and the drug court team information and feedback on treatment progress – indicating where treatment is working successfully, or if not, where modifications to the treatment plan may be required. This is essential if early intervention is to be successful for participants who are struggling to adjust to a drug-free lifestyle. Second, drug testing forms a critical component of a drug court's broader deterrence capabilities, signaling to participants the importance of compliance and the swift and certain responses to non-compliance. As most other antisocial and criminal behaviour remains hard to detect by the court, drug testing is one of the few mechanisms with which the court can impose certain and swift consequences.

Drug court evaluations have isolated five key drug testing components that are associated with more favourable drug court outcomes: frequency of testing, random testing, sufficient breadth of testing, rapid results and maintaining pre-graduation abstinence.

26.2.1 Frequent testing

Research has found that the more frequently drug testing is performed as part of the drug court program, the more effective the court will be at maximising graduation rates, lowering drug use and reducing criminal recidivism. (Banks & Gottfredson 2003; Gottfredson et al. 2007; Griffith et al. 2000; Harrell et al. 1998; Hawken & Kleiman 2009;). According to Carey and colleagues (2008), although graduation rates are not significantly higher for courts with more frequent drug testing, nevertheless, twice-weekly testing (or more) can yield criminal recidivism reductions that are approximately 38 percent greater, and cost savings that are approximately 61 percent greater, than courts with less frequent testing regimens.

26.2.2 Random testing

Several studies have shown that drug testing is most effective when performed on a random basis (ASAM 2013; ASAM 2010; Carey 2011; Harrell & Kleiman 2002) and where the odds of being tested are the same on weekends and holidays as they are on any other day of the week (Marlowe 2012). Further, drug testing regimens should be designed to avoid what is often described as 'respite from detection' by ensuring that there are no long periods during which there is a predictable absence of testing (Marlowe & Wong 2008).

26.2.3 Sufficient breadth of testing

Without an appropriate and sufficient breadth of testing (as is often the case on limited drug testing equipment and screening panels), participants can evade detection for their substance use simply by switching to other drugs of abuse (ASAM 2013). Heroin users, for example, can often avoid detection by using pharmaceutical opioids, such as oxycodone or buprenorphine (see Wish et al. 2012), while marijuana users have been known to substitute temporarily (Perrone et al. 2013) with synthetic cannabinoids specifically developed for purposes of avoiding detection (Castaneto et al. 2014). Where the potential for drug

substitution exists, it is imperative that drug courts select testing procedures that have the capacity to identify a sufficiently wide range of potential drugs and their psychoactive substitutes.

26.2.4 Rapid results

The efficacy of frequent and random drug testing may depend largely on the court's ability to respond rapidly when a test is positive. For experts in behavioural modification, timing has been shown to be among the most influential factors (Harrell & Roman 2001; Marlowe & Kirby 1999). Carey and colleagues (2008) found that both graduation and long-term recidivism rates were more favourable in drug courts where the results of a drug test were typically reported back within 48 hours.

26.2.5 Mandating pre-graduation abstinence

A trend analysis conducted by Carey and colleagues (2012) provided indicative evidence that abstinence was an important goal for at least the last 90 days of program participation. Consistent with this, some drug court programs (including the NSW Drug Court) may elect to increase the frequency of testing in the weeks prior to final graduation.

26.2.6 Alcohol testing

The same general principles apply to alcohol testing, including ensuring that testing is random enough to ensure the risk of detection is equal at all times. For alcohol, transdermal monitoring (Secure Continuous Remote Alcohol Monitors referred to as 'SCRAM' bracelets) or urine testing for two compounds, EtG or EtS (ethyl alcohol metabolites (biomarkers) that allow the detection of recently consumed alcohol in people who have agreed to abstain from drinking), can be used.

Cary (2011) notes that:

> "Both [EtG and EtS] remain in the body considerably longer than alcohol itself. While methods measuring alcohol in breath, urine, saliva, and blood provide a detection window only for a matter of hours, EtG/EtS testing can extend the detection window of recently consumed alcohol to a couple of days. This extended detection window is especially useful for alcohol abstinence monitoring by DWI [Driving While Intoxicated] courts".

26.3 IMPLEMENTATION – WHAT DOES THE EVIDENCE SAY?

An effective drug testing regime, one that is both frequent and random, can only be effective if supported by a solid implementation framework that meets the needs of both the court and the participants. Importantly, the implementation framework must be accompanied by clear objectives and expectations with respect to the conduct, handling and use of drug testing outcomes within the drug court procedure. According to Payne & Piquero (2016), when drawn together the evaluation evidence and best practice literature identifies a number of key ingredients to the implementation of a successful drug testing regime within the drug court context. These are as follows:

26.3.1 Maintaining the integrity of the process

The reliability of a drug court drug testing system is dependent upon sample integrity. To ensure sample integrity, effective techniques must be instituted and practiced regarding sample collection (ASAM 2013; Cary 2011). Specifically, this requires adherence to sample collection procedures that eliminate doubt about the test outcome (NADCP Benchmark 5.4), such as:

- direct observation of urine sample collection;
- verification of temperature and measurement of creatinine levels to determine the extent of water loading;
- specific, detailed, written procedures regarding all aspects of urine sample collection, sample analysis, and result reporting;
- a documented chain of custody for each sample collected;

- quality control and quality assurance procedures for ensuring the integrity of the process;
- procedures for verifying accuracy when drug test results are contested; and
- policies and procedures that anticipate situations and develop responses to the possibility of false-positive tests.

26.3.2 Educate and train everyone involved about the process and procedures

Drug testing procedures must be current and consistent with evolving best-practice and scientific standards. Specifically, those responsible for the administration of drug testing must remain vigilant, up-to-date and informed of common and newly emerging adulteration practices. To do this requires a commitment to the ongoing training and education of those charged with the responsibility of drug testing as part of a drug court program.

26.3.3 Develop contracts with participants that increase responsibility for eliminating situations that challenge the test results

Drug Courts should develop contracts with participants regarding expectations in relation to behaviour that may affect drug testing results. As has been shown in drug-court meta-studies, the best performing programs are those that clearly articulate their policies and procedures in a participant manual or handbook (Carey et al. 2012).

26.4 FORMER QUEENSLAND DRUG COURT MODEL

Under the former Queensland Drug Court, drug testing was primarily carried out by Corrective Services Officers either at the District Office or on 'roving' drug testing vans. Some residential rehabilitation and other treatment providers also conducted urinalysis as part of their program requirements.

All Drug Court participants were subject to scheduled and random tests; the frequency and amount determined by which phase of the program the participant was in. All clients were tested on court hearing days and randomly throughout the week, including weekends.

MINIMUM DRUG TESTING FREQUENCY

Phase 1 – 5 times in any fortnight

Phase 2 – 3 times in any fortnight

Phase 3 – 3 times in any fortnight

Drug Court Regulation 2006 s17(1)

26.5 POSITION IN OTHER JURISDICTIONS

Both the NSW Drug Court and Drug Court of Victoria have determined a schedule of testing for each phase of the program. In NSW, maximum testing levels are resumed four weeks prior to a participant's graduation. DCV also requires participants to be breath tested if they have an alcohol ban in place.

Under the NSW Drug Court, all urine tests are conducted by NSW Health nurses. In Victoria, testing is conducted by an accredited pathology laboratory. Both processes have been established to maintain the chain of custody and ensure the integrity of drug testing.

26.6 CONSULTATION VIEWS AND ISSUES

Feedback from the consultations indicated that urinalysis was an essential and beneficial part of the drug court program. When the drug testing van operated by QCS was withdrawn, the amount of testing and integrity of the testing regime declined.

An issue of duplication of testing was raised when program participants were drug tested as part of a residential rehabilitation program but also tested by QCS staff. Feedback suggested that if drug tests are undertaken by a service provider on behalf of the drug court that the service provider should support the philosophical reasons for the testing and comply with the standards required for the administration of the tests.

26.7 RECOMMENDATIONS

To ensure accountability of participants' behaviour, we recommend that a regime of alcohol and other drug testing be incorporated into the Drug Court model. These tests should be carried out with sufficient regularity, including both scheduled and random testing, for the duration of the drug court program to ensure that any new drug use is detectable.

Drug testing should meet industry standards and procedures should be implemented to ensure the integrity of the process. This will allow for greater confidence in the results presented to the court.

The proposed model for the reinstated Drug Court includes the acceptance of offenders for whom alcohol is their principal drug of concern. Monitoring for the use of alcohol will need to be conducted to the same extent as drug testing to ensure the same level of detection of alcohol as for illicit and licit drug use. In the New Zealand AODT Court, this is achieved by the use of SCRAM (Secure Continuous Remote Alcohol Monitors) anklets worn by the participant, which allow for 24 hour monitoring of alcohol consumption. As noted in section 26.2.6 above, there are also other emerging testing regimes that could be explored to ensure effective monitoring of alcohol use for Drug Court purposes.

Recommendation 29 Drug Testing Regime

29.1 The frequency with which offenders must be drug tested under their Drug Treatment Order should not be prescribed in regulation but should form part of the operational manual of the Drug Court.

29.2 In order for drug testing to achieve its deterrent capabilities:

- **(a) drug testing must be conducted frequently enough to ensure that any new use is detectable. This will depend on the testing method, however for urinalysis, testing should be conducted no less than three times per week in the first phase;**
- **(b) testing should be conducted randomly so that from the participant's perspective the probability of being tested is the same on every day of the week. There should be no periods of time for which there is a predictable absence of testing;**
- **(c) random testing should be conducted as soon possible after notification to the participant – ideally within no more than eight hours. Random testing, in particular during the later phases of the drug court, should not interrupt a participant's education and employment obligations;**
- **(d) drug testing should be conducted for the entire duration of the drug court order, although frequency of testing may be tapered according to a participant's level of progress. Of all the compliance mechanisms available to the drug court, drug testing should the last mechanism to be formally withdrawn (if at all);**
- **(e) testing equipment and procedures must conform with current scientific standards and have sufficient breadth to detect a participant's drug of choice, common substitutes (including synthetic drugs), and other commonly available drug types; and**
- **(f) testing procedures must be organised to prevent where practicable dilution, adulteration and substitution or samples. This should include a process of witnessed collection, and resting procedures if fraudulent activity is suspected.**

(g) the results of a drug test should be reported to the court as quickly as is practicable – ideally within no less than 48 hours. The response of the drug court, in terms of sanctioning and treatment plan revisions, should follow immediately.

29.3 To maintain an effective drug testing program:

(a) testing personnel must be adequately trained in sample collection, testing, storage and chain of custody requirements. Drug testing personnel should also be actively engaged in training and education programs that ensure they are informed of emerging adulteration practices, technological practices and/or emerging drug types;

(b) witnessed collection must be undertaken by a person of the same gender;

(c) the drug court magistrate and team must have full confidence in the testing process and procedure. Where concerns emerge about the fidelity of the testing program, this has the potential to undermine the utility of testing and creates fractures between drug court team members; and

(d) testing should only be conducted by a third party (treatment provider or other agency) where there is a contractual arrangement that ensures the drug court team of the fidelity of the testing procedure. The drug court participant must have full confidence in the fidelity of the testing procedure and, more importantly, understand the range of responses or consequences the court will impose. The range of sanctions used by the court to the provision of a positive test should be clearly articulated to participants at the time of referral.

27 JUDICIAL STATUS HEARINGS AND COURT APPEARANCES

27.1 INTRODUCTION

Among drug court practitioners, there is an overwhelming consensus that the regular judicial monitoring of clients is essential to a drug court's success. For example NDCSP identified the integration of alcohol and other drug treatment with justice system case processing (Key Component 1), coupled with ongoing judicial interaction with each drug court participant (Key Component 7) as critical features of a drug court program that were subsequently enshrined in the 10 Key Components.

27.2 WHAT DOES THE EVIDENCE SAY?

Requiring drug court participants to attend judicial status hearings regularly is a unique and important feature of the drug court model. Importantly, it is an element of the court that has often been linked to more favourable individual-level and court-level outcomes. According to Payne & Piquero (2016), in drug courts, unlike any other community-based criminal justice intervention, the regular attendance at court helps to:

- promote the therapeutic alliance with participants by facilitating regular contact with the judicial officer and drug court team;
- activate and promote perceptions of deterrence through the court's ability to apply swift and certain sanctioning for non-attendance and non-compliance;
- alter the participant's routine activities and strengthen their ties to positive and prosocial institutions, such as the court; and
- create a non-adversarial environment in which a participant's existing perceptions of the criminal justice system can be challenged, leading to an enhanced perception of procedural justice and greater respect for the legitimacy of the law and the contribution of parties to the legal process (police, prosecution, legal aid).

27.2.1 Frequency of court appearances

The optimal frequency with which participants are required to attend the court remains a matter of some debate, however the frequency of attendance must be highest in the initial phase of the drug court program (to activate perceptual deterrence), and at least weekly attendance is required for high-risk participants (those for whom strong perceptual deterrence is required) (Jones 2013). Less frequent attendance may be granted by agreement of the drug court team if more frequent attendance is likely to interrupt treatment, employment, family or other educational activities. Importantly, the court must also consider the perception of equity and fairness among clients when deciding on non-standard attendance arrangements.

27.2.2 Length of court interactions

When it comes to judicial status hearings, quality is better than quantity. Regular attendance to a poorly functioning court is likely to undermine the therapeutic alliance, and limit the capacity of the court to motivate clients through their treatment journey. Therefore, mandating regular appearances at court is only of benefit to a drug court program when the drug court magistrate and drug court team are functioning in accordance with the other best-practice principles identified throughout this review.

Ideally, the drug court magistrate should spend a sufficient length of time with participants to ensure that a therapeutic alliance can be established. International literature points to more favourable outcomes for longer court sessions, however the international benchmark has been set at three minutes or more (Carey, et al. 2012).

27.3 FORMER QUEENSLAND DRUG COURT MODEL

A schedule of regularity was prescribed according to the phase of the program. Beginning with weekly court hearings in phase one, this graduated down to a minimum of once every six weeks. Each case took approximately five to 15 minutes to be dealt with at the court hearing

27.4 POSITION IN OTHER JURISDICTIONS

The NSW and Victorian Drug Courts both conduct judicial hearings that adhere to best practice standards. The judicial officers typically spend between five and ten minutes with each participant discussing the individual's progress on the drug court order and dealing with case management issues and rewards and sanctions, as required. The Drug Court of Victoria lists an average of 20 people per court session of 2.5 to three hours' duration.

27.4.1 Consultation views and issues

Concerns were raised that the requirement for participants to attend weekly status hearings was onerous for participants, particularly at the commencement of the order when they were usually coping with drug withdrawal while also being required to attend multiple other appointments and/or undertaking a residential rehabilitation program.

Stakeholders also submitted that Aboriginal and Torres Strait Islander people were likely to experience difficulty in attending weekly court hearings for a number of reasons including other personal obligations and limited access to transport to travel to court. This aspect of the Drug Court may therefore make the program a less attractive and viable option for Aboriginal and Torres Strait Islander offenders and may affect their ability to complete the order successfully.

Residential rehabilitation providers also commented that weekly judicial hearings placed a great strain on their resources in that Drug Court clients had to be transported to and from court. The need to attend court so regularly was also considered to be disruptive to the offender's program participation and unfair to non-Drug Court rehabilitation program participants when some individuals missed aspects of the therapeutic program.

The regularity of judicial hearings was also regarded as one of the aspects of the Drug Court that contributed to the resource intensive nature of the program for Drug Court team members as participants were traditionally required to attend weekly court reviews during phase one. Due to resourcing difficulties, the Ipswich Drug Court adapted the model so that judicial hearings were held fortnightly with the team meeting during alternate weeks to review participants' progress. In the opinion of one of the former staff of the Ipswich Drug Court, its results were not as favourable as the other South East Queensland Drug Courts but it was difficult to conclude whether reduced judicial hearings was a contributory factor.

27.5 RECOMMENDATIONS

Judicial hearings are regarded as a unique and important feature of drug courts that contributes to building the crucial therapeutic relationship between the judicial officer and the drug court participant. There is also strong evidence to suggest that more favourable drug court outcomes are achieved when regular, quality judicial hearings are conducted.

For this reason, it is important that judicial hearings be held in accordance with best practice standards. These standards stipulate that drug court participants attend court for review at least weekly in the first phase of treatment with the regularity tapering off with each consecutive phase of participation, and that judicial officers spend a sufficient length of time with participants, but no less than three minutes per participant.

In circumstances where participants are undertaking a residential rehabilitation program, we recommend that either variation can be made to the regularity of judicial hearings, providing that the individual is progressing well, or that these be conducted by a means other than personal attendance at court, for example, by telephone or video conference.

Recommendation 30	Judicial status hearings and court appearances
30.1	**The drug court program should be structured on the assumption that all clients are required to attend court for review at least weekly in the first phase of treatment, except in circumstances where the person is in the initial stages of a residential rehabilitation program and is otherwise compliant with their treatment conditions.**
30.2	**Alternative attendance arrangements should be agreed by the whole team and should not be seen to unfairly favour one or specific groups of participants. Maintaining fairness and equity among participants will be important for fostering improvements in the perceptions of procedural justice.**
30.3	**Court attendance requirements should be tapering with each consecutive phase of participation. Court attendance requirements should not serve as a barrier to employment or other education activities during the reintegration phase of the drug court program.**
30.4	**Technological alternatives, such as videoconferencing, should be investigated where attendance at court has the potential to disrupt treatment.**

28 ROLE OF THE JUDICIAL OFFICER

28.1 BEST PRACTICE STANDARDS

Key drug court practices and benchmarks presume a level of interaction and engagement by the judicial officer that is therapeutic in nature and not often seen in traditional court settings.

The only specific acknowledgement of the judicial officer in the 10 Key Components is to recognise that, in the interests of consistency and stability for the drug court and its operations, 'the judge … should be assigned to the drug court for a sufficient period of time to build a sense of teamwork and to reinforce a non-adversarial atmosphere' (Benchmark 2.2). Judicial support for the therapeutic goals of the court is also seen as important for the longevity and stability of the team.

28.2 WHAT DOES THE EVIDENCE SAY?

On the balance of the available evidence there appears little doubt that the attitude and approach of the judicial officer can significantly influence the outcomes of an entire drug court program. Judicial officers who actively engage and motivate clients appear to produce more favourable outcomes than those who do not, and the effect of the judicial officer seems so significant that in one of the most rigorous evaluation studies to date (Rossman et al. 2011), the participant's perception of the judicial officer was the single most important factor predicting longer term success for both drug use and recidivism outcomes.

From the perspective of RNR these results are consistent with the view that among the most significant benefits of a drug court program is its capacity to activate individual responsivity to treatment and motivation for behavioural change. A positive, therapeutically safe interaction with clients within the court can assist all other case management and treatment interventions, without which drug courts are not likely to be any more effective than standard community supervision programs such as probation and parole. For future drug courts, therefore, it is of paramount importance that magistrates are selected based upon their *willingness* and *capability* of engaging with participants in a therapeutically focused environment – one in which participants are appropriately and fairly sanctioned for their transgressions, but where the court is seen as a safe and trusted environment that is empathetic to the challenges and difficulties of drug dependency. As the leader of the court, the judicial officer is critical to maintaining this philosophy over the longer term.

28.2.1 Judicial tenure

Though difficult to test empirically, the accumulated evidence suggests that more favourable outcomes are achieved in drug courts where the judicial officer has a period of tenure lasting longer than two years. In a meta-evaluation, Carey and colleagues (2008) found that criminal and drug use outcomes were more favourable for those drug courts where the judicial officer was allocated for a term of no less than two years. Similarly, in a later study of 69 drug courts, Carey et al. (2012) also found that longer-term recidivism outcomes were 35 percent greater for courts where the judicial officer's term was indefinite.

28.2.2 Judicial attributes

The drug court literature has long recognised the importance of the 'courtroom dynamic' and the nature of the interaction between clients and the judicial officer as important factors underpinning the relative success of drug courts internationally. Specifically, the relationship between the judicial officer and the participant has been shown to be among one of the most important factors predicting longer term success (Rossman et al. 2011) and in interviews with drug court magistrates (Plotnikoff & Woolfston 2005) a number of key attributes have been defined as important in fostering a positive and therapeutically inclined drug court, including:

- the willingness and ability to 'talk straight' with participants;
- good organisational skills;
- an ability to work with defendants presenting multiple problems;

- an understanding of personal development;
- an understanding of addiction;
- an understanding of the role of social services;
- acceptability to both prosecution and defence;
- patience; and
- a sense of humour.

28.2.3 Judicial leadership

Drug court magistrates play an important and pivotal role in the leadership of the drug court team and the court more generally. Without this leadership, the philosophy of the court is difficult to maintain, as is the broader community and political support. As a result, the magistrate must lead the court and its development of its strong public profile by (Plotnikoff & Woolfston 2005):

- leading a collaborative approach to working across criminal justice system agencies and solution providers;
- showing active commitment to the community by leading the court and court staff in discovering local concerns and priorities;
- ensuring that a dialogue is maintained with the community about their priorities for community penalties;
- participating in non-court community activities designed to knit court and community together or to divert people from crime; and
- ensuring that the court is seen as integral to the community and an essential part of the criminal justice response to drug-related offending.

28.2.4 Professional training

Judicial education and training should be seen as an essential element of any drug court program, ensuring that judicial officers are regularly engaged in educational and training programs that connect them to current research evidence and best practice principles in an evolving policy and practice environment. Existing drug court judicial officers, for example, would benefit significantly from ongoing engagement with emerging treatment and drug addiction literature, as well as new or promising best practice principles in therapeutic jurisprudence. Similarly, where and when judicial rotation or replacement is required, new or substitute judicial officers should be adequately trained on the functional and therapeutic nature of the drug court program.

28.3 FORMER QUEENSLAND DRUG COURT MODEL

Under the former Queensland Drug Court, the magistrate had a leadership role and was involved in all drug court team meetings.

Under the former *Drug Court Act*, the Chief Magistrate allocated the functions of a drug court magistrate to one or more magistrates (s 10). Under the South East Queensland model, one magistrate was appointed as the Drug Court magistrate to cover all three court locations, whereas in Cairns and Townsville, magistrates allocated to the Drug Court performed these functions on a part-time basis.

28.4 POSITION IN OTHER JURISDICTIONS

The current Victorian Drug Court magistrate, Magistrate Tony Parsons, is employed full time on the Drug Court of Victoria. The role is undertaken in accordance with the NADCP Standards. Magistrate Parsons chairs all pre-court meetings and presides over all court hearings where he performs a range of judicial functions including accepting participants into the program through the making of a DTO, granting rewards and imposing sanctions, issuing warrants for an offender's arrest where required, canceling orders and graduating individuals from the program.

In addition to the core functions, Magistrate Parsons plays a significant role in relation to high-level management of the team, promotion and marketing of the program, stakeholder engagement and developing service level agreements.

The Senior Drug Court Judge of the NSW Drug Court is His Honour Judge Roger Dive. As in Victoria, Judge Dive leads the team, making all final decisions after hearing from all of the relevant parties. He attends all pre-court meeting and participates fully in all discussions. Both Magistrate Parsons and Judge Dive have held their positions for well in excess of the recommended minimum tenure of two years.

28.5 CONSULTATION VIEWS AND ISSUES

Stakeholders regarded the magistrate's role as pivotal, being the person in authority, the ultimate arbiter and the person who filters all of the information with an objective mind. Having a dedicated magistrate appointed to the Drug Court was regarded as critical to providing a consistent reminder of the authority of the court and providing legitimacy to the court process.

Given the significant time commitment involved and in the context of increasing pressures on the courts, some magistrates raised questions about whether they necessarily need to play such an intensive and therapeutic role. Retaining the role of the magistrate as the decision maker was nevertheless considered important, with suggestions made, for example, that greater use could be made of reports to communicate key issues to the magistrate.

A number of former Drug Court magistrates also felt their role was critical to the successful operation of the court, while also describing the role of a Drug Court magistrate as highly demanding at times. A potentially exacerbating factor in South East Queensland was the appointment of one Drug Court magistrate to cover the three established South East Queensland Drug Courts, rather than a dedicated magistrate being appointed at each court location.

Taking into consideration the intensive nature of the role and the specific skills required of the Drug Court magistrate, it was suggested that a selection process be instituted for the judicial officer as well as succession strategies and backfilling arrangements to cover periods of leave or absences. For similar reasons, there was support for magistrates being identified through an expression of interest process to identify those with an interest in and commitment to the philosophy of the drug court. There was also support for magistrates being allocated to the Drug Court by the Chief Magistrate, as was the case under the former *Drug Court Act*, rather than appointed by Governor-in-Council to keep some flexibility in these appointments.

28.6 RECOMMENDATIONS

In our view, having the right judicial officers appointed to the Drug Court is critical to the success of any future Queensland Drug Court.

We recommend that Drug Court magistrates should be selected on the basis of having the requisite skills and attributes required to undertake a therapeutic jurisprudence role and recruited to the court on a voluntary basis. There should also be a commitment made to offer initial and ongoing professional development and training of all Drug Court magistrates in order to maintain currency in emerging treatment and drug addiction literature, as well as new or promising best practice principles in therapeutic jurisprudence.

To support the court operating as effectively as possible, we recommend that a dedicated magistrate be assigned to each drug court where possible for sufficiently lengthy periods, but no less than two years. This will allow for consistency in practice and the opportunity for Drug Court magistrates to develop their skills in applying the therapeutic jurisprudence approach required of the Drug Court and to become experienced therapeutic jurisprudence practitioners.

Although the cost of a dedicated Drug Court magistrate may be regarded as an expensive resource for a small number of offenders, evidence suggests that these costs are likely to be offset by the benefits gained from the therapeutic relationship developed between the magistrate and the offender.

Recommendation 31	Role of the drug court magistrate
31.1	**Drug court magistrates should be carefully selected with due consideration of the attributes required to foster a strong and safe therapeutic environment.**
31.2	**Judicial ownership of the drug court program is important and so the Drug Court magistrate should be appointed early enough such that he/she can help shape the court's practices and procedures prior to implementation.**
31.3	**Drug court magistrates should be appointed for as long as is practicable, but for no less than two years.**
31.4	**The magistrate should be able to lead the drug court team while simultaneously fostering a therapeutic alliance with drug court participants.**
31.5	**Drug court magistrates should be offered initial, regular and ongoing professional development. This includes education and training on drug dependency, co-morbidities and best practice interventions for drug dependent offenders, as well as opportunities to meet with other interstate and international drug court colleagues.**
31.6	**Drug court magistrates should be strongly encouraged (if not required) to maintain a regular schedule of community promotion and educational engagement activities aimed at raising awareness of the drug court's aims, activities and achievements. This includes giving presentations to community and government agencies, as well as facilitating information sessions and workshops.**
31.7	**Training may involve a period of 'shadowing' where new magistrates can learn directly from outgoing magistrates in an apprenticeship style approach.**

29 ROLE OF THE VICTIM

29.1 BEST PRACTICE STANDARDS

Victims have rarely been involved in drug courts, however, a review of the literature on this issue has concluded that there is little evidence of the effect of drug courts on victim perceptions.

While the NADCP Standards do not currently address the role of the victim, the NADCP notes that restorative justice interventions, such as victim restitution, is a potential area for inclusion in future standards (NADCP 2015, vol II, p. 3).

29.2 INCORPORATING VICTIMS IN THE QUEENSLAND DRUG COURT

Most drug courts appear not to provide any formal statement of the role of the victim in their processes. Those that do, however, have shown little appetite on the part of victims for close involvement in the drug court process. Nonetheless, the role of the victim in a drug court can be consistent with standard procedures for involving the victim, including being kept informed of progress, making a victim impact statement, and being offered restorative justice options if desired.

If restorative justice options were to be incorporated into the Queensland Drug Court – and there is no evidence to suggest that they should not – consideration should be given to the timing of the process. Most drug court programs that include a restorative component tend to do so in the last (third) stage of the program, once the offender has made substantial progress toward recovery. This does, however, tend to introduce delay into the process, with the victim being required to wait a substantial period before having the opportunity to face the offender. The tension between offender readiness and victim closure needs to be carefully considered. It may be that the timing of restorative justice need not be prescribed, allowing the magistrate greater flexibility in decision-making on this issue.

The Drug Court will also be required to operate in accordance with the F*undamental Principles of Justice for Victims of Crime* that apply in Queensland (see further section 1.6 of this Report). This will require relevant agencies represented on the Drug Court team and who are otherwise in contact with the victim in their dealings with that victim, to provide them with timely information about:

- available welfare, health, counselling, medical and legal help, financial assistance and other support services;
- in the case of investigating agencies, matters including the progress of investigations being conducted, the availability of diversionary programs in relation to the crime and the charges laid; and
- in the case of prosecuting agencies, information about the prosecution of the offender including:
  - details about relevant court processes and when a victim may be required to attend court;
  - details of the availability of diversionary programs in relation to the crime;
  - notice of a decision to substantially change to a charge, or to not continue with a charge, or accept a plea of guilty to a lesser charge; and
  - the outcome of the decision, including any sentencing imposed.

Victims of an offence committed against the person or otherwise prescribed are also permitted to give the prosecutor details of the harm caused to the victim by the offence for the purposes of informing the court in the sentencing of the offender, including in the form of a victim impact statement (see *Victims of Crime Assistance Act 2009*, s 15).

A key consideration for the Drug Court will be how to manage the expectations of a victim where an offender may be being provided with rehabilitation and treatment rather than serving a more traditional form of sentence, like imprisonment or imprisonment with parole. For this reason, during consultations, it was suggested that it will be especially important for victims of people being dealt with through the Drug Court to be referred to a victim support service to receive support during the court process. Some potentially useful

lessons, it was also suggested, could be drawn from processes used with victims of offenders who are dealt with by the Mental Health Court who are supported by a QH Victim Support Service.

29.3 FORMER QUEENSLAND DRUG COURT MODEL

Under the former Drug Court model, victims had the same rights as in relation to other mainstream court processes and could request to be kept informed about the progress of the case through the standard process available to all courts. There were no additional special procedures in place to support victims through the Drug Court process.

29.4 POSITION IN OTHER JURISDICTIONS

As in mainstream courts and drug courts in other jurisdictions, New Zealand's AODT Court allows for victims to:

- attend AODT Court hearings;
- be kept informed about the defendant's progress through the court;
- provide their views to the court (via the Victim Advisor , New Zealand Police or a support person);
- attend sentencing;
- apply to the court to read their Victim Impact Statement at sentencing;
- choose to be involved in a restorative justice conference with the defendant;
- be informed about the reparation or financial restitution to which they may be entitled; and
- be advised of any financial help to which they may be entitled.

The appropriateness and timing for restorative justice in the AODT process is guided by the AODT Court Judge. As with other drug courts, this was formerly introduced in phase three of the program. However, in response to requests from police prosecutors that any restorative justice process should be initiated earlier, restorative justice is now considered in phase one.

The AODT in New Zealand benefits from being able to refer defendants to service providers specifically contracted to facilitate a restorative justice intervention. This may include some form of communication between the defendant and his/her actual victim(s) but where victims are unwilling to be directly involved in the process, defendants can be referred to a community panel that represents victims' views generally.

29.5 CONSULTATION VIEWS AND ISSUES

The need to consider victims' issues generally was raised in consultation sessions. This was considered particularly important if the eligibility criteria for the court were broadened to allow offenders who have committed acts of violence to be accepted into the Drug Court.

It was also suggested that it may be appropriate for a Drug Court to refer participants to Victim Assist while they are on the Drug Court program if they themselves have been victims of crime. The observation was made that a person's alcohol and other drug use related to their offending may also be connected with the person having experienced a psychological injury or trauma as a consequence of being a victim of an act of violence in the past, such that dealing with these issues may assist in their recovery.

29.6 RECOMMENDATIONS

It is important to ensure that under any future Drug Court process, victims retain the same rights as other victims of offenders who are dealt with through mainstream court processes. This includes the right to make a victim impact statement and to be informed throughout the process of available support and the progress of matters.

Should the adoption of broadened eligibility criteria for a future Drug Court be supported to include offences that could involve violence against the person, an important threshold issue for the Drug Court in determining whether it is appropriate to make such an order will be the nature and seriousness of the offence, including any physical, mental or emotional harm done to a victim. The need to take harm to the victim into account in sentencing is a well-established sentencing principle and is reflected legislatively in section 9(2)(c)(a) of the *Penalties and Sentences Act 1992*.

Under the model proposed, the Drug Court would also have the ability to order the offender to make restitution or pay compensation in making the order (see further section 23.1.2 of this Report).

In addition to these general measures, there is also scope once the Drug Court is established, to consider how the program in future might better support the involvement of victims, including incorporating restorative justice processes as in New Zealand, where these are available and supported.

We suggest that the issue of referrals of Drug Court participants who themselves are victims of crime to victim support services is a matter that could be addressed in any future policies and procedures manuals developed to support the court so that appropriate referrals and linkages can be made.

Recommendation 32	**Victim's involvement**
32.1	**Victims of offenders dealt with by the Drug Court should have the same rights as victims of offenders dealt with by mainstream courts in accordance with the Fundamental Principles of Justice for Victims set out in the *Victims of Crime Assistance Act 2009* including to be kept informed of progress by the relevant agencies and enabled to make victim impact statements.**
32.2	**Consideration should be given to the Drug Court offering victims restorative justice options if desired and available and this being available at appropriate phases of the program, including in support of an offender's rehabilitation.**

30 REWARDS AND SANCTIONS

30.1 BEST PRACTICE STANDARDS

The NADCP Standards discusses the use of incentives, sanctions and therapeutic adjustments in the context of drug courts, stating that consequences for participants' behaviour (be they positive or negative consequences) must be predictable, fair, consistent and administered in accordance with evidence-based principles of effective behaviour modification. In particular, participants should be made aware of the possible rewards and sanctions that await various types of behaviours, giving them a clear indication of expectations for their behaviour.

30.2 WHAT DOES THE EVIDENCE SAY?

30.2.1 Introduction

It is almost universally recognised that drug courts offer two distinct advantages over traditional criminal procedures. The first is the court's ability to impose sanctions for non-compliance in a swift and certain manner, and the second is the capacity to incentivise compliance and reward clients for meeting treatment and rehabilitation goals.

Under the principle of *Therapeutic and Individualised Jurisprudence*, Hiller et al. (2010) found strong endorsement for those drug courts in which the judicial officer tends to individualise both rewards and sanctions and where the rewards are matched to the level of compliance shown by the participant.

Sanctioning non-compliance and rewarding progress are both essential elements of a drug court program. Specifically, swift and certain responses to episodes of non-compliance are an important mechanism through which the drug court can activate a strong perceptual deterrence among drug court clients, while rewards are important for incentivising motivation for treatment and responsivity to long-term behavioural changes. According to the available best-practice literature, the most successful drug courts are those that achieve an equal mix of sanctions and rewards, but where there is a preference for positive recognition of even the smallest achievements over punitive responses to small and/or infrequent bouts of non-compliance.

30.2.2 Specificity

With regard to sanctions, it appears that an effective regimen is one that has specificity (Marlowe 2008), namely, that participants be informed in advance about the specific behaviours that constitute a breach or infraction. Drug court protocols should avoid the use of vague terms, such as "irresponsible behaviour" or "not complying" as these can be open to misinterpretation and reinterpretation. There should be no equivocation by the drug court team about the evidence required to substantiate a breach and participants of the drug court program should be left with little doubt about the forthcoming consequences (Marlowe 2008).

30.2.3 Participant contract

The sanctioning parameters of a drug court should be 'memorialised in a written manual that clients can refer to and that can be consulted to resolve disputes concerning the rules of the program' (Marlowe 2008). Using clear participant contracts allows the drug court to provide unequivocal and advance notice about the range of possible consequences for non-compliance.

30.2.4 Individualisation of sanctions

Individualisation is recognised as a unique and key feature of drug courts, although no specific empirical evidence exists to suggest that courts that individualise sanctions perform more favourably – except that individualisation may assist to activate a client's perception of procedural justice. In any case, where a court decides to offer a more tailored approach to the sanctioning of non-compliance, it should still attempt to

articulate fully a set of clear breach-to-sanction rules even if these exist in written documentation as a permissible range.

30.2.5 Swift and Certain

Once specified, sanctions must be certain to be effective (Marlowe 2008). To be certain in sanctioning requires close monitoring and vigilance on the part of program and treatment providers. Clearly specified sanctions that are certain to be applied are likely only to be effective if they can be imposed with immediacy because, according to Marlowe (2008), the behavioural effect of any sanction is "likely to degrade within only hours or days after an infraction has occurred" (Marlowe 2008, p. 110). For sanctions requiring the authority of judicial officer, there should be the capacity for status hearings to be rapidly scheduled if the client is not already required to attend within a few days of a breach.

30.2.6 Severity

The severity of a sanction is likely to be the weakest contributor to behavioural change and there is relatively little evidence to suggest that the imposition of harsh sanctions in a drug court program improves individual- or court-level outcomes (Brown et al. 2011, McRee & Drapela 2012). In fact, excessive incarceration sanctions have been shown to weaken drug court outcomes and are especially ineffective, it seems, for those with a prior history of imprisonment (Brown et al. 2011).

30.2.7 Therapeutic adjustments

Not matter how clearly specified, certain, and serious a sanction is, it is critical not to undermine the therapeutic intentions of the court unless there is a reason to believe that a client poses an immediate and unacceptable risk to the community. Most importantly, drug courts must recognise that treatment is rehabilitative, not retributive and thus they should avoid using the dosage of treatment as a punishment for non-compliance (Marlowe 2008).

30.2.8 Incentivising with rewards

Incentives and rewards are now widely recognised by drug court professionals as an essential component, and individual drug court evaluations, both qualitative and quantitative, have demonstrated better outcomes for clients who are rewarded for their compliance and success in treatment (Long & Sullivan 2016).

For drug using populations, including drug court clients, evidence has also consistently shown that the development and application of a clear strategy for positive reinforcement is a key to success (Garland et al. 2011). Studies have shown, for example, that points or vouchers systems can be used to encourage abstinence from drug use (Lussier et al. 2006; Stitzer & Petry 2006), as well as attendance at drug rehabilitation, treatment sessions (Sigmon & Stitzer 2005), and adherence to other treatment goals (Petry et al. 2006). Marlowe (2012) recommends that best practice for drug courts would be to ensure that the opportunity for incentives is at least equal to the opportunity for sanctions.

30.2.9 Individualisation of rewards

Not unlike sanctions, the effectiveness of rewards in the drug court context is likely to depend on the perceived value of the reward to the client. The more valuable a reinforcer is (the higher its perceived value), the more effective it will be in promoting a sustained behavioural pattern (see Lussier et al. 2006). Importantly, the reinforcing value of any reward is not intrinsic to the reward itself. Rather, it is the value of the reward as perceived by its recipient and this will depend, in large part, on the views and needs of individual drug court clients. To achieve this, individualised reward schedules should be developed as part of the client's case management plan and should be flexible enough to incorporate the changing needs and circumstances of the client as he/she progresses through the program.

30.3 FORMER QUEENSLAND DRUG COURT MODEL

The former Queensland *Drug Court Act* prescribed a number of rewards and sanctions outlined in Table 4. The range of rewards and sanctions were used but not in a formalised fashion and the stated privileges were not clear.

Table 4: Rewards and sanctions under the *Drug Court Act 2000* (Qld), ss 31 (rewards) and 32 (sanctions)

Rewards	Sanctions
Stated privileges	Withdrawal of stated privileges
Decreases in the amount of any monetary penalty payable	The imposition of a monetary penalty
Decrease in the frequency of drug testing	A term of imprisonment for up to 15 days but not longer than 22 days
Decreases in the level of supervision of the offender by a drug court magistrate or someone else	An increase in the level of supervision of the offender by a drug court magistrates or someone else
A change in the nature of the vocational educations and employment courses	A change in the nature of the vocational education and employment courses
A change in the nature of medical, psychiatric or psychological treatment the offender is undergoing	A change in the nature of medical, psychiatric or psychological treatment the offender is undergoing
A decrease in the frequency with which the offender must attend the courses or treatment	An increase in the frequency with which the offender must attend the courses or treatment
A decrease in the amount of community service the offender must perform under the order	An increase in the amount of community service the offender must perform under the order

30.4 POSITION IN OTHER JURISDICTIONS

30.4.1 NSW Drug Court

Section 16 of the NSW *Drug Court Act* provides that the conditions of a program may allow the Drug Court to confer rewards and impose sanctions, including:

- the conferral of specified privileges (as a reward) or withdrawal of privileges conferred (as a sanction);
- a change in the frequency of counselling or other treatment (both as a reward or sanction);
- a decrease in the degree of supervision (as a reward) or increase in the degree of supervision (as a sanction);
- a decrease in the frequency of drug testing (as a reward) or increase (as a sanction);
- a requirement that the offender pay a monetary penalty to the Drug Court (as a sanction) and decrease in that amount (as a reward); and
- a change in the nature of the vocational and social services attended by the drug offender or the frequency with which the drug offender is required to attend vocational and social services (both as a reward or sanction).

The NSW Drug Court also keeps a schedule of general sanctions that it can impose and prospective participants are made aware of this process prior to entering the program. Currently, the NSW Drug Court uses a points system to apply sanctions and rewards. Tangible rewards such as gift cards are no longer used. Rewards and

sanctions are dependent upon the offender being drug-free and compliant with the order. The offender's circumstances are taken into consideration when sanctions are imposed with an individual being dealt with more leniently for honesty about their behaviour. Once a participant reaches 14 sanctions, they are ordered to serve two weeks' imprisonment.

30.4.2 Drug Court of Victoria

In Victoria, available rewards and sanctions are set out under sections 18ZJ, 18ZL and 18ZK of the *Sentencing Act* (Vic). Rewards include:

- varying the treatment and supervision part of the order by:
  - adding or removing program conditions; or
  - varying one or more core conditions, other than the condition not to commit an offence, or program conditions, for example to reduce the frequency of treatment, degree of supervision or the frequency of drug or alcohol testing.
- varying or cancelling an order imposed as a sanction (curfew condition, perform up to 20 hours of unpaid community work or remain at a place (e.g. residential rehabilitation facility) for a period of up to 14 days);
- making an order that some or all of a period for which the custodial part of the order is activated under, but which the offender is yet to serve, is no longer activated; and
- conferring on the offender any other reward that the Drug Court considers appropriate.

A failure to comply with the conditions of the order can lead to the Drug Court either confirming the treatment and supervision part of the order, varying the order, ordering that the offender be subject to a curfew between specified hours for a specified period, ordering the offender to perform up to 20 hours of unpaid community work, ordering them to remain at a specified place, or ordering that the custodial part of the order be activated for between one and seven days.

Similar to NSW, the rewards and sanctions that are routinely used are articulated in a participant manual provided to each participant at the commencement of their program. This includes details of the number of points deducted or awarded for rewards and sanctions respectively (summarised in Table 5 below).

Rewards and sanctions are discussed by the team at pre-court meetings but formalised by the magistrate at the court hearing. These can translate, for example, as days to be spent in custody or community work days.

Table 5: Rewards and sanctions applied by the Drug Court of Victoria

Incentives	Sanctions
-1 Getting 3 clear drug tests in a row in Phase 1	+1 Failing to attend a court review
-1 Getting 2 clear drug tests in a row in Phase 2	+1 Missing a meeting with a Clinical Advisor
-1 Getting 1 clear drug test in Phase 3	+1 Missing a meeting with a Case Manager
-1 Attend first AA or NA meeting (as suitable)	+1 Missing a meeting with a Counsellor
-1 Attend 3 AA or NA meetings (as suitable)	+2 Not following directions given by the Magistrate
-1 Attend appointment with your doctor or other health professional	+2 Failing to attend testing
-1 Attend a community work day as arranged with case manager	+1 When testing, admission of illicit substance , or alcohol, use since the previous test

-1 Attend Odyssey House prep group	+2 When testing , failing to admit illicit substance , or alcohol , use since the previous test (+1 for the substance use and +1 for not admitting the use)
-1 Attend face-to-face assessment for residential rehab or detox	+1 Failing to produce a sample for drug testing
-1 Admission to residential rehab or detox	Producing a dilute sample for drug resting following a previous dilute warning sample
-1 Each day spent in a residential rehab or detox	+1 Failing to lodge medications for daily pick up at a pharmacy on a daily basis (is so ordered)
-1 Attend SMART Recovery sessions	+7 Bringing drugs or drugs paraphernalia to court or into custody

The types of rewards used can include things such as verbal praise, praise and clapping, being prioritised on the court review list, a reduction in community work days or imprisonment days, a reduction in the frequency of court appearances, vouchers (e.g. supermarket vouchers, movie tickets or tickets to the football) and phase progression. Sanctions can include verbal warnings, the keeping of a drug diary, admonishment by the magistrate, writing a journal entry or essay, having to sit in on other participants' court reviews, having imprisonment or community work days imposed, being subject to more frequent court appearances, case management meetings or drug testing, phase demotion, activation of imprisonment days, having a warrant of arrest issued or having their order suspended (KPMG 2014, p. 22).

30.5 CONSULTATION VIEWS AND ISSUES

Feedback suggests that there was an overreliance upon custodial sanctions in Queensland. This type of sanction created some operational difficulties for the police watch-houses and QCS and was also considered to have contributed to the overall cost of the former Drug Court program.

Stakeholders were generally supportive of non-custodial sanctions being used, and custodial sanctions being used sparingly, although some involved in the former Drug Court suggested that imposing a custodial sanction shortly after the breach of conditions had occurred was effective in getting participants who might have been actively using drugs back on track.

30.6 RECOMMENDATIONS

We support the availability of sanctions for non-compliance and rewards for progress as essential elements of a drug court program.

To encourage adherence to the conditions of the program and behavioural change, program participants should be made aware of the range of sanctions and rewards that are available and can be expected in the event of both compliance and non-compliance.

An appropriate balance of rewards and sanctions should also be maintained, providing some capacity for the individualisation of this process rather than strict adherence to inflexible criteria.

We note the general view that imprisonment was overused as a sanction under the former program and that this also added to the overall costs of the program. While flexibility should be maintained, we support the approach in Victoria of custodial sanctions being used sparingly and only being activated once a certain threshold has been met in relation to non-compliance with conditions.

Recommendation 33 Schedule of sanctions and rewards

33.1 **A schedule of sanctions should be published and made available to participants at the commencement of their drug court order. Participants must clearly understand the consequences of non-compliance and there should be little room for participants to perceive the courts response as unfair or unbalanced.**

33.2 **Overly punitive sanctions should be avoided. In particular, imprisonment sanctions should be used as a last resort and the number of days in custody should accumulate and not be ordered to be served unless a certain threshold has been met (for example, in Victoria, a minimum of seven imprisonment days can be activated). A growing evidence base suggests that shorter periods in custody are just as effective as longer periods and therefore the time in custody should generally be kept brief, while not so brief so as to increase the overall costs of the program.**

33.3 **Treatment should not be used as a sanction for non-compliance. Instead, modifications to an individual participant's treatment plan should only occur when clinically indicated. Most importantly, participants should not, as a consequence of sanctioning, be subjected to more intensive treatment than is clinically indicated.**

33.4 **Treatment relapse should not be punished by the court. Instead, relapse should be met with treatment adjustments (temporary increase in treatment visits or urinalysis testing, for example), rather than sanctions and especially after prolonged periods of treatment progress. Punitive responses to a temporary lapse in treatment will more likely than not undermine the treatment alliance and weaken the courts capacity to engage and motivate behavioural change.**

33.5 **Treatment progress and order compliance should be recognised and rewarded often. Rewards should be offered at least as often as sanctions, but preferably more often where possible. In principle, the court philosophy should be guided by evidence-based behavioural science techniques that favour incentivising compliant behaviour over the sanctioning of non-compliant behaviour.**

33.6 **All drug court team members must share in the drug court's policy and philosophy about the use of sanctions and rewards. In particular, participants should not be at any time left with the view that the drug court team is in disagreement about the response to non-compliance.**

33.7 **Where possible, participants should be encouraged to identify rewards that have an intrinsic personal value, rather than monetary value. Rewards systems will be most effective when they meet basic personal and emotional needs.**

33.8 **Drug court team members, including the magistrate, should be active in promoting the philosophy and achievements of the drug court across government and within the wider community. This includes a discussion about the use of rewards and sanctions.**

31 PHASE PROMOTION

31.1 BEST PRACTICE STANDARDS

Phase promotion is predicated on the achievement of realistic and defined behavioural objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. As participants advance through the phases of the program, sanctions for infractions may increase in magnitude, rewards for achievements may decrease, and supervision services may be reduced. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. The frequency of alcohol and other drug testing is not reduced until after other treatment and supervisory services have been reduced and relapse has not occurred. If a participant must be returned temporarily to the preceding phase of the program because of a relapse or related setback, the team develops a remedial plan together with the participant to prepare for a successful phase transition.

31.2 WHAT DOES THE EVIDENCE SAY?

Drug courts have significantly better outcomes when they have a clearly defined phase structure and concrete behavioural requirements for advancement through the phases (Carey et al. 2012; Shaffer 2006; Wolfer 2006). The purpose of phase advancement is to reward participants for their accomplishments and put them on notice that the expectations for their behaviour have been raised accordingly. Therefore, phase advancement should be predicated on the achievement of clinically important milestones that mark substantial progress towards recovery.

31.3 FORMER QUEENSLAND DRUG COURT MODEL

The former Queensland Drug Court was a three-phase program (see Table 6),

Phase one was aimed at promoting drug abstinence and required that participants undergo a number of drug treatment and rehabilitation programs. Successful completion was reached when a participant had been free of illicit drugs for a period of no less than 12 weeks (84 days).

Phase two aimed at stabilisation. Participants were required to satisfy the drug court team that they could remain drug and crime free.

In phase three, participants were encouraged to seek education and employment opportunities while abstaining from drugs and crime. This phase aimed at community re-integration. The aim was, that by the time of final graduation, participants would have developed social and support networks to continue a lifestyle without drugs and crime and without the coercion and intensive supervision of the court.

Table 6: Drug Court Rehabilitation Program Phases under the former Queensland Drug Court program

Drug Court Rehabilitation Program Phases		
Phase I **Drug Free & Crime Free**	**Phase II** **Stabilisation**	**Phase III** **Integration**
12 to 24 weeks	**12 to 24 weeks**	**12 to 24 weeks**
Aims: • Improve physical/mental health • Commitment to recovery • Stop illegal drug use • Eliminate criminal activity • Identify support network • Establish suitable accommodation • Stop all criminal activity • Significant sanction free period • Identify and start addressing Counselling issues • Negative urinalysis tests and compliance minimum 12 weeks	**Aims**: • Remain illegal drug-free • Remain crime-free • Stabilise home and social environment • Improve life skills • Improve education and work skills • Address major life issues • Maintain good health • Maintain commitment recovery • Update support network • Significant sanction free period • Negative urinalysis tests and compliance minimum 12 weeks	**Aim**: • Acceptance of drug-free, crime free lifestyle • Remain illegal drug-free and crime-free • Maintain stable home and social environment • Commitment to recovery • Improve employment prospects and be employable or employed • Improve financial management skills • Plan or complete family reunification (if sought) • Adequately address all counselling issues • Update support network • Significant sanction free period • Negative urinalysis tests and compliance minimum 12 weeks

31.4 POSITION IN OTHER JURISDICTIONS

The NSW and Victorian Drug Courts have both adopted a three-phase program with aims and stage lengths similar to that of the former Queensland Drug Court. Stage lengths are not definitive and depend upon the individual progress of participants.

31.5 CONSULTATION VIEWS AND ISSUES

Stakeholders indicated that the phased program was positive, giving participants' goals to which to aspire. However, there was no flexibility to the minimum 12-week period without sanction before a participant could graduate from one phase to the next. Several stakeholders noted that the transition from phase one to two was often difficult for individuals owing to changes in their cognitions and, for this reason, consideration should be given to extending phase one.

31.6 RECOMMENDATIONS

We recommend that the Drug Court adopt a staged program that requires all participants to attain predetermined goals before proceeding to the next phase. We suggest that a staged progression through the program is important to ensure that individuals have clear objectives and expectations that they need to meet in relation to behaviour change and that form the basis of a successful completion of the sentencing order.

Recommendation 34 Drug Court treatment phases

34.1 The drug court treatment program should be implemented across three distinct phases – stabilisation, rehabilitation and reintegration and relapse prevention.

(a) The stabilisation phase (Phase One) should be aimed at addressing proximal criminogenic factors that are likely to result in reoffending, such as drug use, accommodation support, income stabilisation and social stabilisation.

(b) The rehabilitation phase (Phase Two) should be the period in which the main treatment and intervention programs are in process.

(c) The reintegration and relapse prevention phase (Phase Three) should be targeted at reconnecting drug court participants with education and employment, whilst maintaining an active post-drug court relapse prevention approach.

34.2 In developing guidelines for the structure of a three phased program, program design should be guided by:

(a) a shared understanding within the drug court team that stabilisation will take considerably longer for some participants and that premature graduation to a higher phase can be detrimental to treatment.

(b) the decision to graduate a participant from stabilisation to rehabilitation should take into account the health, criminal justice and social domains likely to affect active and motivated engagement in both drug use and criminogenic/ criminal thinking treatments.

34.3 The consequences of relapse should be clear and no more or less significant than at any other time during the order. Ideally, clearly articulated systems of reward should be used to incentivise post-graduation compliance and key rehabilitative efforts (motivational interviewing and case management) should be temporarily increased, where appropriate.

32 DRUG TREATMENT

32.1 BEST PRACTICE STANDARDS

The NADCP Standards emphasise the need for standardised assessment of each individual's treatment needs, allowing a tailored response to drug-related offending. Substance abuse treatment is not designed to reward desired behaviours, punish infractions or to serve other non-clinically indicated goals; it is conceptually separate from systems of sanctions and rewards.

32.2 HEALTH FRAMEWORK FOR EFFECTIVE TREATMENT

In their report, *Principles of Drug Addiction Treatment for Criminal Justice Populations: A Research Based Guide* (2009), the US National Institute of Drug Abuse (NIDA) identifies 13 key principles for the delivery of effective treatment in the criminal justice sector. Of these, system- and community-level recognition of drug addiction as a chronic disease is perhaps the most important.

For criminal justice interventions with drug-using or drug-dependent offenders, some appreciation of the neurobiological nature of drug use, and its predictable behavioural consequences, is essential to designing appropriate drug-treatment interventions with the greatest chance of therapeutic and criminal justice success.

Treatment of this cohort also needs to recognise that:

- recovery is a long term process;
- no single treatment modality is appropriate for everyone and thus there is a need for individualised treatment strategies that are flexible and responsive to individual and changing needs;
- expectations for drug treatment participants in terms of program compliance and progression should differ, depending upon their individual situation(s) and stage of program participation; and
- effective treatment must address the multiple needs of the individual, both substance addiction specifically and ancillary services, with particular focus on 'criminogenic' factors.

32.3 WHAT DOES THE EVIDENCE SAY?

The principal and most significant active component of any drug court program is the treatment of drug use and criminogenic needs. Drug courts work more favourably than alternative programs because their non-adversarial therapeutic approach motivates participants to engage with treatment for periods of time long enough to activate behavioural change. Coupled with evidence-based and best-practice treatments, suitably tailored to individual needs, drug courts are well placed to transition high-risk and high-need offenders into relatively crime and drug free lifestyles.

Accordingly, the identification of treatment programs underpinning a drug court should be made cognisant of the best practice principles underpinning the provision of drug treatment generally. In particular, drug courts should (Holloway et al. 2006; NIDA 2009):

- ensure that each client's needs are assessed individually so they are matched with appropriate treatment settings, interventions and services, based on accurate assessments;
- include medications as an important element of treatment for many patients, especially when combined with counselling and other behavioural therapies;
- recognise the high level of comorbidity between drug use and mental illness, which suggests that patients must be assessed for co-occurring problems and treated accordingly; and
- continuously monitor drug use treatments during treatment as lapses can occur.

More information on the evidence on assessment and treatment of drug users in the criminal justice system can be found in Chapter 8.

32.3.1 Number of treatment options

Determining the best number of treatment providers to support a drug court program is a difficult task and the evaluation and best practice literature provides relatively little guidance. On the one hand it is argued that individual treatment plans should be tailored and individualised, suggesting that treatment options should be many and varied. On the other, meta studies and evaluations have shown that courts with only a small number of treatment providers produce more favourable drug treatment and recidivism outcomes. Overall, the literature suggests that the most important ingredient to a successful drug court is best-practice and evidence-based treatments, provided by agencies that share the non-adversarial and therapeutically-inclined philosophy of the drug court, but who respect the court's obligations to manage and respond appropriately to non-compliance.

32.3.2 Length and intensity of treatment

In the general drug treatment literature, the evidence suggests that high need clients should be engaged in treatment for no fewer than 90 days (Simpson et al. 2006; NIDA 2009). For criminal justice clients, however, the most favourable outcomes are found when drug-dependent offenders complete a period of treatment that lasts for between nine and 12 months (Peters et al. 2000; Huebner & Cobbina 2007) and during which time a client receives between six and 10 hours of drug treatment and counselling per week in the initial phases (Landenberger & Lipsey 2005).

In practice therefore, a drug court should aim to:

- provide drug treatment that is no shorter in length than is considered best-practice in the drug treatment literature (90 days), but aim for a continuum of treatment that facilitates contact with treatment services for a period of between nine and 12 months;
- individualise treatment plans (duration and intensity) to meet individual client needs. This includes extending treatment or lessening treatment where deemed appropriate by a qualified treatment clinician;
- communicate to prospective participants clearly and at the earliest possible opportunity the expectations of the court regarding the length and intensity of treatment. Participants should understand that drug treatment is just one part of their multifaceted rehabilitation plan and that their commitment to the court will extend beyond the period of drug treatment alone; and
- longer drug treatment interventions should be preferred when coupled with key elements of rehabilitation best practice, such as individualised case management, motivational interviewing and cognitive behavioural interventions.

32.3.3 Modality

According to the general correctional (Andrews et al. 1990; Andrews & Bonta 2010; Gendreau 1996) and drug court literature (Bourgon & Gutierrez 2012) drug courts should favour treatments that: include behavioural strategies (incentives and sanctions) and cognitive behavioural counselling interventions; are carefully documented with treatment manuals; involve treatment providers who are appropriately trained and adequately equipped to offer treatment in accordance with the relevant guidelines and manuals (see Southam-Gerow & Mcleod 2013); are adequately funded (Andrews et al. 1990) to maintain fidelity to the treatment model throughout the entirety of the treatment program, including sufficient funding to support the use of homework style activities that reinforce treatment goals (Kazantzis et al. 2000; Sobell & Sobell 2011); and are subject to ongoing implementation monitoring and outcome evaluation. This includes the extent to which those programs are monitoring and evaluating their own performance, and the extent to which this information is relayed back to the drug court program (Blair et al. 2015).

32.3.4 Settings

In terms of residential and non-residential (out-patient) treatment, there is no specific or strong evidence in favour of either for a drug court program. Instead, the research evidence favours those drug court programs

that utilise multiple treatment settings as part of a broader continuum of care that can be tailored to suit individual treatment needs (Carey et al. 2012). Accordingly, the settings within which treatment is offered need not be directed specifically by the drug court program, but identified and delivered according to individual treatment need and prior experience and history of treatment in different contexts. However, in principle:

- drug courts targeting high-risk and high-need offenders will require a range of residential and outpatient services;
- high-intensity outpatient services should exist as part of the transitional treatment arrangements for clients exiting residential care;
- clients should not be placed into residential treatment unless otherwise indicated by appropriate and validated screening;
- each individual must receive treatment in the setting best suited to their individual treatment needs; and
- treatment services should operate across a continuum of care that is, where possible, transitional and seamless to the client.

32.3.5 Equity and diversity

It is important that drug treatment programs and services that support the drug court program are designed to cater to a diverse range of potential participants. Culturally safe drug treatment services should be identified to support Aboriginal and Torres Strait Islanders, in addition to the use of culturally safe practices within the drug court program itself. Encouraging the presence of Indigenous Elders into the drug court team, where requested and appropriate, may be an important first step in building a drug court program that seeks to provide a culturally safe environment beyond just the selection of Aboriginal and Torres Strait Islander specific treatment providers.

Further, recognising the high prevalence of mental health and other comorbidities among high-risk and high-need populations, including assessment and treatment of trauma and PTSD is critical to the success of a drug court program. Specifically tailoring treatment programs, as well as courtroom practices, is key to ensuring that the drug court program provides a therapeutically safe environment in which treatment engagement can be facilitated and where specific relapse triggers can be identified and managed.

32.3.6 Co-morbidity and co-occurring disorders

Due to the high prevalence of mental health disorders, a key consideration for drug courts is the extent to which those with a substance use disorder are also likely to present with other co-occurring mental health disorders.

There is, therefore, a need to recognise the prevalence and complexities of concurrent and co-morbid disorders in the criminal justice system. This is for a number of reasons, not least of which is because some studies have shown that clients with co-morbid mental health and substance use disorders have poorer treatment outcomes (Lubman et al. 2007; Schafer & Najavitis 2007), often continuing to drink or use drugs more, be in poorer physical and mental health, and display poorer functioning following treatment (see Milby et al. 2015; Hildebrand and Noteborn 2015; SAMHSA 2005). For drug courts in particular, understanding the contribution of these other factors can be important in tailoring appropriate treatment interventions and court-level responses to non-compliance.

32.3.7 Trauma–informed care

Given the high rates of trauma and PTSD in drug courts, universal screening for these disorders should be provided for all drug court participants. A number of evidence-based trauma screens are available to facilitate this.

Assessments should be conducted by a trained mental health professional/clinician for drug court participants who receive a positive screen for PTSD and trauma. The assessment should examine the interaction between

trauma history and substance use disorders, and provide the foundation for then referring the participant to specialised services, including individual counselling, treatment groups, and consultation for use of psychiatric medications.

The drug court program should identify all possible community resources to maximise and leverage the necessary services and supports for participants who have a history of trauma, recognising that specialised trauma services may be limited in some communities.

32.4 FORMER QUEENSLAND DRUG COURT MODEL

Substance abuse treatment was provided by either Queensland Health (ATODS) or by non- government organisations. There was a tendency to direct participants into residential rehabilitation programs where beds were pre-purchased for exclusive use by drug court. Other treatment modalities such as counselling were also used.

The Matrix program was introduced at the Beenleigh Drug Court in its latter years. Matrix is a holistic and intensive program that integrates several evidence based treatment techniques into a comprehensive, individualised treatment plan targeting a participant's behavioural, emotional and, cognitive and relationship issues. More information on the Matrix programs can be found in section 8.9.1.6.

32.5 POSITION IN OTHER JURISDICTIONS

Alcohol and other drug treatment is compulsory for Drug Court participants in NSW and Victoria. The delivery of treatment differs between these jurisdictions with all NSW participants being required to attend counselling with a dedicated team of Drug Court counsellors established within NSW Health, whereas in Victoria, treatment is provided by NGOs. These are funded through a brokered services system which is administered and coordinated by the State Department of Health and Human Services.

Both jurisdictions refer to a range of interventions including residential rehabilitation programs, pharmacotherapy treatment or out-patient client services.

32.6 CONSULTATION VIEWS AND ISSUES

Feedback from the consultation sessions indicates that, under the former Queensland Drug Court, there was a strong preference for residential rehabilitation to be used. This was, in part, a risk management strategy as the offender was considered to be under closer supervision while in a full time residential program.

The introduction of the Matrix Program at the former Beenleigh Drug Court was generally regarded as a positive addition to the Drug Court treatment options. This also resulted in less reliance on residential programs.

In the current health context, Queensland Health and QNADA have identified that there is now greater scope to make use of outpatient programs where it is possible to maintain the client at home with support, with the appropriateness of this intervention depending on an individual's assessed needs. A former Drug Court participant who was interviewed identified that in his case, outpatient options were unsuitable for him during the early phases of the program as they did not address the amount of free time and criminal thinking.

Some stakeholders identified that the different and sometimes conflicting rules and philosophies between the Drug Court and some residential rehabilitation services is an issue that will need to be resolved under the new model. One example given was where clients were sometimes asked to leave the rehabilitation service for failing to comply with the residential rehabilitation service's rules without there being arrangements in place to secure these participants alternative accommodation. This often left clients with no accommodation and sometimes resulted in the participant absconding.

32.7 RECOMMENDATIONS

As drug treatment is fundamental to the success of a Drug Court program, we recommend that a range of evidence-based treatment types are available in order to individualise drug treatment plans for Drug Court participants so that treatment is appropriately matched to their needs. The availability of alcohol and other drug services is one of the critical factors for consideration in the analysis of proposed locations for the Queensland Drug Court.

We recommend that, where possible, treatment should be provided by a limited number of service providers. This may not only enable treatment providers to attain a greater understanding of the Drug Court process and requirements and the needs of Drug Court participants, but it may lead to enhanced relationships between the Drug Court team and treatment providers.

The Review has not considered the funding requirements to support a future Drug Court, including what funding would be required to ensure appropriate access to treatment services, as it is considered this is a matter for implementation.

Recommendation 35 Drug Treatment

35.1 The drug court should preference the use of a small number of treatment providers, capable of delivering a wide range of treatment services.

35.2 Individual drug treatment plans should be developed by suitability qualified and trained personnel working within a specialist alcohol and other drug service. Drug treatment location, length, setting and modality should be decided based on clinical indications and best-practice principles in the provision of drug treatment. As a guide:

- **(a) Participants should be engaged in treatment for no less than 90 days, however ongoing treatment of up to 12 months is not uncommon for high-need drug court clients.**
- **(b) Participants should not receive more intensive treatments than is otherwise clinically indicated.**
- **(c) Detoxification services should be available, however, custodial locations should not be used to facilitate detoxification.**
- **(d) Treatment progress should be regularly monitored and treatment intensity modified in response.**
- **(e) Individual drug counselling sessions should be available to all participants at the commencement of their drug court order.**
- **(f) Where residential therapeutic communities are to be used, standards for group size, composition and staff training should be adhered to.**
- **(g) Cognitive and behavioural therapies should be used as the foundation of treatment for drug court clients. This should include recovery enhancement and promotion.**
- **(h) Services provided under the drug court program should be subject to ongoing performance monitoring, evaluation and improvement. Separate evaluations should be conducted in addition to drug-court specific evaluations.**
- **(i) Treatment provided must be accredited, evidence based and demonstrated to be effective with drug dependent individuals.**

33 ADDRESSING CRIMINOGENIC RISKS AND NEEDS

33.1 INTRODUCTION

As highlighted earlier in this report, the relationship between drug use and crime is the result of a complex system of causal relationships that varies from individual to individual and at different points in the life course. Importantly, by the time an offender reaches the point of being both high-risk and high-need, their criminal offending is likely the consequence of many different factors of which their substance abuse is just one. Consequently, the delivery of best-practice drug treatment as a single intervention is unlikely to be sufficient to encourage longer-term reductions in criminal offending and the prevention of drug use relapse. To this end, drug court programs require integrated treatment responses that recognise drug treatment as just one component of the treatment matrix aimed to address a more complex series of criminogenic needs.

33.2 WHAT DOES THE EVIDENCE SAY?

The term 'criminogenic need' has been variously defined in the drug court literature without any clear or consistent conceptualisation. According to Andrews and Bonta (2010) criminogenic needs are those clinical disorders or functional impairments that, if treated, substantially reduce the likelihood of continuing engagement in crime. Put simply, these are factors that predispose an individual to the ongoing commission of crime, independently of other factors. Among the clinical disorders, Marlowe (2012) includes major psychiatric disorders, brain injury and the lack of basic employment or daily living skills. More broadly, Andrews and Bonta (2010) include under their central eight criminogenic factors other static and dynamic domains such as anti-social personality disorder, pro-social criminal attitudes, social supports for criminal involvement, family or relationship problems, and the lack of prosocial activities.

Incorporating into a drug court treatments and program elements that address criminogenic needs other than drug use is essential to facilitate what Marlowe (2012) describes as "prosocial habilitation" and "adaptive habilitation". Specifically, prosocial habilitation recognises that many high-risk and high-need offenders may not actively or naturally endorse pro-social attitudes or values and therefore lack the inclination to engage in prosocial activities such as work, schooling or pro-social parenting. Consequently, drug courts should afford opportunities to address 'criminal thinking' patterns using programs shown to be effective in reducing recidivism (Heck 2008; Knight et al. 2008; Lowenkamp 2009). Ideally, drug court participants should be afforded a minimum of 200 hours contact with best-practice programming involving cognitive behavioral interventions (see Bourgon & Armstrong 2005; Latessa & Sperber 2010).

Adaptive habilitation, as described by Marlowe (2012), is required when high-risk offenders lack the necessary education, employment and life skills to adapt to a life without drug use and crime. As such, drug court programs must recognise the importance of upskilling their participants with the necessary skills to navigate the complexities of life after drug court (see Belenko 2001). Ideally, this means engaging offenders in the development of vocational skills, addressing educational deficits and improving daily living skills (such as cooking, homemaking, budgeting, etc.).

Consistent with the best-practice literature, CBT has been shown to be the most effective method in treating antisocial behavioral patterns and criminal thinking. Such interventions typically focus the participant to think about the triggers for their offending (the people, places and behaviours that make crime more likely to occur) and to recognise the errors in their thinking patterns and rationalisations (sense of hopelessness or victimisation). Cognitive restructuring is then used to disrupt automatic thinking patterns and feelings that lead to participation in crime.

Of the various CBT-based programs that exist, two have been subject to considerable evaluation with positive results. These are:

- Reasoning and rehabilitation – a program facilitated by trained practitioners for delivery with medium-to-high risk offenders. The program seeks to engage participants using cognitive and behavioural techniques

to further develop lateral thinking skills, critical thinking skills, and social skills. Evaluations have demonstrated the program to be effective at reducing recidivism (Tong & Farrington 2006; Lipsey, Landenberger & Wilson 2007; Wilkinson 2005).

- Thinking for change – an integrated cognitive behavioural change program comprised of 25 lessons together with an aftercare program (Bush, Glick and Taymans 1997). The program is offered as a closed group, meaning that new members cannot join the intervention mid-cycle. Evaluations have similarly demonstrated this as effective in reducing reoffending (Lowenkamp et al. 2009).

33.2.1 Case management

Notwithstanding the importance of individual programs and treatments for criminal thinking, the core programmatic element of the most instrumental benefit for a drug court program is quality case management. Case management is conceptualised as the coordination of services that best help individuals meet their specific needs and goals. In the drug treatment literature case management has been shown to improve treatment retention (Laken & Ager 1996; Mejta et al. 1997; Rapp et al. 1998; Siegal et al. 1997), while in the social and criminal justice literature it has been linked to the reduction of employment problems (McLellan et al. 2003; Siegal et al. 1997) and the improvement of family functioning (Leonardson & Loudenburg 2003; McLellan et al. 2003; Sharlin & Shamai 1995).

Of the three different case management models (minimal, brokerage and comprehensive), comprehensive case management is the most appropriate for a drug court program managing high-risk and high-need offenders (Hall et al. 2008). Comprehensive management is characterised by the provision of and support for intensive treatments and interventions, requiring frequent contact with participants and, as a consequence, lower than average caseloads per case manager (1:10, according to Hall et al. 2008). In their view, Hall and colleagues (2008) make a number of recommendations for the development of case management principles and programs within the drug court setting, including:

- drug court systems should choose a case management model appropriate to their needs and services;
- case managers should have formal training in the case management model and the duties and functions of a case manager;
- case management involvement should begin with assessment of a potential participant for the drug court system;
- to avoid conflicting roles, the case manager should take care to align the tasks of the team members within their respective purviews.;
- with the exception of reporting suspicion of child or elder neglect or abuse and duty to warn, the responsibilities of the case manager should not include reporting parole violations to the court; and
- the integration of various models of case management within drug court systems should include formal, rigorous, and ongoing evaluation of the implementation process and participant outcomes.

33.3 FORMER QUEENSLAND DRUG COURT MODEL

In south-east Queensland, drug court participants were referred to cognitive-behavioural therapy based offending behaviour programs, facilitated at the District Office, alongside offenders under Special C supervision on other types of orders. This type of intervention was not available in the latter years of the drug court.

In Cairns, drug court participants were referred to Moral Reconation Therapy (MRT) programs facilitated by ATODs.

Queensland Corrective Service case managers addressed criminal thinking and other criminogenic needs (in addition to alcohol and other drug use) in individual interviews with offenders. Queensland Health assumed primary responsibility for substance use issues.

33.4 POSITION IN OTHER JURISDICTIONS

33.4.1 NSW Drug Court

Participants are referred to relevant CBT-based offending behaviour programs facilitated at the Community Corrections District office. As well as alcohol and other drug programs, these may include anger management and domestic violence programs, where appropriate to the individual offender. The Pathways to Education and Employment Program (PEET), facilitated by TAFE and Community Corrections, is also available to drug court clients. The drug court team has access to supported accommodation through a NGO service provider. This provider also facilitates alcohol and other drug programs as part of its support package.

Individual sessions to address criminogenic needs are also undertaken by Community Corrections and NSW Health staff from the drug court team.

33.4.2 Drug Court of Victoria

Specific offending behaviour programs to address criminal thinking are not offered to drug court participants. This is regarded as an aspect of the program in need of improvement. Assistance to address criminogenic needs is provided by drug court case managers and health clinicians. The Drug Court of Victoria benefits from a partnership with a NGO providing temporary accommodation and wrap-around support.

33.5 CONSULTATION VIEWS AND ISSUES

Feedback suggested that the focus of the former Queensland drug court program was primarily upon drug issues, with insufficient emphasis being placed upon addressing criminal thinking and other criminogenic issues. Particular mention was made of the lack of attention to education and employment. It was suggested that programs to develop participants' social and daily living skills should also be an integral part of the program.

33.6 RECOMMENDATIONS

While it may be a significant factor, drug use alone is rarely the only contributory factor to an individuals' offending behavior. In acknowledgement of other criminogenic factors also impacting upon a drug court participant's assessed risks and needs, and to improve their chances of reduced drug use and offending, we recommend that all criminogenic needs are dealt with in a holistic manner as part of the participant's case management plan. The same issues apply as with access to drug treatment services.

As interventions specifically addressing criminal thinking are reported to have been minimally used in the former Queensland Drug Court, we recommend that the means of addressing this issue are appropriately considered in developing the new Drug Court model.

Recommendation 36	**Addressing criminogenic needs**
36.1	**Drug court participants in evidence based treatment programs that address criminal thinking and attitudes should be a mandatory component of the Drug Court program.**
36.2	**A comprehensive, individualised case plan should be developed for every drug court participant that addresses all of the offender's criminogenic needs.**

34 DISADVANTAGED GROUPS

34.1 BEST PRACTICE STANDARDS

Drug treatment and other criminal justice interventions should be equally accessible to all members of the community. In Australia, it is often the case that issues of equity and accessibility are reduced to an Indigenous/non-Indigenous dichotomy. However, in culturally and socially diverse communities, programs must also consider the gender, sexual orientation, sexual identity, physical or mental disability, religion or socio-economic status of potential clients.

According to the NADCP Standards, drug courts should accommodate equally those citizens who have historically experienced sustained discrimination or reduced social opportunities, which for drug court programs includes ensuring equivalency in access, retention, treatment, incentives and sanctions, dispositions and team training.

34.2 EQUIVALENT ACCESS

Although criminal justice interventions should be equally accessible to all those who appear before the criminal justice system, in reality, not all programs are as easily accessed by all social and cultural groups. Understanding the factors associated with underrepresentation can be difficult, however, some have argued that eligibility criteria are often unnecessarily restrictive with the consequence of limiting the representation of minority populations in Drug Court programs (Belenko et al. 2011; O'Hear 2009). Similarly, in the former Queensland Drug Court the referral of Aboriginal and Torres Strait Islander offenders (approximately 10 per cent of all referrals) was lower than anticipated in all five courts (Payne 2008), but in particular in the North Queensland courts of Cairns and Townsville (Payne 2005). At the time of evaluation, the application of eligibility criteria was thought to have inadvertently prohibited many Aboriginal and Torres Strait Islander offenders from participating on the drug court program because their violent offending histories, alcohol abuse, and residential status were among the factors which typically limited access to the program.

Mental health status is also another factor likely to limit an offender's access to a drug court program. To overcome this, suitable mental health screening and assessment procedures are required, together with programs and interventions capable of working with offenders who present with mild or moderate mental health symptoms. The acceptance of individuals experiencing mental health conditions has been discussed in section 20.7 of this Report. Stakeholder feedback supports the view that a person with a mental illness should not be automatically excluded from participation from the drug court program. Instead, an individualised assessment should be undertaken to determine the person's capacity to participate in the program, and ongoing assessment is needed to ensure that mental health needs are met through the appropriate treatment and supports.

34.3 EQUIVALENT RETENTION

The barriers faced by minority populations and other socially disadvantaged groups can occur at any point during the intervention process. Where they exist, they are most likely to be seen in programs with disproportionally higher termination (or lower retention) rates. Importantly, the experience of socially disadvantaged populations is not the same in all drug court locations, suggesting that location-specific societal and environmental characteristics (rather than characteristics specific to the individual) are most likely to be responsible for the disparities seen at the local level, such as lesser educational or employment opportunities (Belenko 2001; Dannerbeck et al. 2006; Fosados, et al. 2007; Hartley & Phillips 2001; Miller & Shutt 2001).

A similar view identified during the stakeholder consultations, in particular from the feedback received from ATSILS, Queensland, who indicated that Aboriginal and Torres Strait Islander people may struggle to meet the requirements of an intensive drug court program because of the multiple issues experienced by many in everyday life.

One method that has been suggested to address issues of retention is to confidentially survey participants and staff members about their perceptions of disparate treatment and outcomes in the program (Casey et al. 2012; Sentencing Project 2008). According to Szapocznik et al. (2007), programs that continually engage clients and service providers about cultural competence and cultural sensitivity can identify different and unique ways to produce better outcomes for individuals and drug court programs as a whole. Similarly, drug courts should be required to engage independent evaluators to objectively identify areas requiring improvement, especially as they might relate to the improvement of outcomes for socially disadvantaged populations (Carey et al. 2012; Rubio et al. 2008).

Taking this into consideration, the acknowledgment of culture, embedding of cultural protocols and the engagement of cultural advisory positions as part of the core drug court team may assist in the recruitment and retention and graduation of Aboriginal and Torres Strait Islander defendants to the Drug Court. Advice from the AODT Court Pilot in New Zealand suggests that the embedding of culture into the program has proved successful in a Drug Court context, attracting high numbers of Maori defendants equivalent to the level of representation of this group in the prison system.

34.4 EQUIVALENT TREATMENT

Some studies have concluded that racial and ethnic minorities often receive lesser quality treatment than non-minorities in the criminal justice system (Brocato 2013; Janku & Yan 2009; Fosados et al. 2007; Guerrero et al. 2013; Huey & Polo 2008; Lawson & Lawson 2013; Marsh 2009; Schmidt et al. 2006). Although not drug court specific, NADCP suggests that drug courts note the outcome of these results by ensuring that the treatment they provide is valid and effective for members of historically disadvantaged groups in their programs.

For example, there is now a substantial body of research that shows that women, especially where there is a history of trauma, perform significantly better in gender-specific substance abuse treatment groups (Dannerbeck et al. 2002; Grella 2008; Liang & Long 2013; Powell et al. 2012). In drug courts, it has been shown that programs offering gender-specific services reduced criminal recidivism significantly more than those that did not (Carey et al. 2012).

The individualisation of treatment plans and appropriate matching of treatment as opposed to standard expectations of all drug court participants would also serve to meet the specific needs and circumstances of drug court participants, for example, women with child care responsibilities. Culturally appropriate treatment with service providers with whom Aboriginal and Torres Strait Islander people were comfortable was also cited by ATSILS, Queensland as a significant factor that would affect the success of engaging this cohort in the drug court program.

34.5 EQUIVALENT INCENTIVES AND SANCTIONS

Although no empirical studies have been conducted as to whether racial or ethnic minority groups are sanctioned more severely than non-minorities in drug courts, anecdotal observations have been cited to support this concern (NACDL 2009). Acknowledging this issue, the NADCP minority resolution places an affirmative obligation on drug courts to monitor continually whether sanctions and incentives are being applied equivalently for minority participants and to take corrective actions if discrepancies are detected.

34.6 EQUIVALENT DISPOSITIONS

Evidence from at least one study suggests that some participants terminated from Drug Court receive harsher sentences than traditionally adjudicated defendants who were charged with comparable offences (Bowers 2008). There is no evidence, however, to indicate whether this practice differentially affects minorities or members of other historically disadvantaged groups. In fact, one study in Australia found that Aboriginal and Torres Strait Islander Drug Court participants were less likely than non-Indigenous participants to be sentenced to prison (Jeffries & Bond 2012). Nevertheless, due process and equal protection require drug courts to remain vigilant to the possibility of sentencing disparities in their programs and to take corrective actions where indicated.

34.7 TEAM TRAINING

One of the most significant predictors of positive outcomes for racial and ethnic minority participants in substance abuse treatment is culturally-sensitive attitudes on the part of the treatment staff, especially managers and supervisors (Ely & Thomas, 2001; Guerrero 2010).

Although cultural-sensitivity training can enhance counselors' and supervisors' beliefs about the importance of diversity and the need to understand their clients' cultural backgrounds and influences (Cabaj 2008; Westermeyer & Dickerson 2008), NADCP argues that merely sensitising court staff to cultural concerns is not sufficient. They need to go considerably further by teaching staff how to recognise implicit bias and to develop concrete and feasible solutions to these biases.

34.8 RECOMMENDATIONS

As discussed at Chapter 13, Aboriginal and Torres Strait Islander people in Queensland are significantly over-represented at all stages of the criminal justice system, including in custody. There has also been a growth in women in custody, with the rates of imprisonment growing from 24 per 100,000 of the adult population in 2011 to 38 per 100,000 in 2015 (an increase of 57%).

As evaluations of drug courts, including the former Queensland Drug Court, have shown, disadvantaged groups may be further disadvantaged as a result of factors that may make access, participation or completion of drug court programs especially difficult.

These factors may include not only eligibility pathways and criteria, but also the supporting structures and personnel who support people's participation in the program and access to appropriate treatment services.

We have made a number of recommendations to address this inequity. Enabling equitable access to the drug court for historically disadvantaged groups may also serve to address some of the existing issues associated with that disadvantage.

Recommendation 37 Disadvantaged groups

To ensure that people from disadvantaged groups are provided with equitable opportunity to access, participate and complete the Drug Court program:

- **Eligibility criteria should be developed that do not unnecessarily exclude minorities or members of other historically disadvantaged groups. In the case where an eligibility criterion has the unintended effect of differentially restricting, access to the Drug Court for such persons, then extra assurances are required that the criterion is necessary for the program to achieve effective outcomes or protect public safety.**
- **The Drug Court team should include a specifically appointed Aboriginal and Torres Strait Islander staff member to act as a cultural advisor and to assist in the support and management of Aboriginal and Torres Strait Islander participants.**
- **Culturally appropriate protocols should be embedded into the operations of the Drug Court.**
- **Feedback about the performance of the Drug Court in the areas of cultural competence and cultural sensitivity should be continually sought to learn and develop creative ways to address the needs of their participants and produce better outcomes.**
- **Any independent evaluations should objectively identify areas requiring improvement to meet the needs of minorities and members of disadvantaged groups.**
- **Treatment provided by the Drug Court should be individualised, valid and effective for members of disadvantaged groups.**
- **Sanctions and incentives should be being applied equivalently for participants from disadvantaged groups and corrective action is taken if discrepancies are detected.**
- **Drug Courts should remain vigilant to the possibility of sentencing disparities in their programs and to take corrective action where indicated.**
- **Drug Court team members should be trained in culturally appropriate practices and are required to monitor attitudes and practices for implicit bias.**

35 TRANSITIONAL SERVICES AND AFTERCARE

35.1 INTRODUCTION

It is widely recognised that the outcomes of drug treatment are more favourable and longer-lasting when drug treatment clients are afforded access to transitional or aftercare services (Butzin et al. 2006; Dennis & Scott 2012; McKay 2009). For drug courts, this requires two things: maintaining continuity in service contact during the drug court program, but after the formal drug treatment program has ended; and affording graduates of the drug court transitional arrangements that facilitate voluntary post-court contact with treatment and other support services.

35.2 WHAT DOES THE EVIDENCE SAY?

After the completion of any formal drug treatment program, the risk of relapse is high irrespective of whether treatment was voluntary or court-mandated. According to McLellan and colleagues (2000) for example, as many as two in three drug treatment graduates will have relapsed within one year, with the risk of relapse being highest in the first three to six months of completion (Marlatt 1985) For drug courts in particular, given the risks of re-engagement in criminal and other antisocial behaviour, these general clinical findings suggest that the treatment continuum must also include a system of ongoing case management and aftercare once formal contact with drug treatment has concluded.

It is generally recognised that the most effective aftercare programs provide support for up to 12 months or longer, are adaptive to individual needs (McKay 2009) and include active efforts to deliver aftercare services to the individual, rather than relying on the individual to seek aftercare support (Godley et al. 2006). In this context, two different service delivery models have been identified:

- Adaptive Telephone Continuing Care – comprised of telephone-delivered structured sessions of up to 30 minutes per week, graduated to monthly. The focus of these telephone sessions include the monitoring of symptoms and progress, the identification of problems and barriers to recovery, and concrete planning and problem solving for relapse (see McKay et al. 2005).
- Recovery Management Check-up (RMC) – comprised of three-monthly in-person patient interviews involving motivational interviewing and relapse prevention assessments (Dennis et al. 2003; Dennis & Scott 2012).

There is also an emerging literature that supports the development of aftercare strategies that see drug court graduates engaged with current participants in their capacity as program alumni (Burek 2011; McLean 2012). Although not well studied to date, developing a drug-court graduate alumni community and utilising their success as an example to current participants may serve to increase motivation for treatment and self-confidence about the likelihood of treatment success. In addition, the engagement of drug court alumni may also serve to strengthen the social bonds of graduates and afford opportunities for aftercare that improve longer-term drug use and recidivism outcomes.

In a review of the aftercare research and outcomes for both drug courts and drug treatments generally, a panel of experts convened by the American University concluded that aftercare is an essential but often unrecognised element for best practice in drug courts (Adult Drug Court Research to Practice Initiative 2013). Specifically, it was recommended that to improve drug treatment and recidivism outcomes, drug courts should:

- ensure that each participant has developed a recovery plan by the time the participant enters the final phase of the drug court program;
- provide multiple paths for participants to sustain their recovery and promptly access additional services when/as needed;

- develop a simple and short instrument for drug court personnel and peer mentors to use as a follow-up questionnaire;
- train staff on Motivational Interviewing and the associated skills that can be incorporated in post-program contacts with participants; and
- develop a database to indicate when telephone follow-up contact should occur with each drug court graduate and have a plan in place for responding to the range of needs that may be uncovered, including resumption of treatment if/as needed.

Finally, engaging drug court clients early in education and employment has been shown to be important for improving the longer term outcomes for drug courts. The reasons for this are twofold. First, connection to education and employment facilitates the development of strong social bonds which have long been recognised as important for promoting criminal desistence. Second, increasing the skills and employability of drug court participants may improve employment outcomes, leading to greater income stability and weakening unemployment as a post-gradation criminogenic need.

35.3 FORMER QUEENSLAND DRUG COURT MODEL

In the former Queensland Drug Court, most graduates were sentenced to some form supervision with the Department of Corrective services. Whilst there was no additional follow up with health or treatment service providers by the Drug Court, follow up and referral to relevant and appropriate services may have been undertaken by the supervising Corrective Services officer.

35.4 POSITION IN OTHER JURISDICTIONS

Exit planning is undertaken by the Drug Court of Victoria in order to mitigate any potential anxiety or sense of loss about the absence of services and support when a participant completes a Drug Treatment Order. In the final phase of the order, a planned approach is undertaken to the reduction of contact and to the establishment of community links to support the participant upon completion. The exit plan is produced in consultation with the participant and includes the goals achieved on the program, future goals, possible obstacles that the individual may face and a related contingency plan and contact list for post program support.

In the NSW Drug Court, a Continuing Care Plan is developed by NSW Health and Corrective Services NSW. This report outlines the participant's current situation and services with which the participants may need to be linked after leaving the Drug Court.

35.5 CONSULTATION VIEWS AND ISSUES

Some stakeholders suggested that some former Queensland Drug Court graduates were so concerned about their ability to cope after graduation that they openly welcomed or requested the imposition of supervision and drug testing requirements as part of their final sentence to ‘keep them on the right track’.

While this was suggested by some as a benefit of having the order structured with an initial sentence given at the outset and final sentence imposed on graduation in that the offender could continue to be supervised and receive support under another sentencing order, such as a probation order, many considered that the transition from treatment should be able to be appropriately managed without the need to resort to this conditional form of order.

35.6 RECOMMENDATIONS

The risks of drug court participants resuming drug use and re-engaging in criminal activity, coupled with the decrease in levels of support and intervention post-drug court completion, point to the need for good transitional and after care services for drug court participants. The need for these services is also supported

by the best practice standards for drug courts and the operational practices of drug courts in other jurisdictions.

The development of a transitional plan will ensure that drug court participants are linked to ongoing support services that may assist in the maintenance of progress and benefits achieved during the drug court program.

This transition should occur while the participant is still subject to the order and should form part of their supervision and treatment program. Where this is not possible the court may decide to either vary the order by extending the period of supervision and treatment (but not beyond the term of imprisonment imposed) or transitional and aftercare support can be provided post-sentence after the offender is no longer subject to the order by connecting them with relevant services.

As in the New Zealand model, participants could be supported throughout the program and following completion of the program by being linked to peer support from former graduates of the drug court program.

Recommendation 38 Transitional services and after care

38.1 At the completion of a DTO, the participant's formal and mandated supervision and treatment requirements should end. However, taking into account offenders' ongoing risk of post-graduation reoffending and drug use relapse and that the immediate cessation of treatment and case management services may act as a key trigger for this risk, the drug court model should be guided by the following principles:

- **(a) The utilisation of best-practice relapse prevention training in the final phase of a drug court order is the most important tool available to the drug court for preventing or minimising post-graduation risks.**
- **(b) Many drug court graduates will benefit from post-graduation transitional and aftercare support. Voluntary ongoing service contact should be encouraged and supported.**
- **(c) Where possible, the drug court should develop a transitional strategy that provides opportunities for after-care contact and brief intervention, if required. This may take the form of a once-a-month phone call from the Drug Court Coordinator/Manager to newly graduated clients for up to six months.**

38.2 Consideration should be given to the development of a drug court graduate alumni program of activities through which former drug court participants can voluntarily participate.

36 GOVERNANCE, MONITORING AND EVALUATION

36.1 BEST PRACTICE STANDARDS

According to the NADCP Standards, drug courts must routinely monitor their adherence to best practice standards and must employ scientifically valid and reliable procedures to evaluate their effectiveness. This includes using appropriate data to measure outcomes and having independent evaluators undertake scientifically rigorous analyses.

This chapter discusses the importance of governance, monitoring and evaluation. These elements are vital features of program delivery in that they ensure that program objectives are achieved and resources are used effectively and efficiently.

36.2 GOVERNANCE

Public sector governance encompasses a set of responsibilities exercised by an agency to provide strategic direction, to ensure that objectives are achieved, risks are managed and resources are used responsibly and with accountability.

Particularly, in view of the complexity of Queensland's court diversion programs and the need to ensure adherence to program objectives and issues of efficiency and effectiveness, a governance structure should be established to oversee all court based programs. This would involve the creation of a reference group comprised of representatives from all key agencies, service providers and academics

36.2.1 Former Queensland Drug Court

Under the former model, a Drug Court Reference Group was established that had responsibility for the oversight of the former Queensland Drug Court. This was an interdepartmental consultative committee formed and maintained for the purposes of seeking and maintaining consensus and integration of service delivery in support of the program, and to identify and resolve problems encountered.

The partner agencies on this Reference Group were primary government departments and agencies cooperating to achieve the objects of the *Drug Court Act 2000.* They included DJAG, QPS, QH, QCS, LAQ and the DCCSDS.

36.2.2 Other jurisdictions

Most other jurisdictions with drug courts have established reference groups or steering committees similar to that which formerly existed in Queensland. For example, the New Zealand AODT Court has established a Steering Group comprised of representatives from the Ministry of Justice (District Courts and Policy), New Zealand Police, the Police Prosecution Service and Police Policy Group, Judiciary, Ministry of Health and Department of Corrections.

As the AODT Court is still in its pilot stage, the objective of the AODT Court Steering Group is to ensure that the project delivers an AODT Court model in accordance with Cabinet's directive and to ensure integration between organisations, oversee the implementation of the court, provide effective project steering and maintain budget oversight.

The Steering Group's primary role is to:

- ensure the project's objectives are being adequately addressed and progressed;
- act as an escalation and decision making body for issues that cannot be resolved within the project team;
- take an active approach to solutions around costs and requirements of the pilot;
- take ownership for the delivery of the pilot and champion the project with staff;
- monitor effective stakeholder engagement and change management;

- ensure the project's scope aligns with the requirements of the detailed business case and Cabinet decision; represent stakeholder interests and provide a steering link with sector partners;
- monitor the project's progress and review risks; and
- be engaged in, and provide advice on, the development and direction of the pilot evaluation.

As Queensland is developing a new drug court model, we recommend that a Drug Court Reference Group be established with similar objectives to that of the New Zealand AODT Court Steering Group.

36.3 MONITORING AND EVALUATION

It is widely accepted that drug courts are an expensive intervention for the highest risk and highest need offenders in the criminal justice system. Proving their efficacy and cost-effectiveness is essential to maintaining their support both within government and across the wider community. As frequently described throughout the consultations, the absence of ongoing evidence of effectiveness (following the transition from pilot to full program status) undermined confidence in the program, both among drug court practitioners, as well as in the broader policy community.

36.3.1 Performance monitoring

Performance monitoring refers to the process of regularly collecting and monitoring performance information, reviewing program performance (i.e. using this information to assess whether a project is being implemented as planned and is meeting stated objectives), and using this information to identify where improvements might be made (Lipsey et al., 2006). The distinction between performance monitoring and evaluation is that, while monitoring key indicators of performance may help provide some evidence that certain outcomes are being delivered, it does not provide immediate evidence as to the contribution of a program to those outcomes.

It is generally the case that programs should select a sample of key indicators within the evaluation framework relating to outputs and outcomes and establish processes and systems that enable data for these indicators to be collected and reported on a regular basis. Monitoring key indicators relating to both outputs and outcomes for each of the program areas will offer two important benefits. First, the information collected for performance monitoring can be used as part of an evaluation, therefore it helps to determine whether data on key outcomes are available and ensures it has been routinely collected prior to an evaluation being conducted. Secondly, regular monitoring of the performance will provide capacity to monitor program outputs and outcomes over its lifetime (although it does not address the impact of the program on these outcomes). This information is particularly useful for monitoring program implementation (so that any issues can be identified and addressed), but can also provide preliminary evidence for some short-term outcomes (such as the proportion of program clients whose assessment scores improve). Regular reporting as part of a performance monitoring system can enable short-term progress to be monitored, while investment in rigorous research designs and methods can help determine the long-term impact on individuals and communities (Weatherburn 2009).

36.3.2 Evaluating with transparency

Evaluation processes should be transparent, both in terms of the methodology used to evaluate programs and the dissemination of evaluation findings to relevant stakeholders (where appropriate). The development of an overarching evaluation framework will help further encourage greater transparency in evaluation methods and approaches. Future evaluation reports should clearly demonstrate how they adhere to the framework and requirements and, more importantly, where they do not adhere to them, the reasons for this and the implications for evaluation.

To provide an objective and impartial assessment of the effectiveness, efficiency and appropriateness of policies and programs, it is important that evaluations continue to be undertaken by someone independent of the program, preferably by external evaluators. Whether an evaluation can be undertaken internally will depend on an assessment of what is required, whether staff are equipped with the skills and expertise to undertake the work and the advantages and disadvantages of undertaking the research internally. Performance monitoring and process evaluations may be better suited to being conducted internally, while rigorous and systematic outcome evaluations are more likely to be better suited to external evaluation.

36.3.3 Evaluating process

Two types of evaluation are necessary for a drug court program—process and outcome evaluation. A process evaluation aims to improve understanding of the activities that are delivered as part of a program and assess whether they have been implemented as planned. An outcome evaluation is more concerned with the overall effectiveness of the program. The range of questions that can be addressed by both types of evaluation is presented in Table 4.

Table 7: Questions that can be addressed as part of process and outcome evaluations

Process evaluation questions	Outcome evaluation questions
1. What are the main components or activities delivered as part of a program? 2. Is the program currently operating or has it been implemented as it was originally designed (ie program fidelity)? 3. Are the intended recipients of a program accessing the services being provided, do they remain in contact with the program and does the program meet the needs of participants? 4. Is the program consistent with best practice in terms of its design and implementation? 5. What factors impact positively or negatively upon the implementation or operation of the program? 6. How appropriate are the governance arrangements, operating guidelines and, where applicable, legislative framework in supporting the operation of a program? 7. What is the cost associated with the operation of the program? Is the program adequately resourced? 8. How efficient has the program been in delivering key activities? 9. What improvements could be made to the design, implementation and management of the program?	1. To what extent has the program achieved its stated objectives? 2. Did the program make a difference in terms of the problem it sought to address? 3. What outcomes have been delivered as a result of having implemented the program? 4. What impact has the program had in the short and medium term on participants' knowledge, attitudes, skills or behaviour? Are these outcomes sustained over time? 5. What longer-term impact has the program had on reoffending among participating offenders? 6. Were there any unintended consequences or outcomes from the program? 7. Which program activities or components contributed to the outcomes that have been observed? 8. What external factors impacted positively or negatively on the effectiveness of the program and the outcomes that were delivered? 9. What are the financial benefits of a program relative to the costs associated with its operation (return on investment)? 10. What changes could be made to the program to improve its overall effectiveness?

Source: Morgan & Homel 2013

The evaluation of drug court programs should incorporate both process and outcome evaluation (Weatherburn 2009). However, the staging and timing of a process and outcome evaluation will vary depending on the circumstances of each program. In some cases, such as programs that are new (or have been modified) and are in the initial stages of implementation, it may be beneficial to conduct a process evaluation (providing valuable information to improve program delivery) followed by an outcome evaluation. In other cases, a process and outcome evaluation can be undertaken simultaneously (and can overlap both in terms of evaluation questions and methods).

A process evaluation can determine whether an intervention has implementation fidelity. This refers to the extent to which an intervention was implemented in accordance with its original design, whether the required dosage of the intervention has been delivered, the overall quality of intervention delivery, and the extent to which participants are engaged and involved in the program (Mihalic et al. 2004). Assessing implementation fidelity is important because this can help to explain why certain outcomes are or are not observed. It can also identify valuable lessons for implementing similar interventions in the future, helping to avoid implementation failure.

Related to this point, a process evaluation can also examine whether a program is consistent with international best practice. This is particularly important when there is evidence from overseas models that a particular program has been effective elsewhere—as is the case with many of the prison programs examined as part of this project. While adaptation to suit local circumstances is necessary and inevitable, certain program characteristics have been found to be key to the success of interventions and therefore must be maintained.

For each of the programs examined as part of this project, it is recommended that a process evaluation be conducted as early as possible—ideally within 12 months of implementation. The timing of this evaluation should allow sufficient time to elapse to detect issues related to implementation, while also being early enough to allow for any issues to be addressed prior to an outcome evaluation being conducted.

36.3.4 Commitment to rigour and scientific method

It is important that evaluations of the drug court program adopt research designs that are consistent with internationally accepted standards for drawing meaningful conclusions about program effects. In order to reliably assess the impact of prison programs on outcomes such as reduced reoffending, evaluations must aim for a high level of internal validity. That is, there must be some degree of confidence that any observed changes or differences were the result of the intervention being evaluated and not some other confounding factor. There are a variety of different approaches to measuring the impact of programs designed to prevent and reduce offending. Selecting an appropriate evaluation design and research method requires consideration of the characteristics of a program, the purpose of the evaluation, the available options, and the views of key stakeholders (English, Cummings & Stratton 2002; Lipsey et al. 2006).

Experimental (especially quasi-experimental) and observational methods are the most common approaches used in criminal justice research (MacKenzie 2006). The Scientific Methods Scale (SMS) was therefore developed to assess the quality of outcome evaluations in crime prevention and criminal justice research (Table 8). The SMS forms the basis of systematic reviews and meta-analyses undertaken by the Campbell Collaboration (Farrington et al. 2006; Sherman et al. 2006), while a slightly modified form is used by the WSIPP (Lee et al. 2012), and has been applied to a variety of settings and strategies designed to prevent and reduce crime. It is primarily focused on ensuring the highest possible level of internal validity and drawing valid conclusions regarding the causal relationship between interventions and the outcomes observed. The scale ranges from a correlation between a program and a measure of the outcome (level one) through to randomised control studies (level five), which are widely (but not universally) regarded as the gold standard for evaluation research (Farrington et al. 2006).

Table 8: Scientific Methods Scale

Level	Criteria
1	Correlation between a prevention program and measure of crime at one point in time
2	Measures of crime before and after the program, with no comparable control condition
3	Measures of crime before and after the program in experimental and comparable control condition
4	Measures of crime before and after the program in multiple units with and without the program, controlling for other variables that influence crime, or using comparison units that evidence only minor differences
5	Random assignment of program and control conditions to units

Source: Farrington et al. 2006: 16-17

In practice, randomised control trials have proven difficult to achieve, particularly within Australian criminal justice research. A research design that achieves level three on the SMS, with measures of the outcome (usually a reduction in crime) pre and post intervention and an appropriate comparison group against which to compare results (a quasi-experimental design) is therefore considered the minimum design for drawing valid conclusions about the effectiveness of a strategy (Farrington et al. 2006; MacKenzie 2006; Sherman et al. 1997).

36.3.5 Cost-efficiency and cost-benefit analysis

Economic analysis must become a key feature of any drug court evaluation in Queensland:

> "…while determining whether a program reduces crime remains the necessary first condition for rational public policy making, an economic analysis constitutes the necessary additional condition for identifying viable and fiscally prudent options" (Drake, Aos & Miller 2009, p. 194).

There is good evidence of the value of including economic analysis in evaluation and the assessment of program performance. Several forms of economic analysis are possible when evaluating criminal justice programs:

- Financial analysis: Estimating the impact of a program on an agency's budget, including the efficiency of services delivered (ratio of outputs to inputs).
- Cost-savings analysis: A comparison between the costs and benefits realised by a program's funding body.
- Cost-effectiveness analysis: Cost incurred to produce each unit of benefit.
- Cost-benefit analysis: Compares all of the benefits associated with a program (in dollar terms) with program costs to develop a cost-benefit ratio.

Rigorous and systematic evaluations of drug courts should include a cost-efficiency, cost effectiveness and cost-benefit analysis. This will require robust estimates of program costs and the measurement of intervention effects in a way that is amenable to quantifying in financial terms. It will also require valid estimates of the financial benefits associated with improved prisoner outcomes.

36.4 EVALUATION OF THE DRUG COURT

The reinstated Queensland Drug Court should be independently evaluated and open to modification in response to evaluation findings.

The reinstatement of the drug court should include:

- a legislative commitment to the evaluation of the program, which should be undertaken as an independent process and outcome evaluation;
- the development of an evaluation plan and protocol before the commencement of the drug court. The protocol should outline an interagency agreement governing the collection, collation, sharing and storage of information and data;
- the creation of an evaluation minimum dataset in consultation with independent research experts and agency representatives. Where possible, data linkage opportunities should be identified and agreed between agencies at the outset of the drug court program;

- where possible, control and/or comparison groups should be identified at the commencement of the drug court program. Randomisation processes should be implemented where it is expected that the demand for drug court services will exceed capacity;
- drug court evaluations should include cost-efficiency and cost-benefit analysis, conducted by independent evaluators. To facilitate this process, unit level costing data should be identified as a core component of the evaluation minimum dataset;
- the drug court manager should produce regular statistical and performance monitoring reports on the operation and outcomes of the drug court. Though these are not formal evaluations, they should be used to inform incremental changes to the operation of the court, where indicated and agreed;
- performance benchmarks should be developed and reported against for the purposes of ongoing performance monitoring. Benchmarks should be developed and verified through independent analysis of interstate and overseas drug court programs, as well as pre-existing drug court data in Queensland.

36.5 RECOMMENDATIONS

Recommendation 39 Governance, monitoring and evaluation

39.1 A Steering Group should be established to provide ongoing strategic oversight of the Drug Court and its implementation. The Steering Group should involve representation of all key government agencies involved in supporting the Drug Court.

39.2 The reinstated drug court should be monitored regularly, independently evaluated and open to modification in response to evaluation findings.

39.3 The reinstatement of the drug court should include:

(a) a legislative commitment to the evaluation of the program, which should be undertaken as an independent process and outcome evaluation;
(b) the development of an evaluation plan and protocol before the commencement of the drug court. The protocol should outline an interagency agreement governing the collection, collation, sharing and storage of information and data;
(c) the creation of an evaluation minimum dataset in consultation with independent research experts and agency representatives. Where possible, data linkage opportunities should be identified and agreed between agencies at the outset of the drug court program;
(d) where possible, control and/or comparison groups should be identified at the commencement of the drug court program. Randomisation processes should be implemented where it is expected that the demand for drug court services will exceed capacity;
(e) drug court evaluations should include cost-efficiency and cost-benefit analysis, conducted by independent evaluators. To facilitate this process, unit level costing data should be identified as a core component of the evaluation minimum dataset;
(f) the Drug Court Manager should produce regular statistical and performance monitoring reports on the operation and outcomes of the drug court. Though these are not formal evaluations, they should be used to inform incremental changes to the operation of the court, where indicated and agreed; and
(g) performance benchmarks should be developed and reported against for the purposes of ongoing performance monitoring. Benchmarks should be developed and verified through independent analysis of interstate and overseas drug court programs, as well as pre-existing drug court data in Queensland.

39.4 Subject to application and approval, the drug court program should encourage external researchers to undertake research with drug court participants. Queensland should identify areas and ways in which it can contribute to the international literature on best practice in drug court operation.

37 OTHER FORMS OF PROBLEM-ORIENTED COURTS

37.1 INTRODUCTION

This chapter provides a brief overview of some of the other types of problem-oriented courts that have been developed. The Review suggests that other promising programs such as these should be monitored and considered as part of future planning.

There have been promising developments in other jurisdictions around a range of problem-solving courts and specialist lists, such as:

- Driving whilst intoxicated courts created to provide close supervision of repeat whilst intoxicated offenders and improve their compliance with substance abuse treatment. These are modelled on the US drug courts and employ the 10 key components of drug courts.
- The Assessment and Referral Court (ARC) List, which operates in Victoria and aims to address the underlying causes of offending for people with a mental illness or cognitive impairment. It is a pre-sentence intervention, deferring sentence until after the program has been completed.
- Family violence courts: Although there is no consistent model, these address criminal and/or the civil elements of family violence matters.
- Family Drug Treatment Courts, which aim to protect children and reunite families by providing substance-abusing parents with support, treatment and comprehensive access to services for the whole family. A Family Drug Treatment Court has been established in the Childrens Court of Victoria as a specialist list within that court.
- Community courts and justice centres are neighbourhood-focused courts that seek to enhance community participation in the justice system, address local problems, and enhance the quality of local community life. They strive to engage outside stakeholders such as residents, merchants, churches and schools in new ways in an effort to bolster public trust in justice.

Some of these programs are discussed in more detail below and in Appendix C "Solution-focused Interventions for Drug-related Offending: Review of the Literature."

37.2 DRIVING WHILE INTOXICATED COURTS

Driving While Intoxicated (DWI) courts were created to provide close supervision of repeat DWI offenders and improve their compliance with substance abuse treatment. Modelled on the US drug courts, and adhering to the 10 Key Components of Drug Courts discussed above, DWI courts require participants to attend frequent status hearings in court, complete an intensive regimen of substance abuse treatment, and undergo random testing for alcohol and other drugs.

Most DWI courts are post-conviction programs, which means that DWI courts cannot be used to avoid a record of conviction and/or license sanctions. Along with a variety of other requirements, DWI courts may require participants to serve some portion of a jail sentence, with the remainder of detention being suspended pending completion of treatment. As of 2014, there were 242 DWI courts and 448 hybrid DWI/drug courts in the US. There have been proposals for the establishment of similar courts in Australia (Richardson 2013).

DWI courts have been shown to be effective in reducing both DWI and general recidivism.

37.3 MENTAL HEALTH COURTS

Mental health courts were modelled after other therapeutic courts with the aim of providing offenders with mental health issues with treatment in the community to improve their outcomes – ameliorating mental health issues and reducing criminal behaviour. They typically include separate court lists, specialised mental

health assessments and individualised treatment plans, intensive case management by a court-based interdisciplinary team, and judicial monitoring, including graduated sanctions and incentives.

The US Bureau of Justice Assistance has developed the 10 essential elements of mental health court design and implementation, which are founded on the key principle of collaboration among the criminal justice, mental health, substance abuse treatment, and related systems. These are very similar to the key elements of drug courts, with the added imperatives of ensuring informed choice before people agree to participate and confidentiality of people's health and legal information.

Although there is a limited body of robust evidence on the effectiveness of mental health courts, there is considerable agreement about the key principles that underlie effective practice in these courts. These include:

- early assessment and treatment, linking people to community service providers as early as possible;
- collaboration among criminal justice, mental health, substance abuse and other agencies, using a case management approach to facilitate a model of holistic care;
- training of mental health court personnel to ensure proper understanding of the issues faced by offenders with a mental illness;
- treatment support and services must be high quality, evidence-based and available in the community; and
- monitoring of compliance, via a clear set of expectations and guidelines for graduated incentives and sanctions.

37.4 FAMILY VIOLENCE COURTS

As with drug courts, family violence courts first appeared in the US in 1987, with an integrated family violence court model introduced in New York in 1996. This model, which influenced the subsequent development of many family violence courts, aims to address both the criminal and civil elements of family violence matters. Despite this influence, however, there is 'no agreed upon set of principles, structure or functions of these courts'. Family violence courts therefore do not enjoy the relative consistency of approach that is seen amongst drug courts around the world. Nonetheless, they share some general characteristics with other solution-focused courts, such as a therapeutic approach and a preference for a one-judge, one-court and one-stop-shop response to offending that incorporates treatment, support and education. But they have a stronger focus on victims and their safety, with specialised court personnel and procedures and a strong emphasis on offender accountability.

The Center for Court Innovation (2007, pp. 14–15) has identified four key models of domestic violence courts. These include:

1) Multi-jurisdictional domestic violence courts, which are overseen by one judge who handles criminal cases and overlapping family law and divorce cases.
2) Criminal domestic violence courts, which handle criminal cases with an adult defendant and an adult victim who have been involved in an intimate relationship.
3) Civil/family domestic violence courts, which deal with cases where a victim files a restraining or protection order against a defendant who is a current or former intimate partner, as well other cases involving the victim and the defendant.
4) Juvenile domestic violence courts, which consider cases where the defendant is a juvenile.

Evidence for the success of family violence courts varies considerably, depending on the nature of the outcome measured. While there is mixed evidence about the ability of family violence courts to reduce reoffending, there is some evidence that the courts are successful in improving victim satisfaction and access to services.

Four key principles have emerged that form the 'building blocks' of a successful domestic violence court:

1) Victim services, including providing victims with immediate access to advocates, linking them with social services, keeping them informed and creating safe spaces within the courthouse.
2) Judicial monitoring, preferably with a single judge throughout the entire case, to supervise defendants continuously and respond quickly should a violation occur.
3) Accountability, via strong relationships with service providers so that the court is notified quickly of non-compliance and so that programs reinforce the court's message, as well as using technology to share information among relevant parties to facilitate more informed decisions about sentencing.
4) Coordinated community response, creating strong linkages with a wide range of partners, with interagency collaboration as crucial to ensuring communication, consistency, and continuing education about the court and domestic violence.

See section 5.2.9 for information on Queensland's Domestic and Family Violence Specialist Court.

37.5 FAMILY DRUG TREATMENT COURTS

A Family Drug Treatment Court was established in early 2014 in the Childrens Court of Victoria as a list within that court. The aim of the court is: "to protect children and reunite families by providing substance-abusing parents with support, treatment, and comprehensive access to services for the whole family' (Levine 2012, para 5, citing Wheeler and Fox, 2006, p 3).

King at al. 2014 (p.164) note:

> The evidence from studies in those jurisdictions where such courts operate is that rates of family unification are increased and that the costs to the justice system are reduced (Levine 2012).
>
> The main features of this court are that it adopts a problem-solving rather than an adversarial approach to decision-making; it uses a court-based, multi-disciplinary team approach to case management; it provides for judicial supervision and continuity through a docket system; it aims to be more expeditious in making decisions regarding family unification or permanent placement outside the home; it closely monitors the parents' rehabilitation and recovery and provides for frequent court reviews to foster compliance and connection. Unlike the criminal drug court, where the incentive is to avoid incarceration, the key incentive in this program is family reunification (Levine 2012).

Given the strong linkages between child protection issues in Queensland and family substance abuse, this may be an option that is worth exploring for introduction in Queensland. As discussed in section 4.2.6 of this Report, approximately two-thirds of households substantiated for harm or risk of harm to a child had a parent with a current or past drug/alcohol problem. The proportion of parents presenting with these issues is also reported to be increasing.

37.6 COMMUNITY COURTS AND JUSTICE CENTRES

Community Justice Centres are neighbourhood-focused courts that seek to enhance community participation in the justice system, address local problems, and enhance the quality of local community life. They strive to engage outside stakeholders such as residents, merchants, churches and schools in new ways in an effort to bolster public trust in justice. At the same time, they test new approaches to reduce both crime and incarceration (Centre for Court Innovation n.d.).

The Neighbourhood Justice Centre (NJC) in Collingwood, Victoria opened in 2007 to service the City of Yarra. It is the first and only NJC in Australia, and was established to provide new and innovative ways of dealing with crime and other forms of social disorder, disadvantage and conflict in the area.

The NJC comprises 20 independent but interdisciplinary treatment agencies that work hand-in-hand with the multi-jurisdictional Magistrates' Court to offer a wide array of support services and community initiatives. It also supports programs that tackle disadvantage, to provide real and practical benefit to the community. This 'embedded' approach is seen as a cornerstone of community justice. The Centre offers a range of justice and social services including:

- a Magistrates Court of Victoria with jurisdiction to hear all matters that the Criminal Division hears (except for sex offences);
- matters involving Family Violence and Personal Safety Intervention Orders;
- a Childrens Court;
- a Victim's of Crime Assistance Tribunal; and
- a Victorian Civil and Administrative Tribunal.

The impact of community courts on recidivism is thought to result primarily from its legitimacy to offenders and the local residential community rather than from strategies of deterrence or intervention. This legitimacy is seen as arising primarily from the exercise of procedural justice in judicial decision-making, but also from its perceived status as a genuine community institution that shares and upholds the values of local residents. It is the legitimacy of the court that appears to motivate offenders and residents to obey the law voluntarily, rather than fear of punishment.

While a fully implemented community justice centre is a substantial exercise, the principle of wrap-around support and on-site services may be more readily transferrable to mainstream courts. In particular, close linkages with service providers and an individualised approach to dealing with offenders appear to be the key principles underlying this type of solution-focused response to drug-related offending.

38 REFERENCES

Adamson S, Deering D, Moana-o-Hinerangi, Huriwai T & Noller G 2010. An evaluation of the Moana House residential therapeutic community. Wellington: Alcohol Advisory Council of New Zealand/Kaunihera Whakatupato Waipiro o Aotearoa. http://www.alac.org.nz/sites/default/files/research-publications/pdfs/Moana_House_Evaluation.pdf

Adult Drug Court Research to Practice Initiative 2013, *Aftercare and Relapse Prevention*. Available at: http://research2practice.org/projects/aftercare/index.html

Allard, T, Chrzanowki, A & Stewart, A 2012, *Targeting crime prevention: identifying communities which generate chronic and costly offenders to reduce offending, crime, victimisation and Indigenous over-representation in the criminal justice system,* Criminology Research Advisory Council: Canberra.

Allard T, Stewart A, Smith C, Dennison S, Chrzanowski A and Thompson C 2013, 'The monetary costs of offender trajectories: findings from Queensland', *Australian & New Zealand Journal of Criminology*, vol. 47, no 1, pp 81–101.

American Society of Addiction Medicine (ASAM) 2010. *Public policy statement on drug testing as a component of addiction treatment and monitoring programs and in other clinical settings*. Chevy Chase, MD: Available at http://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2011/12/15/drugtesting-as-a-component-of-addiction-treatment-and-monitoring-programs-and-in-other-clinical-settings

American Society of Addiction Medicine (ASAM) 2013. *Drug testing: A white paper of the American Society of Addiction Medicine (ASAM)*. Chevy Chase, MD: Author. Available at http://www.asam.org/docs/default-source/publicy-policy-statements/drugtesting-a-white-paper-by-asam.pdf?sfvrsn=2Andrews, D & Bonta, J 2010, *The psychology of criminal conduct*, Lexis Nexis/Anderson Publishers: Albany, New York.

Andrews, DA & Bonta, J 2010, *The psychology of criminal conduct*, Routledge: UK.

Andrews, DA, Bonta, J & Wormith, JS 2006, 'The recent past and near future of risk and/or need assessment,' *Crime and Delinquency,* vol. 52, no. 7.

Andrews, D & Dowden, G 1999, 'A meta-analytic investigation into effective correctional intervention for female offenders', *Forum on Corrections Research*, vol. 11.

Andrews, DA, Zinger, I, Hoge, RD, Bonta, J, Gendreau, P & Cullen, FT 1990, 'Does correctional treatment work? A clinically relevant and psychologically informed meta-analysis', *Criminology,* vol. 28, pp. 369–404.

Attorney-General and Minister for Justice 2012, Parliamentary Debates, Legal Affairs and Community Safety Committee, vol. 35, no. 40.

Australian Bureau of Statistics 2015 *4517.0 - Prisoners in Australia, 2015*. [online] Abs.gov.au. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0 [Accessed 10 Oct. 2016].

Australian Bureau of Statistics 2016a. *4519.0 - Recorded Crime - Offenders, 2014-15*. [online] Abs.gov.au. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/4519.0 [Accessed 10 Oct. 2016].

Australian Bureau of Statistics 2016b. *4513.0 - Criminal Courts, Australia, 2014-15*. [online] Abs.gov.au. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/4513.0 [Accessed 10 Oct. 2016].

Australian Government Productivity Commission 2016, *Report on government services*. [online] Pc.gov.au. Available at: http://www.pc.gov.au/research/ongoing/report-on-government-services [Accessed 10 Oct. 2016].

Australian Institute of Criminology 2015a, *Drug use monitoring in Australia: 2013–14 report on drug use among police detainees* [Brisbane site results accessed online on 12 May 2016].

Australian Institute of Health and Welfare 2013, *Diverting Indigenous offenders from the criminal justice system*, Author: Canberra.

Australian Institute of Health and Welfare 2014, Alcohol and other drug treatment services in Australia 2012–13, Drug treatment series no. 24. cat. no. HSE 150. Author: Canberra.

Australian Institute of Health and Welfare 2015, The health of Australia's prisoners, Author: Canberra.

Australian Institute of Health and Welfare 2016a, Youth justice in Australia 2014–15, Author: Canberra.

Australian Institute of Health and Welfare 2016b, *Alcohol and other drug treatment services in Australia 2014–15 state and territory summaries*. Author: Canberra.

Azrin, N, McMahon, P, Donohue, B, Besalel, V, Lapinski, K, Kogan, E, Acierno, R & Galloway, E 1994, 'Behavior therapy for drug abuse: a controlled treatment outcome study', *Behaviour Research and Therapy,* vol. 32, pp. 857–866.

Babor, TF, McRee, BG, Kassebaum, PA, Grimaldi, PL, Ahmed, K & Bray, J 2007, 'Screening, brief intervention, and referral to treatment (SBIRT) toward a public health approach to the management of substance abuse', *Substance Abuse,* vol. 28, pp. 7–30.

Bahr, SJ, Masters, AL & Taylor, BM, 2012. What works in substance abuse treatment programs for offenders?. *The Prison Journal*, 92(2), pp. 155-174

Baker, A, Boggs, T G, & Lewin, T J, 2001, 'Randomized controlled trial of brief cognitive-behavioural interventions among regular users of amphetamine', *Addiction,* vol. 96, pp. 1279–1287.

Baker, A, Lee, NK, Claire, M, Lewin, TJ, Grant, T, Pohlman, S, Saunders, JB, Kay-Lambkin, F, Constable, P & Jenner, L 2005, 'Brief cognitive behavioural interventions for regular amphetamine users: a step in the right direction', *Addiction,* vol. 100, pp. 367–378.

Baker, J & Goh, D 2004, *The cannabis cautioning scheme three years on: an implementation and outcome evaluation,* New South Wales Bureau of Crime Statistics and Research: Sydney.

Baler, RD & Volkow, ND 2006, 'Drug addiction: the neurobiology of disrupted self-control', *Trends in Molecular Medicine,* vol. 12, pp. 559–566.

Banks, D & Gottfredson, DC 2003, The effects of drug treatment and supervision on time to rearrest among drug treatment court participants, *Journal of Drug Issues*, vol. 33, no. 2, pp.385–412.

Bashir, K, King, M & Ashworth, M 1994, 'Controlled evaluation of brief intervention by general practitioners to reduce chronic use of benzodiazepines', *Brittish Journal of General Practice,* vol. 44, pp. 408–412.

Belenko, S 2001, *Research on drug courts: a critical review (2001 update)*, National Center on Addiction and Substance Abuse: New York.

Belenko, S, Fabrikant, N, & Wolff, N 2011, 'The long road to treatment: models of screening and admission into drug courts, *Criminal Justice & Behavior*, vol. 38, no. 1, pp. 1222–1243.

Berman and Feinblatt 2001, 'Problem solving courts: a brief primer', *Law and Policy*, vol. 23, no. 2, pp. 125–140).

Bernburg, J G & Krohn, MD 2003, 'Labeling, life chances, and adult crime: the direct and indirect effects of official intervention in adolescence on crime in early adulthood', *Criminology,* vol. 41, pp. 1287–1318.

Bernburg, JG, Krohn, MD & Rivera, CJ 2006, 'Official labeling, criminal embeddedness, and subsequent delinquency a longitudinal test of labeling theory', *Journal of Research in Crime and Delinquency*, vol 43, pp. 67–88.

Blagg, H 2007, *Problem oriented courts*, Law Reform Commission of Western Australia: Perth.

Blair, L, Sullivan, C, Latessa, E & Sullivan, CJ 2015, *Juvenile drug courts: a process, outcome, and impact evaluation*, Office of Juvenile Justice and Delingquency Prevention: US.

Blonigen, DM, Finney, JW, Wilbourne, JW & Moos, RH, 2015. Psychosocial Treatments for Substance Use Disorders. In Peter E Nathan and Jack M Gorman (Eds) *A guide to treatments that work*. 4th Edition. Oxford University Press: Oxford. Bonta, J, Wallace-Capretta, S & Rooney, J 2000, 'A quasi-experimental evaluation of an intensive rehabilitation supervision program', *Criminal Justice and Behavior,* vol. 27, pp. 312–329.

Bonta, J, Wallace-Capretta, S, Rooney, J, 2000, 'A Quasi-Experimental Evaluation of an Intensive Rehabiliatoin Supervision Program', *Criminal Justice and Behaviour,* vol.27, no.2, pp.312-329.

Bourgon, G & Armstrong, B 2005, 'Transferring the principles of effective treatment into a "real world" prison setting', *Criminal Justice and Behavior*, vol. 32, pp. 3–25.

Bourgon, G. & Gutierrez, L., 2012. 'The general responsivity principle in community supervision: the importance of probation officers using cognitive intervention techniques and its influence on recidivism'. *Journal of Crime and justice*, 35(2), pp. 149-166.

Bowers, J 2008, 'Contraindicated drug courts', *UCLA Law Review*, vol. 55, no. 4, pp. 783–833.

Bradford, D & Payne, J 2012, 'Illicit drug use and property offending among police detainees', *Contemporary Issues in Crime and Justice*, no. 157.

Breslin, FC, Sobell, MB, Sobell, LC, Buchan, G, & Cunningham, JA 1997, 'Toward a stepped care approach to treating problem drinkers: the predictive utility of within-treatment variables and therapist prognostic ratings', *Addiction,* vol. 92, pp. 1479–1489.

Brocato, J 2013, 'The impact of acculturation, motivation, and the therapeutic alliance on treatment retention and outcomes for Hispanic drug-involved probationers', *Journal of Ethnicity in Criminal Justice,* vol. 11, pp. 150–180.

Brochu, S 1995, *Estimating the costs of drug-related crime*, Paper presented at the Second International Symposium on Estimating the Social and Economic Costs of Substance Abuse, Montobello, Quebec.

Brown, RT, Allison, PA & Nieto, FJ 2011, 'Impact of jail sanctions during drug court participation upon substance abuse treatment completion', *Addiction*, vol. 106, pp. 135–142.

Budney, AJ, Higgins, ST, Radonovich, KJ & Novy, PL 2000, 'Adding voucher-based incentives to coping skills and motivational enhancement improves outcomes during treatment for marijuana dependence', *Journal of Consulting and Clinical Psychology*, vol. 68, p. 1051.

Budney, AJ, Moore, BA, Rocha, HL, & Higgins, ST 2006, 'Clinical trial of abstinence-based vouchers and cognitive-behavioral therapy for cannabis dependence', *Journal of Consulting and Clinical Psychology*, vol. 74, p. 307.

Bureau of Justice Assistance. (2005a). *Drug court discretionary grant program: FY 2005 competitive grant announcement* (Catalog of Federal Domestic Assistance No. 16.585). Washington, DC: Department of Justice, Office of Justice Programs.

Bureau of Justice Assistance. (2005b). *Drug court discretionary grant program: FY 2005 resource guide for drug court applicants*. Washington, DC: Department of Justice, Office of Justice Programs.

Burek, E. (2011, Fall). The importance of Drug Court alumni groups. AllRise Magazine, p. 21.

Bush, J, Glick, B & Taymans, JM 1997, *Thinking for a change: Integrated cognitive behavior change program*, National Institute of Corrections: US Department of Justice.

Butzin, C, Saum, CA & Scarpitti, FR 2002, 'Factors associated with completion of a drug treatment court diversion program', *Substance Use and Misuse*, vol. 37, pp. 1615–1633.

Cabaj, RP 2008, 'Gay men and lesbians', in M Galanter & HD Kleber (eds), *Textbook of Substance Abuse Treatment* (4th edn) American Psychiatric Publishing: Arlington, VA.

Carey, SM, Finigan, MW & Pukstas, K 2008, *Exploring the key components of drug courts: a comparative study of 18 adult drug courts on practices, outcomes and costs'*, NPC Research: Portland, OR.

Carey, SM, Mackin, JR & Finigan, MW 2012, 'What works? The ten key components of drug court: research-based best practices', *Drug Court Review*, vol. 7, pp. 6–42.

Carroll, K.M., 1996. *Cognitive-behavioral coping skills treatment for cocaine dependence*. Yale University Psychotherapy Development Center.Carroll, JF & McGinley, JJ 2001, 'A screening form for identifying mental health problems in alcohol/other drug dependent persons', *Alcoholism Treatment Quarterly*, vol. 19, pp. 33–47.

Carroll, KM 2000, 'Implications of recent research for program quality in cocaine dependence treatment', *Substance Use and Misuse*, vol. 35, pp. 2011–2030.

Carroll, KM & Onken, LS 2005, 'Behavioral therapies for drug abuse', *American Journal of Psychiatry*, vol. 162, pp. 1452–1460.

Carroll, KM, Easton, CJ, Nich, C, Hunkele, KA, Neavins, TM, Sinha, R, Ford, HL, Vitolo, SA, Doebrick, CA & Rounsaville, BJ 2006, 'The use of contingency management and motivational/skills-building therapy to treat young adults with marijuana dependence', *Journal of Consulting and Clinical Psychology*, vol. 74, p. 955.

Cary, P 2011, 'The fundamentals of drug testing. In D.B. Marlowe & W.G. Meyer (Eds.), *The drug court judicial benchbook,* National Drug Court Institute: Alexandria VA.

Casey, P, Warren, R, Cheesman, F, & Elek, J 2012, *Helping courts address implicit bias: resources for education,* National Center for State Courts: Williamsburg: VA.

Castaneto, MS, Gorelick, DA, Desrosiers, NA, Hartman, RL, Pirard, S & Huestis, MA 2014, 'Synthetic cannabinoids: epidemiology, pharmacodynamics, and clinical implications', Drug and Alcohol Dependence, vol. 144, pp. 12–41.

Center for Court Innovation 2007, *Domestic violence court toolkit*, Center for Court Innovation: New York.

Center for Court Innovation, n.d, *Community Court: Overview* http://www.courtinnovation.org/topic/community-court.

Centre for Substance Abuse Treatment 1999, *Enhancing Motivation for Change in Substance Abuse Treatment*. Treatment Improvement Protocol (TIP) Series, No. 35, Rockville (MD): Substance Abuse and Mental Health Services Administration (US)

Chandler, RK, Fletcher, BW, & Volkow, ND 2009, 'Treating drug abuse and addiction in the criminal justice system: improving public health and safety', *Jama,* vol. 301, 183–190.

Cheesman, FL, Kunkel, TL, Graves, SE, Holt, K, Jones, TJ & Lee, CG 2012, 'Virginia adult drug treatment courts: cost benefit analysis', *Unpublished paper.* National Center for State Courts: Williamsburg: VA.

Cheng, TL, Haynie, D, Brenner, R, Wright, JL, Chung, S & Simons-Morton, B 2008, 'Effectiveness of a mentor-implemented, violence prevention intervention for assault-injured youths presenting to the emergency department: results of a randomized trial', *Pediatrics*, vol. 122, pp. 938–946.

Cissner, AB, Rempel, M, Walker, A, Roman, JK, Bieler, S, Cohen, R, and Cadoret, C 2013. *A Statewide Evaluation of New York's Adult Drug Courts: Identifying Which Policies Work Best*. New York, NY: Center for Court Innovation.Coid, J, Carvell, A, Kittler, Z, Healey, A & Henderson, J 2000, *Opiates, criminal behaviour, and methadone treatment*, Home Office: London.

Copeland, J 2004, 'Developments in the treatment of cannabis use disorder', *Current Opinion in Psychiatry,* vol. 17, pp. 161–167.

Copeland, J & Swift, W 2009, 'Cannabis use disorder: epidemiology and management', *International Review of Psychiatry*, vol. 21, pp. 96–103.

Cosden, M, Basch, JE, Campos, E, Greenwell, A, Barazani, S & Walker, S 2006, 'Effects of motivation and problem severity on court-based drug treatment', *Crime and Delinquency*, vol. 52, pp. 599–618.

Cunneen C 2001, *The impact of crime prevention on Aboriginal communities*. Institute of Criminology, Law Faculty, University of Sydney: Sydney http://www.lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/impact_of_crime_prevention_on_aboriginal_communities_chris_cunneen_sep2001.pdf/$file/impact_of_crime_prevention_on_aboriginal_communities_chris_cunneen_sep2001.pdf.

Dannerbeck, A, Harris, G, Sundet, P, & Lloyd, K 2006, 'Understanding and responding to racial differences in drug court outcomes', *Journal of Ethnicity in Substance Abuse,* vol 5*,* no. 2, pp. 1–22.

Dannerbeck, A, Sundet, P, & Lloyd, K 2002, 'Drug courts: gender differences and their implications for treatment strategies', *Corrections Compendium*, vol. 27, no. 12, pp. 1–26.

De Leon, G 1988, 'Legal pressure in therapeutic communities', *Journal of Drug Issues*, vol. 18, pp. 625-640.

Deloitte Access Economics 2012 'An economic analysis for Aboriginal and Torres Strait Islander offenders: prison v residential treatment', *Research Paper*, no. 24, Australian National Council on Drugs: Canberra.

Dennis, ML & Scott, CK 2012, 'Four-year outcomes from the early re-intervention (ERI) experiment using recovery management checkups (RMCs)', *Drug and alcohol dependence*, vol. 121, pp. 10–17.

Dennis, M, Scott, CK & Funk, R 2003, 'An experimental evaluation of recovery management checkups (RMC) for people with chronic substance use disorders', *Evaluation and program planning,* vol. 26, pp. 339–352.

Dennison, S, Stewart, A & Hurren, E 2006, 'Police cautioning in Queensland: the impact on juvenile offending pathways', *Trends and Issues in Crime and Criminal Justice*, no. 306, Australian Institute of Criminology: Canberra.

Department of Communities, Child Safety and Disability Services 2016, *Family and household characteristics*, Queensland government website accessed on 31 October 2016 < https://www.communities.qld.gov.au/childsafety/about-us/our-performance/family-and-household-characteristics>.

Department of Health 2004, *Module 9: working with young people on AOD issues: facilitator's guide.* Department of Health: Canberra. http://www.health.gov.au/internet/publications/publishing.nsf/Content/drugtreat-pubs-front9-fa-toc

Department of the Attorney General, Government of Western Australia 2006, *A review of the Perth drug court*. Author: Perth.

Dobinson, I & Ward, P 1985, *Drugs and crime: a survey of NSW prison property offenders,* New South Wales Bureau of Crime Statistics and Research: Sydney.

Donohue, B, Azrin, N, Allen, DN, Romero, V, Hill, HH, Tracy, K, Lapota, H, Gorney, S, Abdel-Al, R & Caldas, D 2009, 'Family behavior therapy for substance abuse and other associated problems: a review of its intervention components and applicability', *Behavior Modification*, vol. 33, pp. 495–519.

Dossetor, K 2011, 'Cost-benefit analysis and its application to crime prevention and criminal justice research', *Technical and Background Paper*, no 42, Australian Institute of Criminology: Canberra.

Drake, E, Aos, S & Miller, M 2009, 'Evidence-based public police options to reduce crime and criminal justice costs: implications in Washington state', *Victims and Offenders*, vol. 4, pp 170–196.

Dutra, L, Stathopoulou, G, Basden, SL, Leyro, TM., Powers, MB & Otto, MW 2008, 'A meta-analytic review of psychosocial interventions for substance use disorders', *American Journal of Psychiatry*, 165(2), pp. 179-187.

Easton, CJ, Mandel, DL., Hunkele, KA., Nich, C, Rounsaville, BJ & Carroll, KM 2007, 'A cognitive behavioral therapy for alcohol-dependent domestic violence offenders: an integrated substance abuse–domestic violence treatment approach (SADV)', *American Journal on Addictions*, vol. 16, pp. 24–31.

Ely, RJ & Thomas, DA 2001, 'The effects of diversity perspectives on work group processes and outcomes', *Administrative Science Quarterly,* vol. 46, no. 2, pp. 229–273.

English B, Cummings R & Stratton R 2002, 'Choosing an evaluation model for community crime prevention programs', in N Tilley (ed), *Evaluation for crime prevention*. Criminal Justice Press: Monsey, NY, pp. 119–169.

Fals-Stewart, W, O'Farrell, TJ & Birchler, GR 2001, 'Behavioral couples therapy for male methadone maintenance patients: effects on drug-using behavior and relationship adjustment', *Behavior Therapy*, vol. 32, pp. 391–411.

Farrington DP, Gottfredson DC, Sherman LW & Welsh BC 2006, The Maryland scientific methods scale, in LW Sherman LW, DP Farrington DP, BC Welsh BC & DL MacKenzie (eds), *Evidence-based crime prevention*. Routledge: London, pp. 13–21.

Ferguson, LM & Wormith, JS 2012, 'A meta-analysis of moral reconation therapy', *International Journal of Offender Therapy and Comparative Criminology*, 57(9), pp. 1076-1106.

Fetherson, J & Lenton, S 2007, *Effects of the Western Australian cannabis infringement notice scheme on public attitudes, knowledge and use*, National Drug Research Institute: Perth.

Fitzgerald, J 2008, 'Does circle sentencing reduce Aboriginal reoffending?' *Crime and Justice Bulletin*, no. 115. New South Wales Bureau of Crime Statistics and Research: Sydney.

Forensic and Applied Psychology Research Group 2005, *The management of Indigenous prisoners, prisoners from different cultural backgrounds and women prisoners: the ACT prison project*, University of South Australia: Adelaide.

Forsythe, L & Gaffney, A 2012, Mental disorder at the gateway to the criminal justice system. *Trends & Issues in Crime and Criminal Justice* no. 438. Canberra: Australian Institute of Criminology.

Fosados, R, Evans, E, & Hser, Y 2007, 'Ethnic differences in utilization of drug treatment services and outcomes among proposition 36 offenders in California, *Journal of Substance Abuse Treatment,* vol. 4, pp. 391–399.

Freiberg, A 2014, *Sentencing: state and federal law in Victoria*, 3rd edn, Thomson Reuters: Sydney.

Freiberg, A & Morgan, N 2004, 'Between bail and sentence: the conflation of dispositional options', *Current Issues in Criminal Justice*, vol. 15, no. 3.

Gannoni, A, Goldsmid, S & Patterson, E 2015, 'Methamphetamine in Brisbane: perspectives from DUMA police detainees', *Research in Practice,* no. 45, Australian Institute of Criminology: Canberra.

Garland, B., Wodahl, E.J. and Mayfield, J., 2010. Prisoner reentry in a small metropolitan community: Obstacles and policy recommendations. *Criminal Justice Policy Review*, 22(1), pp. 90–110.

Garner, BR, Knight, K, Flynn, PM, Morey, JT & Simpson, DD 2007, 'Measuring offender attributes and engagement in treatment using the client evaluation of self and treatment, *Criminal Justice and Behavior*, vol. 34, no. 9, pp. 1113–1130.

Gendreau, P 1996, 'Offender rehabilitation what we know and what needs to be done', *Criminal Justice and Behavior*, vol. 23, pp. 144–161.

Gisev, N, Larney, S, Kimber, J, Burns, L, Weatherburn, D, Gibson, A, Dobbins, T, Mattick, R, Butler, T, Burns, L 2014, 'The impact of opioid substitution therapy on morality post-release from prison: retrospective data linkage study, *Addiction*, vol. 109, no. 8, pp. 1307-17.

Godley, MD, Godley SH, Dennis ML, Funk RR, Passetti LL, 2006, 'The effect of assertive continuing care on continuing care linkage, adherence and abstinence following residential treatment for adolescents with substance use disorders'. *Addiction*, vol.102, pp. 81–93.

Goldkamp, JS 1994, 'Miami's treatment of drug court for felong defendants: some implications for assessment findings', *Prison Journal,* vol.74(2), pp.110-157.

Goldkamp, JS & Weiland, D 1993, *Assessing the impact of Dade County's felony drug court,* National Instiute of Justice Research Brief: Washington, DC

Goldstein, P 1985, 'The drugs/violence nexus: a tripartite conceptual framework', *Journal of Drug Issues*, vol. 39, pp. 143-174.

Goodall, S, Norman, R & Haas, M 2008, 'The costs of NSW drug court', *Crime and Justice Bulletin*, vol. 10, no. 122.

Gottfredson, DC, Kearley, BW, Najaka, SS & Rocha, CM 2007, How drug treatment courts work an analysis of mediators, Journal of Research in Crime and Delinquency, vol. 44, no. 1, pp. 3-35.

Gottfredson, MR & Hirschi, T 1990, *A general theory of crime*, Standford University Press: Stanford CA.

Grella, C 2008, 'Gender-responsive drug treatment services for women: a summary of current research and recommendations' in C Hardin C & JN Kushner (eds), *Quality improvement for drug courts: evidence-based practices,* Monograph Series no. 9, pp. 63–74, National Drug Court Institute: Alexandria, VA.

Griffith, JD, Rowan-Szal, GA, Roark, RR & Simpson, DD 2000, 'Contingency management in outpatient methadone treatment: a meta-analysis', *Drug and Alcohol Dependence*, vol. 58, no. 1, pp. 55–66.

Gross, A, Marsch, LA, Badger, GJ & Bickel, WK 2006, 'A comparison between low-magnitude voucher and buprenorphine medication contingencies in promoting abstinence from opioids and cocaine', *Experimental and Clinical Psychopharmacology,* vol. 14, p. 148.

Guerrero, E 2010, 'Managerial capacity and adoption of culturally competent practices in outpatient substance abuse treatment organizations', *Journal of Substance Abuse Treatment*, vol. *39,* no. 4, pp. 329–339.

Guerrero, EG, Marsh, JC, Duan, L, Oh, C, Perron, B, & Lee, B 2013, 'Disparities in completion of substance abuse treatment between and within racial and ethnic groups', *Health Services Research* (online)*.* doi: 10.1111/1475-6773.12031

Hall, JA, Smith, DC, & Williams, JK 2008, 'Strengths Oriented Family Therapy (SOFT): A manual-guided treatment for substance-involved teens and their families'. In CW Lecroy's (Ed.) Handbook of Evidence-Based Treatment Manuals for Children and Adolescents (2nd Ed), Oxford University Press: New York

Harrell, A, Cavanagh, S & Roman, J 1998, Findings from the evaluation of the D.C. superior court drug intervention program: final report, The Urban Institute: Washington , D.C.

Harrell, A & Kleiman, M 2002, 'Drug testing in criminal justice settings', Treatment of Drug Offenders: Policies and Issues, pp. 149–171.

Harrell, A & Roman, J 2001, 'Reducing drug use and crime among offenders: the impact of graduated sanctions', *Journal of Drug Issues*, vol. 31, no. 1, 207–231.

Hartley, RE & Phillips, RC 2001, 'Who graduates from drug courts? Correlates of client success', *American Journal of Criminal Justice,* vol. 26, no. 1, pp. 107–119.

Harvey, A 2012, 'Anger as New South Wales axes youth drug court', *ABC news*, 4 July, viewed 30 October 2016, http://www.abc.net.au/news/2012-07-03/experts-baffled-as-axe-falls-on-youth-drug-court/4108366

Hawken, A & Kleiman, M 2009, Managing drug involved probationers with wwift and certain sanctions: evaluating Hawaii's HOPE: executive summary, National Criminal Justice Reference Services: Washington, DC.

Health Canada 2010, National native alcohol and drug abuse program (NNADAP) Review, http://www.hc-sc.gc.ca/fniah-spnia/substan/ads/nnadap-pnlaada-eng.php.

Heather, N, Bowie, A, Ashton, H, McAvoy, B, Spencer, I, Brodie, J & Giddings, D 2004, 'Randomised controlled trial of two brief interventions against long-term benzodiazepine use: outcome of intervention', *Addiction Research and Theory,* vol. 12, 141–154.

Heck, C., 2008. 'MRT: Critical component of a local drug court program'. *Cognitive Behavioral Treatment Review*, 17(1), pp.1-2.

Heck, C, Roussell, A & Culhane, SE 2008, 'Assessing the effects of the drug court intervention on offender criminal trajectories: a research note', *Criminal Justice Policy Review*, 20(2), pp. 236-246.

Hester RK, Miller WR. 1995. *Handbook of Alcoholism Treatment Approaches*. 2ed. Boston, MA.

Higgins, S.T., Badger, G.J. and Budney, A.J., 2000. 'Initial abstinence and success in achieving longer term cocaine abstinence'. *Experimental and Clinical Psychopharmacology*, 8(3), p. 377.

Hildebrand, M & Noteborn, MG 2015, 'Exploration of the (interrater) reliability and latent factor structure of the alcohol use disorders identification test (AUDIT) and the drug use disorders identification test (DUDIT) in a sample of Dutch probationers. *Substance Use and Misuse*, vol. 50, pp. 1294–1306.

Hiller, M, Belenko, S, Taxman, F, Young, D, Perdoni, M & Saum, C 2010, 'Measuring drug court structure and operations key components and beyond', *Criminal Justice and Behavior*, vol. 37, pp. 933–950.

Hiller, M., Knight, K. and Simpson, D 1999, 'Prison-based substance abuse treatment, residential aftercare and recidivism', *Addiction*, 94(6), pp. 833-842.

Hofmann, SG, Asnaani, A, Vonk, IJ, Sawyer, AT & Fang, A 2012, 'The efficacy of cognitive behavioral therapy: a review of meta-analyses', *Cognitive Therapy and Research,* vol. 36, pp. 427–440.

Holloway, KR & Bennett, TH 2016, 'Drug interventions' in D Weisburd, D Farrington and C Gill (eds), *What Works in Crime Prevention and Rehabilitation*, pp. 219–236, Springer: New York.

Holloway, KR, Bennett, TH & Farrington, DP, 2006. 'The effectiveness of drug treatment programs in reducing criminal behavior: A meta-analysis'. *Psicothema*, 18(3), pp. 620-629.

Hubbard, L, Marsden, E & Racholl, V 1989, *Drug abuse treatment,* The University of North Carolina Press: Chapel Hill.

Huebner, BM & Cobbina, J 2007, 'The effect of drug use, drug treatment participation, and treatment completion on probationer recidivism', *Journal of Drug Issues,* vol. 37, pp. 619–641.

Huey, SJ & Polo, AJ 2008, 'Evidence-based psychosocial treatments for ethnic minority youth', *Journal of Clinical Child and Adolescent Psychology,* vol. 37, no. 1, pp. 262–301.

Hughes, C, Shanahan, M, Ritter, A, McDonald, D & Gray-Weale, F 2013, *Evaluation of the Australian Capital Territory drug diversion programs*, National Drug and Alcohol Research Centre: Sydney.

Inciardi, J A, Martin, SS & Butzin, CA 2004, 'Five-year outcomes of therapeutic community treatment of drug-involved offenders after release from prison', *Crime and Delinquency*, vol. 50, pp. 88–107.

Indermaur, D, 1995. *Violent property crime*. Federation Press: Vancouver.

Irvin, JE, Bowers, CA, Dunn, ME & Wang, MC 1999, 'Efficacy of relapse prevention: a meta-analytic review', *Journal of Consulting and Clinical Psychology*, vol. 67, p. 563.

Janku, AD & Yan, J 2009, 'Exploring patterns of court-ordered mental health services for juvenile offenders: is there evidence of systematic bias?' *Criminal Justice & Behavior,* vol. 36, no. 4, pp. 402–419.

Jeffries, S & Bond, C 2012, 'Does a therapeutic court context matter? The likelihood of imprisonment for indigenous and nonindigenous offenders sentenced in problem-solving courts', *International Journal of Law, Crime & Justice,* vol. 41, no. 1, pp. 100–114.

Johnson, D 2001, 'Age of illicit drug initiation', *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology: Canberra.

Johnson, H 2004a, 'Drugs and crime : a study of incarcerated female offenders', *Research and Public Policy Series*, Australian Institute of Criminology: Canberra.

Johnson, H 2004b, 'Key findings from the drug use careers of female offenders study, *Trends and Issues in Crime and Criminal Justice*, no. 289, Australian Institute of Criminology: Canberra.

Jonas, DE, Garbutt, JC, Amick, HR, Brown, JM, Brownley, KA, Council, CL, Viera, AJ, Wilkins, TM, Schwartz, CJ, & Richmond, EM 2012, 'Behavioral counseling after screening for alcohol misuse in primary care: a systematic review and meta-analysis for the US preventive services task force', *Annals of Internal Medicine*, vol. 157, pp. 645–654.

Jones, CG 2013, 'Early-phase outcomes from a randomized trial of intensive judicial supervision in an Australian drug court', *Criminal Justice and Behavior*, vol. 40, pp. 453–468.

Joudo J 2008, 'Responding to substance abuse and offending in Indigenous communities: review of diversion programs', *Research and Policy Series,* no. 88, Australian Institute of Criminology: Canberra.

Kadden, RM, Litt, MD, Kabela-Cormier, E & Petry, NM 2007, 'Abstinence rates following behavioral treatments for marijuana dependence', *Addictive Behaviors*, vol. 32, pp. 1220–1236.

Kaner, E, Bland, M, Cassidy, P, Coulton, S, Dale, V, Deluca, P, Gilvarry, E, Godfrey, C, Heather, N & Myles, J 2013, 'Effectiveness of screening and brief alcohol intervention in primary care (SIPS trial): pragmatic cluster randomised controlled trial', *Brittish Medical Journal*, vol. 346.

Kazantzis, N, Deane, FP & Ronan, KR 2000, Homework assignments in cognitive and behavioral therapy: a meta-analysis', *Clinical Psychology: Science and Practice,* vol. 7, 189–202.

Keen, J, Rowse, G, Mathers, N, Campbell, M & Seivewright, N 2000, 'Can methadone maintenance for heroin-dependent patients retained in general practice reduce criminal conviction rates and time spent in prison?', *Brittish Journal of General Practice,* vol. 50, pp. 48–49.

Kelly, JF, Finney, JW & Moos, R 2005, 'Substance use disorder patients who are mandated to treatment: characteristics, treatment process, and 1-and 5-year outcomes', *Journal of Substance Abuse Treatment,* vol. 28, pp. 213–223.

King, M, Freiberg, A, Batagol, B & Hyams, R 2014, *Non-Adversarial Justice*, 2nd edn, The Federation Press: Sydney.

Kinlock, TW, Gordon, M, Schwartz, RP, Fitzgerald, TT & O'Grady, KE 2009, 'A randomized clinical trial of methadone maintenance for prisoners: results at 12 months postrelease', *Journal of Substance Abuse Treatment*, vol. 37, pp. 277–285.

Kinner, SA 2006, *The post-release experience of prisoners in Queensland*, Queensland Alcohol and Drug Research and Education Centre: Brisbane.

Kirchner, R & Goodman, E 2007, 'Effectiveness and impact of Thurston County, Washington drug court program', *Cognitive Behavioral Treatment Review*, vol. 16, pp. 1–4.

Knight, K, Flynn, PM & Simpson, DD, 2008. 'Drug court screening'. *Quality Improvement For Drug Courts*.

Knight, K, Simpson, DD & Hiller, ML, 1999. 'Three-year reincarceration outcomes for in-prison therapeutic community treatment in Texas'. *The Prison Journal*, 79(3), pp. 337-351.

KPMG 2014, *Evaluation of the drug court of Victoria: final report*. Magistrates' Court of Victoria: Melbourne.

Kraemer, S, Gately, N & Kessell, J 2009, *HOPE (Health of Prisoner Evaluation) Pilot Study of Prisoner Physical Health and Psychological Wellbeing*, Edith Cowan University: Perth.

Kushner, JN, Peters, RH & Cooper, CS 2014, 'A technical assistance guide from drug court judges on drug court treatment services. Bureau of Justice Assistance Drug Court Technical Assistance Project.' American Univserity. Retrived from http://www.wellnesscourts.org/files/FINAL%20TREATMENT%20GUIDE%20%20for%20Judges%20Apr_%202014.pdf

Laken, MP & Ager, JW 1996, 'Effects of case management on retention in prenatal substance abuse treatment', *The American Journal of Drug and Alcohol Abuse,* vol. 22, pp. 439–448.

Landenberger, NA & Lipsey, MW 2005, 'The positive effects of cognitive-behavioral programs for offenders: a meta-analysis of factors associated with effective treatment', *Journal of Experimental Criminology,* vol. 1, pp. 451–476.

LaPota, HB, Donohue, B, Warren, CS & Allen, DN 2011, 'Incorporating a healthy living curriculum within family behavior therapy: a clinical case example in a woman with a history of domestic violence, child neglect, drug abuse, and obesity', *Journal of Family Violence*, vol. 26, pp. 227–234.

Latessa, E, & Sperber, K. 2010. *Dosage: How much is enough?* Presentation at the Annual Conference of the International Community Corrections Association.

Latimer, J, Morton-Bourgon, K & Chretien J 2006, *A meta-analytic examination of Drug Treatment Courts: do they reduce recidivism?* Department of Justice, Canada.

Law Reform Commission of Western Australia 2008, *Court intervention programs: consultation paper*, Author: Perth.

Lawson, WB & Lawson, A 2013, 'Disparities in mental health diagnosis and treatment among African Americans: implications for the correctional systems, in B Sanders, Y Thomas & B Deeds (eds), *Crime, HIV and health: Intersections of criminal justice and public health concerns.* Springer: New York.

Lee, S, Aos S, Drake E, Pennucci A, Miller M & Anderson L 2012, 'Return on investment: evidence-based options to improve statewide outcomes', April 2012. Washington State Institute of Public Policy: Olympia.

Leonardson, GR, Loudenburg, R 2003 'Risk factors for alcohol use during pregnancy in a multistate area' *Neurotoxicology and Teratology* vol. 25, pp.651–8.

Leukefeld, CG & Tims, FM 1988, 'Compulsory treatment: a review of findings', *Compulsory Treatment of Drug Abuse: Research and Clinical Practice.* National Institute on Drug Abuse Research Monograph, vol. 86, pp. 236–251.

Levine, G 2012, *A Study of Family Drug Treatment Courts in the United States and the United Kingdom: Giving parents and children the best chance of reunification*, The Winston Churchill Memorial Trust of Australia.

Liang, B & Long, MA 2013, 'Testing the gender effect in drug and alcohol treatment: women's participation in Tulsa County drug and DUI programs', *Journal of Drug Issues*, vol. 43, no. 3, pp. 270-288.

Lind, B, Weatherburn, D & Chen, S 2002, *New South Wales drug court evaluation: cost-effectiveness*, New South Wales Bureau of Crime Statistics and Research: Sydney.

Lipsey, MW, Landenberger, NA & Wilson, SJ 2007, 'Effects of cognitive-behavioral programs for criminal offenders', *Campbell Systematic Review*, no. 6, Campbell Collaboration: US.

Lipsey, M, Petrie, C, Weisburd, D & Gottfredson, D 2006, Improving evaluation of anti-crime programs: summary of a national research council report, *Journal of Experimental Criminology*, vol. 2, no. 3), pp. 271–307.

Little, GL & Robinson, KD 1988 'Moral reconation therapy: a systematic step-by-step treatment system for treatment resistant clients', *Psychology Report,* vol.62(1), pp. 135—51.

Long, J. & Sullivan, CJ, 2016. Learning More From Evaluation of Justice Interventions Further Consideration of Theoretical Mechanisms in Juvenile Drug Courts. *Crime & Delinquency*, doi: 10.1177/0011128716629757

Longshore, D, Turner, S, Wenzel, S, Morral, A, Harrell, A, McBride, B, Deschenes, E & Iguchi, M 2001, 'Drug courts: A conceptual framework', *Journal of Drig Issues,* vol.31(1), pp. 7-26.

Lowenkamp, CT, 2009. 'Development of an Actuarial Risk Assessment Instrument for US Pretrial Services', The. Fed. Probation, 73, p.33.Lowenkamp, CT, Hubbard, D, Makarios, MD & Latessa, EJ, 2009. A quasi-experimental evaluation of thinking for a change a "real-world" application. Criminal Justice and Behavior, 36(2), pp. 137-146.

Lowenkamp, CT & Latessa, EJ 2004, 'Understanding the risk principle: how and why correctional interventions can harm low-risk offenders', *Topics in Community Corrections,* pp. 3–8.

Lowenkamp, CT, Latessa, EJ & Smith, P 2006, 'Does correctional program quality really matter? The impact of adhering to the principles of effective intervention', *Criminology and Public Policy*, vol. 5, pp. 201−220.

Lubman, DI, Yücel, M & Hall, WD 2007, 'Substance use and the adolescent brain: a toxic combination?', *Journal of Psychopharmacology*, vol. 21, pp. 792–794.

Lussier, J. P, Heil, SH, Mongeon, JA, Badger, GJ & Higgins, ST 2006, 'A meta-analysis of voucher-based reinforcement therapy for substance use disorders, *Addiction,* vol. 101, pp. 192–203.

MacKenzie, DL 2006, *What works in corrections: reducing the criminal activities of offenders and deliquents*: Cambridge University Press: Cambridge.

Magill, M & Ray, LA 2009, 'Cognitive-behavioral treatment with adult alcohol and illicit drug users: a meta-analysis of randomized controlled trials', *Journal of Studies on Alcohol and Drugs*, vol. 70, pp. 516–527.

Makkai, T 2002, 'Illicit Drugs and Crime' in A Graycar & P Bentler (eds), *The Cambridge Handbook of Australian Criminology*, 1st edn, Cambridge University Press: Cambridge Makkai, T & Payne, J 2003a, *Drugs and crime: a study of incarcerated male offenders*, Australian Institute of Criminology: Canberra.

Makkai, T & Payne, J 2003b, *Key findings from the drug use careers of offenders (DUCO) study*, Australian Institute of Criminology: Canberra.

Makkai, T & Payne, J 2005, 'Illicit drug use and offending histories: A study of male incarcerated offenders in Australia', *Probation Journal*, vol. 52, no 2, pp. 153–168.

Makkai, T, Ratcliffe, J, Veraar, K & Collins, L 2004, 'ACT Recidivist Offenders', *Research and Public Policy Series*. Australian Institute of Criminology: Canberra.

Makkai, T & Veraar, K 2003, *Final report on the south east Queensland drug court*. Australian Institute of Criminology: Canberra.

Malivert, M, Fatseas, M, Denis, C, & Auriacombe, M, 'Effectiveness of Therapeutic Communities: A Systematic Review', *European Addiction Research,* vol.18)1), pp.1-11.

Marchetti, E 2009, 'Indigenous sentencing courts', *Research Brief*, no 5, Indigenous Justice Clearinghouse: Canberra.

Marlatt, GA 1985, 'Relapse prevention: theoretical rationale and overview of the model', *Relapse Prevention*, pp. 3–70.

Marlowe, DB 2008, Application of sanctions, In C. Hardin & J.N. Kushner (Eds.), *Quality improvement for drug courts: Evidence-based practices* (pp. 97–105), Alexandria, VA: National Drug Court Institute.

Marlowe, DB 2010, 'Putting meat on the bone on the bone of the 10 Key Components, *ALLRISE* magazine, vol.2(2), p.12.

Marlowe, D 2012, 'Alternative tracks in adult drug courts: matching your program to the needs of your clients (part two of a two part series'. *National Drug Court Institute Paper*, vol 7, no. 2, National Drug Court Institute: Alexandria, VA.

Marlowe, DB, Festinger, DS, Arabia, PL, Dugosh, KL, Benasutti KM, Croft, JR, & McKay, JR 2008, 'Adaptive outcomes in drug court: A pilot experiment, *Criminal Justice Review,* vol.33(3), pp.343-360.

Marlowe, DB & Kirby, KC 1999, 'Effective use of sanctions in drug courts: lessons from behavioral research', *National Drug Court Institute Review*, vol. 2, no. 1, pp. 1–31.

Marlowe, DB, Patapis, NS, DeMatteo, DS 2003, *Amenability to treatment of drug offenders*. Federal Probation.

Marlowe DB, & Wong C.J 2008, 'Contingency management in adult criminal drug courts', In Higgins ST, Silverman K, Heil S.H (Eds.) *Contingency management in substance abuse treatment*, New York: Guilford, pp. 334–354

Marsch, L.A, Bickel, WK, Badger, GJ & Jacobs, EA 2005, 'Buprenorphine treatment for opioid dependence: the relative efficacy of daily, twice and thrice weekly dosing', *Drug and Alcohol Dependence,* vol. 77, pp. 195–204.

Marsh, S 2009, 'The lens of implicit bias', *Juvenile and Family Justice Today*, vol. 18, pp. 16–19.

Matrix Research and Consultancy and NACRO, 2004, *Evaluation of Drug Testing in the Criminal Justice System*, Home Office Research Study 286. London: Home Office.

Matruglio, T 2008, 'Magistrates early referral into treatment: an overview of the MERIT program from July 2000 to December 2007', *Crime Prevention Issues*, no. 2, New South Wales Government: Sydney.

Mazerolle, L, Soole, D & Rombouts, S 2007, 'Drug law enforcement: a review of the evaluation literature', *Police Quarterly*, vol. 10, pp. 115–153.

McCord, J 2003, 'Cures that harm: unanticipated outcomes of crime prevention programs', *The Annals of the American Academy of Political and Social Science,* vol. 587, pp. 16–30.

McIlwraith, F, Salom, C & Alati, R 2016, 'Queensland drug trends 2015: findings from the illicit drug reporting system (IDRS)', *Australian Drug Trend Series*, no. 153, National Drug and Alcohol Research Centre: Sydney.

McKay, JR 2009, 'Continuing care research: what we have learned and where we are going', *Journal of Substance Abuse Treatment,* vol. 36, pp. 131–145.

McKay, JR, Lynch, KG, Shepard, DS, Pettinati, HM 2005, 'The effectiveness of telephone based continuing care for alcohol and cocaine dependence: 24 month outcomes', *Archives of General Psychiatry,*vol 62, pp.199–207.

McLean, A 2012, 'The value of alumni groups: a graduate's viewpoint', *AllRise Magazine*, Fall, p. 27.

McLellan, A.T., Arndt, I.O., Metzger, D.S., Woody, G.E. and O'Brlen, C.P., 1993. The effects of psychosocial services in substance abuse treatment. *Addictions Nursing Network*, 5(2), pp. 38-47.

McLellan, AT, Carise, D & Kleber, HD 2003, 'Can the national addiction treatment infrastructure support the public's demand for quality care', *Journal of Substance Abuse Treatment,* vol. 25, pp. 117–121.

McMurran, M. and Priestley, P. (2004) Addressing Substance-Related Offending, in Group Psychotherapy and Addiction (eds B. Reading and M. Weegmann), Whurr Publishers Ltd, London, UK. doi: 10.1002/9780470713549.ch13

McRee, N & Drapela, LA 2012, 'The timing and accumulation of judicial sanctions among drug court clients', *Crime and Delinquency*, 58(6), pp. 911-931.

McSweeney, T, Stevens, A, Hunt, N & Turnbull, PJ 2007, 'Twisting arms or a helping hand? Assessing the impact of 'coerced'and comparable 'voluntary'drug treatment options', *British Journal of Criminology*, vol. 47, pp. 470–490.

Mejta, CL, Bokos, PJ, Mickenberg, J, Maslar, ME & Senay, E 1997, 'Improving substance abuse treatment access and retention using a case management approach', *Journal of Drug Issues,* vol. 27, pp. 329–340.

Menard, S, Mihalic, S & Huizinga, D 2001, 'Drugs and crime revisited', *Justice Quarterly*, vol. 18, no. 2, pp. 269–299.

Mihalic, S, Irwin, K, Fagan, A, Ballard, D & Elliott, D 2004, 'Successful program implementation: lessons from blueprints', *Juvenile Justice Bulletin*, July, 1–2.

Milby, JB, Conti, K, Wallace, D, Mennemeyer, S, Mrug, S & Schumacher, JE 2015, 'Comorbidity effects on cocaine dependence treatment and examination of reciprocal relationships between abstinence and depression', *Journal of Consulting and Clinical Psychology*, vol. 83, p. 45.

Miller, JM & Shutt, JE 2001, 'Considering the need for empirically grounded drug court screening mechanisms', *Journal of Drug Issues,* vol. 31, no. 1, pp. 91–106.

Miller, WR & Rollnick, S 2002, *Motivational interviewing: preparing people for change*, Guilford Press Google Scholar: New York.

Mitchell, O, MacKenzie, D & Wilson, D 2012, 'The effectiveness of incarceration-based drug treatment on criminal behavior: a systematic review', *Campbell Systematic Reviews,* no. 8, Campbell Collaboration: US.

Montoya, ID, Schroeder, JR, Preston, KL, Covi, L, Umbricht, A, Contoreggi, C, Fudala, PJ, Johnson, RE & Gorelick, DA 2005, 'Influence of psychotherapy attendance on buprenorphine treatment outcome', *Journal of Substance Abuse Treatment,* vol. 28, pp. 247–254.

Morgan, A, Boxall, H, Lindeman, K & Anderson, J 2012, 'Effective crime prevention interventions for implementation by local government', *Research and Public Policy Series*, no. 120, Australian Institute of Criminology, Canberra.

Morgan, A & Homel, P 2013, 'Evaluating crime prevention: lessons from large-scale community crime prevention programs', *Trends and Issues in Crime and Justice*, no. 48, Australian Institute of Criminology: Canberra.

Morgan, A & Louis E 2010, 'Evaluation of the Queensland Murri Court', *Technical and Background Paper*, no. 39, Australian Institute of Criminology: Canberra.

National Association of Criminal Defense Lawyers (NACDL) 2009. *America's problem-solving courts: The criminal costs of treatment and the case for reform*. Washington, DC: Author.

National Association of Drug Court Professionals (NADCP) 2013, *Adult Drug Court Best Practice Standards,* Volume 1, Alexandria:VA
Available at: http://www.allrise.org/sites/default/files/nadcp/AdultDrugCourtBestPracticeStandards.pdf.

National Association of Drug Court Professionals (NADCP) 2015, *Adult Drug Court Best Practice Standards,* Volume 2, Alexandria:VA
Available at:
http://www.ndcrc.org/sites/default/files/adult_drug_court_best_practice_standards_volume_ii.pdf.

Nagin, DS, Cullen, FT & Jonson, CL 2009), 'Imprisonment and reoffending', *Crime and Justice*, vol. 38, pp. 115–200.

Najman, I Morris, C & Kempnich, C 2009, *An evaluation of illicit drug court diversion and policy diversion programs*, Queensland Alcohol and Drug Research and Education Centre (QADREC): Brisbane.

Nathan, PE & Gorman, JM 2015, *A guide to treatments that work*, Oxford University Press: Oxford.

National Association of Criminal Defense Lawyers 2009, *America's problem-solving courts: the criminal costs of treatment and the case for reform*. Author: Washington, DC.

National Institute on Drug Abuse (NIDA) 2009, *Principles of Drug Addiction Treatment: A Research-Based Guide (Third Edition).* NIH Publication No. 12–4180. https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/preface

Nebelkopf E & Wright S 2011, Holistic system of care: a ten-year perspective, Journal of Psychoactive Drugs, vol. 43, no. 4, pp. 302–308. http://www.tandfonline.com/doi/pdf/10.1080/02791072.2011.628922.

New South Wales Ombudsman 2009, *Review of the impact of criminal infringement notices on Aboriginal communities*, Author: Sydney.

New Zealand Ministry of Justice 2014, *Alcohol and other drug treatment court handbook,* Author: Wellington.

Northern Rivers University Department of Rural Health 2003, *Evaluation of the Lismore MERIT pilot program: final report*, New South Wales Attorney General's Department: Lismore.

NSW Ombudsman 2009, *Review of the impact of Criminal Infringement Notices on Aboriginal communities,* August 2009, Author: Sydney http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0014/3407/FR_CINs_ATSI_review_Aug09.pdf

O'Connor, I & Cameron, M 2002, 'Juvenile justice in Australia', *Oxford Handbook of Criminology,* vol. 3, pp. 211–235.

O'Donnell, A, Anderson, P, Newbury-Birch, D, Schulte, B, Schmidt, C, Reimer, J & Kaner, E 2014, 'The impact of brief alcohol interventions in primary healthcare: a systematic review of reviews', *Alcohol and Alcoholism,* vol. 49, pp. 66–78.

O'Farrell, TJ & Fals-Stewart, W 2002, 'Family-involved alcoholism treatment an update', *Recent Developments in Alcoholism*, vol. 15, pp. 329–356.

O'Farrell, TJ & Fals-Stewart, W 2000, 'Behavioral couples therapy for alcoholism and drug abuse', *Journal of Substance Abuse Treatment*, vol. 18, pp. 51–54.

O'Farrell, TJ, Cutter, HS & Floyd, FJ 1985, 'Evaluating behavioral marital therapy for male alcoholics: effects on marital adjustment and communication from before to after treatment', *Behavior Therapy*, vol. 16, pp. 147–167.

O'Hear, MM 2009, 'Rethinking drug courts: restorative justice as a response to racial injustice', *Stanford Law & Policy Review,* vol. 20, no. 2, pp. 101–137.

Obert, JL, McCann, MJ, Marinelli-Casey, P, Weiner, A, Minsky, S, Brethen, P & Rawson, R 2000, 'The matrix model of outpatient stimulant abuse treatment: history and description', *Journal of Psychoactive Drugs*, vol. 32, pp. 157–164.

Office of Justice Programs (OJP) 1997, *Defining Drug Courts: the Key Components ,* US Department of Justice: USA.

Olmstead, TA & Petry, NM 2009, 'The cost-effectiveness of prize-based and voucher-based contingency management in a population of cocaine-or opioid-dependent outpatients', *Drug and Alcohol Dependence,* vol. 102, pp. 108–115.

Paki H 2010, *Evaluation of Rongo Atea alcohol and other drug treatment centre for adolescents*, Waikato: The University of Waikato, http://researchcommons.waikato.ac.nz/handle/10289/5769.

Palmer, T 1978, *Correctional intervention and research: current issues and future prospects,* Lexington Books: Lexington, Massachusetts.

Parker, HJ & Kirby, P, 1996. *Methadone maintenance and crime reduction on Merseyside*. Home Office, Police Research Group.

Payne, J 2005, *Final report on the North Queensland Drug Court*, Canberra: Australian Institute of Criminology.

Payne, J 2007, 'Recidivism in Australia: findings and future research', *Research and Public Policy Series*, no. 82, Australian Institute of Criminology: Canberra.

Payne, J 2008, 'The Queensland drug court: a recidivism study of the first 100 graduates', *Research and Public Policy Series*, no. 82, Australian Institute of Criminology: Canberra.

Payne, J & Gaffney, A 2012, 'How much crime is drug or alcohol related? Self-reported attributions of police detainees', *Trends and Issues in Crime and Criminal Justice*, no. 439, Australian Institute of Criminology: Canberra.

Payne, J, Kwiatkowski, M & Wundersitz, J 2008, 'Police drug diversion: a study of criminal offending outcomes', *Research and Public Policy Series*, no. 97, Australian Institute of Criminology: Canberra.

Payne, J & Piquero, A 2016, 'The concordance of self-reported and officially recorded lifetime offending histories: results from a sample of Australian prisoners', *Journal of Criminal Justice*, vol. 46, no. September, pp. 184–195.

Payne, J & Weatherburn, D 2015 'Juvenile reoffending: A ten-year retrospective cohort analysis', *The Australian Journal of Social Issues,* vol.50, no.4, pp.349-371.

Pearson, FS & Lipton, DS 1999, 'A meta-analytic review of the effectiveness of corrections-based treatments for drug abuse', *The Prison Journal,* vol. 79, pp. 384–410.

Pearson, FS, Lipton, DS, Cleland, CM & Yee, DS 2002, 'The effects of behavioral/cognitive-behavioral programs on recidivism', *Crime and Delinquency*, vol. 48, pp. 476–496.

Pelissier, B, Wallace, S, O'Neil, JA, Gaes, GG, Camp, S, Rhodes, W & Saylor, W 2001, 'Federal prison residential drug treatment reduces substance use and arrests after release', *The American Journal of Drug and Alcohol Abuse,* vol. 27, 315–337.

Perron, BE & Bright, CL 2008, 'The influence of legal coercion on dropout from substance abuse treatment: results from a national survey', *Drug and Alcohol Dependence,* vol. 92, pp. 123–131.

Perrone, D, Helgesen, RD, &Fischer, RG, 2013, 'United States drug prohibition and legal highs: How drug testing may lead cannabis users to Spice', *Drugs: education, prevention and policy*, 20(3), pp. 216-224.

Peters, RH, Greenbaum, PE, Steinberg, ML, Carter, CR, Ortiz, MM, Fry, BC & Valle, SK 2000, 'Effectiveness of screening instruments in detecting substance use disorders among prisoners', *Journal of Substance Abuse Treatment,* vol. 18, pp. 349–358.

Peters, RH & Peyton, E 1998, *Guideline for drug courts on screening and assessment*, Authors.

Petry, NM & Martin, B 2002, 'Low-cost contingency management for treating cocaine-and opioid-abusing methadone patients', *Journal of Consulting and Clinical Psychology,* vol. 70, p. 398.

Petry, NM, Martin, B, Cooney, JL & Kranzler, HR 2000, 'Give them prizes and they will come: contingency management for treatment of alcohol dependence', *Journal of Consulting and Clinical Psychology,* vol. 68, p. 250.

Petry, NM, Kolodner, KB, Li, R, Peirce, JM, Roll, JM, Stitzer, ML & Hamilton, JA 2006, 'Prize-based contingency management does not increase gambling', *Drug and Alcohol Dependence,* vol. 83, pp. 269–273.

Plotnikoff, J. & Woolfson, R., 2005. *Review of the effectiveness of specialist courts in other jurisdictions*. London: Department for Constitutional Affairs.

Polk, K., 2003, December. *Juvenile diversion in Australia: A national review*. In Juvenile Justice: From Lessons of the Past to a Road Map for the Future Conference. Australian Institute of Criminology (pp. 1-2).

Potas, I, Smart J, Brignell, G, Thomas, B & Lawrie, R 2003, 'Circle sentencing in New South Wales: a review and evaluation', *Monograph,* no. 22, Judicial Commission of New South Wales: Sydney.

Powell, C, Stevens, S, Dolce, BL, Sinclair, KO & Swenson-Smith, C 2012, 'Outcomes of a trauma-informed Arizona family drug court', *Journal of Social Work Practice in the Addictions,* vol. 12, no. 3, pp. 219–241.

Prendergast, ML, Hall, EA, Wexler, HK, Melnick, G & Cao, Y 2004, 'Amity prison-based therapeutic community: 5-year outcomes', *The Prison Journal,* vol. 84, pp. 36–60.

Prendergast, M, Podus, D, Finney, J, Greenwell, L & Roll, J 2006, 'Contingency management for treatment of substance use disorders: a meta-analysis', *Addiction,* vol. 101, pp. 1546–1560.

PricewaterhouseCoopers 2009, *Economic evaluation of the court integrated services program (CISP): final report on economic impacts of CISP,* Department of Justice, Melbourne.

Prichard, J & Payne, J 2005a, 'Alcohol, drugs and crime: a study of juveniles in detention', *Research and Public Policy Series*, Australian Institute of Criminology: Canberra.

Prichard, J & Payne, J 2005b, 'Key findings from the drug use careers of juvenile offenders study', *Trends and Issues in Crime and Criminal Justice*, no. 304, Australian Institute of Criminology: Canberra.

Prochaska, JO & DiClemente, CC 1984, *The Transtheoretical Approach: Towards a Systematic Eclectic Framework,* Dow Jones Irwin, Homewood IL, USA.

Prochaska, JO, DiClemente, CC & Norcross, JC 1992, 'In search of how people change: applications to addictive behaviors', *American Psychologist,* vol. 47, p. 1102.

Putt, J, Payne, J & Milner, L 2005, *Indigenous male offending and substance abuse*, Australian Institute of Criminology: Canberra.

Queensland Crime and Misconduct Commission 2008, *A study using drug use monitoring in Australia data*, Author: Brisbane.

Queensland Crime and Corruption Commission 2016, *Illicit drug markets in Queensland, 2015-15 intelligence assessment*, Author: Brisbane.

Rapp, RC, Siegal, HA, Li, L & Saha, P, 1998. 'Predicting postprimary treatment services and drug use outcome: a multivariate analysis'. *The American journal of drug and alcohol abuse*, vol. 24, no. 4, pp. 603–615.

Rawon, RA, Huber, A, Brethen, PB, Obert, JL, Gulati, V, Shoptaw, S & Ling W 2002, 'Methamphetamine and cocaine users: differences in characteristics and treatment retention', *Journal of Psychoactive Drugs,* vol.32, pp.233-238.

Rawson, RA, McCann, MJ, Flammino, F, Shoptaw, S, Miotto, K, Reiber, C & Ling, W 2006, 'A comparison of contingency management and cognitive-behavioral approaches for stimulant-dependent individuals', *Addiction,* vol. 101, pp. 267–274.

Rawson, RA, Shoptaw, SJ, Obert, JL, McCann, MJ, Hasson, AL, Marinelli-Casey, PJ, Brethen, PR & Ling, W 1995, 'An intensive outpatient approach for cocaine abuse treatment: the matrix model', *Journal of Substance Abuse Treatment,* vol. 12, pp. 117–127.

Richardson, E 2013, *A Driving While Intoxicated/Suspended List for Victoria: Background Paper,* Australian Centre for Justice Innovation, Monash University, Melbourne.

Richardson, E 2016, *Envisioning next generation mental health courts for Australia*, Unpublished PhD thesis, Monash University: Melbourne.

Robinson, G & Crow, ID 2009, Offender rehabilitation: theory, research and practice, Sage Publications: London.

Roche, AM & Freeman, T 2004, 'Brief interventions: good in theory but weak in practice', *Drug and Alcohol Review,* vol. 23, pp. 11–18.

Rohsenow, DJ, Monti, PM, Martin, RA, Colby, SM, Myers, MG, Gulliver, SB, Brown, RA, Mueller, T, Gordon, A & Abrams, DB 2004, 'Motivational enhancement and coping skills training for cocaine abusers: effects on substance use outcomes', *Addiction,* vol. 99, pp. 862–874.

Roll, JM, Petry, NM, Stitzer, ML, Brecht, ML, Peirce, JM, McCann, MJ, Blaine, J, MacDonald, M, DiMaria, J & Lucero, L 2006, 'Contingency management for the treatment of methamphetamine use disorders', *American Journal of Psychiatry*, 163(11), pp. 1993-1999.

Ross, S 2009, *Evaluation of the court integrated services program: final report*, University of Melbourne: Melbourne.

Rossman, SB, Rempel, M, Roman, J, Zweig, JM, Lindquist, CH, Green, M, Downey, PM, Bhati, A & Farole Jr, D 2011, *The multi-site adult drug court evaluation: the impact of drug courts*. The Urban Institute: Washington, DC.

Rounsaville, B & Carroll, K 1992, 'Individual psychotherapy for drug abusers', in M Galanter & HD Kleber (eds), *Textbook of Substance Abuse Treatment,* 4th edn, pp. 496–508., American Psychiatric Publishing: Washington, DC.

Rubio, D, Cheesman, F, & Webster, L 2008, *Kentucky drug court statewide technical assistance project: development of statewide adult drug court performance measures*. National Center for State Courts: Denver, CO.

Sacks, S, Ries, RK & Ziedonis, DM 2005, *Substance abuse treatment for persons with co-occurring disorders*, Center for Substance Abuse Treatment.

Saunders, B, Wilkinson, C & Phillips, M 1995, 'The impact of a brief motivational intervention with opiate users attending a methadone programme', *Addiction,* vol. 90, pp. 415–424.

Schäfer, I & Najavits, LM 2007, 'Clinical challenges in the treatment of patients with posttraumatic stress disorder and substance abuse', *Current Opinion in Psychiatry,* vol. 20, pp. 614–618.

Schmidt, L, Greenfield, T, & Mulia, N 2006, *Unequal treatment: racial and ethnic disparities in alcoholism treatment services*. National Institute on Alcohol Abuse and Alcoholism: Bethesda, MD.

Schottenfeld, RS, Chawarski, MC & Mazlan, M 2008, 'Maintenance treatment with buprenorphine and naltrexone for heroin dependence in Malaysia: a randomised, double-blind, placebo-controlled trial', *The Lancet,* vol. 371, pp. 2192–2200.

Sechrest, L, White, SO & Brown, ED 1979, *The rehabilitation of criminal offenders: problems and prospects,* National Academy of Sciences: Washington, DC.

Sentencing Project 2008, *Reducing racial disparity in the criminal justice system: a manual for practitioners and policymakers*, Author: Washington.

Sevigny, EL, Fuleihan, BK, & Ferdik, FV 2013, 'Do drug courts reduce the use of incarceration: A meta-analysis', *Journal of Criminal Justice,* vol.41(6), pp.416-417.

Shaffer, D.K., 2006. Reconsidering drug court effectiveness: A meta-analytic review (Doctoral dissertation, University of Cincinnati).

Sharlin, SA & Shamai, M 1995, 'Intervention with families in extreme distress (FED)', *Marriage and Family Review,* vol. 21, pp. 91–122.

Sherman, LW, Gottfredson, D, MacKenzie, D, Eck, J, Reuter, P & Bushway, S 1997, *Preventing crime: what works, what doesn't, what's promising: a report to the United States Congress*:, US Department of Justice, Office of Justice Programs: Washington, DC.

Siegal, HA, Rapp, RC, Li, L, Saha, P & Kirk, KD 1997, 'The role of case management in retaining clients in substance abuse treatment: an exploratory analysis', *Journal of Drug Issues,* vol. 27, pp. 821–832.

Sigmon, SC & Stitzer, ML, 2005, 'Use of a low-cost incentive intervention to improve counseling attendance among methadone-maintained patients', *Journal of Substance Abuse Treatment,* vol. 29, pp. 253–58.

Silverman, K, Wong, CJ, Higgins, ST, Brooner, RK, Montoya, ID, Contoreggi, C, Umbricht-Schneiter, A, Schuster, CR & Preston, KL 1996, 'Increasing opiate abstinence through voucher-based reinforcement therapy', *Drug and Alcohol Dependence,* vol. 41, pp. 157–165.

Simpson, DD 1981, 'Treatment for drug abuse: follow-up outcomes and length of time spent', *Archives of General Psychiatry,* vol. 38, pp. 875–880.

Simpson, DD & Joe, GW 2004, 'A longitudinal evaluation of treatment engagement and recovery stages', *Journal of Substance Abuse Treatment,* vol. 27, pp. 89–97.

Simpson, DD, Joe, GW & Brown, BS 1997, 'Treatment retention and follow-up outcomes in the drug abuse treatment outcome study (DATOS)', *Psychology of Addictive Behaviors,* vol. 11, p. 294.

Simpson, DD & Sells, SB 1982, 'Effectiveness of treatment for drug abuse: an overview of the DARP research program', *Advances in Alcohol and Substance Abuse,* vol. 2, pp. 7–29.

Sindicich, N & Burns, L 2012, 'Australian trends in ecstasy and related drug markets 2012: findings from the ecstasy and related reporting system (IDRS)', *Australian Drug Trend Series*, no. 100, National Drug and Alcohol Research Centre: Sydney.

Siqueland, L & Crits-Christoph, P, 1999. 'Current developments in psychosocial treatments of alcohol and substance abuse', *Current Psychiatry Reports*, vol. 1, no. 2, pp. 179–184.

Smith RG, Jorna P, Sweeney J & Fuller G 2014, 'Counting the costs of crime in Australia: a 2011 estimate', *Research and Public Policy Series*, no. 129, Australian Institute of Criminology: Canberra.

Smith, P, Gendreau, P & Swartz, K 2009, 'Validating the principles of effective intervention: A systematic review of the contributions of meta-analysis in the field of corrections', *Victims & Offenders*, vol.4, pp. 148–169.

Sobell, LC, & Sobell, MB 2011, *Group therapy for substance use disorders: A motivational cognitive-behavioural approach,* New York: Guilford

Sobell, MB & Sobell, LC 1999. Stepped care for alcohol problems: An efficient method for planning and delivering clinical services. In J. A. Tucker, D. M. Donovan & G. A. Marlatt (Eds.), *Changing addictive behavior: Bridging clinical and public health strategies* (pp. 331-343). New York: Guilford Press.

Sobell MB & Sobell LC 2000, 'Stepped care as a heuristic approach to the treatment of alcohol problems', *Journal of Consulting and Clinical Psychology*, vol. 68, no. 4.

Southam-Gerow MA & McLeod BD 2013. Advances in applying treatment integrity research for dissemination and implementation science: Introduction to special issue. *Clinical Psychology: Science and Practice*, 20(1), pp. 1-13.

Spencer, P 2012, 'To dream the impossible dream? Therapeutic jurisprudence in mainstream courts', *Journal of Judicial Administration*, vol.22, no 2.

Stafford, J & Burns, L 2013, 'Australian drug trends 2012: findings from the illicit drug reporting system (IDRS)', *Australian Drug Trends*, National Drug and Alcohol Research Centre, University of New South Wales: Sydney.

Standing Committee of Attorneys-General (SCAG) 2009, *National Indigenous law & justice framework*, Attorney-General's Department: Canberra <http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.ag.gov.au%2FLegalSystem%2FLegalaidprogrammes%2FNationalIndigenousLawandJusticeFramework%2FDocuments%2FNational%2520Indigenous%2520Law%2520and%2520Justice%2520Framework.pdf&ei=hGZAVK_0EsSVmwXH2ICwBg&usg=AFQjCNHVAUY9jdAbk9QKPnGy4HE_xDLAwA>.

Steering Committee for the Review of Government Service Provision 2009 (SCRGSP), Overcoming Indigenous disadvantage: key indicators 2005. Productivity Commission: Canberra, http://www.pc.gov.au/__data/assets/pdf_file/0013/90130/overview-booklet.pdf.

Stephens, RS, Roffman, RA & Curtin, L 2000, 'Comparison of extended versus brief treatments for marijuana use', *Journal of Consulting and Clinical Psychology,* vol. 68, p. 898.

Stevenson, RJ & Forsythe, LMV 1998, *The stolen good market in New South Wales: an interview study with imprisoned burglars*, New South Wales Bureau of Crime Statistics and Research: Sydney.

Stitzer, M & Petry, N 2006, 'Contingency management for treatment of substance abuse', *Annual Review of Clinical Psychology,* vol. 2, pp. 411–434.

Stotts, AL, Schmitz, JM, Rhoades, HM & Grabowski, J 2001, 'Motivational interviewing with cocaine-dependent patients: a pilot study', *Journal of Consulting and Clinical Psychology,* vol. 69, p. 858.

Strempel P, Saggers S, Gray D & Stearne A 2004, Indigenous drug and alcohol projects: elements of best practice, Australian National Council on Drugs: Canberra.

Substance Abuse and Mental Health Services Administration (SAMHSA) 2005, Substance abuse treatment substance abuse treatment for persons with co-occurring disorders, Treatment Improvement Treatment Improvement Protocol (TIP) Series 42, DHHS Publication No. (SMA) 05-3992. Rockville, MD.

Success Works 2010, *Queensland Indigenous alcohol diversion program: final summative evaluation report*, Queensland Department of Premier and Cabinet: Brisbane.

Swensen, G, & Crofts, T 2010, 'Recent developments in cannabis law reform: the rise and fall of the cannabis infringment notice scheme in Western Australia', *Flinders Law Journal*.

Szapocznik, J, Prado, G, Burlew, AK, Williams, RA & Santisteban, DA 2007, 'Drug abuse in African-American and Hispanic adolescents: culture, development, and behavior', *Annual Review of Clinical Psychology*, vol. 3, pp. 77–105.

Taxman, FS & Bouffard, J, 'The Importance of System Issues in Improving Offender Outcomes: Critical Elemetns of Treatment Integrity, *Justice Research and Policy,* vol. 2(2), pp. 9-30.

Taxman, FS & Marlowe, D 2006, 'Risk, needs, responsivity: inaction or inaction?', *Crime and Delinquency,* vol. 52, pp. 3–6.

Teesson, M, Slade T, Mills K. 2009 Comorbidity in Australia: findings of the 2007 national survey of mental health and wellbeing. *Australian and New Zealand Journal of Psychiatry*, 43(7), pp. 606–614.

Thanner, MH & Taxman, FS 2003, 'Responsivity: the value of providing intensive services to high-risk offenders', *Journal of Substance Abuse Treatment,* vol. *24*, 137–147.

Tong, JL & Farrington, DP 2006. How effective is the "Reasoning and Rehabilitation" programme in reducing reoffending? A meta-analysis of evaluations in four countries. *Psychology, Crime & Law*, 12(1), 3-24.

Torok, M, Darke, S, Ross, J & McKetin R 2009, *Comparative rates of violent crime amongst methamphetamine and opioid users*, National Drug Law Enforcement Research Fund: Hobart.

TSAC, 2016, *Phasing out of Suspended Sentences Report*, Department of Justice, State of Tasmania http://www.sentencingcouncil.tas.gov.au/__data/assets/pdf_file/0015/342321/Phasing_out_Suspended_Sentences_report_final_for_Web2.pdf

Turning Point, *2010 Queensland Magistrate's Early Referral into Treatment (QMERIT) Pilot Program, Report 2*, Author: Melbourne.

University of New South Wales Evaluation Consortium 2003, *Evaluation of the New South Wales Youth Drug Court Pilot Program: Final Report,* Social Policy Research Centre, University of New South Wales, Sydney

Victorian Sentencing Advisory Council 2016, *Community corrections orders: third monitorin greport (post guide judgement)*, Author: Melbourne.

Volkow, ND, Wang, GJ, Fowler, JS, Tomasi, D, Telang, F & Baler, R 2010, 'Addiction: decreased reward sensitivity and increased expectation sensitivity conspire to overwhelm the brain's control circuit', *Bioessays,* vol. 32, pp. 748–755.

Walsh, T 2011, *A special court for special cases.* Australasian Institute of Judicial Administration, University of Queensland: Brisbane.

Walton, MA, Chermack, ST, Shope, JT, Bingham, CR, Zimmerman, MA, Blow, FC & Cunningham, RM 2010, 'Effects of a brief intervention for reducing violence and alcohol misuse among adolescents: a randomized controlled trial', *Jama,* vol. 304, pp. 527–535.

Wanberg, KW & Milkman, HB 2006, *Criminal Conduct and Substance Abuse Treatment: Strategies for Self-Improvement and Change: The participant's workbook*. Sage Publications: Thousand Oaks.

Ward, JT, Krohn, MD & Gibson, CL 2014, 'The effects of police contact on trajectories of violence: a group-based, propensity score matching analysis', *Journal of Interpersonal Violence,* vol. 29, pp. 440–475.

Washington State Institute of Public Policy (WSIPP) 2016, 'Benefit-cost results', Washington State Institute of Public Policy website accessed 15 November 2016, <http://www.wsipp.wa.gov/BenefitCost?programSearch=Drug+Court>

Weatherburn, D 2009, 'Dilemmas in harm minimization', *Addiction*, vol. 104, no. 3, pp. 335–339.

Webster, JM, Rosen, PJ, Krietemeyer, J, Mateyoke-Scrivner, A, Staton-Tindall, M & Leukefeld, C 2006, 'Gender, mental health, and treatment motivation in a drug court setting', *Journal of Psychoactive Drugs,* vol. 38, pp. 441–448.

Werb, D, Kamarulzaman, A, Meacham, M, Rafful, C, Fischer, B, Strathdee, S & Wood, E 2016, 'The effectiveness of compulsory drug treatment: a systematic review', *International Journal of Drug Policy,* vol. 28, pp. 1–9.

Westermeyer, J & Dickerson, D 2008, 'Minorities' in M Galanter & HD Kleber (eds), *Textbook of Substance Abuse Treatment,* 4th edn, pp. 639–651, American Psychiatric Publishing: Washington, DC.

Wheeler and Fox, 2006, Family Dependency Treatment Court: Applying the Drug Court model in child maltreatment cases [Practitioner Fact Sheet Vol. V, No. 1], National Drug Court Institute: Alexandria, VA

White, H R & Gorman, DM 2000, 'Dynamics of the drug-crime relationship', *Criminal Justice*, vol. 1, no. 15, pp. 1–218.

Wilkinson, J 2005, 'Evaluating evidence for the effectiveness of the reasoning and rehabilitation programme, *The Howard Journal of Criminal Justice*, vol. 44, pp. 70-85.

Williams, R 1999, 'Cultural safety—what does it mean for our work practice?', Australian and New Zealand Journal of Public Health, vol. 23, no. 2, pp. 213—214.

Wilson, DB, Bouffard, LA & MacKenzie, DL 2005, 'A quantitative review of structured, group-oriented, cognitive-behavioral programs for offenders', *Criminal Justice and Behavior,* vol. 32, pp. 172–204.

Wilson, DB, Mitchell, O & MacKenzie, DL 2006. 'A systematic review of drug court effects on recidivism'. *Journal of Experimental Criminology*, 2(4), pp. 459-487.

Wish, ED, Artigiani, E, Billing, A, Hauser, W, Hemberg, J, Shiplet, M, DuPont, RL 2012 'The emerging buprenorphine epidemic in the United States', J*. Addict*, Dis.31, 3–7.

Wolfer, L 2006, 'Graduates speak: a qualitative exploration of drug court graduates' views of the strengths and weaknesses of the program', *Contemporary Drug Problems,* vol. 33, pp. 303–320.

Wormith, JS & Goldstone, CS 1984, 'The clinical and statistical prediction of recidivism', *Criminal Justice and Behavior,* vol. 11, pp. 3–34.

Wundersitz, J 1997, 'Pre-court diversion: the Australian experience' in Borowski & I O'Connor (eds), *Juvenile Crime, Justice and Corrections,* Longman: Melbourne.

Young, D & Belenko, S 2002, 'Program retention and perceived coercion in three models of mandatory drug treatment'. *Journal of Drug Issues,* vol. 32, pp. 297–328.

Zweig, JM, Lindquist, C, Downey, PM, Roman, J & Rossman, SB 2012, 'Drug court policies and practices: how program implementation affects offender substance use and criminal behavior outcomes', *Drug Court Review,* vol. 7, pp. 43–79.

QUEENSLAND
COURTS

www.courts.qld.gov.au