



**COMMON PERFORMANCE  
MEASURES FOR THE  
EVALUATION OF SPECIALIST  
COURT PROGRAMS**

**DISCUSSION PAPER**

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## Executive Summary

This paper has been produced in response to an action item arising from the September 2009 meeting of the Joint Meeting of the Boards of Management of the Statistical Units for Courts, Crime and Corrective Services. It was agreed that South Australia would identify a common set of quantitative elements that could be used for the evaluation of diversionary/specialist courts nationally.

### *Methodology*

The information presented in this paper is based on a review of drug court programs operating within Australia and the evaluations that have been undertaken. A summary of program elements within each jurisdiction and the measures used to assess their effectiveness is included in Appendix 1. A similar summary of Indigenous court programs is included in Appendix 2, but is not the focus of the discussion paper.

### *Key findings*

- There are fundamental differences between the drug court programs that operate within each jurisdiction that may impact upon the ability to develop common performance measures. These include: the level of judicial officers involved in the court; the legislative base of the program; the theoretical basis and standards of the program; the target group (e.g. varying levels of drug use and offence history); the management of program participants; and the components of the program (e.g. length, criteria for termination and sanction, extent of urine testing and type of services offered).
- The main measures used to assess the effectiveness of drug court programs within Australia (most of which can be applied to the evaluation of other specialty courts) are:
  - retention/completion;
  - recidivism;
  - drug use;
  - health/welfare outcomes; and
  - cost-benefit.
- Completion of a specialist program is a basic indicator of success. An overall graduation rate (the percentage of the entire group at entry who completed the program) was used in a number of drug court evaluations and may be a useful common performance measure.
- Recidivism was the most common measure used to assess the effectiveness of drug court programs but the methodology differed considerably across these programs. In developing a specific common performance measure for recidivism, consideration should be given to:
  - the definition of recidivism (re-conviction or re-apprehension);
  - the measurement of recidivism (type of offences to be included, time to first offence, frequency of offending over a given time period, differences in the severity of offending);
  - the appropriate follow-up period; and
  - the appropriate comparison group (where possible).
- The optimal measures for recidivism include conviction data and the frequency and severity of offending. A sufficient follow-up period after program termination or completion (excluding time spent in custody) is also essential, and the outcome data should be compared to a matched group of offenders not on the program. However, the availability and quality of offence data within each jurisdiction and the timeliness of

the criminal justice system are likely to impact upon the choice of measures. For example, while conviction data may be the most *accurate* measure of further offending, lengthy criminal justice processing times mean that apprehension data is the more *practical* source. Further, most drug court programs throughout Australia (and overseas) do not have access to a comparison group that could provide conclusive evidence of the impact of the program on recidivism.

- All drug court programs throughout Australia measure the reduction or cessation of drug use by participants during the program, with most able to use urinalysis results for this assessment. In developing a common performance measure for drug use, consideration needs to be given to:
  - the number/type of drugs used;
  - frequency/level of drugs used; and
  - the point(s) at which drug use is measured
- Outcomes such as health, social functioning and employment were commonly measured throughout drug court participation, with most drug courts using standard questionnaires such as the Short Form 36 Health Survey. These questionnaires could provide the basis for the development of a simple measure of wellbeing at completion/termination. However, difficulties in gaining access to drug court participants after the program may limit the ability to measure drug use or health/social function outcomes beyond program completion/termination.
- A number of drug court evaluations compared the tangible costs of running a drug court program with the cost of traditional court processes and sanctions. However, for some programs that dealt with offenders who were not facing imprisonment, it was difficult to find an appropriate comparison group. For this reason, the development of a meaningful common performance measure for cost-benefit may be problematic.

### *Summary*

A number of drug court evaluations have been undertaken in Australia and the majority show positive results in tackling the problem of drug-related offending. However, there are fundamental differences between these programs that may impact upon the ability to develop common performance measures.

The majority of evaluations have included some measure of retention/completion, recidivism, drug use and health/welfare outcomes, and several have assessed cost-benefit. However, a number of these studies have been limited in their assessment of drug court outcomes due to issues with offence data availability/quality. Improvements to data collection processes may therefore be necessary to enable the measurement of a standard set of data items.

In developing a set of common performance measures, there is a need to identify the most useful definition of recidivism, as well as refine measures to summarise the complex and changing levels/types of drug use. In addition, follow-up studies carried out after a sufficient time period are critical to the measurement of recidivism.

Evaluations may also need to look beyond measures such as recidivism if they are to truly capture the benefits of particular specialty courts. Indigenous courts, for example, are particularly concerned with defendants' relationships with the court and their community. The involvement of Elders, engaging defendants in the process and the way the court operates is seen as an integral part of breaking down barriers and improving outcomes for offenders. Evaluations that include an assessment of a court's success in building the social capital of communities, improving understanding of and confidence in the justice system, and using culturally inclusive practices, will provide a more holistic picture of their effectiveness.

## Background

This paper has been produced in response to an action item arising from the Joint Meeting of the Boards of Management of the Statistical Units for Courts, Crime and Corrective Services in September 2009. The Board has noted that a plethora of specialty courts now exist yet there is little consensus on their definition, and what works across programs and jurisdictions. They found that a number of evaluations of specialty courts have been undertaken and yet data limitations and different methodologies have limited the ability to adequately determine and compare their effectiveness and justify their resources. It was thought that more complete data and a set of standard, appropriate measures should be developed. This would enable more rigorous evaluation and allow programs to be compared with each other to inform best practice.

The action item is as follows:

*South Australia to continue to take the lead with the diversionary/specialist courts and identify a common set of quantitative elements that could be used for the evaluation of diversionary/specialist courts nationally. Drug courts will be used as the main case study, given this is a common program across jurisdictions.*

As outlined in the action item, this paper will use court related drug diversion programs (hereafter referred to as drug courts) as the case study. It is suggested that the framework developed in relation to these courts can then be modified to suit the needs of other specialty courts<sup>1</sup>.

## Introduction

Evaluations are an essential tool for measuring the worth of something. They can provide information on how a project is operating, whether or not an intervention is having an effect and if a program is actually doing what it set out to do. The two main types of evaluation research involve process assessments and outcome assessments.

Process assessments are concerned with how a program is running. They examine how a program was implemented, if it is targeting the intended audience, its various strengths and weaknesses, and how satisfied participants are with the program. The key question they address is whether a program is operating as intended and if not, whether it is due to an implementation or process shortcoming. Some process assessments will also consider the efficiency of a program and whether it is a reasonable use of resources, and the cost-benefit ratio of a program.

Outcome assessments are concerned with how something is working. They seek to determine whether the objectives are being achieved, how participants are being impacted, any unintended consequences and whether other factors are influencing the achievement of goals and outcomes.

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<sup>1</sup> Evaluations of Indigenous courts should give particular consideration to qualitative measures that capture the predominantly community-building aims of these courts. Appendix 2 provides a summary of the various Indigenous courts in operation and the measures used to evaluate their effectiveness.

The literature on drug court evaluations in Australia to date consists of a mix of these two types of assessments. A number of the evaluations were primarily process based and concerned with whether or not the programs were running as intended. They considered factors such as how the program was implemented, responses to its implementation and what operational issues had arisen since its inception. These studies have therefore made very limited assessments of how effectively a program was achieving its aim. Other, larger studies were more outcome oriented and sought to determine the extent to which a program was achieving its stated objectives against a number of performance measures. These studies usually took place several months or even years after implementation to allow for a sufficient follow-up period of participants who had completed a long-term program.

Despite the individual differences between each program and the methodologies used, they all attempted to measure the overarching objectives of drug court programs, which relate to: reducing or ceasing drug use; reducing or ceasing drug-related offending; improving participants' health and wellbeing (or conversely, reducing health risks to the community), and reducing the burden on the criminal justice system. To a lesser extent they are also concerned with providing a cost-effective alternative to the traditional, more punitive justice responses to drugs and crime.

This paper will examine the performance measures used in evaluations of drug court programs in Australia and from this, develop a set of common performance measures that can be used to assess outcomes. These common measures can then provide a guide for future evaluations of drug court programs and will enable researchers to compare individual programs and see how different practices and models are impacting on outcomes for offenders. Whilst the focus of this paper is on performance measures, for completeness, a series of questions relating to process measures will also be included.

## **Method**

In order to develop an appropriate set of performance indicators the drug court programs that operate in each jurisdiction and the published evaluations that have been carried out were examined. Appendix 1 outlines the various drug court programs in operation, their aims and objectives, whether they had been formerly evaluated, and what measures were used to assess their effectiveness. A similar summary of Indigenous Court program elements is included in Appendix 2 for information, but is not the focus of the discussion paper.

### **Common outcome measures used in previous evaluations**

Examination of the evaluation literature in Australia revealed five main outcome measures used to evaluate the effectiveness of various court-related drug diversion programs in achieving their stated objectives. These included; retention or compliance with a program, recidivism, drug use, health/welfare outcomes and the cost-benefit of a drug court program.

## **Retention/completion**

Completion of a drug court program is one of the most basic indicators of its success. Each of the studies reported on the number of participants who entered the program, the number who were currently on a program and the number who graduated or completed a program. A few studies measured the retention rate at different points in time in order to see whether the retention rate changed at different stages in the program. An overall graduation rate (the percentage of the entire group at entry who completed the program) was also used as an indicator of its effectiveness. The timing of some studies did not always allow such a measure as there were either no graduates at the time of the evaluation or few who had entered the final stage of a program.

## **Recidivism**

A central objective of any drug court program is to reduce drug-related offending so not surprisingly, repeat offending, or recidivism, was the most common measure used to assess whether this was being achieved. However, evaluations differed on the following:

- The definition of recidivism
- The follow-up period used to measure recidivism
- The way recidivism was measured
- The comparison group

### ***Definition of recidivism***

Evaluations were mixed on the measure used to estimate recidivism. A number of evaluations used *re-conviction* to determine whether a participant had re-offended. This meant that only cases finalised through the courts (with a finding of guilt) were considered to indicate re-offending. The other main definition of offending was based on *re-apprehension/re-arrest*. This included all offences reported and entered on to a police database. Apprehension data therefore includes charges which may later be withdrawn or referred to another diversionary process, and those for which an offender may be found not guilty.

Associated with these two measures is the *offence type* under consideration. Many of the drug court programs contain aims or objectives around reducing drug-related offending. Therefore researchers may consider drug or property offences to be the pertinent issue rather than offences which are not seen to be related to drug use. Most of the evaluations looked specifically at drug and property offences over time, however they also included a measure of all offences over time in order to be comprehensive. Only a few studies were able to measure *seriousness* in relation to recidivism (e.g. violent offences) and whether there were changes in the type or seriousness of offences committed by participants over time.

### ***Follow-up period***

The collection of recidivism data varied widely ranging from one study, which used a two year post-graduation follow-up, to others in which few or no participants had graduated at the time of evaluation. The majority of the evaluations measured offending at entry, during and after program completion, however due to low numbers some could only measure from a period after entry (e.g. 12 months from start of drug treatment order) and did not distinguish between offences committed while on the program and those committed post-program.

### ***Measurement of recidivism***

Recidivism was most commonly measured based on frequency of offending (over a given time frame) and time to first offence. Most studies described the types of offences committed pre-program, during and post-program. Furthermore, a few studies accounted for 'free time' (non-custodial time) available for participants or comparisons groups to offend. Due to low participant numbers and short follow-up periods available to some evaluators, time to first offence was often measured amongst participants still on a drug court program. In this instance it is important to consider how long participants had been on the program as one would expect a much higher rate and shorter period between offences amongst new entrants, and a reduced rate and greater time between offences amongst those near or at completion of a program.

### ***Subjects measured***

When measuring recidivism, all of the evaluation studies compared the results with some form of comparison group. Below is a list of the groups in which drug court participants were compared:

- Drug court participants used as their own control group (e.g. comparing their offending pre, during and post)
- Completers and non-completers within a drug court program
- Participants eligible for drug court program but who could not participate due to a lack of places available
- Participants who were referred to the program but were later deemed ineligible due to residence outside of the boundary or a record of a prior violent offence
- Eligible offenders who refused to participate in the program
- Ex-prisoners who satisfied a range of comparable criteria
- Drug court participants compared with those who received a community or prison-based sanction (in the case of a cost-benefit evaluation).

### **Drug use**

The reduction or cessation of drug use is one of the central objectives of a drug court program. The most common method used to determine drug use was urinalysis. Urine testing occurs throughout participation in all drug court programs and in most cases studies were able to measure the frequency and intensity of drug use over time, assess changes in the type of drug used (e.g. a move from heroin to cannabis) and/or poly-drug use. Where urinalysis results were not available, participant reports and interviews with drug treatment staff were used to assess changes in drug use over time.

### **Health/ welfare outcomes**

Outcomes such as health, social functioning and employment were commonly measured based on the results of surveys and interviews with participants and drug court or treatment staff. Most drug court programs used standard questionnaires such as the Short Form 36 Health Survey (SF-36) and conducted general health and mental health assessments upon entry, during and post-program. Where this data was not available to researchers, some studies conducted their own surveys of participants in order to assess changes over the length of the program.

## Cost-benefit

Several studies have evaluated either the cost-effectiveness or cost-benefit of a drug court program or sought to measure the initial start-up and operational costs of a program. Most of the studies compared the costs of participants in a drug court program with some form of comparison group. The comparison groups included:

- Offenders who were eligible for the program but dealt with through the traditional court process
- Juveniles dealt with via other, similar juvenile justice programs (costs only)
- Offenders processed through the Magistrates Court with similar charges
- Offenders in incarceration or on community-based orders.

Studies which examined cost-effectiveness used the differences in the offending behaviour of the two groups (recidivism) to measure effectiveness. Those which also included a benefit component identified the following benefits: a reduction in costs due to reduced offending among participants (less interaction and therefore cost to whole criminal justice system); cost savings made as a result of being processed through the drug court as opposed to proceeding through the conventional system (e.g. the savings from reduced sentences); and reduced hospitalisation costs.

Costs consisted of court costs such as hearings and sentencing, the operational costs of running a drug court program such as assessment, monitoring, treatment and drug testing, and the cost of incarceration. These costs were then broken down to provide a cost per individual for a given time period.

## Other outcome measures

It should also be noted that, for many specialty courts, there are more important outcomes than those which involve a criminal justice element alone. Indigenous courts for example, are particularly concerned with defendants' relationships with the court and their community. The involvement of Elders, engaging defendants in the process and the way the court operates is seen as an integral part of breaking down barriers and improving outcomes for offenders. Evaluations that include an assessment of a court's success in building the social capital of communities, improving understanding of and confidence in the justice system, and using culturally inclusive practices, will provide a more holistic picture of their effectiveness.

## Difficulty of comparing findings

While all of the reviews of drug court programs have been concerned with measuring the common themes of drug use and criminal activity, it is difficult to compare findings as there are not only individual differences in the methods used to measure performance (as outlined above), but also fundamental differences between the programs that operate in each jurisdiction. Examples of such differences include:

- *The judicial officers involved in the court.* In New South Wales the court is run by a Judge rather than a Magistrate and some jurisdictions have set court officials to run the drug court while others operate on a roster system. Likewise, in South Australia (and in some cases in New South Wales) public prosecutors attend the hearings while other jurisdictions employ police prosecutors to perform this role.

- *The legislation that the court is based on.* Some jurisdictions have specific legislation which mandates a person to enter a treatment program while in others it operates under existing legislation and is a voluntary process. The programs can also differ on whether or not offenders must plead guilty before being accepted on to a program, which may result in different motivations amongst individuals. For example, if an offender has pled guilty in order to be accepted on to a program then he/she may be more motivated to succeed (given the alternative may be prison) than an offender who is able to delay a plea until after entry on to the program.
- *The theoretical basis and standards on which a program is based.* In the United States drug courts are based on the principle of therapeutic jurisprudence and the National Association of Drug Court Professionals have developed a set of 10 Key Components to guide their operation. In Australia, drug courts have been established on an incremental and somewhat ad hoc basis. As their operation is the responsibility of each State and Territory they have evolved independently of each other and lack an agreed set of best practice principles to unify them.
- *The target group.* The criteria for eligibility on to a drug court differ across jurisdictions. For example, Tasmania is the only jurisdiction which is allowed under legislation to include family violence offenders on their drug court program (provided the violence is drug-related). Likewise, some courts have evolved and changed their criteria over time in response to changes in participants' drug use and offending behaviour.
- *How the participants are managed.* Housing, monitoring and treatment may be outsourced to other agencies or non-government organisations or managed in-house.
- *The components of the program.* Programs may differ on their length, the criteria for termination and sanctions, the frequency and extent of urine testing and more importantly, the type of counselling and support services offered. Research has demonstrated that cognitive behaviour therapy has been shown to be effective with offender populations (Chandler, 2009; Prendergast, Podus, Chang, & Urada, 2002). Furthermore, studies have found that treatment programs which address the multitude of issues associated with a person's drug use, including criminogenic factors, are more likely to show success (Wilson, Bouffard, & MacKenzie, 2006). In practice, the current treatment programs show wide variation and some lack a sound evidence base for their use.

In addition, if a program was implemented as a pilot, the level of documentation and training in relation to its operation may be quite different to a formally established court.

This report does not intend to critique the differences noted between the various drug court programs and indeed there may be valid reasons why one court is distinct from another. What is important from a research perspective is that any program: operates according to established standards; involves an intervention that is evidence based; and is appropriate for the target group, drug-related offenders. This would allow researchers to evaluate how a drug court program is performing in relation to these key elements, and compare findings with other programs that have been established on the same set of principles. Any major differences between programs (that cannot be explained by the research methodology) may require further investigation in order to see how particular components of a model are impacting on outcomes for participants.

## Methodological issues to consider when evaluating drug court programs

Besides the individual differences noted between drug court programs in Australia, there are other methodological issues to consider when evaluating programs. These relate to the context in which a drug court program operates, the methods used to collect and analyse information, the appropriate follow-up time in which an evaluation can be carried out, and the use of comparison groups to assess program effects. Issues with availability and quality of data and using data to estimate costs are also discussed.

### Context

Evaluations need to consider the wider context in which drug court programs operate. There are a number of diversionary programs that operate at various levels in each jurisdiction and it is hard to quantify how these interact and potentially impact on the operations and success of a drug court program (Wundersitz, 2007). There have been instances where evaluations have found little evidence for the effectiveness of drug court programs but this may be due to problems with the initial implementation phase, a lack of co-ordination between agencies, poor understanding of the role and objectives of drug courts, or changes in legislation or policing practices in relation to drug offences. Internal factors, such as whether the judicial officers interact in an adversarial or collaborative manner, and external factors, such as a tighter restriction on eligibility for a police drug diversion initiative, may impact on the effectiveness of a program. For this reason, evaluations need to consider the broader context in which a drug court operates. In order to account for some of the variation that can occur in any given year, multi-year or regular reviews may more adequately capture the true measure of a program's success (Belenko, 2001).

### Methodology

Participant interviews and analysis of criminal justice data were the most common methods used to evaluate drug court programs; however each have their own limitations. In general, participant interviews can provide a wealth of information about a program's operation and in particular an individual's satisfaction with its components. The difficulty is managing to maintain an offender's motivation to participate at various points in an evaluation. The most notable limitation of drug court evaluations is the high attrition rate and the possible bias that results from those who do participate in follow-ups. Wundersitz (2007) suggests that those interviewed post program are more likely to be the successful ones, which may positively skew the findings. The fact that non-completers have dropped out or been terminated indicate that on some level they did not benefit from the program. They would also be harder to locate and possibly less willing to participate in a follow-up interview than those who had successfully graduated and may therefore remain more connected to the program. There is also the potential for participants to not disclose drug use or offending behaviour if they think it could put their status on the program at risk. Post program, it would be difficult to follow-up the long term effects of a program using these measures as participants would be hard to track.

In contrast, crime statistics provide an objective measure of offending behaviour and are not subject to the limitations found with the use of self-report measures (e.g. the ability to recall events and willingness to answer honestly). However, the data do have their own limitations. Firstly, not all offences that an individual commits will come to the attention of police. Police statistics can only encompass recorded crime which means that they underestimate the level of criminal activity (Wundersitz, 2007).

The two main crime statistics used to measure recidivism are convictions<sup>2</sup> and apprehensions. Convictions are recorded at the tail end of the criminal justice system and only include the offences for which an offender is found guilty. Charges which are later withdrawn and other diversionary processes are not included in these statistics so they are the most conclusive indicator of offending. The limitation with this measure is that cases may take several months to be finalised. Depending on the follow-up period used in an evaluation, not all of the offences committed during or post program may have been processed and therefore counted by the cut-off period. Therefore studies which used conviction data would be expected to record lower recidivism rates than those based on apprehension data.

Apprehension data, on the other hand, is at the front end of the criminal justice system. The limitation of this measure is that it may overestimate offending as not all cases carry through to court (for example, a participant may receive a diversion) and/or result in a finding of guilt. The advantage is that apprehension data is timely and can therefore provide a good indication of offending even over a short follow-up period.

While both conviction and apprehension data measure recidivism there is no consensus on which is the most appropriate measure to use when evaluating drug courts. Even amongst the studies that were based on apprehension data there were still differences in counting methods as some grouped the data into discrete criminal events<sup>3</sup>. Regardless of how recidivism is measured, evaluations need to take into account the amount of 'free' time available for individuals to re-offend. Any periods of incarceration amongst the participant or comparison group must be deducted from the time period being measured or there is the potential to underestimate offending to a larger extent amongst the comparison group (who are likely to spend more time in prison) than the participant group.

### **Timing of evaluations**

The majority of drug court evaluation studies in Australia have concentrated on process issues and were limited in their ability to measure outcomes such as recidivism or drug use. In some cases where attempts were made to measure outcomes, the programs showed limited success. This may have been attributable to implementation issues often associated with a program still in its early stages of operation. Even where programs had been in operation for a number of years the majority of evaluations were limited by small sample sizes (either due to low uptake on to the program or the length of the program) and short follow-up timeframes in which to assess re-offending behaviour. Evaluations which used a 6 month follow-up and used conviction data would show markedly different results to a longer follow-up study using data on criminal events. Furthermore, studies which did not take into account the time available for participants to offend may underestimate recidivism levels. Most studies to date can only identify the short term benefits of programs. An evaluation study needs to be carried out well after a series of graduates have completed a program. This will ensure an adequate sample size and allow enough time to monitor participants post program and determine whether any effects are sustainable.

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<sup>2</sup> The term conviction is used to mean a 'finding of guilt'. Technically a person can be found guilty without a conviction being recorded. Therefore using convictions as an outcome measure in its strict sense may underestimate all findings of guilt.

<sup>3</sup> A criminal event is defined as all offences charged against an individual that occurred on the same day (Corlett, Skrzypiec and Hunter, 2005).

## **Comparison groups**

The lack of a suitable comparison group was the bane of nearly all researchers who were tasked with evaluating a drug court program. This problem is not unique to Australia with many overseas evaluations of drug courts incurring the same criticism (Belenko, 2001; Heck 2006). The nature of evaluation work is rarely conducive to the pinnacle of the randomised, experimental design and researchers must make the best of the resources available. The only jurisdiction which closely resembled a randomised controlled trial was New South Wales, due to the demand for their drug court program exceeding the number of places available. This gave the researchers a chance to compare the re-offending patterns of those who did and did not make it on to the program. In nearly all of the other evaluations, researchers could not conclusively state that the differences between groups were due to the effects of the program and not due to prior differences in the characteristics of the groups or extraneous factors outside of the program. Wundersitz (2007) argues that even the evaluations which use the participant group as its own control are flawed. For example, a legislative change to a drug charge (which did occur in South Australia in relation to cannabis) could mean that any changes in pre-offending and post-offending may be a result of these external factors rather than a program effect. Evaluations need to choose their comparison group carefully and consider the context in which the program is operating when making assessments about outcomes.

## **Data quality**

Each jurisdiction has their own criminal justice databases (with different counting rules and cleaning processes) and very few evaluations reported being able to access a comprehensive set of data that allowed them to measure and control for all the relevant factors in their evaluation. The ability to adequately measure recidivism rates was especially hampered by datasets that did not include date information. Some studies could not determine whether an offence recorded during a program was actually committed prior to entry on the program due to a lack of date information. This also meant that the evaluations could not include an analysis of time to next offence or measure changes in the frequency of offending, which are essential in determining whether a program is achieving reductions in drug-related offending. Ideally, researchers would have access to a comprehensive data set so that they can be sure that the findings are an accurate reflection of a program's achievements.

## **Cost-benefit analysis**

Evaluations which attempt to measure whether a drug court program is economically viable or in fact more cost-effective than conventional systems have the difficult task of not only identifying all of the processes and components that make up the whole but the contribution that each individual makes toward those costs. Most studies examined all the tangible costs of running a drug court program (where data was available for costing) and compared these with the cost of traditional court processes and sanctions (e.g. imprisonment) while a few compared the recidivism rates of participants with similar drug-related offenders in order to measure cost-effectiveness. Very few were able to measure any health benefits apart from those which were quantifiable such as hospitalisation rates. The improvements in health, esteem and social functioning as a result of treatment and support services are immeasurable in financial terms and yet are fundamental to a participant's success beyond the program (Payne, 2005).

For drug court programs where an offender would not have otherwise received a term of imprisonment, it is difficult to know the comparison group to measure costs against. Comparing program costs with that of incarceration is the most common method and yet for some programs this is not suitable given the drug offences would not have incurred a

sentence of imprisonment. A drug court program could be compared to other community-based sanctions but in this case the program is likely to be considerably more expensive than these sanctions and the costs should be offset against the likely savings made by improvements in health and reduced re-contact with the criminal justice system. Identifying the target population is crucial in assessing the delivery and outcome costs of a program and the cost of sentencing alternatives (Payne, 2005).

## Key performance measures of drug court programs

So far this paper has explored the types of performance measures used in previous evaluation studies and the difficulty in comparing findings due to the different methodologies adopted. Despite the individual differences between the drug court programs that operate in each jurisdiction, there is worth in improving data collection systems and using a standard methodology to assess similar types of programs.

When considering the key performance measures to use in an evaluation of a drug court program it is useful to break it down into the following components. These include the model or process, court resources, and outcomes. From here, a series of questions that reflect the aims and objectives of drug court programs can be developed and used to measure if the program is achieving its goals. A number of the questions outlined below have been sourced from a paper by Heck (2006) entitled, '*Local Drug Court Research: Navigating Performance Measures and Process Evaluations*'.

### Model/ process

When considering the efficacy of a drug court program it is important to consider the model that it is based on and whether it is operating as it was set out to. It is also useful to examine how individuals proceed through a program from the point of entry through to its conclusion. The questions below are all designed to address process issues including whether the model is operating according to established standards, uses an evidence based approach and is operating as intended.

1. Is the court reaching the defined target population?
  - a. What are the methods for consistent identification and referral to these programs?
  - b. What are the criteria for entry on to the program?
2. Is the target population appropriately defined?
  - a. Are some individuals missing out due to those criteria?
  - b. What is the uptake on to the program?
3. What are the characteristics of clients accepted on to the program?
  - a. What do the demographics show? Are particular sub-groups underrepresented?
  - b. What is the criminal history of the participants (including offence types, frequency and seriousness)?
  - c. What is the drug use history?
4. Is the court providing the appropriate treatment for clients?
  - a. What treatment is offered? Is it evidence based?

- b. Is the treatment provided in-house or by external providers?
  - c. What is the length of program?
- 5. Are client treatment needs (as determined by assessment) being addressed?
  - a. Are the assessment tools used, valid and reliable for the target population?
- 6. Is the court admitting clients in a timely fashion?
- 7. Are drug tests and other services occurring on a timely basis?
  - a. How often does testing occur? Is it scheduled or random?
- 8. What sanctions and incentives are used?
- 9. Are sanctions and incentives having the intended effects?
- 10. How many sanctions are imposed before termination is considered?
- 11. Are clients compliant with court/ program requirements?
  - a. What are the enablers/ inhibitors to compliance?
- 12. Are clients getting the services that they need?
- 13. Does the drug court team work well together?
- 14. Is there appropriate training for individuals who work in or around a drug court program?
- 15. Are stakeholders in agreement about the role and objectives of the drug court?

### **Court resources/ efficiencies**

One of the secondary aims of a drug court program is to provide a cost-effective alternative to the mainstream responses to drug-related crime. It seeks to do this by addressing the primary problem of drug use through treatment and rehabilitation, thereby removing or reducing the need to re-offend. It is important to examine whether the benefits to the client and the community outweigh the cost of a drug court program as opposed to traditional court sanctions. Here are some examples of questions that relate to cost and efficiencies.

- 1. Who is involved in the court review process?
  - a. Do all parties attend? Is there a specialist Magistrate or Judge?
- 2. How long does the court review process take?
  - a. What is the average time spent on each client review?
  - b. How often are they reviewed?
- 3. What judicial and prosecution resources are involved?
  - a. What staff are involved, how much time is involved in reading/preparing cases and attending reviews?
- 4. What costs are involved in running a drug court program?
  - a. Treatment and assessment costs, housing, staff, urine testing
- 5. Is the drug court cost-effective compared with traditional sanctions (e.g. imprisonment)?
- 6. What are the cost-benefits of a drug court program?
  - a. Is the program reducing the pressure on resources in the court and prison systems?

## Outcomes

The most critical measure of a drug court program's success is how well it works in practice and is achieving its objectives. The two key objectives of all drug court programs relate to reducing drug use and criminal behaviour. Below are the types of questions that can be used to assess performance.

1. What is the retention rate?
  - a. What is the retention rate over time (e.g. at 3, 6 and 9 months)
2. What is the graduation rate?
3. What is the average longest stretch of drug free time for a graduating client?
4. What are the trends in client drug use over the course of the program?
  - a. Measure changes in frequency, drug type, polydrug use based on urinalysis
5. What is the recidivism rate?
  - a. Ideally apprehensions (or criminal events) should be used to measure offending as this will provide the most recent measure of offending behaviour.
  - b. Account for 'free' (non-imprisonment) time available to offend when measuring recidivism
  - c. Measure both in-program and post-program offending
  - d. Measure frequency of offending and time between offences
6. What offences are participants charged with in-program and post program?
  - a. Examine possible changes in offence type (property, drug) and seriousness
7. How do drug court clients compare to other similarly situated offenders in recidivism?
8. Does the drug court reduce the likelihood of a sentence involving incarceration?
  - a. What were the sentencing outcomes for all clients (not just those who graduated)?
9. Does the drug court improve health and wellbeing outcomes?
  - a. Compare health assessments at entry, during and completion of drug court
10. How do drug court clients compare to other similarly situated offenders on health and wellbeing measures (e.g. prison population)?

Appendix 3 provides a summary of these four key performance measures including key research questions, indicators of performance and potential data collection techniques.

## Summary

There is widespread support for specialist courts in providing a more intensive, therapeutic response to particular groups of offenders. This draft discussion paper provides an overview of the common measures used to assess the performance of specialist courts, using drug courts as the case study.

A number of drug court evaluations have been undertaken in Australia and the majority show positive results in tackling the problem of drug-related offending. However, to date, drug courts have been established and refined fairly independently of each other. There is merit in developing an overarching set of principles to unify them and aid in their evaluation.

The key elements for the successful evaluation of drug courts are also relevant for other specialist courts. These are: retention/completion; recidivism; drug use (or other specialist issue); health/welfare outcomes and, where possible, cost-benefit. For particular specialty courts however, evaluations may need to look beyond measures such as recidivism if they are to truly capture the benefits of these courts. While all specialty courts have the aim of reducing re-offending, many evaluations are not able to show a strong effect in the short term and may lead to the mistaken view that the courts are not working (Marchetti and Daly, 2007).

For many specialty courts there are more important outcomes than those which involve a criminal justice element alone. Indigenous courts for example, are particularly concerned with defendants' relationships with the court and their community. The involvement of Elders, engaging defendants in the process and the way the court operates is seen as an integral part of breaking down barriers and improving outcomes for offenders. Evaluations that include an assessment of a court's success in building the social capital of communities, improving understanding of and confidence in the justice system, and using culturally inclusive practices, will provide a more holistic picture of their effectiveness.

The drug court evaluation studies outlined in this paper have used a range of measures to assess each of these elements. The measures have been shaped in relation to the characteristics of the program under review, as well as the quality and scope of available data and the timeframe of the evaluation. In developing a set of common performance measures, clear definitions of recidivism, levels of drug use and health/wellbeing are essential.

In addition, more regular evaluations would assist in monitoring how these courts are operating. Likewise, follow-up studies, carried out after a sufficient time period, are critical to the assessment of recidivism and other aims that require a long term outlook such as the effectiveness of Indigenous courts in encouraging participation and strengthening communities. Improvements to data collection processes may also be necessary to measure a standard set of data items.

Ultimately, as Wundersitz (2007) notes, methodological rigour would enable the comparison of programs across jurisdictions, and allow researchers to identify which components are the most successful in improving outcomes for offenders.

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## Appendix 1

Drug court programs by jurisdiction and performance measures used in published evaluations.

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>AUSTRALIAN CAPITAL TERRITORY</b>					
<p><b>Court Alcohol and Drug Assessment Service (CADAS)</b> CADAS is a pre-sentencing treatment option for clients charged with alcohol and other drug (AOD) related offences. It is an immediate, short-term intervention, when a client first appears before the Court.</p>	<p>The goals are to:</p> <ul style="list-style-type: none"> <li>• reduce recidivism during the bail period, and</li> <li>• to engage the client in treatment</li> </ul>	<p>Engaging clients in treatment</p> <p>Completers</p> <p>Drug use</p>	<p>Stakeholder feedback and some data. Recidivism not measurable due to absence of quality data.</p>	<p>Limited data available to enable evaluation.</p>	<p>No report found</p>
<p><b>Treatment Referral Program</b> This is a post sentencing option, for clients who have either committed a crime to get drugs, or money for drugs, or while under the influence of drugs. It currently applies only to those drugs which appear in Schedule 4 of the Drugs of Dependence Act (1989) i.e. not alcohol.</p> <p>The magistrate or judge may, as part of the sentence imposed, instruct a client to undergo a treatment order rather than receive a custodial sentence or as an option to reduce their custodial time.</p> <p>The treatment can be for a period of 6 months up to 2 years.</p>			<p>No information available</p>		

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>NEW SOUTH WALES</b>					
<p><b>NSW Drug Court</b>  Participants were eligible if:  1. They'd been charged with a summary offence (and not a serious offence such as drug supply, violence, sexual assault;  2. It was highly likely that the person would, if convicted, be sentenced to imprisonment;  3. The person pleaded guilty or intended to plead guilty;  4. The person appeared to be dependent on the use of prohibited drugs;  5. The person satisfied other criteria prescribed by the regulations.  - Three phases to program.  Phase 1 - 'stabilisation' phase. Cease drug use, stabilise health and cease crime (min. 3 months)  Phase 2 - 'consolidation' phase. Remain drug and crime free, develop life and job skills (min. 3 months)  Phase 3 - 'reintegration' phase. Gain or be ready to gain employment and to be fiscally responsible (min 6 months). up to 18 month program.</p>	<p><b>Aim:</b>  To reduce the criminal activity of drug-dependent offenders by directing them into supervised drug treatment designed to reduce their drug-use and increase their ability to function as law-abiding citizens.</p>	<p>Completers   Drug use   Health &amp; wellbeing   Cost-effectiveness   Recidivism</p>	<p>Database   Interviews and urinalysis (spending on drugs declined during participation in program)   Ref. 6: Entry, and 3 follow-ups at 4-mth intervals (1/3rd completed all 3 follow-ups). Compared wellbeing to other populations (gen. &amp; prison pop)   Ref. 9: Measured in terms of reducing recidivism among drug-dependant offenders compared to conventional system*. Used costs and rate of recidivism to determine.   Ref 17: Based on re-conviction rates (time to re-offend for any offence and property, drug and person offences). Two comparison groups: Compared those on DC to matched comparison group who were ineligible due to a prior violent conviction or residence outside of boundary. Compared comparison group to DC completers (those who at the end of program received a non-custodial sentence).</p>	<p>In Health &amp; wellbeing study few had reached Phase 3 or graduated.   Had best comp. group due to demand for DC program exceeding supply.</p>	<p>6, 9, 17</p>

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<p><b>NSW Youth Drug Court</b> Targeted at young people aged 14-18 living in Western &amp; South Western Sydney, charged with a criminal offence (excl. sexual, traffic and serious indictable offences), for which a caution or youth justice conference is considered inappropriate, and who have a demonstrable alcohol or other drug (AOD) problem. To be eligible, young people must plead guilty or state intention to, and their offence must be such that it can be finalised by the Children's Court.</p>	<p>Aims:</p> <ul style="list-style-type: none"> <li>• To reduce offending by participants with drug problems</li> <li>• To reduce problem drug use,</li> <li>• To improve overall health and social functioning</li> </ul>	<p>Completers</p> <p>Health &amp; social functioning, drug use</p> <p>Recidivism</p>	<p>YDC Database</p> <p>2-stage interviews with participants. Various time points in the program for each person so no good pre-post measure.</p> <p>During and post offending data for 2 groups; participants and ineligible/refused to participate.</p> <p>No measures of seriousness and different periods of post program offending opportunity and some received custodial sentences following brief involvement with the program reducing opportunity to offend. Therefore hard to compare non-participants with participants.</p>	<p>- YDC data is unclear on whether some offences were committed before entry to program</p> <p>- No offence dates in dataset so can't measure time to first offence.</p> <p>- Short follow-up period.</p>	<p>5</p>
<p><b>Magistrates Early Referral Into Treatment (MERIT) Pilot Program</b> The program diverts adult offenders with significant drug problems on bail, from the court to a 3-month intensive drug treatment program. The program is targeted at defendants who are motivated to engage in treatment for their drug problems and it is voluntary. It does not require participants to enter a guilty plea. Defendants charged with serious violent or sexual offences or those with wholly indictable offences (i.e., charges which could not be heard in the Local Court jurisdiction) are not eligible to participate.</p>	<p>Program aims were to:</p> <ul style="list-style-type: none"> <li>• decrease illicit drug use by participants, during the program and following completion</li> <li>• improve health and social functioning among participants, during the program and following completion</li> <li>• decrease drug-related crime by participants, during the program and following completion</li> <li>• encourage sentences that reflected the better rehabilitation prospects of successful participants.</li> </ul>	<p>Completers</p> <p>Recidivism</p> <p>Health &amp; wellbeing (includes drug use)</p>	<p>Database</p> <p>Police data on offences allegedly committed between ref. date and 31 Dec 2002. Considered all offences and drug, theft and robbery offences. Time - offend within 3 month &amp; 12 month period. Compared completers with non-completers.</p> <p>Questionnaire on entry and exit measuring indicators such as drug use and risk taking, social functioning and health/mental health status. Non-completers were excluded from the study due to low exit interview numbers (36% did not complete).</p> <p>Drug use - frequency, intensity of drug use, polydrug use, dependence.</p> <p>Not all completers were interviewed at exit (67%)</p>	<p>Non-completers did spend some time on the program so receive some benefit. May be differences between the 2 groups other than the program effect (<i>they did try to control for some factors</i>)</p>	<p>11, 13</p>

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>NORTHERN TERRITORY</b>					
<p><b>Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT) NT</b></p> <p>CREDIT NT targets people with an illicit substance use problem who have been charged with a criminal offence</p> <p>The program is a voluntary, pre-sentence program, and a plea of guilty is not required for participation eligibility.</p>	<p>Program aims include:</p> <ul style="list-style-type: none"> <li>• reducing the likelihood of a sentence involving incarceration</li> <li>• delaying or further reducing offending behaviour</li> <li>• reducing the cost to the health system</li> <li>• assisting participants to become more productive members of the community</li> <li>• improving the quality of life for participants.</li> </ul>	Completion rates			Evaluation in progress
<b>QUEENSLAND</b>					
<p><b>North QLD Drug Court</b></p> <p>Persons are eligible if:</p> <p>(a) the person is not a person who must be dealt with as a child under the Juvenile Justice Act 1992; and</p> <p>(b) the person is drug dependent and that dependency contributed to the person committing the offence; and</p> <p>(c) it is likely the person would, if convicted of the offence, be sentenced to imprisonment; and</p> <p>(d) the person satisfies any other criteria prescribed under a regulation.</p> <p>Persons are not eligible if they have committed a sexual or violent offence or would be unlikely to receive a term of imprisonment if they were to proceed through the normal court system.</p> <p>Court uses sanctions and rewards. Compliance is measured through: urinalysis, criminal offence monitoring and program participation.</p>	<p>Objectives under the Act are to reduce:</p> <ul style="list-style-type: none"> <li>• the level of drug dependency in the community;</li> <li>• the level of criminal activity associated with drug dependency;</li> <li>• the health risks to the community associated with drug dependency, and</li> <li>• the pressure on resources in the court and prison systems.</li> </ul>	<p>Completers</p> <p>Health</p> <p>Drug use</p> <p>Recidivism</p>	<p>Graduates and terminated/withdrawn</p> <p>Interviews with drug court team members and participants</p> <p>Drug Court Database which incl. Short form 36 Health Survey responses and general health and mental health assessments. Measured at entry and graduation stages.</p> <p>Urinalysis measures over time.</p> <p>Police data on offences involving a conviction. Used offence episode (called <i>events</i> in SA evaluations). 2 measures of re-offending: time to first offence and frequency of offending (pre and post). Accounts for 'free time' to offend</p> <p><i>* Reference 15 relates to a paper which specifically looks at recidivism rates amongst the first 100 graduates at both sites. It uses the same recidivism measures as the other 2 studies.</i></p>	<p>No health outcomes measurable post program (a <i>common limitation</i>) and very few measures for terminated.</p> <p>Comparison group = eligible offenders who refused to participate (<i>refusals</i>)</p> <p>Small sample sizes.</p>	14, 15*

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<p><b>South East QLD Drug Court</b></p> <p><i>As above</i> 30 month program</p>	<p><i>Same as above</i></p>	<p>Completers</p> <p>Health</p> <p>Recidivism</p>	<p>Graduates and terminators</p> <p>Interviews with stakeholders and participants. Drug Court Database has limited data</p> <p>Police data on offences involving a conviction. Two measures of re-offending: time to first offence and frequency of offending (pre and post). Accounts for 'free time' to offend. Also uses 2 follow-up periods to measure recidivism; time from entry into DC, and time from graduation or termination from program. Survival analysis focused on drug and property offences (as DC purpose is to reduce drug related offending) but also included a section analysing all offence types. Also analysed seriousness, based on violent off.</p>	<p>Poor completion rate</p> <p>Uses 2 comparison groups. Gp 1 = refusals into DC. Gp 2 = ex-prisoners satisfying 6 criteria (see pg 31 of ref.).</p>	<p>10</p>
<p><b>Queensland Magistrates Early Referral Into Treatment program (QMERIT)</b></p> <p>QMERIT is a pilot pre-sentence (bail based) diversion program in the magistrates courts at Maroochydore and Redcliffe. It is designed to assist eligible defendants who have drug related offences to undergo drug treatment. Drug treatment takes place while participants are on bail and before they are dealt with for their charges. It involves a 12-16 week treatment program with intensive case management.</p> <p>Eligibility include:</p> <ul style="list-style-type: none"> <li>• aged 18 or over</li> <li>• have an obvious and treatable drug problem (alcohol not the main drug)</li> <li>• charge(s) relate to problems caused by illicit drug use</li> <li>• charge(s) can be dealt with summarily (in the Mag. Court)</li> <li>• charges are not sexual or violent offences (and no criminal record for these)</li> <li>• eligible, suitable for bail &amp; agree to be in the program</li> <li>• live in the defined catchment area</li> </ul>	<p>The aim of the QMERIT program is to help suitably motivated drug offenders to overcome their problematic drug use and end their associated criminal behaviour through court enforced and supervised treatment programs.</p>	<p>Completers</p> <p>Recidivism</p>	<p>Graduates and terminators</p> <p>Courts Innovation Program Evaluation System database collects various statistics including recidivism rates. Currently under evaluation - report due early 2010.</p>		

<p><b>Queensland Indigenous Alcohol Diversion Program (QIADP)</b>  QIADP is a pre-sentence (bail based) diversion program for Indigenous offenders who appear before the Magistrates Court for offences involving alcohol misuse. It aims to divert high-risk or alcohol dependant offenders, who are eligible for bail and willing to participate, into alcohol and drug assessment and treatment.  The program lasts for up to 20 weeks</p>	<p>To be eligible, you must be;</p> <ul style="list-style-type: none"> <li>• Aboriginal or Torres Strait Islander;</li> <li>• involved in proceedings in the children's court about child protection orders or you have agreed to work together with the Department of Child Safety to protect and care for your child/ren;</li> <li>• aged 18 or over (if you are 17 you may be eligible in limited circumstances); and</li> <li>• using alcohol in a way that affects your ability to protect your child/ren from harm;</li> <li>• suitable to participate in the program based on clinical assessment and any other relevant factors (including, for example, whether the parent has a history of violence);</li> <li>• you agree to take part in the program; and</li> <li>• you are assessed by QIADP staff as suitable for treatment.</li> </ul>		<p>Currently under evaluation - report due December 2009.</p>		
<p><b>Cairns Alcohol Remand and Rehabilitation Program (CARRP)</b>  CARRP is a sentencing-based diversion scheme aimed at addressing alcohol-related offending behaviours. The program aims to give homeless people an opportunity to address frequent, alcohol induced, offending behaviour.  Eligible offenders are granted bail subject to conditions including the requirement to reside at a rehabilitation facility. The program is 1-2 months.</p>	<p>The program was established to help Indigenous people suffering with alcoholism to receive effective support, within residential rehabilitation, to give them the opportunity to effectively address their individual problems and make healthy lifestyle changes.</p>	<p>Completers  Recidivism</p>	<p>Number who completed the program.  Basic statistics provided in an A/R on the number of repeat offenders appearing before the court.</p>		<p>No evaluation report found</p>
<b>SOUTH AUSTRALIA</b>					
<p><b>Drug Court</b>  The Drug Court targets persons 18+ years who have a significant drug problem and who have committed offences that would probably attract a term of imprisonment. It combines intensive judicial supervision, mandatory drug testing and access to treatment/support services and support accommodation to help drug offenders break the cycle of crime and drug use.  It's a 12 month program aimed at drug users who are likely to face a prison sentence of 12+ months or for</p>	<p>Key aims of the program are to:</p> <ul style="list-style-type: none"> <li>• Minimise or stop the use of illicit drugs by offenders, and</li> <li>• Prevent or decrease any further drug related offending.</li> </ul>	<p>Completers  Drug use  Recidivism</p>	<p>Graduates and terminators  Urinalysis measures over time (doesn't consider changes in drug type).  Frequency and severity of offending pre and post involvement of DC program. This is measured based on criminal events that resulted in a police apprehension. Minimum 6 months post-completion. Each participant was matched on his/her pre and post offending time. Incarceration</p>	<p>No control group due to inability to identify and match with offenders processed through conventional court who had a drug-</p>	<p>3</p>

more minor indictable or summary offences. Failure to comply with program attracts demerit points and may lead to termination from the program.			time was excluded.  <i>Other SA studies have measured compliance and drug use through urinalysis and treatment agency data/interviews re appointments kept etc.</i>	related offending problem Small sample size	
<b>Adult CARDS (Court Assessment and Referral Drug Scheme)</b> CARDS is designed to refer individuals whose offending is believed to be drug-related, to drug assessment and treatment. It targets defendants appearing before a Magistrates Court who are deemed suitable for release on bond or bail and have been assessed as likely to benefit from a drug treatment program. Criteria = Participation is voluntary, offence must be drug related and the offence(s) are summary or minor indictable. Individuals with history of violent offending are ineligible as are those for whom alcohol is their principle drug related to their offending. Participants attend 4 sessions of drug counselling within 3 month period. Compliance may be considered in the sentencing of a defendant.	Objectives are to: • Ensure there is an option for court referral into drug assessment and treatment services available • Encourage drug users to seek treatment by capitalising on the reality that the drug using defendant has entered the CJS as a result of being charged for a drug related crime • Reduce the risk of further offending to support drug use and associated criminal activity and harm to themselves or others.	Health/ Benefits/ Treatment  Recidivism  Compliance  Drug use	Pre and Post CARDS involvement survey and Interviews with clients and stakeholders  Frequency and severity of offending pre and post based on criminal events.  Analysis of client data and other data sources, observation.  Post-treatment surveys of CARDS' participants and CARDS database	Low response rate to post treatment surveys & short period to track post CARDS (6 months)	7
<b>Youth CARDS (Court Assessment and Referral Drug Scheme)</b> Youth Cards targets young offenders appearing before the YC or Family Conference, with drug and/ or alcohol related issues and who are deemed suitable for referral to treatment. Involvement is voluntary and individuals must be deemed suitable for release on bail, bond or undertaking. Once accepted youth must attend 4 sessions with a youth treatment provider over 3-month period.	Objectives: • Enhance the operation and outcomes of the JJS by providing direct court and FC access to a structured drug and/or alcohol intervention program • Encourage drug and/or alcohol users to address their drug and/or alcohol use and related issues, including offending, by capitalising on the reality that the individual has entered the JJS as a result of being charged for a drug and/or alcohol related crime • Reduce the risk of further offending to support drug and/or alcohol use • Reduce associated criminal activity and harm to themselves or others.	Health/ Benefits/ Treatment  Recidivism  Drug use  Compliance/ attendance	Pre and Post CARDS involvement survey and Interviews with clients and stakeholders  Frequency and severity of offending pre and post based on criminal events.  Post-treatment surveys of CARDS' participants and CARDS database  Analysis of client data and other data sources, observation.	Short follow up period in which to track offending (6 months) & lack of data from clients	12

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>TASMANIA</b>					
<p><b>Court Mandated Drug Diversion Program (CMD)</b>            CMD is available to adult and juvenile offenders who plead or are found guilty of committing certain drug possession or use crimes, or non-violent crimes in order to support or pay for illicit drug use, or who [as an result of drug use] have committed certain family violence crimes.            CMD operates within all of Tasmania's Magistrates Courts.            It is provided under 3 Categories:            1) As a condition of bail following a plea or finding of guilt &amp; prior to sentence. Max 12 week's duration.            2) As a condition of probation or suspended sentence. Treatment determined by Court after assessment. &lt;12 month duration.            3) As a sentencing option in own right. The DTO is for those who would otherwise be subject to imprisonment. It includes regular court review &amp; sanctions. Treatment up to 18 months.            It differs from other jurisdictions in that:            - Focus is on addressing criminogenic needs rather than harm minimisation.            - CMD available after a finding of guilt            - Diversion available to family violence offenders where offending is drug related.</p>	<p>Aims:</p> <ul style="list-style-type: none"> <li>• Provide offenders with an opportunity to acknowledge and address offending behaviour caused by drug abuse, thereby improving physical and psychological well being</li> <li>• Help eligible offenders abstain from illicit drug use</li> <li>• Reduce drug related offending behaviour</li> <li>• Provide offenders with the tools to recognise and prevent relapse into substance abuse and criminal behaviour</li> <li>• Develop a shared approach to and a commitment to a 'joined up' service delivery system between Government and the NGO sector.</li> </ul>	Completers Recidivism Drug use	Treatment, court data Returns to court following imposition of a CMD order. Interviews with staff and limited interviews with participants on their drug use. Records of urine samples are not kept.	Short follow up period. Re-offending does not include re-arrests and unable to determine whether a court appearance involves an offence committed before or after CMD. Also no re-offence dates so can't measure time to next offence.	16
<b>VICTORIA</b>					
<p><b>Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT)</b>            CREDIT seeks to minimise drug use and drug-related offending by enabling the provision of drug treatment services as a condition of bail. it is not supported by any specific legislation.            Eligibility depends on meeting the following criteria:            • They are charged with a non-violent offence;            • They have a drug problem (this requires an illicit drug problem rather than alcohol for example);            • They are on bail;            • They are not on a court order with a drug treatment</p>	<p>The objectives of the program include:</p> <ul style="list-style-type: none"> <li>• Bringing forward court referred treatment services to be available immediately after arrest and upon being brought to court, that would otherwise only be available after sentencing;</li> <li>• Encouraging drug users to seek treatment (by capitalising on the reality that they have been charged);</li> <li>• Develop a commitment on the part of drug users to treatment by making it a condition of bail;</li> </ul>	Compliance/completers Recidivism Drug use Welfare/health/social	CREDIT database. Interviews and sample of 100 randomly selected CREDIT participants from police database. Recidivism based on convictions Interviews with stakeholders re frequency and change in drug type Interviews with stakeholders and small no. of participants	No comparison with a group who did not participate in CREDIT.	8

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<p>component; and</p> <ul style="list-style-type: none"> <li>• They have been charged by an officer from a police station that participates in the CREDIT program (i.e. would normally bail the defendant to attend at a court where the program is operating).</li> </ul> <p>There is no maximum number of times a person can be referred to or participate in the CREDIT program, a guilty plea is not a requirement and the defendant agrees to participate.</p>	<ul style="list-style-type: none"> <li>• Monitoring the drug treatment progress of defendants via regular reporting to the court;</li> <li>• Reducing the risk of further offending to support drug use, along with other associated criminal activity or harm to self and others;</li> <li>• Taking into account the defendant's commitment, progress and success in drug treatment at the time of sentencing; and</li> <li>• Developing a model drug treatment diversion program.</li> </ul>	functioning			
<p><b>Drug Court</b></p> <p>The court is aimed at individuals who are drug or alcohol dependent, and whose dependency contributed to their offending. It utilises a Drug Treatment Order which may last up to two years and incorporates an intensive drug and/or alcohol treatment program, medical, psychiatric or psychological treatment and/or attendance at vocational, educational, and employment programs. The DTO is an alternative to prison. Sanctions and rewards are used to address compliance. Participants must undergo treatment, attend court hearings and not commit another offence punishable on conviction by imprisonment during the Order.</p> <p>Eligibility criteria include that:</p> <ul style="list-style-type: none"> <li>• The defendant must not be subject to a Parole Order, Combined Custody and Treatment Order, Intensive Corrections Order, Community Based Order or a Sentencing Order of the County or Supreme Court;</li> <li>• The defendant must plead guilty and consent to the DTO;</li> <li>• Must reside within a particular postcode;</li> <li>• The offence comes under the Magistrates' Court and is punishable upon conviction by imprisonment;</li> <li>• The offence is not a sexual or violent offence;</li> <li>• The Drug Court must be satisfied that the defendant is dependent on drugs or alcohol and the offender's dependency contributed to the commission of the offence.</li> </ul>	<p>The aim of the Drug Court is to protect the community by focusing on the rehabilitation of the participant's drug or alcohol dependence with the objective of reducing the risk of further offending by stabilising their lifestyle and reintegrating them into society.</p>	<p>Compliance</p> <p>Health/ Wellbeing/ Employment</p> <p>Recidivism</p> <p>Drug use</p> <p>Incarceration</p> <p>Cost-effectiveness</p>	<p>Based on appointments</p> <p>Baseline and 3 and 6 month follow up surveys of participants on a DTO.</p> <p>surveys, and police data on convictions for further offences since commencement of DTO</p> <p>Baseline and 3 and 6 month follow up surveys of participants on a DTO. Urinalysis.</p> <p>Drug court data</p> <p>Operation of Drug Court Vs Imprisonment (used NSW Drug Court evaluation methodology)</p>	<p>Small sample size and no graduates at time of evaluation. The majority were still in Phase 1.</p> <p>Recidivism data may include convictions for offences committed prior to their DTO commencement. Also could not analyse time to re-offend, or changes in frequency of offending.</p>	1



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## Appendix 2

### Indigenous Court Programs by jurisdiction and measures used to evaluate programs

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>AUSTRALIAN CAPITAL TERRITORY</b>					
<p><b>Ngambra Circle Sentencing Court</b> Specialised court within the ACT Magistrates Court established in May 2004 to sentence Aboriginal and Torres Strait Islander offenders who plead guilty to an offence (excludes sexual offences).</p> <p>Operates under Practice Direction: Ngambra Circle Sentencing Court (updated 1st December 2001) and the general sentencing provisions in the Crimes (Sentencing) Act 2005 (ACT).</p>	<p>The Court aims to:</p> <ul style="list-style-type: none"> <li>• Involve ATSI communities in the sentencing process,</li> <li>• Increase the confidence of ATSI communities in the sentencing process</li> <li>• Reduce barriers between Courts and the ATSI communities,</li> <li>• Provide culturally relevant and effective sentencing options for ATSI offenders</li> <li>• Provide the offender concerned with support services that will assist the offenders to overcome his or her offending behaviour,</li> <li>• Provide support to victims of crime and enhance the rights and place of victims in the sentencing process; and</li> <li>• Reduce repeat offending in ATSI communities.</li> </ul> <p>The objectives of the Court are: (1) to provide effective and restorative processes for the criminal justice response to, and community involvement in the management of Aboriginal and Torres Strait Island offenders and their victims; (2) to maintain consistency and certainty in the practice of the Ngambra Circle Sentencing Court, and (3) to ensure the transparency and accountability of the process of Circle Sentencing.</p>		<p>Evaluated in-house at the conclusion of the pilot and formerly evaluated by Marchetti and Daly in 2008 but no public report accessible.</p>		1

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>NEW SOUTH WALES</b>					
<p><b>Circle Court</b></p> <p>Available to any adult Aboriginal offender whose matter can be finalised by the Local Court (see locations below). The offender must be found guilty or plead guilty (excludes some serious offences)</p> <p>Operates under the Criminal Procedure Amendment Regulation 2005 The following courts have been established:</p> <ul style="list-style-type: none"> <li>- Nowra Circle Court</li> <li>- Dubbo CC</li> <li>- Brewarrina CC (on circuit)</li> <li>- Kempsey CC</li> <li>- Armidale CC</li> <li>- Lismore CC</li> <li>- Mt Druitt CC</li> <li>- Walgett CC</li> </ul>	<p>As set out in the Criminal Procedure Amendment (Circle Sentencing Program) Regulation 2005, the objectives are to:</p> <ul style="list-style-type: none"> <li>• Establish a sentencing format which allows for Aboriginal community involvement,</li> <li>• Provide support to Aboriginal victims of crime,</li> <li>• Empower Aboriginal communities in the sentencing process,</li> <li>• Increase Aboriginal community confidence in the sentencing process,</li> <li>• Reduce barriers between Aboriginal communities and courts,</li> <li>• Provide more appropriate sentencing options for Aboriginal offenders,</li> <li>• Provide effective support to Aboriginal defendants when completing sentences,</li> <li>• Reduce recidivism in Aboriginal communities.</li> </ul>	<p>Qualitative</p> <p>Recidivism</p> <p>Recidivism</p> <p>Qualitative analysis of defendant's perceptions of court/ elder role &amp; offending.</p>	<p>Ref 2: No detail provided</p> <p>Ref 3: Frequency of offending (based on convictions), time to next proven offence and seriousness of offending amongst CC offenders and a matched control group sentenced through normal court process. Recidivism was carried out by BOCSAR and more detail can be found in their paper (Ref 4.) The data is based on offences rather than events (i.e. one offending event can have multiple offences).</p> <p>Ref 5: Qualitative interviews, case notes &amp; court history of offenders sentenced for non-family violence offences. Offences based on proven offences, grouped by event - focus on desistance theory.</p>	<p>Ref 2: No control, very few numbers &amp; incomplete offence data, short follow up.</p> <p>Ref 3: Limited numbers compared with Abor. offenders in control gp &amp; data collection varied by location</p> <p>Ref 5. Small sample</p>	<p>2, 3, 4, 5</p>
<p><b>Community Court*</b></p> <p>* Not exclusively Indigenous (available to non-indigenous offenders who request the Court).</p> <p>Includes all offences (except sexual assaults &amp; certain violent offences) that can be heard and finalised in the Magistrates Court.</p>	<p>Criminal justice aims:</p> <ul style="list-style-type: none"> <li>• provide more effective, meaningful and culturally relevant sentencing options;</li> <li>• increase community safety;</li> <li>• decrease rates of offending;</li> <li>• reduce repeat offending &amp; breach of court orders.</li> </ul> <p>Community aims:</p> <ul style="list-style-type: none"> <li>• increase community participation in the administration of the law &amp; sentencing process;</li> <li>• increase community knowledge &amp; confidence in the sentencing process;</li> <li>• increase the accountability of the community, families, and offenders;</li> <li>• provide support to victims and enhance the rights and place of victims in the sentencing process;</li> <li>• enhance the offender's prospects of</li> </ul>		<p>No evaluation report found</p>		

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
	rehabilitation & reparation to the community.				
<b>NORTHERN TERRITORY</b>					
<p><b>Community Court*</b></p> <p>* Not exclusively Indigenous (available to non-Indigenous offenders who request the Court).</p> <p>Includes all offences (except sexual assaults &amp; certain violent offences) that can be heard and finalised in the Magistrates Court.</p>	<p>Criminal justice aims:</p> <ul style="list-style-type: none"> <li>• provide more effective, meaningful and culturally relevant sentencing options;</li> <li>• increase community safety;</li> <li>• decrease rates of offending;</li> <li>• reduce repeat offending and breach of court orders.</li> </ul> <p>Community aims:</p> <ul style="list-style-type: none"> <li>• increase community participation in the administration of the law and sentencing process;</li> <li>• increase community knowledge and confidence in the sentencing process;</li> <li>• increase the accountability of the community, families, and offenders;</li> <li>• provide support to victims and enhance the rights and place of victims in the sentencing process;</li> <li>• enhance the offender's prospects of rehabilitation and reparation to the community.</li> </ul>		No evaluation report found		
<b>QUEENSLAND</b>					
<p><b>Murri Court</b></p> <p>Available to youth and adult Indigenous offenders who plead guilty to an offence. Operates under the Penalties and Sentences Act 1992 (QLD) and Juvenile Justice Act 1992 (QLD). The following courts have been established:</p> <ul style="list-style-type: none"> <li>- Brisbane Murri Court</li> <li>- Rockhampton M.C.</li> <li>- Mt Isa M.C.</li> <li>- Townsville M.C.</li> <li>- Caboolture M.C.</li> <li>- Cherbourg M.C.</li> </ul>	<p>The objectives are:</p> <ul style="list-style-type: none"> <li>• to reduce the over-representation of Indigenous offenders in prison and juvenile detention</li> <li>• to reduce the number of Indigenous offenders who fail to appear in court, which can lead to the issuing of warrants for arrest and imprisonment</li> <li>• to decrease the re-offending rate and number of court orders breached by Indigenous offenders which can lead to prison</li> <li>• to strengthen the partnership between the Magistrates Court and Indigenous communities</li> </ul>	<p>Imprisonment rates</p> <p>Attendance</p>	<p>Ref 6: Qualitative interviews &amp; limited data on sentence outcomes (imprisonment) in the courts</p> <p>Ref 7: Proportion who received imprisonment sentence in Murri Vs matched sample in Magistrates Court.</p> <p>Ref 6: Limited data on no. who 'fail to appear' and anecdotal reports of warrants issued compared with Magistrates Court.</p> <p>Ref: 7 No and proportion of offenders who absconded subject to warrant &amp; court</p>	<p>Ref 6: No comparison group available &amp; very limited data for analysis of outcomes</p> <p>Ref 7: Report complete but yet to be</p>	6, 7

Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<ul style="list-style-type: none"> <li>- Ipswich M.C.</li> <li>- Coen M.C.</li> <li>- Cleveland M.C.</li> <li>- Caloundra M.C.</li> <li>- Cairns M.C.</li> <li>- St George M.C.</li> <li>- Mackay M.C.</li> <li>- Inala/ Richlands M.C.</li> </ul>	to deal with Indigenous justice issues appropriately.	<p>Recidivism</p> <p>Participation/ ownership/ fairness</p>	<p>appearance events that resulted in a warrant being issued.</p> <p>Ref 7: Time to next proven offence, seriousness of re-offence, and the frequency of offending pre- and post-sentence.</p> <p>Ref 6 &amp; 7: Qualitative interviews &amp; court observations</p>	published.	

### SOUTH AUSTRALIA

<p><b>Nunga Court</b> Operates under the Criminal Law Sentencing Act 1988 (S.9) Available to adult Indigenous offenders who plead guilty to an offence. Offenders must plead guilty to an offence. Courts operate at:</p> <ul style="list-style-type: none"> <li>- Port Adelaide Nunga Court</li> <li>- Murray Bridge Nunga Court (on circuit)</li> <li>- Port Augusta Aboriginal Sentencing Court</li> <li>- Ceduna Aboriginal Sentencing Court</li> </ul>	<p>Key Objectives:</p> <ul style="list-style-type: none"> <li>• To provide a more culturally appropriate setting than mainstream courts;</li> <li>• To reduce the number of Aboriginal deaths in custody;</li> <li>• To improve court participation rates of Aboriginal people;</li> <li>• To break the cycle of Aboriginal offending;</li> <li>• To make justice pro-active by seeking opportunities to address underlying crime-related problems with a view to making a difference;</li> <li>• To recognise the importance of combining punishment with help so that courts are used as a gateway to treatment;</li> <li>• To involve victims and the community as far as possible in the ownership of the court process;</li> <li>• To ensure that the court process is open and transparent to victims and the community at large.</li> </ul>	Attendance rates	Compared attendance rates for Nunga Court with attendance rates of Aboriginal offenders at other courts.	Not able to assess penalties imposed or incarceration rates (due to non-finalised matters) through lack of data	8
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### TASMANIA

<b>No Aboriginal Court</b>					
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Program Description	Aims/Objectives	Outcome measures	How were the outcomes measured?	Limitations	Reference
<b>VICTORIA</b>					
<p><b>Koori Court</b> Operates under the Magistrates' Court (Koori Court) Act 2002 and the Children and Young Person's (Koori Court) Act 2004 (VIC). Excludes sexual offences and family violence offences and offenders must plead guilty. Koori Courts are located at:</p> <ul style="list-style-type: none"> <li>- Shepparton,</li> <li>- Broadmeadows,</li> <li>- Bairnsdale,</li> <li>- Mildura,</li> <li>- Warrnambool,</li> <li>- LaTrobe,</li> <li>- La Trobe Valley (County Court), and</li> <li>- Swan Hill Magistrates' Courts.</li> </ul> <p>Children's Koori Courts are located at:</p> <ul style="list-style-type: none"> <li>- Melbourne Children's Court &amp;</li> <li>- Mildura Magistrates' Court.</li> </ul>	<p>The general objectives of the Koori Court are to:</p> <ul style="list-style-type: none"> <li>• improve defendants' understanding of the court process.</li> <li>• encourage defendants to take responsibility for their actions and recognise the consequences of their behaviour.</li> <li>• develop a court system that is culturally appropriate and responsive to the needs and aspirations of Indigenous people.</li> <li>• facilitate greater positive participation by the Aboriginal community in the sentencing process.</li> <li>• explore sentencing alternatives prior to imprisonment.</li> </ul>	<p>Recidivism</p> <p>Community participation</p> <p>Cost savings</p>	<p>Based on re-conviction for a subsequent offence. This was compared with recidivism rate for all VIC offenders (based on the midpoint of recidivism rates for prisoners and defendants returning to corrective services).</p> <p>Qualitative interviews &amp; questionnaires</p> <p>Based on the number of re-offenders (using re-offence rate) times the cost per crime offender (based on the AIC report, 'Counting the Costs of Crime' methodology). It compares Koori Court cost with general recidivism rate (as measured above).</p>	<p>Poor comparison group - VIC figures based on more serious offenders (ex-prison, CSOs). Used different time periods &amp; length of follow up.</p> <p>Doesn't consider freq. or volume of offending.</p>	9
<b>WESTERN AUSTRALIA</b>					
<p><b>Aboriginal Community Court</b> Operates under the Sentencing Act 1995 (WA). Available to Indigenous offenders who plead guilty (sexual and family violence offences mostly excluded). Courts operate in:</p> <ul style="list-style-type: none"> <li>- Kalgoorlie, and</li> <li>- Norseman (on circuit).</li> </ul>	<p>The objectives are to:</p> <ul style="list-style-type: none"> <li>• Deliver culturally appropriate sentencing for local Aboriginal people</li> <li>• Improve access to and equity of court services for Aboriginal people</li> <li>• Increase the openness and inclusiveness of court services for Aboriginal people</li> <li>• Improve relationships between the Court and Aboriginal people</li> <li>• Reduce Aboriginal imprisonment numbers and recidivism rates in the Eastern Goldfields</li> <li>• Enhance safety for all members of the local community</li> </ul>	<p>Recidivism</p> <p>Community participation/access</p>	<p>'Failure rate' - based on whether they had an offence after their case was finalised. Recidivism measured at 6, 12, 18 &amp; 24 months and compared with mainstream court groups (involving Aboriginal offenders). Also looked at time to fail &amp; change in seriousness of offending.</p> <p>Qualitative interviews</p>	<p>Profiles of the comparison groups differed in age, seriousness of offending and no. of priors.</p>	10

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## Appendix 3

Guide for evaluation of drug court programs: key research questions, indicators of performance and potential data sources.

Broad questions	Detailed questions	Indicators	Data sources
<b>Is the model evidence based?</b>	Is the treatment and assessment model effective?	Model has been proven effective for drug-related offenders	Previous research findings
	Are clients' needs addressed?	Program addresses client needs	Interviews with staff and clients
	Does the program run for an appropriate length of time?	Program length allows for behavioural change	Interviews with staff and clients
<b>Is the program operating as intended?</b>	Is the drug court supported by principles/ legislative base?	Program operates according to specific legislation/ best practice	Program documentation/ interviews
	Is there appropriate training, documentation/manuals?	Comprehensive training and documentation	Program documentation/ interviews
	Is the target group appropriate?	Program captures drug-using offenders	Police data
	Are the criteria for entry appropriate?	Criteria reflects appropriate drug type, use and offence type	Police data, interviews
	Does the assessment process identify needs?	Clients' needs are identified	Drug court data, interviews
	Is the court review process effective?	Review process is timely, efficient & regular	Drug court data, interviews
	Are sanctions & rewards appropriate?	Sanctions and rewards effective for target group	Drug court data, interviews
<b>Is the program achieving its objectives?</b>	Does drug testing occur?	Testing is regular and random throughout program	Urinalysis
	What is the retention rate?	Retention rate at 3,6, 9 months and on completion of program	Drug court data
	What factors relate to graduation?	Comparison of completers and non-completers	Drug court data, police data
	What is the extent of drug use over time?	Frequency, intensity of drug use, change in drug type	Urinalysis, interviews
	What is the in and post-program recidivism rate?	Frequency and time to next offence., offence type, seriousness	Police data (apprehensions)
<b>Is it cost effective?</b>	Are there changes in health and wellbeing?	Health measures pre-program, during, and at graduation	Drug court/ treatment data
	What is the cost of running a drug court program compared with traditional sanctions (e.g. imprisonment)	Cost of treatment, assessment, housing, urine testing, staff compared with imprisonment costs	Provider data and Correctional Services data
	What is the benefit of a drug court program?	Effectiveness measured based on recidivism (frequency of offending and time to first offence for selected offence types)	Court data (recidivism measure based on convictions)

