

just treatment:

a review of international
programs for the diversion of
drug related offenders from
the criminal justice system



school of justice studies

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Just treatment: a review of international programs for the diversion of drug related offenders from the criminal justice system

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Department of the Premier and Cabinet
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INTRODUCTION

In recent decades rates of imprisonment have increased throughout the industrialised world. One of the drivers of this increase is the proportion of people whose imprisonment is linked to their use of illicit drugs. It is clear that punitive responses alone have been unsuccessful in ending illegal drug use and associated crime. Further, for many offenders, conviction and imprisonment only compounds the negative impacts of drug addiction.

As a consequence, there has been renewed interest in Australia, and elsewhere in the world, in programs that divert drug dependent offenders from the criminal justice system into education and treatment programs.

The Queensland Government is currently piloting a number of initiatives that seek to divert offenders with drug problems into rehabilitation programs and other forms of treatment. The primary aims of the initiatives are:

- to improve community safety by addressing the link between drug use and crime; and
- to improve health and well being of offenders who are drug dependent.

The initiatives include:

- Drug Court Pilots in south east Queensland and north Queensland – the Drug Courts divert serious offenders who are drug dependent into an intensive rehabilitative regime.
- A Police Diversion Program for Cannabis Offenders – the Police Diversion Program, operating across Queensland, diverts eligible offenders charged with personal use amounts of cannabis to an assessment and education session.
- A Court Diversion Program for Illicit Drug Offenders – the Court Diversion Program, operating in Brisbane, diverts eligible offenders charged with personal use amounts of illicit drugs to an assessment and education session.

The three initiatives are pilots; however in 2003, the Queensland Government extended funding for the Drug Court Pilot. The Commonwealth Government has indicated that it will also continue funding for the Queensland Illicit Drug Diversion Initiative, under which the Police Diversion Program and Court Diversion Program are funded, for another four years.

Dr Melissa Bull of the School of Justice Studies at the Queensland University of Technology was commissioned by Policy Research and Law and Justice Policy, Policy Division, Department of the Premier and Cabinet in late 2002 to

prepare a literature review on best practice in the diversion of drug offenders from the criminal justice system. The report was commissioned to support Queensland Government decision-making concerning drug diversion.

The report provides a useful overview of developments, trends, and outcomes in drug diversion in a number of international and interstate jurisdictions, including an analysis of best practice benchmarks for programs of this type. It draws not only upon the research literature on the diversion of drug offenders from the criminal justice system, but also upon the drug treatment literature. The results of this literature review support investment in drug diversion initiatives but also raise important issues about access for marginalised groups, a common problem for diversionary programs.

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TABLE OF ABBREVIATIONS

AA	Alcoholics Anonymous
ACT	Australian Capital Territory
ADCA	Alcohol and other Drug Council of Australia
ADIS	Alcohol and other Drug Information Service
ARS	Arrest Referral Scheme
BIR	Brief Intervention Regime
BJS	Bureau of Justice Statistics
BTC	Breaking The Cycle
CADAS	Court Alcohol and Drug Assessment Scheme
CATS	Court Assessment and Treatment Service
CCTP	Culturally Competent Treatment Practice
CDS	Court Diversion Service
CDST	Community Drug Service Team
CEN	Cannabis Expiation Notice
CHS	Corrections Health Service
CND	Commission on Narcotics Drugs
COAG	Council Of Australian Governments
CREDIT	Court Referral and Evaluation for Drug Intervention and Treatment
CTRP	Court Treatment Referral Program
DAAP	Drug Assessment and Aid Panel
DARP	Drug Abuse Reporting Project
DAT	Drug Action Team
DATOS	Drug Abuse Treatment Outcome Prospective Study
DCR	Drug Court Regime
DCS	Diversion Coordination Service
DDAP	Drug Diversion Assessment Program
DDL	Drug Diversion Line
DOCTP	Drug Offenders Compulsory Treatment Pilot
DOS	Diversion Outcomes Study
DPA	Drug Policy Alliance
DPS	Drug Problem Service
DTAP	Drug Treatment Alternatives to Prison
DTTO	Drug Treatment and Testing Order
DUI	Driving Under the Influence
EU	European Union
EWG	Expert Working Group
GAO	General Accounting Office
GDPS	Glasgow Drug Problem Services
GP	General Practitioner
HO	Home Office

HOI	Health Outcomes International
IDDI	Indigenous Drug Diversion Initiative
MCDS	Ministerial Council on Drug Strategy
MERIT	Magistrates' Early Referral Into Treatment
NA	Narcotics Anonymous
NADCP	National Association of Drug Court Professionals
NIDS	National Illicit Drug Strategy
NSW	New South Wales
NT	Northern Territory
NTIES	National Treatment Improvement and Evaluation Study
NTORS	National Treatment Outcome Research Study
OPTS	Opportunity to Succeed
PASCO	Partnership Action on Substance misuse and Crime and Offending
PDAC	Premiers Drug Advisory Council
PDP	Police Diversion Program
PSR	Pre-Sentence Report
QIDDI	Queensland Illicit Drug Diversion Initiative
SA	South Australia
SACPA	Substance Abuse and Crime Prevention Act 2001 (Ca)
SCONS	Simple Cannabis Offence Notice Scheme
SIR	Supervised Intervention Regime
STIR	Supervised Treatment Interventions Regime
TASC	Treatment Alternatives to Street Crime
TOPS	Treatment Outcome Prospective Study
UK	United Kingdom
UN	United Nations
UNDCP	United Nations Drug Control Program
US	United States
USDOJ	United States Department Of Justice
WA	Western Australia

Key Terms

Diversion, coerced treatment, graduated/alternative sanctions, treatment alternatives to street crime, drug treatment alternatives to prison, breaking the cycle, civil commitment, contingency management, arrest referral, drug treatment and testing order, drug abstinence order, drug [treatment] court.

EXECUTIVE SUMMARY

Diversion is defined as ‘the re-routing of substance abusing or substance dependent offenders who would otherwise be convicted and penalised through the traditional criminal justice process, and includes the re-routing of such offenders at any stage of the criminal justice process’ (Expert Working Group, United Nations International Drug Control Program (EWG) 1999, p. 13). It is widely practiced throughout the world. At the broadest level it is incorporated in international governance through the drug control instruments of the United Nations (UN). It is expressed as a principle through international drug control treaties and in the 1998 Guiding Principles of Demand Reduction. At a more pragmatic level it has been articulated in the work of the Expert Working Group on *Improving Inter Sectoral Impact in Drug Abuse Offender Case Work* (1999) and subsequent model legislation developed and promoted through the United Nations Commission on Narcotics Drugs (CND).

An international profile of diversionary programs

Diversion from the criminal justice system can take many forms, occurring following detection and prior to conviction or as a post-conviction response to drug related offending. It is delivered through a range of modes including: arrest referral, bail or probation based programs and drug courts. Research literature in the English language assessing the implementation of diversion - its strengths and its weaknesses - is limited largely to a focus on the United States (US), the United Kingdom (UK) and Australia; although some material is available in relation to programs operating in the Netherlands and Canada.

In the UK, diversion is delivered through a fairly centralised system of programs that are generally supported by relatively consistent legislation and are clearly defined in Home Office and Scottish Executive documents which provide guidelines for practitioners. Diversion currently includes arrest referral schemes (ARSs), conditional probation orders and drug treatment and testing orders (DTTOs). In some places drug treatment courts are being trialled.

The UK system is a characteristically top down system, with much monitoring and evaluation being conducted through Home Office or Executive initiatives. Programs address the needs of those who are identified as experiencing problematic drug use – and this is distinguished from the simple use of illicit drugs. Their design and delivery is based on the principles of harm minimisation. Outpatient programs and methadone maintenance treatment, together with drug testing through urinalysis are key modes of

intervention. Residential treatment services are used where applicable and available.

Program evaluations have found arrest referral schemes (ARs) which use the point of arrest as an opportunity for proactive intervention by specialist drug workers to be effective in targeting problem drug users. Reductions in self reported drug use, injecting, the total number of criminal offences committed and expenditure on drugs are reported in the literature. Outcomes for probation based programs and drug treatment and testing orders (DTTOs) were similarly favourable. It should be noted, however, that research in this area was hampered by the difficulty of assembling comparison groups and conducting follow up interviews with program participants.

Other problems also impeded the assessment of the diversion of drug related offenders from the criminal justice system. The delivery and implementation of intervention programs was confounded by: the difficulty of multi-agency work, lack of knowledge and/or support of programs among referrers, inefficient screening and assessment, lack of clarity of objectives, differing expectations regarding abstinence, inconsistency in the delivery of services, lack of continuity in sentencing, poor consistency of enforcement practises, lack of monitoring and the limited range of treatment services available for programs to draw upon.

The complexity of causal links between drug use and crime make any assessment of possible cost-benefits difficult to calculate. Nevertheless, some research indicated that at the national level there are possibilities for savings.

In the US, diversion programs for drug dependent offenders are dominated by drug treatment courts. These courts are both pre-adjudicative and post-adjudicative in their focus. In the drug court system the court does not simply divert eligible offenders to treatment, but actually becomes part of the treatment process. This system is supported by a strong movement of drug court professionals, which has been led by judges.

Other diversion programs do exist. In many cases these largely build onto or are integrated with a drug court system. They include case management approaches to drug dependent offenders (Treatment Alternatives to Street Crime - TASC), programs that divert offenders from prison (Drug Treatment Alternatives to Prison - DTAP), and programs like Breaking The Cycle (BTC) which combine aspects of drug courts, TASC and graduated sanctions in order to improve the retention of offenders in treatment.

District Attorneys are responsible for and determine the availability of diversionary programs in any County. In Arizona and California state wide legislation, in addition to county based programs, provides for the diversion of first or second time non-violent offenders from prison to treatment facilities (see for example, California's *Substance Abuse and Crime Prevention Act 2001* (Ca) (SACPA)). Lobby groups are currently working to have these provisions extended to other states. They argue that legislation provides for more consistent treatment of drug offenders.

In contrast to the top down approach in the UK, the US system is decidedly bottom up, with much initiative coming from 'grass roots' groups like the National Association of Drug Court Professionals (NADCP), or the Drug Policy Alliance (DPA). Diversion programs are clearly abstinence oriented with all drug use considered problematic. This approach is consistent with the extensive engagement of Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) 12 step programs and long-term residential therapeutic communities, and the relatively restricted use of methadone maintenance treatment. As in the UK, drug testing through urinalysis is considered to be a key component of treatment.

National treatment outcome studies and evaluations of individual programs have generally found that offenders mandated to treatment through TASC and other criminal justice referrals tend to remain in treatment longer and exhibit more positive indicators of treatment success. Recent studies have indicated that TASC programs were effective at linking users with treatment and decreasing illicit substance use amongst those who chose to participate. They found that such programs were able to identify and refer defendants to treatment at an earlier stage of their drug using career. Mixed findings, however, were reported in relation to recidivism.

DTAP used legal coercion to keep participants in treatment and produced retention rates considerably higher than those found in national studies of voluntary residential treatment. Re-arrest rates were lower for program participants. Research evaluating drug courts consistently found that they are successful in lowering drug use and criminal activity while offenders are participating in the program. Offenders in these programs were also retained in treatment for longer periods than other types of community based treatment and supervision. Other initiatives in the US like BTC and SACPA were not evaluated in terms of outcomes for participants; however, they were associated with reductions in prison numbers.

As was the case in the UK, a number of short-comings are evident in the research concerned with diversion programs in the US. Evaluations were

frequently process rather than outcome focused. Outcome evaluations were often hampered by weak design, having small numbers, no comparison groups or post-program follow-up. This was particularly the case in relation to drug courts, which until recently were still in their infancy and were unable to provide for the collection of sufficient data to enable sound conclusions.

In Australia, diversion operates through a fairly centralised system which has largely been shaped by government initiatives at the commonwealth and state level. Despite this centralised and coordinated approach diversion is, nevertheless, characterised by diversity. It includes programs that resemble the arrest referral schemes described in relation to services available in the UK as well as the drug courts of the US. In addition, a range of case management approaches delivered as part of the bail process (CREDIT - Court Referral and Evaluation for Drug Intervention and Treatment and MERIT - Magistrates' Early Referral Into Treatment, for example) and deferred sentencing options are also available in some states. While Australian programs are consistent with national guidelines they differ in their detail. This amounts to variations in eligibility criteria, the range of substances covered, who has the discretion to divert, the range and length of interventions available, referral processes and mechanisms and penalties for non-compliance.

To date, outcome evaluations are yet to provide much detail with regard to the effects of diversion on offenders' illicit drug use and offending patterns. The New South Wales (NSW) drug court evaluation is the exception. Researchers were able to conclude that that participation in this program was associated with improvements in health and social functioning as well as reductions in illicit drug use and offending. Admittedly these views were qualified because of sample bias. Those who were terminated from the program were not included, and as a result it was likely that the benefits were magnified. Furthermore, the results are limited to behaviour change that occurred during the program, longer-term effects are yet to be assessed.

Despite the differences between Australian programs and those operating in other countries, a number of factors have consistently emerged as important issues in the literature evaluating the delivery of diversion programs. Persistent themes were as follows: rollout takes longer than expected; initial take-up rates are lower than expected; offenders must be matched to appropriate interventions; those involved in the delivery of diversion programs require ongoing training and support; monitoring and information management systems are difficult to implement and maintain; they require the commitment of adequate resources; program objectives and protocols must be clearly laid out and easy to follow; roles and responsibilities of stakeholders must be clearly defined and agreed upon; and finally, securing

an understanding of, and a commitment to diversion practices from criminal justice stakeholders - the police, corrections and court personnel - is essential.

Best Practice

For some time, guidelines describing best practice in relation to a range of diversion strategies have existed. They have developed from a number of sources. While the most comprehensive of these are not explicitly derived directly from experimental research, they have been developed in consultation with key stakeholders. This has shaped their form. For example, the international guidelines on best practice for the delivery of drug courts are based on the work of an Expert Working Group convened by the Office of Drug Control and Crime Prevention of the United Nations. A number of members of this working party were drug court judges, and the group acknowledges that the many of the successful factors they identify are based on principles first identified by the US National Association of Drug Court Professionals Drug Court Standards Committee in 1997. In Australia national best practice guidelines and models for diversion were developed through consultation with key stakeholders from the law enforcement and health sectors at a two-day forum facilitated by the Alcohol and other Drug Council of Australia (ADCA) in 1996.

While these documents may focus on different forms of diversion they demonstrate a considerable degree of consistency. The key principles they describe are listed in the table below.

Table 1: Principles of Best Practice consistently identified in policy documents and supported by the research literature
A commitment to a consistent and clearly defined philosophy
Clearly defined eligibility criteria
Timely access to programs for all those who are eligible
Recognition of client rights
Systematic, consistent and certain compliance monitoring (which includes judicial review)
Systematic program monitoring and evaluation
Staff training for all those involved
Structured and systematic management, effective communication, clear role definition/demarcation
Thorough documentation of policy and practices (i.e. clear protocols)
Coordinated partnerships and collaboration between all agencies involved
Supporting legislative framework
Availability of a broad range of treatment/intervention options
Social support and follow up for clients once the program has been completed/legal obligations have been fulfilled
Adequate and ongoing funding

These principles, and thus the documents they come from, are important because the ideals they describe are supported by evidence found in the research literature.

The value of these principles has already been widely recognised and they have clearly been applied in the systematic design and development of many diversion programs. Nevertheless, evaluations have consistently demonstrated that the standards they describe are not easy to achieve. Even programs faithfully incorporating, and striving to meet, standards of best practice are hampered by politics, under funding, finding suitable staff, staff turnover, and the availability of suitable treatment and education programs as well as the availability and willingness of eligible clients. This pays testament to the fact that the operation of successful diversion programs involves more than the functional transfer of knowledge.

Equity and access

The literature generally demonstrates the value of diversionary practices. However, it is consistently noted that some groups - white men of about 30 years of age - fare better than others in these programs. Notable groups who do not appear to respond well to diversion - do not accept/follow up on assessment, or are not retained in treatment - include: women, young people, Indigenous people, people from particular cultural/ethnic backgrounds, and those experiencing mental health problems. This is not surprising; traditionally these groups have not been well managed in either the criminal justice or the alcohol and other drug treatment sectors. While there is some speculation as to why programs fail to successfully engage these groups, the diversion literature offers few suggestions as to how these groups might be served better.

The alcohol and other drug treatment field has acknowledged this problem for some time, and programs have developed to try to better meet the needs of these particular groups. A brief review of this literature in this area revealed the following trends.

Women

Green et al (2002) note that women are more likely than men to experience circumstances that interfere with their ability to successfully navigate the drug treatment process. Standard interventions have been criticised as male oriented. Barriers that women face in relation to accessing treatment include: childcare responsibilities; poverty; stigma and inconsistency between women's gender roles and drug use. Research has found that women entering treatment appear to have less social support and more family responsibilities than men (Freeman 2002). Women were more also more likely to face

employment problems, family issues and social and psychiatric difficulties. In general, authors recommend that specialised gender specific programs are needed to address the needs of women – often these needs included the needs of their families (Nelson-Zlupko and Kauffman 1995, Bean 2002a, Weiner, Wallen and Zankowski 1990).

Young People

Young offenders have consistently been identified as being at high risk of failure in diversion programs (Goldkamp 1994, Peters, Hass and Murrin 1999, Lang and Belenko 2000, Spohn 2001). This research is focused on drug courts. Unlike older offenders, young people are removed from drug court programs for not showing up for treatment, or meetings rather than drug use relapse. Cooper et al (2002) argues that this is because cognitively young people think differently than adults, they have limited coping skills, many have re-occurring mental disorders which may not become clear until they are well into treatment or when the use of drugs has stopped. Young people need to be motivated to change – they need to recognise that positive developments will occur in their lives when they do not use drugs; they have not yet developed a view of the future and punishment doesn't work well as a motivator.

As a result young drug users have different treatment needs to adults (Bean 2002a, Alcoholism and Drug Abuse Weekly 2000). For example successful therapeutic programs for adults usually involve long term residential care where clients are often isolated from community contact. In contrast, models of successful treatment for young people involve shorter stays, family participation, and social and interpersonal skills training. Programs should facilitate social bonding and encourage pro-social behaviours and family and school involvement (Spooner 1999, Applegate and Sanatana 2000, Bean 2002a, Cooper 2001).

People from diverse cultural backgrounds

In many jurisdictions the proportion of cultural and ethnic minorities in drug court programs exceeds their percentage in the population (Creswell and Descheres 2001, Goldkamp, White and Robinson 2001). Finn (1994) suggests that limited success with cultural and minority groups in treatment programs may be a result of cultural tension between clients and staff, and argues that culture cannot be overlooked in treatment. In response to this problem researchers note the importance of cultural sensitivity – often in conjunction with other client characteristics requiring specialist attention (Spooner 1999, Cooper 2001). The use of culturally competent treatment practices (CCTPs) has been identified as a means of contributing to the reduction of racial disparities in treatment outcomes (Campbell and Alexander 2002).

Indigenous People

While Indigenous persons often experience the problems described above, a number of authors have suggested that particular problems arise for these people as a result of a history of colonisation (Alati, Peterson and Rice 2000, Brady 1995). Brady (1995) argues that in Canada culturally sensitive treatment programs are the result of increased understanding of the etiology of drug use amongst Indigenous people. They stress the impact of colonisation, and acknowledge the resultant disruption of cultural practices and dispossession.

People with mental health problems

Research conducted in both the US and the UK found that the odds of having a substance misuse disorder is significantly higher amongst psychiatric patients, than the general population, and likewise the odds ratio of having a psychiatric disorder is significantly higher amongst patients with substance misuse disorders (Weave et al 2001). Weave et al (2001) argue that patients experiencing both mental health and drug problems have complex needs, and highlight the significance of interagency collaboration and training for staff so they will be equipped to manage such co-morbidity. A number of drug diversion programs in the UK and the US have reported that they are equipped to respond to the needs of clients experiencing mental illness.

Conclusion

The Australian and international literature describes a broad range of programs that aim to divert drug dependent offenders from the criminal justice system into education and treatment programs. Despite this diversity, reviews and evaluations produced relatively consistent findings in relation to the strengths and weaknesses of these types of intervention. They reported that offenders are able to reduce their illicit drug use and offending behaviour while engaged in a program; that programs have other positive effects for both offenders and the community; and that research in this field is hampered by significant methodological challenges.

Best practice guidelines for the delivery of diversion programs have been produced. These have largely been the result of consultation with key stakeholders and/or the work of expert committees. Nevertheless, the advice they provide is supported by the results of the empirical research that is available. Many programs have been designed with these guidelines in mind. Unfortunately, some recommendations are difficult to operationalise. Factors beyond the control of program designers and service providers – slow rollout, staff turnover and unrealistic evaluation timeframes, for example – may impact in negative ways on the effective delivery and evaluation of services.

BACKGROUND

In recent decades rates of imprisonment have increased throughout the industrialised world. One of the characteristics of this increase is the proportion of people whose imprisonment is linked to their use of illicit drugs. While the relationship between drug use and crime remains unclear (see Makkai 1999), it is apparent that punitive responses alone have been unsuccessful in reducing illegal drug use and associated crime. Moreover, they impact in negative ways on the lives of offenders who have drug problems.

With significant numbers of drug related crimes and disillusionment with traditional criminal justice approaches to drug using offenders, there has been renewed interest in Australia, and elsewhere in the world, in programs that divert drug dependent offenders from the criminal justice system into education and treatment programs. This trend is based on the view that these types of intervention are more effective than punishment in achieving behavioural change (Murphy 2000, Walker 2001).

Responding to drug related crimes by diverting offenders into treatment is not new. In the United States of America such strategies have been applied throughout the twentieth century, beginning with morphine maintenance clinics during the 1920s, the establishment of federal narcotics treatment facilities in Fort Worth, Texas and Lexington, Kentucky in the 1960s, broad-based civil commitment procedures in the 1960s and the introduction of community based treatment as an alternative to incarceration or as a condition of probation or parole in the 1970s (Anglin, Longshore, and Turner 1999). The more recent American innovation of specialised drug courts built on this latter scheme with the first court serving Dade County, Florida in 1989 (Nolan 2001).

Similarly, in Australia, diversion has been practiced both formally and informally for some years. There are currently diversion programs for drug offenders being run in every state in this country for both cannabis and other drug offences. These programs operate at both the police and non-police (i.e. between charging and jailing) levels. Diversion programs in Australia range from well-developed and documented schemes supported by legislation through to informal local arrangements between police, alcohol and drug workers and the courts. Offenders targeted by these programs include: those facing use and possession charges; those whose use has led to offences while intoxicated; and those who have committed offences in order to support their drug taking (Alcohol and other Drug Council of Australia 2000).

In 1996 the Alcohol and other Drug Council of Australia (ADCA) held a two-day forum to explore best practice in diversion and develop ideal models of diversion, identifying barriers to the implementation of good diversion practice, and developing action plans for better diversions practice (ADCA 1996). It was attended by 50 representatives from police services, health and Attorney Generals' Department in each state and territory along with staff of drug diversion programs, consumers and representatives of the ADCA. At the end of the forum the Health Department made a commitment to include diversion on the Ministerial Council on Drug Strategy (MCDS) agenda for 1997.

In April of 1999, the Council of Australian Governments (COAG) introduced a new strategy to respond to the problem of illicit drug regulation. It combined strong national action against drug traffickers with early intervention strategies with the aim of preventing a new generation of drug users emerging in Australia. A key component of this early intervention and prevention approach was a nationally consistent diversion initiative (Commonwealth Department of Health and Ageing 2001). The Ministerial Council on Drug Strategy was asked by COAG to develop a national framework for the diversion initiative. The resulting national framework, the *Illicit Drug Diversion Initiative*, was to provide a basis for implementation of the diversion approach that would facilitate national action and cooperation whilst providing States with the flexibility to respond to local priorities and conditions (Commonwealth Department of Health and Ageing 2001). This program was clearly informed by the results of the ADCA forum described above.

Since the announcement of the national initiative, states in responding to their particular local priorities and conditions have implemented a range of diversionary programs that differ significantly despite COAG's desire for consistency. An Australian Bureau of Criminal Intelligence report (cited in Swain 1999), identified five distinct types of diversion practices: informal police diversion, formal police diversion, statutory diversion, prosecutorial diversion and judicial diversion. The programs vary in the offender profile targeted, the degree of intervention or supervision offered, the treatment or form of intervention offered and the stage of the prosecution process at which offenders are recruited into the diversion process (Lawrence and Freeman 2002). Infrastructural and procedural differences are also evident in supporting legislative frameworks, referral processes and management systems.

Schemes designed to divert drug related offenders from the criminal justice system are characterised by diversity, accessed differently, and vary in their

ability to address particular needs, both of the community and offenders. Despite many studies and reports on diversion, which claim positive outcomes, a number of influential commentators have stated that the evaluations conducted to date are not conclusive (Swain 1999, pp.37-40). Lawrence and Freeman (2002) note that in Australia there has been little to guide best practice in diversion programs – there have been very few evaluations – and a number of those that have been produced are problematic (see also Spooner, Hall and Mattick 2001). A national review of diversionary practices has recently been completed. State-funded drug court programs are also in the process of being evaluated.

This research will offer a meta-analysis of current international and national policies and practices in the field of drug diversion. In reviewing the range of diversionary programs currently becoming available it will report where possible on the criminal justice, health and social outcomes of such programs.

Considering the timing of Australian reviews, it is not economical to reproduce the work currently being done by other authors. This report will provide a summary of the Australian situation; however, the principal focus here will be on the broader horizon. The report reviews the variety of diversionary programs described in recent international research literature noting indicators of best practice in relation to delivery of services.

Attention will be paid to the strengths and limitations of diversionary programs, in particular to their ability to respond to the needs of particular groups – women, Indigenous peoples, people from diverse cultural backgrounds, young people and those with mental illness – who traditionally have not been well served or managed by either the criminal justice system or the alcohol and other drug treatment sectors.

This report concludes with a summary identifying successful characteristics of diversionary programs, as well as matters which may be important in future Queensland Government policy deliberations.

CURRENT POLICIES AND PRACTICES

Introduction

Diversion has been recognised as a valuable strategy for responding to the problems associated with illicit drug use at the broadest level of governance. It is acknowledged by the United Nations (UN) as an important plank in the program of demand reduction. At the level of international law, provision is made for diversion in the treaties that regulate the supply of drugs throughout the world. Article 3(4) of the 1988 Convention on the Prevention of Illicit Traffic in Narcotic Drugs, empowers parties to provide, either as an alternative or in addition to conviction or punishment, that drug offenders undergo measures of treatment, education, aftercare, rehabilitation or social reintegration. Building on this the Special Session of the General Assembly meeting in New York in June of 1998 agreed that:

In order to promote the social reintegration of drug abusing offenders, where appropriate and consistent with the national laws and policies of Member States, Governments should consider providing, *either as an alternative to conviction or punishment, or in addition to punishment, that abusers of drugs should undergo treatment, education, aftercare, rehabilitation and social reintegration.* Member states should develop within the criminal justice system, where appropriate, capacities for assisting drug abusers with education, treatment and rehabilitation services. In this overall context, close cooperation between criminal justice, health and social systems is a necessity and should be encouraged (EWG 1999, p.11, emphasis added).

In accord with this, the Guiding Principles of Drug Demand Reduction agreed upon in March 1999 by the UN Economic and Social Council, states that it is an objective:

To provide prevention, education, treatment or rehabilitation services to offenders who misuse drugs whether in prison or in the community, as an addition to or, where appropriate and consistent with the national laws and policies of Member States, as an alternative to punishment or conviction; ... [and to promote] cooperation among institutions and organizations, both governmental and non-governmental, offering health, social justice, correctional, vocational training and employment services, in order to provide preventive care, education, treatment and rehabilitation for offenders and, where appropriate, programmes to enable their integration into the community (EWG 1999, p.11).

Information provided by the European Monitoring Centre for Drugs and Drug Addiction indicates there is considerable potential for the diversion of drug related offenders away from traditional criminal justice system responses in the European Union (EU), however the mechanisms that allow the practice are diverse. Criminal justice system responses in relation to drug use and drug users in the EU vary between and within countries. In some States (Belgium, Denmark, Finland) diversion from court to treatment occurs at the discretion of the public prosecutor. In others (Austria) diversion is mandatory in cases of possession or acquisition of small amounts of psychotropic or narcotic substances for personal use. French legislation provides for compulsory treatment in addition to, or instead of, conviction, while in the United Kingdom (UK) a range of community sentences is available to the courts for offenders whose offences are not so serious as to warrant imprisonment, but are nonetheless serious enough to justify such a sentence (see Appendix A).

Recently information about drug policy and practice in non-English speaking countries has become more readily available through electronic sources, and more specifically special editions of the *Journal of Drug Issues*. This journal has recently produced a series on drug policy and practice in various European countries. These offerings include material on Germany (Volume 32 (2) 2002), England and Wales (Volume 28(1) 1998), Holland (Volume 29(3) 1999), Central and Eastern Europe (Vol 29(4) 1999); and an edition on the Czech Republic is currently underway (Bullington and Maier Katkin 2002).

While it is refreshing to be able to learn more about drug policy in countries other than North America, UK and to a lesser extent Switzerland and the Netherlands, unfortunately in these presentations, there is little mention, let alone discussion, of specific diversionary practices. The international research literature concerned with diversion or alternative sentencing practices for drug related offenders – available in the English language – sadly, is largely confined to discussions and evaluations of programs available in the UK (England, Wales and Scotland), North America, Australia, the Netherlands and Canada. The nature of the programs available in these countries is briefly reviewed below.

United Kingdom

Introduction

Since the late 1960s drug misuse in the UK has increased and there has been a concomitant ‘get tough’ stance directed at the criminal aspects of drug misuse, especially drug related crime. Alongside this development has been

the growing awareness that addressing the needs of users in terms of *harm reduction* and the needs of the community in terms of *crime reduction*, depends on joint action between health and criminal justice agencies (Barton 1999). Arrest referral schemes (ARSs) first started to emerge in Britain in the late 1980s. ARS involve either the provision to the offender, by the police, of the name and address of a drug service, or a more comprehensive service where a drug worker is available by call or on site. Their development was ad hoc and the style of operation varied. In 1991 the *Criminal Justice Act* attempted to forge a more formalised union between the health and criminal justice sectors. It included Schedule 1A(6) of the Powers of *Criminal Courts Act* 1973 which gave courts the power to impose treatment as part of a probation order. In 1998 Drug Treatment and Testing Orders (DTTOs) were introduced as a new strategy through the *Crime and Disorder Act* 1998. Part IV of the Act was designed to tackle the link between acquisitive crime and drug use. Sections 61-64 of the 1998 Act use legal processes to ensure that treatment is given to offenders who are '...dependent on or have a propensity to misuse drugs and that [such] dependency or propensity is such as requires and may be susceptible to treatment' (s 61 (5)(a)&(b)). Each of these programs and their outcomes are described in more detail below.

Arrest Referral Schemes (ARSs)

ARSs have been operation since the 1980s, and are currently run by all 43 police forces in England and Wales. ARSs have been defined as:

partnership initiatives between the police, local drug services and Drug Action Teams (DAT)/Drug and Alcohol Action Teams (DAAT) that use the point of arrest within custody suites as an opportunity for drug workers, independent of the police, to engage with problem drug-using offenders and help them to access treatment (Edmunds, Hough, Turnbull and May 1999, p.1).

The evidence base for developing arrest referral initiatives consists of three strands of research which demonstrate:

- Strong links between drug use and offending behaviour;
- High numbers of potentially problematic drug users entering the criminal justice system; and
- The cost effectiveness of treatment in achieving sustained reductions in drug use and related offending behaviour (Sondhi, O'Shea and Williams 2002, p.8, Crossen-White and Galvin 2002, p.3).

Three models are regularly identified in the literature. The information model is defined as one that provides information in the form of a leaflet or booklet to arrestees identified with a drug problem. In this model, the scheme is operated by custody staff. The pro-active model involves the employment of specialist drug workers who approach arrestees in custody and make them aware that advice and information about drugs is available through them. The last model relates to interventions that have a coercive element to the arrestee's engagement with treatment, such as a caution rather than being charged with an offence in return for a commitment to enter treatment. The latter two models have been identified as the most effective in terms of engaging arrestees (Crossen-White and Galvin 2002, p.3).

Arrest referral schemes make use of a range of treatment services. Sondhi et al's (2002) evaluation of British arrest referral identifies five main types of intervention:

- *Prescribing interventions* – detoxification or stabilisation programs;
- *Community prescribing* – Specialist services and general practitioner led prescribing including Drug Problem Services (DPS) in formal shared care schemes;
- *Non-prescribing* – structured counselling and assessment defined treatment plans, treatment goals with regular reviews;
- *Structured day programmes* – Clients attend four to five times per week for several hours a day, these services offer a structured approach to rehabilitation, working over a defined period of time.
- *Residential rehabilitation* – including therapeutic communities (p.19, See also Edmunds, May, Hearnden and Hough 1998, Edmunds et al 1999).

The Scottish Executive has produced a comprehensive 'Guide to Principles and Practice' in relation to arrest referral (Russell and Davidson 2002). In reviewing the 'right response' and discussing services that should be available it notes that those with drug use problems are likely to experience a range of other problems including: debt, lack of qualifications, unemployment, difficult family, social and economic circumstances and mental health problems. As a result, any individual may need a combination of interventions that extend beyond medical treatment. The possible list of services includes:

- Harm reduction information;
- Primary care/general practitioner services;
- Counselling – one-to-one or group work;
- Needle exchange;
- Prescribing;
- Detoxification;

- Residential rehabilitation;
- Community programs;
- Housing benefits advice;
- Education, training and employment opportunities;
- Child care;
- Mental Health Team;
- Debt counselling;
- Lawyers;
- Citizens Advice Bureau;
- Women's Aids;
- Rape crisis.

Edmunds et al (1998) evaluated three demonstration ARSs in Southwark, Derby and Brighton, each of which adopted the proactive model. Amongst a recruited sample of 128 (seen by an arrest referral worker) large reductions were noted in self reported drug use (illicit opiate use reduced by 47% and crack use by 73%). Rates of injecting also were reduced. The total number of criminal offences committed per month declined from 10,800 in the month before contact with a scheme to 2,200 in the month before interview. Average (median) expenditure on drugs fell from £400 per week to £70 per week six months later.

On the basis of their evaluation Edmunds et al (1998) concluded that the essential ingredients of referral schemes are:

- A proactive mode of work;
- A working style that wins the respect and trust of users;
- Adequate resourcing;
- A capacity to provide ongoing support;
- Appropriate treatment services to which to refer; and
- Adequately resourced treatment services to which to refer (1998, p.vii).

Sondhi, O'Shea and Williams (2002) also found that ARSs were effective in targeting prolific problem drug using offenders - opiate and crack users - and prolific shoplifters. These authors reported that the level of police re-arrest rates significantly declined six months after contact with an arrest referral worker: two thirds of those studied (67%) were arrested less often following referral than before. Follow-up interviews identified substantial and statistically significant reductions in offending and drug use. Significant reductions were also reported in secondary indicators such as physical and psychological health problems. Preliminary analyses suggested that the economic and social benefits for the UK of the arrest referral initiative are around £4.4 billion over an eight-year period. The ratio of economic and

social benefits to cost is in the region of 7:1 and would increase over time as treatment is sustained (Sondhi et al 2002).

Four groups of problem drug using offenders that did not engage with specialist drug treatment services following referral were identified. They included:

- Black and Asian problem drug using offenders;
- Older heroin and crack users who have had negative previous experiences with treatment services;
- Young male crack-using street robbers; and
- Female crack using sex workers (Sondhi et al 2002, noted that members of this group often did not get referred).

Both the studies reported above showed that ARSs could have an impact on drug use and offending. They found steep reductions in drug use and acquisitive crime amongst those passing through the schemes. Edmund et al (1998) conducted further interviews with 50 arrestees 18 to 24 months after contact with the schemes, and concluded that changes reported had persisted. It should be noted that each of these evaluations had a relatively weak research design as it was not practical to assemble comparison groups, and follow-up interviews were conducted only with those who could be contacted. Characteristically this group consisted of clients that were successful, or relatively successful in completing the programs.

Probation Orders

Initial provisions for court directed diversion in the UK were made through community penalties. Hough (1996 cited in Barton 1999) identified four routes by which this could occur:

1. The court may specify treatment for drug dependency as a requirement of a probation or combination order under provisions in the *Criminal Justice Act 1991* 1A(6) or 1A(2) probation orders.
2. The court may also specify – under earlier legislation – psychiatric treatment or attendance at a residential centre.
3. Probation officers supervising offenders under probation orders may identify a treatment need, and secure offenders' compliance with this.
4. Court directed diversion may also occur under a combination order, as a part of after care supervision or (rarely) under a community service order (p.26).

However, Hough reported that only 1% of probation orders contained explicit conditions concerning drug treatment. The Home Office (HO) identified several reasons why the criminal justice system was reluctant to employ these powers. These included:

- The lack of Home Office guidelines;
- Doubts by probation officers;
- Lack of information concerning the availability and content of treatment;
- A perception of lack of enthusiasm by treatment providers to operate mandatory programs; and
- Resourcing problems (Barton 1999).

Nevertheless a number of systematic approaches to the diversion of drug offenders from the criminal justice system developed have in specific areas. These programs are generally referred to as Fast Track or STEP programs.

Probation based programs, where drug-using offenders are given s 1A(6) orders to attend drug programs, selectively engage a number of intervention strategies. In the Partnership Action on Substance Misuse and Crime and Offending program (PASCO) available in Chester and Warrington, following stabilisation, participants attend a structured day program which involves individual counselling, group work, self-esteem workshops, help with accommodation and education, training and employment workshops. In the Plymouth and Torbay Fast Track Scheme, which has been running since September 1995, 60-80 milligrams of Methadone per day is used as a vehicle for change. Once stabilised, offenders have access to existing probation programmes focusing on housing, employment, offending behaviour and education. In the West Yorkshire Drug Court and STEP program a drug court operates on specific days where specially trained magistrates make the s 1A(6) orders and review cases when they are returned to court. The Hastings Multi-Agency Drug Treatment and Testing Program aims to stabilise drug misuse and its associated lifestyle and thereby reduce any drug related offending behaviour. As with the Fast Track programs noted earlier, methadone is a prominent tool. It is used in conjunction with acupuncture, massage, group work sessions on relapse prevention, offence related behaviour and promotion of self awareness (Turnbull et al 2000, Barton 1999).

Edmunds et al (1998) examined outcomes for a group of offenders given s 1A(6) probation orders (for other evaluations of probation orders, see Barton 1999, and the comparison sites described in Turnbull et al 2000). The orders performed well in retaining people in treatment: of 35 probationers referred, 30 were still in or had completed their treatment six to nine months later.

Those on the orders also made considerable changes in their drug using and offending behaviour. Weekly expenditure on drugs fell from £300 before contact to £25 after contact.

Another recently completed study of the work of the Inner London Probation services considered the impact of probation supervision on drug use and crime six months into the probation order (Hearnden et al 2000 cited in Turnbull et al 2000). Of 278 drug using offenders interviewed, most (85%) financed their drug use through crime before arrest spending an average of £362 per week on drugs. Most (n=203) reported daily use of heroin. At least six months into a probation order the number reporting heroin use dropped to 138 and their average weekly spend on drugs fell to £40. Only a third reported financing their drug use through crime. Excluding offences of drug possession, the median number of crimes committed dropped from 30 to five in the last month studied. Those subject to conditions of treatment (under s 1A(6) orders) showed larger reductions in weekly spend (from £513 to £49) than offenders on orders without extra requirements (£297 to £36) (Edmunds et al 1998).

Drug Treatment and Testing Orders (DTTOs)

DTTOs were introduced as a community sentence under the *Crime and Disorder Act 1998*. Such orders can be made for periods between six months and three years, on offenders aged 16 years or older. Before an order is made the court must be satisfied that the offender is drug dependent or has the propensity to misuse drugs (Turnbull et al, 2000 p. 2), and that he or she is likely to benefit from treatment. Assessment is presented in the form of a Pre-Sentence Report (PSR) to the court. The offender has to consent to a DTTO being proposed and made. On the strength of this, Turnbull et al (2000) make the claim that the treatment proposed in the Act is not forced: while offenders are coerced into treatment programs, they do have a choice between this or the more traditional criminal justice processes.

The outcomes of treatment are monitored through a series of tests designed to ascertain whether the offender has any drugs in his or her body. The Act states that the offender will be required to produce a specified number of samples as and when required by the 'testing requirement' (s 62 (4)). The results of those tests will then be shared between the 'treatment provider' and sections of the criminal justice system. While the Act clearly contains some detail, it is best described as a broad framework, with guidelines for operation coming in the shape of the HO's *Guidance for Practitioners Involved in Drug Treatment and Testing Order Pilots* (HO 1999). DTTOs differed to previous probation orders because they required that:

- Courts regularly reviewed offenders progress; and
- Offenders undergo regular drug testing (Barton 1999).

In Scotland, like England and Wales, the main provisions available for the diversion of drug offenders are ARS, probation orders and drug treatment and testing orders (DTTOs). In addition to these, drug courts targeted at hard to treat and serious offenders were introduced in Scotland at the end of 2001. A guilty plea must be entered for offenders to be eligible for the program. Once referred to and accepted by the drug court, offenders undergo a four-week assessment. They then come before the drug court and are sentenced (Eley et al 2002). Drug court orders include DTTO and/or probation orders with a condition of drug treatment. Treatment usually involves substitute prescribing using methadone, supplemented by counselling, day programs, work programs and housing assistance. Compliance and progress is overseen and reviewed by the Drug Court Team, which is made up of the drug court sheriffs, social workers, addiction workers and medical officers. The team holds a review meeting prior to the court hearing (which the offender does not attend), and regular court reviews are also held where the sheriff has an opportunity to provide encouragement or sanctions depending on the offender's progress.

There are as yet no formal reports of drug courts operating in England and Wales. Turnbull et al's (2000) evaluation of DTTOs in England and Wales, however, does make mention of a type of 'de facto' drug court. One of the study's comparison sites, West Yorkshire Drug Court and STEP programme, used a small group of specially trained magistrates to make the s 1A(6) orders and to review cases when they returned to court. Drug courts operated on specific days each week, and other court personnel were also offered training. Turnbull et al (2000) note this as an unusual feature of the program, and one which gives it a claim to being a drug court. Somewhat ironically – as DTTO programs, at times, are at pains to distinguish themselves from drug courts – the authors concluded that amongst the comparison sites this program was probably closest to a DTTO.

While there are clearly similarities between probation orders, DTTOs and the drug court as a response to drug related offending, there are subtle differences. The involvement of sentencers in regularly reviewing the progress is a feature common of drug courts and DTTOs, but one which is absent from s 1A(6) probation orders (or any other British sentencing option). The role of US sentencers in drug courts approximates far more to that of 'case manager'. This, coupled with a sentencing ideology that emphasises reward as well as punishment, distinguishes drug courts from the DTTO pilot

sites' (Turnbull et al 2000, pp.4-5). Nolan (2001) points out that in the US drug courts operate as a part of the treatment process. Bean (2002b) notes a number of other differences between DTTOs and the Miami drug court model. These include: the treatment approach (drug courts favour abstinence while DTTOs focus on minimising the harm that arises from drug use¹ and are willing to use methadone); the adversarial approach is abandoned in drug courts while it remains intact under the DTTO system; and treatment services work for the court under the drug court model, while they work for probation under the DTTO model.

DTTOs and probation based programs make use of a similar array of interventions and treatment services to those described in relation to ARSs. It must be noted, however, that whatever the program, geographic location always plays a part in determining the nature of intervention. The broad range of services listed above is not always available in all areas at all times. As a result the services offered by some programs can be limited (Turnbull et al 2000). Two DTTO pilot sites in Scotland, for example, had different systems of treatment provision with a site in Glasgow using existing services, and one at Fife setting up treatment providers in-house.

The Glasgow DTTO scheme's main treatment providers were the Glasgow Drug Problem Services (GDPS), which provided methadone substitution. GDPS also offered detoxification prescriptions in some cases and carried out urinalysis. Phoenix House, a non-government organization, developed a program specifically for the DTTO project. It was initially a non-resident abstinence based program, but had subsequently changed to allow those on up to 40mls of methadone per day to attend. The program included group work, social inclusion activities, pre-employment training, counselling and urinalysis. The Fife DTTO scheme used drug workers from the Fife Primary Care Community Drugs Team, a consultant psychiatrist for prescribing and a

¹ It is worth noting here that harm minimisation and abstinence approaches are not necessarily mutually exclusive. From a harm minimisation perspective the goals of treatment are framed as a hierarchy of desirable outcomes with abstinence from illicit drug use at the top followed by a number of less desirable outcomes (Stimson 1990 cited in Ward, Hall and Mattick 1992, p 220-221). In other words, if total abstinence is not feasible then a range of other options that have positive consequences for the user and the community are possible. Such an approach, for example, provides for the replacement of illicit opioids with legal ones like methadone, and acknowledges that benefits - like reductions in crime and improved social functioning - can flow from this. Abstinence oriented programs are more singularly focused and often associated with more punitive and less tolerant responses. This often means that if offenders are unsuccessful the benefits that may be derived from prolonged engagement with the treatment sector will be lost. Moreover, the use of substitute prescribing is generally precluded, despite consistently favourable evaluations in relation to reductions in illicit drug use and crime.

specialist counsellor from the voluntary sector. Evaluators noted the restricted range of services available, and the subsequent reliance on methadone prescribing, in comparison to English programs as a limitation of the programs. Paradoxically it is worth noting that the Scottish pilots were more successful at retaining participants and demonstrating higher rates of completion (Eley et al 2002).²

Evaluations of DTTO pilots in England and Wales (Croydon, Liverpool and Gloucestershire) showed that a total of 210 DTTOs were made across the three schemes during the 18 month period (Turnbull et al 2000). Although many of the urine tests that were conducted on offenders showed positive results for opiates and cocaine, the rate of positive tests for opiates decreased over time. The revocation rate varied from 28% of orders made in Liverpool to 42% in Croydon and 60% in Gloucestershire. Offenders given DTTOs reported substantial reductions in drug use and offending compared with before they were placed on an order, with reductions largely sustained over time. Even those who failed to complete their order reported having benefited from being on a DTTO, though the researchers note that the non-completers included in the study could probably be better described as 'partial failures' and that those non-completers whom they were unable to recruit were likely to have fared much worse.

The evaluation of the English pilots concluded that DTTOs had only been successfully implemented in one of the pilot areas and it identified a number of issues that needed to be addressed prior to any national rollout of orders. These included: ineffective interagency working; lack of knowledge of DTTOs among potential referrers; inefficient screening processes at the assessment stage; a lack of consistency in the matching of offenders to interventions; a lack of clarity regarding the objectives of intervention; differing expectations of progress towards abstinence; marked variations in frequency of urinalysis; difficulties in ensuring continuity of sentencers across successive review hearings; and a lack of consistency in enforcement practices across the pilot sites. The evaluation also pointed to a need for schemes to implement monitoring arrangements to gather data on the referral and assessment process, offenders' level of contact with the program and enforcement. The Scottish pilots were able to learn from these experiences.

² Greater use was made of methadone as a tool for stabilising and retaining individuals in treatment. Program success is likely to be a reflection of the relationship between the profile of drug users involved in the program (more opiate users and fewer poly drug users) and the ability of this type intervention to stabilise such drug users and retain them in treatment (See Ward, Hall and Mattick 1992).

In Scotland 96 DTTOs were made (49 in Fife and 47 in Glasgow) over a roughly 12 month period. The majority of orders were for 12-18 months. In Glasgow there was a tendency for women more often than men to be given a DTTO in addition to a probation order. Offenders reported marked reductions in drug use and drug related offending since being placed on a DTTO, with an average weekly expenditure of £57 on drug six months into a DTTO, compared with a weekly expenditure of £490 before being given an order. Offenders identified abstinence as an ultimate goal of a DTTO along with the ability to lead a 'normal life' (Eley et al 2002).³

Like the studies referred to above, the Scottish evaluation also identified issues that needed to be addressed by future DTTO schemes. These included: the limited range of treatment services available to the DTTO pilots and the likelihood that treatment was determined more by the treatment services available than by the treatment needs of offenders made subject to DTTOs; the resource intensive nature of DTTOs and the resource implications of court delays; the limitations of drugs tests and resource implications of alternative testing methods; the balancing of an appropriately stringent and consistent approach to enforcement with recognition of drug misuse as a relapsing condition; and the importance of ensuring that computerised systems are in place for monitoring gate-keeping and providing information about the progress and outcomes of orders. Eley et al (2002) concluded that multi-agency working was, perhaps, the biggest challenge faced by the DTTO schemes.

Costs

A number of studies have attempted to assess the cost savings for governments and the community that diversionary programs might offer. It must be stressed here that the complexity of causal links between drug use and crime make such assessment difficult. However, several authors point to trends, which they argue, lend positive support to diversionary programs. The National Treatment Outcome Research Study (NTORS) showed clear reductions in levels of drug use and acquisitive crime one year after treatment, which were maintained after five years (Gossop et al 2001 cited in Edmunds et al 1999). In cost effectiveness terms NTORS estimated that for every £1 spent on drug treatment, a concomitant saving of £3 is made on

³ These authors also note that a sample of offenders attending the Fast Track Programme (a Probation Order based program run in Forth Valley) for similar offences, were equally positive about their experience and believed that it had reduced their likelihood of continuing to use drugs.

criminal justice costs. According to the authors this translated to an estimated annual criminal justice saving of £5.2million (Sondhi et al 2002, p.9).

Edmund et al (1998) argue that ARSs are cost effective. They estimate the cost per contact client at £140, and the cost per successful referral at about £400. They assert that before referral the clientele of arrest referral schemes impose such high costs on public services that only very modest reductions in drug use and related offending are needed to ensure that the schemes pay for themselves. To support their argument these authors describe how the problem drug users they interviewed, before intervention, were spending on average £350-400 per week on drugs. They estimate that on conservative calculations the annual expenditure on drugs for problem drug users in the UK would be in the vicinity of £2 billion. Only a small proportion of this is raised legally. The costs of problem drug use falling on public services are also high. Expenditure on specialist drug services by health authorities and social services department is probably in the region of £100 million. In addition the social benefits bill may be in the region of £600 million per year, and the cost to the criminal justice system could well be in excess of £500 million per year.

In contrast the Scottish evaluation (Eley et al 2002) concluded that the costs per month of DTTOs were very similar in the two pilot sites, at £503 in Glasgow and £487 in Fife. With indirect costs associated with review hearings added, the cost of an average-length DTTO was estimated to be £9,129. However, it was also estimated that the unit cost of a DTTO might reduce to £7,297 in established schemes. By comparison, a six-month prison sentence was estimated to cost £7,029 in 1999/00. These authors focused on direct costs of diversions and traditional criminal justice interventions and concluded that they were about the same, or a little greater. They made no mention of the possibility of broader costs or savings and community benefits.

Summary

Diversion in the UK operates through a fairly centralised system of programs that are generally supported by relatively consistent legislation and are clearly defined in Home Office and Scottish Executive documents which provide guidelines for practitioners. Diversion currently includes arrest referral schemes (ARS), conditional probation orders and drug treatment and testing orders (DTTOs). In some places drug treatment courts are being trialed.

The UK system is a characteristically top down system, with much monitoring and evaluation being conducted through Home Office or

Executive initiatives. Programs address the needs of those who are identified as experiencing problematic drug use – and this is distinguished from the simple use of illicit drugs. Their design and delivery is based on the principles of harm minimisation. Outpatient programs and methadone maintenance treatment, together with drug testing through urinalysis are key modes of intervention. Residential treatment services are used where applicable and available.

Program evaluations have found ARSs which use the point of arrest as an opportunity for proactive intervention by specialist drug workers to be effective in targeting problem drug users. Reductions in self reported drug use, injecting, the total number of criminal offences committed and expenditure on drugs are reported in the literature. Outcomes for probation based programs and DTTOs were similarly favourable. It should be noted, however, that research in this area was hampered by the difficulty of assembling comparison groups and conducting follow up interviews with program participants.

Other problems also impeded the assessment of the diversion of drug-related offenders from the criminal justice system. The delivery and implementation of intervention programs was confounded by: the difficulty of multi-agency work, lack of knowledge and/or support of programs among referrers, inefficient screening and assessment, lack of clarity of objectives, differing expectations regarding abstinence, inconsistency in the delivery of services, lack of continuity in sentencing, poor consistency of enforcement practises, lack of monitoring and the limited range of treatment services available for program to draw upon.

The complexity of causal links between drug use and crime make assessment of possible cost benefits difficult. Nevertheless, some research indicated that at the national level there are possibilities for savings.

United States

Introduction

Diversion has been practised for some time in the US. Special ‘narcotics courtrooms’ existed in the early 1950s in Chicago and New York City, and the early 1970s in New Orleans. Beginning in the mid-1960s, New York City set up various court-based screening and referral agencies. For a period in the late 1960s and early 1970s treatment providers often based intake staff in the courtrooms to identify and screen offenders for possible treatment referral (Belenko 2000). In the 1960s civil commitment was used to divert arrestees

from the criminal justice system into secure treatment facilities (Hiller 1998, Belenko 2000).

Formal diversion programs originated in the 1960s and despite some concerns about net widening these programs still exist in many jurisdictions. In the typical treatment diversion model, recent arrestees are offered an opportunity to have their cases held in abeyance while they attend a court monitored treatment program. In the pre-plea or deferred prosecution model, the offender is diverted into treatment prior to any adjudication. In the post-plea model the offender is required to plead guilty (and may be sentenced) prior to treatment diversion. Successful completion of the treatment program results in the dismissal of the original criminal charges (for pre-plea models), the withdrawal of the guilty plea and dismissal of the charges (for post-plea models), or a reduction in the sentence or resentencing from incarceration to probation (in the post-plea, post-sentencing model).

In the US, diversion programs are nearly always operated and controlled by the district attorney, who has overall responsibility for determining eligibility, screening the cases and monitoring treatment progress. Despite their relatively long history, diversion programs continue to be fairly uncommon, and tend to serve a small percentage of the drug involved offender population. Belenko (2000) identified several reasons for this including:

- Political reservations – prosecutors are hesitant to offer treatment to offenders especially those charged with drug sale or other felonies;
- Diversion programs require additional screening, assessment, and monitoring resources that many prosecutors' offices or courts lack;
- The lack of availability, and range, of community based treatment places that can be set aside for offenders; and
- The potential for net widening.

As in other western industrialised countries throughout the world, in the US rising jail and prison costs and high rates of recidivism have prompted public officials to reconsider the value of alternative means of dealing with [non-violent] offenders with drug problems. Drug courts facilitated by substantial federal support, have recently emerged to become the most ubiquitous models of justice based diversion, operating in all 50 states and numbering over 500 (US Department of Justice, 2000 in Young and Belenko 2002). Treatment Alternative to Street Crime (TASC) programs, which provide case management services for clients mandated to treatment by courts and corrections agencies have grown to 300 sites since they were initiated in the 1970s (Anglin, Longshore and Turner 1999). While other emerging justice based treatment models like Breaking the Cycle (BTC) and Drug Treatment

Alternatives to Prison (DTAP) programs, have begun to be replicated in multiple sites.

Breaking the Cycle (BTC) operates in several states and localities nationally (Harrell et al 2002); it is a federal initiative that takes a jurisdiction-wide approach to testing, treating and managing drug using offenders. Drug Treatment Alternatives to Prison (DTAP) is a prosecutorial based program which initially operated in five jurisdictions in New York. Recent federal legislation supported its expansion nation wide (Dynea and Sung 2000 cited in Young and Belenko 2002). Along with these more well known programs there are a number of similar locally developed models that aim to divert offenders with drug problems from traditional criminal justice sanctioning and employ legal coercion to increase treatment use and effectiveness. Key diversionary programs available in the US are described in more detail below.

Treatment Alternatives to Street Crime (TASC)

The federally funded TASC program was initiated in 1972. In 1981, at its peak, there were 130 TASC programs in 39 states and Puerto Rico. The original program was focused on young offenders early in their criminal careers and had some programmatic difficulties. Young first offenders tended to be marijuana users, and treatment resources in the early 1970s were designed mainly for heroin users. However, heroin-using offenders often had such extensive criminal histories that judges and prosecutors were reluctant to allow pre-trial diversion. Because of these problems TASC programs moved toward a model of flexibility when considering the point of intervention in the criminal justice process and the type of client they would serve. More recently program admission criteria were expanded to include juveniles and persons dependent on alcohol. In 1996 there were an estimated 300 TASC programs in 30 states (Anglin et al 1999).

The basic goal of TASC is to identify offenders in need of drug treatment as early as possible in the criminal justice process and under close supervision, provide community based treatment as an alternative or supplement to more traditional criminal justice sanctions. The assumption is that the threat of criminal sanction if drug offenders violate conditions of the program will enhance the likelihood of successful completion of treatment. The range of available processing under TASC supervision includes deferred prosecution, community sentencing, diversion, pre-trial intervention and probation or parole supervision (Belenko 2000, p.839).

TASC programs provide a link between agencies of the criminal justice system and community based drug treatment programs in an effort to arrange rehabilitative intervention for drug using offenders. They aim to

establish and promote formal coordination between criminal justice and treatment within local jurisdictions using programmatic means. Under TASC auspices, drug using offenders who might progressively become more involved with the criminal justice system are offered the opportunity to enter community based treatment. TASC identifies, assesses, and refers drug-using offenders to appropriate community treatment services as an alternative or supplement to existing criminal justice sanctions and procedures. After referring offenders to treatment, TASC monitors their progress and compliance especially in terms of drug use (through urinalysis). Dropping out of treatment or other non-compliance is treated by the courts as a violation of the conditions of release (Anglin et al 1990). In some locales the agency providing TASC services is also the provider of treatment services, but the two types of services are functionally distinct.

In the context of TASC programs critical elements for the role of case management have been identified. These include: the identification of drug using offenders qualified for TASC, assessment of the offenders' basic service needs; referral to appropriate treatment services; monitoring treatment progress; use of sanctions to ensure compliance with treatment and TASC requirements; and termination from TASC or provision of further referral if necessary. TASC critical elements have been recommended as a guide to developing effective drug court programs (Wenzel, Longshore, Turner and Ridgely 2001).

Belenko (2000) reported that several evaluations of TASC programs over the past 20 years have concluded that these programs have generally been effective in reducing drug abuse and criminal activity, identifying previously untreated drug dependent offenders and establishing useful links between the criminal justice and treatment systems. The studies include a 1974 evaluation of five early TASC programs, a 1976 study of 22 projects, a 1978 evaluation of 12 sites and a national multisite evaluation conducted in 1986. National treatment outcome studies and evaluations of individual programs have generally found that offenders mandated to treatment through TASC and other criminal justice referrals tend to remain in treatment longer and, thus, have higher rates of treatment success. In addition, criminal justice screening and diversion programs have tended to identify and refer defendants who had limited treatment exposure and thus were at earlier stages in their drug dependence careers. TASC clients also tended to have lower recidivism rates during treatment.

Anglin et al (1999) assess the outcomes of this early research and conclude that by the late 1970s when about 40 TASC programs were in operation there was a consensus that TASC programs had been shown to be successful in

gaining legal and political acceptance. They were also found to be cost effective in identifying, screening and referring clients to treatment and retaining drug using offenders in treatment. These authors are, however, critical of the evaluations conducted in the 1970s. They describe them as process evaluations focused on the operation of the programs. They did not include experimental designs with random assignment to determine short or long term outcomes among clients. In order to address this deficit Anglin et al (1999) undertook a systematic evaluation of TASC which consist of a five site replication study. Employing, where numbers were large enough, experimental design (two sites) and elsewhere (three sites) a quasi-experimental design. Study sites were selected by size to ensure a sufficient number of participants and by their adherence to the TASC model described by the 10 critical program elements and performance standards (Bureaus of Justice Assistance 1992 in Anglin et al 1999). Four programs for adults and one for juveniles were included. Randomised design was practicable in two of the adult programs. The total number of participants was 2014. Comparison was across and between sites not aggregate.

Researchers used a conservative design to ensure the significance of results (Anglin et al 1999). They were interested in the effects of TASC in relation to an alternative treatment program or simply probation. In the experimental sites the alternative interventions were treatment programs that offered services appropriate to drug involved offenders but which did not do so under the TASC offender management model. To achieve a positive result TASC would have to out-perform an alternative intervention by delivering more service units, monitoring offenders more closely, or in some other way separating itself from the alternative intervention. In the three quasi-experimental sites the alternative intervention was routine probation. To emerge more effective, a TASC program had to out perform 'business as usual' probation in the same community (Anglin et al 1999, p.177).

The results of the study demonstrated that TASC delivered more treatment services to offenders. On one or more measures of drug use TASC programs outperformed the alternative at three of five sites - for example, in reducing drug use days and the ratio of drug days to days at risk, the frequency of drug use, or number of drugs used. Evidence on new crimes, arrests, and technical violations in the six month follow up period was quite mixed. Two programs showed favourable effects on self reported crimes, but there was no sign that these TASC programs compared to the alternative interventions, led to greater reductions in property crime. In two other programs TASC offenders were more likely to be arrested for committing a technical violation during the follow-up period. This result reflects the outcome of more effective monitoring. In sum, the study produced complex findings. The findings in

relation to service delivery favoured TASC at four of five sites. Findings for drug use favoured TASC at three of five sites. At a fourth site authors found a marginally significant reduction in drug days favouring comparison offenders. Findings on drug crimes favoured TASC at two of the five sites.

Anglin et al's (1999) results also revealed that many offenders referred to TASC programs never reported to the agency. Many others who enrolled in TASC dropped out of treatment prematurely, often without being subject to consequences because justice agencies failed to monitor compliance with treatment referrals and drug test results. These findings suggests that although TASC programs are frequently effective in linking with treatment and decreasing substance use, for those who choose to participate, their effectiveness may increase if drug involved offenders were compelled to remain in these treatment programs. These findings are consistent with earlier work by the same authors which concluded that TASC as a third party non-service organization cannot ensure that service needs are being met (Anglin et al 1996, p.84 cited in Anglin et al 1999 p.171). This earlier study, which was more focused on process, also noted that case managers sometimes must manage too many cases with too few resources to provide comprehensive assessment activities, and services under TASC were often found to be restricted to drug testing.

Drug Treatment Alternatives to Prison (DTAP)

The DTAP program was first established by the Kings County (Brooklyn), New York District Attorney in 1990 to divert felony offenders with one or more prior felony convictions and a documented history of drug abuse into treatment (Belenko 2000).⁴ DTAP programs target non-violent drug felons who commit crimes to support their drug dependency and who face mandatory prison sentences under New York State's Second-Felony Offender Law.

Qualified defendants who are motivated for long term treatment plead to a felony and undergo 15 to 24 months of rigorous residential treatment. All treatment is delivered in therapeutic communities, which provide structured therapeutic interventions, counselling, educational and vocational programs, on-site medical care and assistance in finding housing. Phased individual and

⁴ In January 1998, DTAP expanded its target population to include other drug related offending. DTAP also shifted from a deferred prosecution to a deferred sentencing model, and defendants must now plead to a felony prior to acceptance by the program. DTAP also routinely considers re-admitting appropriate participants who have absconded but have a good prospect of re-engaging in the therapeutic process.

group counselling and behavioural therapies are used to address issues of motivation, self esteem, interpersonal relationships, problem solving skills and relapse prevention. The longer term residential setting is seen to facilitate the delivery of a range of services, including critical life skills training that address the multiple needs of the individual and not just to his/her drug use. To maximise public safety and to keep the legal pressure realistic, an enforcement team is mobilized to apprehend absconders, as soon as they leave the facility without permission. They are returned to court for sentencing on the original charges. In contrast, those participants who remain in treatment have their charges dismissed after successful program completion (Sung 2001).

Sung (2001) describes how the objective of DTAP strategies is to enhance human and social capital. These qualities are defined in terms of basic education, marketable job skills and networking and job market information. Poor education and access to the job market are seen as the main obstacles to the reintegration of rehabilitated offenders to society. To address this problem, DTAP brings the drug treatment system, criminal justice system and the business community together. Education and vocational training is made available as part of residential treatment to enhance job skills, whereas deficiencies in job related connections are remedied by collaboration between the DTAP job placement officer and a business advisory council. DTAP seeks to reduce recidivism by increasing its participants' competitiveness in the world of legitimate work and by helping them adopt 'a more responsible and productive lifestyle' (Sung 2001, p.271). Employment is seen as central because it provides not only monetary compensation, but imposes discipline and structure and enhances self-esteem.

Belenko (2000) reports that since the inception of DTAP in October 1990, 3617 non-violent felony offenders have been screened, of whom 2521 (70%) have been rejected or refused DTAP, and 1096 (30%) placed into treatment. Of those accepted by the program 406 (37%) have graduated and 232 (21%) were still in treatment as of October 1999. DTAP used legal coercion to keep participants in treatment and produced a one-year retention rate of 66%. This is considerably higher than rates found in national studies of residential treatment. For those admitted under the deferred prosecution model the rate of retention at the twelfth month was 64%, but the rate for those admitted under the deferred sentencing model rose to 74%. Successful DTAP program participation lowered re-arrest rates. Re-arrest rates for three years post-DTAP or post-sentencing were compared for 184 DTAP graduates and 215 drug offenders who met DTAPs initial eligibility criteria but did not participate in the program. Forty seven percent of the comparison group were

re-arrested during the three year follow up period, while only 23% of DTAP completers were rearrested.

Sung (2001) studied the effectiveness of this program in terms of its capacity to enhance participants' reintegration into the community through the promotion of education, work skills and employment networks. The study was based on program records, there was no comparison group. With this limitation in mind Sung reported that that DTAP participants made extensive use of the educational and vocational opportunities (n=319). Of those without a high school diploma or its equivalent, 80% enrolled in educational remedy courses, while about two thirds of all participants started vocational training programs. The results were mixed. Only 16% of those enrolled in educational courses successfully passed the exam. This was interpreted as a reflection of the limited market value of such educational qualifications for a 32 year old individual with a fragmented employment history. In contrast 78% of those graduates who started vocational training in treatment were able to finish it. Participants were more motivated to learn new marketable skills than to work for a low academic qualification, because they expected higher financial returns from the former. The DTAP job placement officer's work was critical in maintaining an extremely high employment rate among graduates.

The lack of control group data did not allow for conclusions about the effect of DTAP on post-treatment employment and recidivism, nor was it possible to clarify causal mechanisms that link each of the program components to post-treatment outcomes (Sung 2001). Nevertheless, Sung (2001) argues that the comparison of the pre-treatment and post-treatment employment rates as well as the bivariate correlation between employment and recidivism provided 'optimistic results'. The employment rates among DTAP graduates jumped from the 26% pre-treatment level to 92% after treatment completion. There was also indication that graduates who were working at the time of treatment completion were more than 50% less likely to be re-arrested during the three year follow-up.

Drug Courts

Drug courts arose within the context of the multiple efforts at all government levels - federal, state and local - to carry out a 'war on drugs' in the 1980s. In the face of the crack cocaine epidemic and growing public concern, a zero tolerance response to drug offences was expressed through federal and state legislation that substantially reduced judicial discretion in the sentencing of offenders convicted of drug-related offences. This placed a heavy burden both on state and federal courts by subjecting more individuals to arrest and prosecution. This overloaded existing court dockets, and federal and state

correctional systems by increasing prison and jail populations beyond capacity. According to the Bureau of Justice Statistics (BJS), the number of adults arrested for drug related violations increased 273% between 1980 and 1995, from 471,200 to 1, 285,700 (BJS, 1997b in Burdon et al 2001). During that same period the percentage of prisoners in the custody of state correctional authorities for drug offences increased from 6.4 to 22.7% (BJS, 1995, 1997a in Burdon, Roll, Prendergast and Rawson 2001)

Some jurisdictions' attempts to alleviate the saturated court systems and overcrowded prisons and jails took the form of specialised 'drug courts' that focused primarily on improving case flow management in order to expedite the processing of the large volume of drug cases (Goldkamp 1994). The experience of those early efforts made it clear that without treatment interventions many offenders would simply recycle through the system, albeit more quickly. Some of these courts began integrating drug treatment into the criminal justice process.

The first treatment drug court began operations in Miami, Florida in 1989 (Belenko 2000). It 'established itself as an integral part of the treatment process' (Goldkamp 1994, p. 110). This was accomplished by identifying drug abusing offenders early in the adjudication process and offering them immediate access to treatment under the direction and close supervision of the judge as an alternative to jail or prison. Within a nonadversarial atmosphere, this alternative to incarceration brought together judges, prosecutors, defence attorneys, probation officers and community based treatment providers in a collaborative effort to reduce illicit drug use and related criminal behaviour and, secondarily, to reduce the increasing burden on the courts. The approach adopted in Dade County Miami became the model, with local variations, for similar drug courts established elsewhere.

The primary goals of drug courts are:

- To reduce drug use and associated criminal behaviour by engaging and retaining drug involved offenders in treatment and related services;
- To concentrate expertise about drug cases into a single courtroom;
- To address other defendant needs through clinical assessment and effective case management; and
- To free judicial, prosecutorial and public defence resources for adjudicating non drug cases.

The key components of drug courts typically include:

- Judicial supervision of structured community-based treatment;
- A dedicated courtroom reserved for drug court participants;
- Timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest;
- Regular status hearings before the judicial officer to monitor treatment progress and program compliance;
- Increasing defendant accountability through a series of graduated sanctions and rewards;
- Mandatory periodic or random drug testing;
- Establishment of specific treatment program requirements, with compliance monitored by a judicial officer; and
- Dismissal of the case or a reduced sentence upon successful treatment completion.

In the US, since 1989 more than 800 courts have been started or are in planning or implementation stage, and more than 140,000 individuals have been enrolled in a drug court program. Drug Courts have been launched in all fifty states as well as in the District of Columbia, Guam, and Puerto Rico (Nolan 2001).⁵

The drug court offers drug offenders the option of court monitored treatment as an alternative to the normal adjudication process. The drug court differs from TASC in that the court rather than the treatment centre is the focal point of the treatment process. Defendants participate in various treatment modalities, including acupuncture, individual and group counselling sessions and Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) 12 step groups. Offenders also submit to periodic urine analysis testing and regularly (every one to four weeks) report back to the judge, who oversees their overall treatment program. The program is usually expected to last one year but often lasts much longer. Most drug courts offer defendants, as an incentive for participation, the dismissal of their criminal charge or the expungement of their drug arrest upon successful completion of the program.

⁵ To support and provide leadership in this process some two dozen legal practitioners, mostly judges gathered in 1994 to start a national association for professionals involved in drugs courts. Just two years later, nearly 700 drug court practitioners gathered for a second annual conference of the National Association of Drug Court Professionals (NADCP). By 1998 more than 2,500 drug court professionals attended the fourth annual conference, and in 1999 attendance exceeded 3,000 – the NADCP is a growing ‘grassroots’ practitioner led movement.

To the participants who succeed in the program (for example, graduating to a higher level – there may be as many as three or four stages of treatment) judges offer praise, applause and prizes. Small incentives for good performance may include T-shirts, key chains, donuts, pens, mugs, coloured star stickers, and sweets. Graduation ceremonies are celebrated with cake, speeches, graduation certificates, individual testimonies by graduates and visits from politicians and other local dignitaries. Failure to comply with treatment can result in the imposition of sanctions which may come in the form of increased participation in 12 step groups, community service, one or two days sitting in the jury box during drug court sessions, or short stints (several days to two weeks) in the county jail (Nolan 2001).

The drug court alters the traditional adjudication process. The judge engages the clients directly, asks personal questions, and encourages them in the treatment process. In many ways judges take on the role of the therapist. The role of the public defender and the prosecutor is no longer adversarial, and lawyers generally play a less prominent role. In many cases they do not even show up for the regular drug court sessions.

Though all the courts follow the essential style and format established in the Dade County model, each drug court has its own unique features that depend on funding, level of community support, personnel and other contingencies. As Bean (2002b, p.170) puts it '[w]hat one finds is that there are as many variations in the locus of Drug Courts within the legal system as there are Drug Courts themselves'. Among the important differences are the criteria that each court uses for determining the eligibility of potential participants. Some courts allow only defendants with no prior criminal record; others restrict access to defendants with three or fewer prior offences. Over half accept individuals with any number of prior offences as long as they meet all other eligibility criteria. Many (like TASC) have greatly expanded their eligibility criteria since their initiation. Most, though not all, limit participation to non-violent offenders (Nolan 2001, Belenko 2000).

Courts differ with respect to the point in the criminal justice process when the client is first admitted to the program. It can be pre-trial/pre-plea, pre-trial/post-plea (defendants enter a plea – usually guilty – and are then assigned to drug court). Upon successful completion of the program their plea may be stricken. In others, participation is post-conviction. In these courts the program is essential, if not actually a condition of probation. Some courts use a combination of the above three approaches depending upon the nature of the charge, the defendant's criminal history and other factors. Courts also differ with respect to the types of agencies they employ to provide treatment to drug court clients. The majority (over half) contract for treatment services

with local community based or private treatment organizations. Some use county health departments, probation departments, pre-trial services agencies, or the court itself. TASC still handles the treatment function for a few drug courts (Nolan 2001).

The primary objective of drug courts is to reduce drug abuse and associated criminal activity. Successful drug courts are 'based on an understanding of the physiological, psychological and behavioural realities of drug abuse and are designed and implemented with those realities in mind' (Tauber 1994, p.2 in Nolan 2001). How drug courts are implemented and the exact shape they take vary among different jurisdictions (General Accounting Office (GAO) 1997), Goldkamp 1994). The design of each drug court is a function of the unique set of circumstances that exists within each jurisdiction - the characteristics of the drug-involved criminal justice population being served; the available resources of the community to support the existence and operation of drug court; and the unique characteristics of the judge (Huddleston 1998).

Nolan (2001), in his ethnography of the American Drug Court movement, notes that the National Association of Drug Court Professionals (NADCP) promotes program evaluation as an important means of gaining support. Nevertheless, according to Guydish, Wolfe, Tajima and Woods (2001) only around 25% of drug court evaluations are published in journals. This means that much drug court research is relatively inaccessible and that many courts in operation may not have met the quality assurance standards of peer review.

Belenko has been prolific in his work on drug courts, publishing extensive reviews of those evaluations available in 1998, 1999 and 2001. His most recent contribution covered 37 published and unpublished evaluations of drug courts (including seven juvenile drug courts, one Driving Under the Influence (DUI) court and one family drug court) produced between 1999 and April 2001. From this work he concluded that drug courts admitted offenders with characteristics that are consistent with those of the overall drug involved offender population: predominantly male; having poor employment and educational achievements; fairly extensive criminal histories; and prior failed treatment. He noted that few of the evaluations provided any quantitative data on program services, supervision or sanctions. In addition, little appears to be known about factors that could affect drug court retention rates and program compliance such as the drug court environment or the nature of the interactions among staff and clients.

The 2001 review noted that studies that included interviews with drug court staff tended to report highly positive opinions about the drug court's impacts and effectiveness. This is consistent with Belenko's findings in 1998, where he reported that qualitative data from interviews with drug court staff and other criminal justice and treatment personnel generally indicated that drug courts have been successfully implemented and have achieved positive responses from the criminal justice and treatment systems as well as the public. Such a finding seems hardly surprising if we take into account Nolan's (2001) description of the investment that the National Association for Drug Court Professionals makes in relation to promoting positive stories and securing support for the cause from criminal justice system personnel and local politicians and dignitaries.

Belenko's most recent contribution reported in relation to outcomes that:

Drug use and criminal activity are relatively reduced while participants are in the program. Less clear are the long-term post-program impacts of drug courts on recidivism and other outcomes. Four of the six studies that examined one year post-program recidivism found a reduction, but the size of the reduction varied across courts. None of the studies reviewed here reported post-program drug use, employment or other outcomes for all drug court participants (2001, p.7).

Graduation rates averaged 47% (ranging 36% to 60%). They were higher for males than females, 'whites' than 'nonwhites', and participants in drug courts that had been operating over two years than participants in newly established drug courts.

Again this is consistent with earlier research from Belenko (1998, 1999) and the General Accounting Office (GAO 1997) which reviewed the results of approximately 60 drug court evaluations. Overall, according to these earlier reviews, evaluations were consistent in finding that drug courts are successful at lowering drug use and criminal activity among substance abusing offenders while they are participating in the drug court and at retaining them in treatment for longer periods of time than other types of community-based treatment and supervision. In 1999, Belenko noted that more recent evaluations, which have begun to focus on post-program outcomes, have reported lower recidivism rates among drug court participants.

While the conclusions of most of these earlier studies were positive, it was generally agreed that, at that point in time, they had been unable to collect sufficient data to conclude that drug court programs have a significant and long-lasting impact on the reduction of drug use and associated crime

(Belenko 1998, 1999; GAO 1997). For the most part this was due to the infancy of most drug courts, the large variation in the design and implementations of drug courts, and the variety of designs employed in the evaluation studies (GAO 1997). Because of the recent advent of the drug courts, most of these early evaluation studies consisted of process evaluations (Belenko 1998, 1999). As such they focused more on drug court design, implementation, and operation and less on post-program outcomes.

Many of the evaluation studies demonstrate a number of shortcomings related to study design (Belenko 1998, 1999; GAO 1997). However despite these shortcomings, Belenko (1999) argues there have been some clear trends in drug court research, related primarily to the types of data that are being collected, analysed and reported. He explains the more recent evaluation studies have made greater use of qualitative research techniques; collected data on treatment delivery, sanctions and incentives, and outcomes data; and made greater use of multivariate analysis of quantitative data to more clearly identify the predictors of successful outcomes. In 2001, he notes that with regard to evaluations there was still room for improvement in relation to data sources and collection, specifying time periods, and distinguishing between in-program and post-program results. Moreover, he warned that one-shot evaluations could provide distorted conclusions about the impact of a drug court program in one time frame. Periodic, multi-year evaluations were recommended.

In short, some consistent findings have emerged from evaluation studies that have been conducted on drug courts. Most consistent is the finding that drug courts, due primarily to their design and stated objectives, are better able to closely supervise drug offenders in the community than other forms of community based supervision such as probation (Belenko 1998, 1999). This is accomplished primarily through intensive judicial supervision, frequent drug testing, and the use of graduated punishments. Less consistent and based on more limited data is the finding that drug courts are having the expected and desired impact on drug use, criminal behaviour and cost saving. However, in light of the methodological problems noted above, all these findings need to be interpreted with caution (GAO 1997).

Breaking the Cycle (BTC)

BTC is a multi-site demonstration program funded by the Office of National Drug Control Policy and National Institute of Justice, designed to test the feasibility and impact of a coordinated effort to respond to drug use with consistent and effective intervention. BTC involves ongoing collaboration among the jails, the prosecutors, the judges, the TASC agency, treatment

providers, and probation departments, each of which has different roles, mandates, resources and authority.

The program is characterised by four core components:

1. Early screening to identify drug users and assign them to appropriate interventions upon entry into the criminal justice system;
2. Required participation in drug interventions, including case management, drug testing and treatment as needed;
3. Use of graduated sanctions in response to drug test failures and other BTC requirements; and
4. Expanded judicial monitoring of compliance with requirements.

BTC's strategy for linking offenders to treatment builds on the experience and practices of other criminal justice drug intervention programs. Three of the most influential are TASC, drug courts, and programs that use graduated sanctions to enforce offender compliance with drug abstinence requirements. BTC incorporates case management and treatment referral networks based on the TASC model, where a network of specialists find treatment placements for court referred clients and monitors their progress.

An extensive national evaluation of TASC participation revealed that many offenders referred to TASC programs never reported to the agency, many others who enrolled in TASC dropped out of treatment prematurely, often without being subject to consequences because justice agencies failed to monitor compliance with treatment referrals and drug test results (Anglin et al 1999). These findings suggest that although TASC programs are frequently effective in linking with treatment and decreasing substance use for those who choose to participate, their effectiveness may increase if drug involved offenders were compelled to remain in these treatment programs. Harrell et al (2002) explain that BTC was designed to remedy the problem of treatment retention by increasing offender accountability through judicial monitoring and drug testing, in much the same manner as in drug courts.

BTC programs emphasise the use of graduated sanctions. This builds on growing evidence that timely, consistent use of well understood penalties for non-compliance contributes to the likelihood that offenders will comply with requirements to attend treatment and remain drug free. Features believed to be key in producing reductions in recidivism include the fact that defendants signed contracts in advance acknowledging the testing rules and the penalties for test failures, the fact that sanctions were typically imposed within a week, and consistency in applying penalties (Harrell et al 2002).

The evaluation of the BTC program reported by Harrell et al (2002) was more focused on process than outcomes. It found that most BTC cases were screened and placed in BTC shortly after release. Nearly 70% of the sample was assessed within a week of their release and almost all were drug tested at the time of assessment. Treatment referrals made for 96% of the clients were based on clinical assessment of treatment need. Twenty-one percent were referred to urine monitoring only; 2% were referred to education groups operated by TASC; 57% were referred to outpatient treatment, most of whom attended a program located at TASC with frequency dependent on group placement and progress; 16% were referred to residential treatment (median period of enrolment = 108 days); and a few were placed in methadone maintenance.

Harrell et al (2002) concluded that their results suggested that intervention with drug-involved offenders can begin shortly after arrest for a much larger portion of the arrestee population than is targeted by drug courts or pre-trial diversion programs. Although drug courts accept defendants who want to join, are charged with drug offences, and have no pending charges or prior convictions for violent offences, BTC accepted defendants with most felony charges, providing they qualified for a bond and were able to secure release.

BTC succeeded in making referral for drug screening a routine condition of release, using lower bonds as an incentive for cooperation. Most felony defendants living within the jurisdiction where the trial operated who obtained pre-trial release from jail on bond were required to undergo screening and participate in treatment and drug testing as needed prior to case disposition. BTC added drug screening, ongoing drug testing, referrals to treatment and responses – albeit not swift, certain, or severe responses – to failures to take drug tests, test drug free, and otherwise comply with BTC rules.

The program records indicate that drug users were referred to treatments that were appropriate for the level of severity of their drug problems and, moreover, that most of those referred to treatment were placed in services. *The result was a substantial increase in the pool of defendants released, which helped reduce jail overcrowding without a significant increase in threat to public safety.* The findings indicated that the benefits of this model of early intervention with drug involved felony defendants include significant reductions in drug use and some reduction in crime. These benefits were associated with white but not African-American participants.

Proposition 36 (SACPA)

California's *Substance Abuse and Crime Prevention Act* (SACPA), also known as Proposition 36⁶, was passed by 61% of California voters on 7 November 2000, and implemented in July 2001. The initiative allows persons convicted of their first and second non-violent drug possession offences the opportunity to receive community based drug treatment as a condition of probation in lieu of incarceration in jail or prison. It permits persons on probation or parole for certain offences to obtain community-based treatment in lieu of re-incarceration upon a violation of a drug related condition of their probation or parole. SACPA defines 'drug treatment' broadly to include education and vocational training, family counselling and other services.

The introduction of the new law was opposed by many state district attorneys and state drug court judges who argued that it will overwhelm the parole system and community treatment programs, as well as limit the effectiveness of existing drug courts (Anonymous 2001). Supporters of the law argue that SACPA created a process for diverting non-violent drug possession offenders into community-based treatment that is different from California's pre-existing drug court scheme in both scope and substance (Uelmen et al 2002). SACPA is state-wide, while drug courts operate in many but not all counties. Under SACPA, treatment must be provided to every eligible individual who commits a qualifying offence, while only three to five percent of those offenders who are eligible are admitted to California's drug court program. SACPA's provisions are uniform across the State, while each individual drug court has its own rules and requirements regarding eligibility, duration, and treatment options. SACPA is a post-conviction statute, whereas some drug courts offer pre-conviction diversion opportunities. SACPA applies to certain persons convicted of non-violent drug possession for personal use. Persons are not eligible for SACPA if convicted of drug sales or other felonies in addition to the co-drug offence, or if they have recently been convicted of or been incarcerated for a 'strike' offence under California law. Drug courts, however, have the discretion to admit these and other more serious drug offenders into treatment. SACPA provides for and funds a diversity of treatment options for offenders. By contrast the vast majority of California's drug courts offer only one or two treatment options for clients. SACPA expressly provides for methadone treatment. Virtually all of California's drug courts prohibit clients from receiving methadone treatment (Uelmen et al 2002).

⁶ Arizona's Proposition 200 is similar to SACPA and was enacted in 1996.

SACPA has been diverting low-level, non-violent drug offenders convicted solely of possession for personal use into community-based treatment instead of incarceration. In seven counties examined in a progress report, over 9,500 individuals had been referred to treatment through SACPA by the end of December 2001 (Uelmen et al 2002). In these seven counties the number of clients active in treatment was 71% of the total number of referrals. Multi-agency collaboration included substance abuse and mental health departments, probation parole and the courts (Uelmen et al 2002).

The progress report on SACPA while not a systematic evaluation, reviewed process elements in relation to the implementation of the legislation. It indicated that clients are not being placed in methadone maintenance treatment consistent with the level of demand. Many SACPA assessment professionals are not adequately trained to detect coexisting disorders of addiction and mental illness. Furthermore, for the SACPA clients with coexisting conditions, too few programs are willing to treat drug users exhibiting signs of mental illness. Individuals are not always given a treatment plan that is consistent with the level of treatment for which they are initially assessed. Clients are not offered a diversity of treatment options to sufficiently match their needs. Some counties are facing difficulties retaining clients who fail to appear at treatment, and sober living environments are inadequately regulated and licensed. A Bureau of Justice Statistics publication released in April of 2003, nevertheless, reported that California, which has the largest state prison system with 160,315 inmates, had a 22.2% decrease in its number of prisoners in 2002. Much of this decline, it was claimed, stemmed from the effects of the SACPA provisions (Harrison and Karberg 2003).

Probation and Parole based treatment

Under probation or parole supervision many offenders are required to submit to periodic drug testing and to abstain from using drugs. Yet in the US few probationers or parolees are given access to drug treatment (Belenko 2000). Highlighting this point, Belenko (2000) rightly argues that it is not surprising that many are brought back to court on technical violations for having positive drug tests. Repeated technical violations often result in another prison sentence for probationers or return to prison for parolees. In many state prison systems, a large proportion of inmates are incarcerated for technical violations. Overall during 1995, 200,972 probationers and 110,802 parolees were incarcerated for violations of their probation or parole conditions – many involving positive drug tests

A number of post-release programs are being trailed. One of these is Opportunity To Succeed (OPTS). It is aimed at helping ex-offenders stay drug

free and out of prison. The theory behind OPTS is that ex-offenders who have reduced their drug use through treatment while incarcerated are more likely to sustain those gains if they receive continued help once they return home. Under OPTS participants receive an intensive blend of parole supervision, drug treatment and social services that begins upon release from prison and continues for one to two years. In addition to case management and drug treatment, other services are provided in response to individual needs. These include housing, employment and training, parenting skills training, and health and mental health services. A number of issues are clear: timely intervention is crucial and inmates should be screened and recruited into parole programs while still in prison. The time between release from prison and program enrolment should be minimised. For many, relapse to drug or alcohol occurs the same day they are released. Treatment alone is not enough - programs must deal with the whole person, poverty, unemployment, and poor health. Drug free housing and family support are especially important factors in recovery (Belenko 2000).

A comparative analysis: TASC, DTAP and probation orders.

Young and Belenko (2002) describe research that examined three different models of legally mandated treatment in New York City. The study assessed the coercive policies and program features of the three models as well as participants' perceptions of these program components. Analyses compared client retention in the models and examined the role of coercion along with other program factors, as well as dynamic and static client characteristics on retention. They explored the policies and practices of two highly structured and coercive programs – Kings County (Brooklyn) DTAP and a large TASC program operating in and around New York City, as well as a third set of programs that represented more conventional mandatory treatment.

The DTAP program targeted repeat non-violent felony drug defendants; selected defendants were given the option of long term (14-24 month) residential drug treatment in lieu of a prison term that typically lasts one and a half to three years. If the offender opted-in and completed treatment, charges were dropped. Those who failed faced prosecution and a prison term under the state's mandatory sentencing statutes for repeat felony offenders.

The TASC program was operated by a local non-profit agency and served as a liaison between the courts and the treatment system, providing assessment referral and case management services (in residential treatment). Most TASC clients were repeat felony defendants, typically on probation or parole from an earlier offence and facing a new charge. Compared to DTAP, TASC

worked with a broader array of defendants, including defendants with violent charges and some first-time felons.

The third study group, which served as a comparison sample, included probationers, parolees, and other legally mandated clients, most of whom were referred to residential treatment directly from the courts (but not drug courts, which had not yet been implemented in New York when the data collection took place). While most of the comparison groups were diverted at court due to new charges, several reported being mandated in lieu of a technical violation of the conditions of their release (typically positive drug tests).

The programs had important differences in policies and practices that were designed to increase legal pressure to stay in treatment. Young and Belenko (2002) tested the hypothesis that DTAP and TASC clients should show greater retention than those in the comparison group.

They found that clients in the most coercive program – DTAP - had higher retention rates than comparison groups at six months and marginally so at 12 months post-admission. Compared to those clients referred from other criminal justice sources, the odds of DTAP clients being in treatment at six months were almost three times greater than the comparison group's odds; at one year post-admission, DTAP clients had almost twice the odds of being retained. Retention rates for the TASC group were also higher than the comparison groups, but these differences were not statistically significant.

The evidence from this research offered support for the DTAP model and to a lesser extent the policies and practices of the TASC program. Compared to conventional approaches used by local courts and probation and parole officers, DTAP and TASC had more structured protocols for informing clients about the contingencies of their participation and the legal consequences of failing treatment. Based on client self report DTAP stood out from the other programs in its use of behavioural contracts and in the number of criminal justice agents – prosecutors, judges, defence attorneys, warrant investigators⁷ - it engaged to inform and monitor clients. Findings also support DTAP's policy of developing formal agreements with the treatment programs it used, and requiring treatment staff to reinforce messages about treatment contingencies and consequences. The authors found that DTAP and TASC's more structured and consistent approach to enforcement and to a lesser extent, monitoring, most likely contributed to higher retention rates relative to

⁷ See page 33 for an explanation of the value of warrant investigators.

the comparison group. Analysis suggested that TASC was strong on monitoring but had a limited enforcement capacity compared to DTAP.

Young and Belenko (2002) concluded that, to be effective, mandatory programs should routinely inform clients about the contingencies of treatment participation, and about how participation will be monitored by legal agents. Mandated clients can make relatively sophisticated judgements about programs' capacities to enforce threatened consequences. Their findings further suggest that dedicated warrant squads or other effective enforcement mechanisms may help boost retention rates. Apart from their support for the DTAP and TASC models, the results appear to provide clear evidence of the effectiveness of a procedural justice approach to supervision and sanctioning. Higher rates of retention and greater perceived legal pressure were associated with a number of procedural justice principles cited by Taxman, Soule and Gelb (1999), including proactively engaging offenders in understanding the contingencies of program participation, consistent messages among multiple criminal justice agents and treatment staff, the use of behavioural contracts and judicial orders and swift returns to custody upon failure.

The findings from this research are similar to those from an earlier study that tracked smaller groups of DTAP and other mandated clients over a shorter follow up period (Young 2002). In both studies DTAP participants reported high levels of perceived legal pressure and this was related to retention.⁸ Analysis also underscored the role of information and enforcement. These two studies are consistent with other research on coerced treatment. Goldsmith and Latessa (2001) in their assessment of drug court and its relationship to various treatment interventions note that over the past 40 years, more than 70,000 drug dependent offenders were included in four major outcome studies (Drug Abuse Reporting Project (DARP), Treatment Outcome Prospective Study (TOPS), the Drug Abuse Treatment Outcomes Study (DATOS) and the National Treatment Improvement and Evaluation Study (NTIES). Treatment was mandated by the court for 40% to 50% of these cases. Two major findings emerged: the length of time in treatment predicts outcome and coerced patients stay in treatment longer. Treatment must last at least 90 days to be effective and 12 months is generally the minimum effective duration. Some of the studies found that drug dependent persons for whom treatment was mandated by the court had a less favourable pre-admissions profile. However, they did at least as well as the groups who had been in

⁸ Treatment retention has come to be viewed as a critical outcome measure, and one of the best predictors of a client's long term success (Gerstein and Harwood 1990, Hubbard, Craddock, Flynn, Anderson & Etheridge 1997, Simpson, Joe, Rown-Szal & Greener, 1997).

treatment voluntarily, probably because they stayed in treatment longer and were open to the impact of treatment.

Costs

There have been few reported cost effectiveness studies of a drug court (Lind, et al 2002). Belenko lists five evaluations providing information on the costs of processing offenders through a drug court (Belenko 2001, pp.41-43). The first estimated cost of drug court processing at \$21.55 per case but obtained this figure simply by dividing the total drug court budget by the number of clients admitted. As Belenko (2001, p. 41) points out this would have been an underestimation because it excluded the consideration of the cost of gaol sanctions and possibly treatment as well. The second evaluation estimated the cost of processing a drug court defendant at \$3,900 compared with \$6,950 in gaol costs alone for similar offenders who had been imprisoned. The third estimated the total criminal justice and treatment cost per case of drug court processing at \$4,352 compared with \$8,358 for tradition adjudication and \$808 for diversion. The fourth estimated the cost of drug court processing (including both criminal justice and treatment costs) at \$30,423 compared with \$40,678 for a group of offenders traditionally adjudicated. The last attempted a cost benefit analysis of drug court processing and concluded that that each drug court defendant processed by the drug court resulted a net saving of \$5,557.

Belenko was critical in his assessment concluding that existing studies generally do not provide much detail about the sources of cost information, as a result it is difficult to judge which cost components have been included or excluded. Yet the relative costs of drug court processing and conventional sanctions clearly depend upon the level and type of treatment and supervision provided by the court and the severity of conventional sanctions. They also depend upon the relative effectiveness of drug courts and conventional sanctions in reducing recidivism. These can vary widely from court to court. He nevertheless concluded that for drug courts that conducted cost analysis, estimates indicated that they produced cost savings when compared to traditional adjudication (Belenko 2001).

In general, the literature reporting on the other programs described above said little in relation to cost or cost savings. Nolan (2001) noted that cost saving was, in the view of the NADCP, one of the saleable features of the drug court program. It seems that a similar strategy has been adopted by the Drug Policy Alliance (Uelmen et al 2002), which like the NACDP is a grassroots movement lobbying for change in relation to the criminal justice

system's management of drug dependent offenders. It is lobbying for the introduction SACPA like legislative provisions across America.

The Drug Policy Alliance (DPA) produced the progress report on SACPA (referred to above). In doing so it positioned the value of the legislation in relation to possible cost savings. Drawing attention to parallel legislation operating in Arizona since 1996 - Proposition 200 - the document cited a recent report conducted by the Supreme Court of Arizona, which indicated that Proposition 200 had saved Arizona taxpayers \$6.7 million in 1999. It was anticipated that SACPA would save Californian taxpayers approximately \$1.5 billion over the ensuing five years and prevent the need for a new prison slated for construction, avoiding an expenditure of approximately \$500 million (Uelmen et al 2002).

Uelmen et al (2002), explain that SACPA's predicted cost savings derive largely from the fact that SACPA diverts drug possession offenders from jail and prison terms to community-based treatment. According to the state's 2001-2002 budget analysis, it costs \$25,607 per year to imprison each inmate in California. The costs for drug treatment in California are estimated as follows:

Methadone maintenance	\$7 per day,	\$2,100 per client (average stay 300 days)
Outpatient Treatment	\$7per day,	\$840 per client (average stay 120 days)
Long term Residential	\$53 per day,	\$7,420 per client (average state 140 treatment days)
Day Programs	\$33 per day,	\$990 per client (average stay 30 days).

It is important to note that the means of calculating these costs were not described.

Summary

In the US, diversion programs for drug dependent offenders are dominated by drug treatment courts. These courts are both pre-adjudicative and post-adjudicative in their focus. In the drug court system the court does not simply divert eligible offenders to treatment, but actually becomes part of the treatment process. This system is supported by a strong movement of drug court professionals, which has been led by judges.

Other diversion programs do exist. In many cases these largely build on to or are integrated with a drug court system. They include case management

approaches to drug dependent offenders (Treatment Alternatives to Street Crime - TASC), programs that divert offenders from prison (Drug Treatment Alternatives to Prison - DTAP), and programs like Breaking The Cycle (BTC) which combine aspects of drug courts, TASC and graduated sanctions in order to improve the retention of offenders in treatment.

District Attorneys are responsible for and determine the availability of diversionary programs in any county. In Arizona and California state-wide legislation, in addition to county based programs, provides for the diversion of first or second time non-violent offenders from prison to treatment facilities. Lobby groups are currently working to have these provisions extended to other states. They argue that it provides for a more consistent treatment of drug offenders. In contrast to the top down approach in the UK, the US system is decidedly bottom up, with much initiative coming from 'grass roots' groups like the National Association of Drug Court Professionals, or the Drug Policy Alliance. Diversion programs are clearly abstinence-oriented with all drug use considered problematic. This approach is consistent with the extensive engagement of Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) 12 step programs and long term residential therapeutic communities and the relatively restricted use of methadone maintenance treatment. As in the UK, drug testing through urinalysis is considered to be a key component of treatment.

National treatment outcome studies and evaluations of individual programs have generally found that offenders mandated to treatment through TASC and other criminal justice referrals tend to remain in treatment longer and exhibit more positive indicators of treatment success. Recent studies have indicated that TASC programs were effective at linking users with treatment and decreasing illicit substance use amongst those who chose to participate. They found that such programs were able to identify and refer defendants to treatment at an earlier stage of their drug using career. Mixed findings, however, were reported in relation to recidivism.

DTAP used legal coercion to keep participants in treatment and produced retention rates considerably higher than those found in national studies of voluntary residential treatment. Re-arrest rates were lower for program participants. Research evaluating drug courts consistently found that they are successful in lowering drug use and criminal activity while offenders are participating in the program. Offenders in these programs were also retained in treatment for longer periods than other types of community based treatment and supervision. Other programs in the US like BTC and SACPA were not evaluated in terms of outcomes for participants; however, they were associated with reductions in prison numbers.

As was the case in the UK, a number of short-comings are evident in the research concerned with diversion programs in the US. Evaluations were frequently process rather than outcome-focused. Outcome evaluations were often hampered by weak design, having small numbers, no comparison groups or post-program follow-up. This was particularly the case in relation to drug courts, which until recently were still in their infancy and were unable to provide for the collection of sufficient data to enable sound conclusions.

Canada

In 1998, following the lead of the US, Canada established a drug treatment court in Toronto as a four year pilot. The Toronto drug court targets non-violent offenders, charged with possession or minor trafficking offences or prostitution-related offences, who are addicted to cocaine and/or opiates. Voluntary participants complete the program when they establish social stability in terms of housing, education and/or employment and eliminate their use of cocaine and/or opiates. At the completion of the program participants receive a non-custodial sentence or may have their charges withdrawn.

In Canada, drug treatment courts are positioned as a more humane approach to addressing minor drug crimes than incarceration. They are a means of supporting entry into treatment for those with a long history of incarceration. Early evaluation results of Toronto's drug treatment court indicate high rates of retention and program participation. Participant comments suggest that drug court was a real alternative to traditional sentencing and offered them hope for a better life (reported in Canada's Drug Strategy (Health Canada (undated))).

Evans (2001) explains that in the Canadian program participants are placed on an extended period of bail to facilitate attendance at outpatient treatment programs. Sanctions apply for non-compliance – they range from essay writing to short prison stays. To graduate, offenders must be drug free for four months, and have stable housing and employment. One unique feature of the Toronto drug court is the role of mental health court liaison staff. One member of the drug treatment court team is a mental health staff member whose role is to discover whether offenders have mental health problems that might interfere with the program (Evans 2001).

Netherlands

Vermeulen and Walburg (1998) report on a program known as the 'Street Junk Project' which aims to divert drug-using offenders into treatment through coerced choice. Persons who have been arrested at least four times in the past 12 months (not including the present arrest) are asked to choose between detention and treatment. This practice is based on the view that the threat of detention will persuade alleged offenders to opt for treatment. The arresting police officer contacts a probation officer who visits the cells in order to conduct an assessment of the severity of problems.

In 1993 there were 2350 'street junk' arrests and 3300 in 1995. These figures, however, represent a much smaller pool of approximately 1000 to 1200 distinct persons, many of whom were arrested more than once. Over a four year evaluation 22% of people opted for treatment and actually commenced a treatment program. An additional 15% chose treatment but were unable to be accommodated within the program. The evaluators indicated that it was very difficult to follow-up participants, so no conclusions could be drawn about the impact of the program on criminality. It was noted that while the level of police participation improved over the course of the evaluation, fewer arrests were actually assessed by probation officers. Vermeulen and Walburg (1998) interpreted this as an expression of diminished confidence among program staff that appropriate treatment places were actually available to take clients. This highlights the importance of ensuring adequate treatment facilities are available to meet any additional demand placed on the treatment sector by the criminal justice system diversion referrals.

Australia

Introduction

In Australia, diversion has been practiced both formally and informally for some years. Terry Carney (1987) traces a history of Australian governmental responses to problems arising in relation to drug and alcohol dependence that reaches back into the nineteenth century. He describes the changing relationships between sentencing dispositions, civil treatment programs and welfare schemes. Specific examples of more recent programs include Sobering-up Shelters which have operated in the Northern Territory (NT) since 1983. They provide a safe place for intoxicated people to sober-up as an alternative to the police cells. The South Australian Drug Assessment and Aid Panels were established in 1985 following the proclamation of the *Controlled Substances Act 1984* (SA) as a pre-court drug diversionary program. In the Australian Capital Territory (ACT), with the introduction of the *Drugs of Dependence Act* in 1989 magistrates could also refer offenders to a panel for

assessment. In Western Australia the Court Diversion Service began operation in 1988, and in Victoria, Magistrates and judges were able to make a section 28 order when an offender is found guilty of an offence and there is evidence that drugs may be considered to be partly responsible for the offending behaviour. The section 28 system was specifically intended as a means of providing offenders with appropriate treatment. Both this system and the WA Court Diversion Service relied solely on the Bail Act (Alcohol and other Drugs Council of Australia 1996, Heale and Lang 1999, Murphy 2000).

There are currently diversion programs for drug offenders being run in every state in this country for cannabis and other drug offences. These programs operate at both the police and non-police (i.e. between charging and jailing) levels. Diversion programs in Australia range from well developed and documented schemes supported by legislation through to informal local arrangements between police, alcohol and drug workers and the courts. Those offenders targeted by these programs include: those facing use and possession charges; those whose use has led to offences while intoxicated, and those who have committed offences in order to support their drug taking (Alcohol and other Drugs Council of Australia 2000).

In 1996 the Alcohol and other Drugs Council of Australia (ADCA) held a two-day forum to explore best practice in diversion and develop ideal models of diversion identifying barriers to the implementation of good diversion practice, and developing action plans for better diversions practice (Alcohol and other Drugs Council of Australia 1996). In April of 1999 the Council of Australian Governments (COAG) introduced a new strategy to respond to the problem of illicit drug use - a key component of which was early intervention and prevention through a nationally consistent diversion initiative (Commonwealth Department of Health and Ageing, 2001). The Ministerial Council on Drug Strategy (MCDS) was asked by COAG to develop a national framework for the diversion initiative. The resulting national framework, the Illicit Drug Diversion Initiative, was to provide a basis for implementation of the diversion approach that would facilitate national action and cooperation whilst providing States with the flexibility to respond to local priorities and conditions (Commonwealth Department of Health and Ageing, 2001). This program was clearly informed by the results of the ADCA Forum.

Since the announcement of the national framework, States in responding to their particular local priorities and conditions have implemented a range of diversionary programs. Many of these have been funded by Commonwealth grants, others have been state funded initiatives that have developed out of

more localised imperatives like the NSW Drug Summit in 1999⁹ and Victorian governments drug reform strategy, *Turning the Tide*, established in June 1996 as a result of the Premiers Drug Advisory Council (PDAC) (PDAC 1996 cited in McLeod and Steward 1999). For an overview of state funded programs and their relationship to the COAG initiative see Appendix B.

Despite COAG's desire for consistency, diversionary programs available in this country differ significantly across jurisdictions. An Australian Bureau of Criminal Intelligence report (cited in Swain 1999) identified five distinct types of diversion practices: informal police diversion, formal police diversion, statutory diversion, prosecutorial diversion and judicial diversion. These programs vary in the offender profile targeted, the degree of intervention or supervision offered, the treatment or form of intervention offered and the stage of prosecution process at which offenders are recruited into the process (Lawrence and Freeman 2002). Infrastructural and procedural differences are also evident in supporting legislative frameworks, referral processes and management systems. Consistent with these assessments, the recently released *Evaluation of the Council of Australian Governments' Initiatives on Illicit Drugs* (Health Outcomes International (HOI) 2003) also found that while the programs implemented under this initiative were consistent with the principles outlined in the National Diversion Framework they vary considerably in regard to:

- Whether they are police-based or court-based programs;
- Their eligibility criteria;
- The range of illicit substances covered;
- Whether police have discretion to divert;
- The nature and range of interventions offered;
- The referral processes and mechanisms; and
- The penalties for non-compliance.

This national evaluation addressed the range of drug diversion programs that have been implemented across all States and Territories in Australia as a result of Council of Australian Governments – National Illicit Drug Strategy (COAG-NIDS) funding. The report is divided into a number of sections which review the nature of illicit drug use in Australia, diversion programs currently operating overseas and the specific detail of programs implemented in each State and Territory of Australia under the COAG initiative. These latter programs are not fully evaluated but data is provided on throughout

⁹ Other state governments including SA, WA, Victoria, and Queensland have subsequently held Drug Summits. Many of the resulting initiatives have been funded under the COAG framework.

for their initial periods of operation. Factors inhibiting their implementation are also listed. Three sentinel studies covering system impacts, client impacts and the impact of diversion programs on Indigenous offenders are also summarised in this report.

The authors highlighted a number of challenges which impacted on the evaluation. The implementation of the diversion program took longer than was originally anticipated. This lag was largely the result of delays in formalising funding agreements and the lead-time required to establish required infrastructure, mechanisms and systems for diversion. Referral rates were generally about one third of original projections. This was attributed to a combination of factors including:

- An over estimation of expected numbers in the first instance;
- The effects of the heroin drought across all jurisdictions;
- The progressive start of most programs and the lead-time required for them to become fully operational;
- The reactive rather than proactive nature of policing, resulting in limited capacity to engage with offenders who meet the eligibility criteria for diversion programs;
- Low referral rates, particularly from police, reflecting initial resistance to the programs and insufficient information and training; and
- The limitations of the eligibility criteria for participation, particularly those relating to a prior history of violence.

Nevertheless, by 31 March 2002, across all states and territories, nearly 20,000 referrals to diversion had been made since the COAG initiative was announced (see HOI 2003 for details of distribution by state/territory and program). The types of programs that offenders were diverted to in each state are briefly described below.

COAG Initiatives

NEW SOUTH WALES

In NSW five schemes were funded under the COAG initiative. They included the Cannabis Cautioning Scheme, the Drug Offenders Compulsory Pilot, the Magistrates' Early Referral into Treatment (MERIT) scheme, schemes operating under the *Young Offenders' Act 1997* (NSW) and a Youth Drug Court.

The Cannabis Cautioning Scheme provides police officers with the discretion to caution adult offenders in relation to the use and possession of dried cannabis and the possession of equipment for the administration of cannabis. A person can only be cautioned if they have no prior convictions for drug

offences or offences of violence or sexual assault. Offenders issued Second Caution Notices are required to contact the Alcohol and Drug Information Service (ADIS) to undertake a mandatory health education session on the use of cannabis.

The Drug Offenders Compulsory Treatment Pilot (DOCTP) provided police with the discretion to caution adult offenders apprehended for illicit drug offences involving possession or the use of small amounts of drugs other than cannabis leaf. Offenders were referred to health assessment or treatment services. If they failed to attend police were notified and criminal proceedings commenced. A person could not receive more than two cautions. After twelve months only a very small number of offenders had been processed under this scheme. An audit found that police were diverting appropriately, however where MERIT was operating police referred offenders to that scheme instead. As a result the pilot was not extended at the end of the trial period.

The MERIT scheme refers eligible people facing court with drug related offences to treatment and rehabilitation services. Entry to the program is voluntary and people arrested are not required to enter a plea. The Court Clinician provides a written assessment to the magistrate at the bail hearing indicating if the offender has a drug problem, is motivated for treatment as well as possible treatment options. During participation in MERIT participants are case managed and matched to treatment and referred to appropriate services such as withdrawal management, residential rehabilitation, methadone maintenance, out-patient consultation, counselling, pathology services for supervised urinalysis and other medical, health and welfare services. This scheme aims to help break the drugs-crime cycle through coordinated care and strategic partnerships between health services and the criminal justice system in order to achieve positive health and social outcomes.

MERIT was developed as a result of the NSW Drug Summit 1999. It was originally based on the Victorian program: Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT), which is described in more detail below. Reilly, Scantleton and Didcott (2002) provide a preliminary review of the Lismore edition of the program. They present a brief overview of its processes and those participating in the program. Based on their 12 month trial they also make some recommendations for future research. Typically participants in the Lismore program were male, aged in their twenties or thirties, not in the work-force and whose main problem drug was heroin or cannabis. They had often been convicted of previous offences and had a 50-50 chance of having been in jail. Preliminary results indicated that two-thirds of the participants either completed the MERIT program or were

still in treatment at the end of the trial. No specific detail is provided in relation to reductions in drug use or offending behaviour.

The *Young Offenders' Act 1997* (NSW) provides for the diversion of children apprehended by police for a wholly summary drug offence involving not more than the statutory small quantity of the drug, or for an offence that is drug related. Police are able to issue a warning or caution, or organise a youth justice conference, in lieu of commencing court proceedings.

In July 2000, a (trial) youth drug court was established in two Children's Courts in Western and South Western Sydney. Its aim was the of reduction of drug use and offending behaviour among young people aged between 14 and 18 who had been charged with serious offences (excluding sex offences, traffic offences and serious indictable offences) for which a caution or youth justice conference was considered inappropriate, and where alcohol or other drug use was a contributing factor. The objective was to combine intensive judicial supervision and case management of young offenders charged with criminal offences resulting from drug or alcohol abuse. The duration of the Youth Drug Court intervention program was six months.

The NSW Attorney General's Department commissioned an evaluation of the pilot program at the end of 2000. Anderson (2001) summarises the results of this review which was conducted by the Social Policy Research Centre at the University of NSW. It was based on interviews with 25 key stakeholders, five participant observations of court hearings and team meetings and a review of policy documents. The following key issues were identified:

- The program operated broadly as planned but with a lower intake than expected.
- Despite low participant intake, the operational demands on the staff and agencies involved were high. The review explained this in terms of a failure to clarify operational details and interagency roles and responsibilities during the planning phase, and because participants' levels of drug use and social needs were more complex and demanding than were initially anticipated.
- There was a shortage of accommodation, residential treatment services and other programs able to address the needs of participants and potential participants (young offenders), at all stages from detoxification onward. This was especially the case in relation to young female offenders.
- Court procedures and access to suitable premises initially caused administrative delays.

- In spite of difficulties there was a strong commitment amongst those involved to making the program work.
- There were differing views as to whether the program should be based on abstinence or a harm minimisation model in terms of continued drug use.

VICTORIA

Cannabis Cautioning is a state-wide program administered by the police. An optional education session is offered to offenders in conjunction with a caution. This cautioning program was extended to include other drugs with the introduction of the Drug Diversion Pilot Program in 1998. Police can offer a caution to a person detained for use or possession of an illicit drug other than cannabis on the condition that they undertake a clinical drug assessment and enter a prescribed drug treatment (see McLeod and Stewart 1999). The offender must fit the police criteria and agree to the caution. They are immediately provided with a drug assessment appointment time (no more than four working days after the arrest). Subsequent treatment must commence within five working days of the assessment. This program has been rolled out state-wide. Treatment interventions include: counselling, consultancy and continuing care, youth outreach and residential rehabilitation.

McLeod and Stewart (1999) evaluated the Drug Diversion Pilot Program in relation to published literature from Australia and overseas – in particular, ADCA best practice guidelines for diversion, relevant state and federal government policies in relation to drug control and comparable programs being run in other states. They interviewed key stakeholders in the program including: police, Department of Human Services staff, staff of the drug and alcohol agencies that assessed clients and delivered services, and a small number of clients. A detailed review was undertaken of clients on the program between September 1998 and May 1999. The number of participants was not sufficient to support reliable statistical analysis of aggregated data.

A major strength of the program was timing. An appointment for assessment was made when the caution was given. This appointment was at the most five days after the caution. Then the first treatment session was within five days after the assessment. Seventy-eight percent of clients cautioned by the Victorian Police and referred to a treatment agency through the Drug Diversion Pilot Program successfully expiated the conditions of their caution. Expiation only involved completion of a clinical drug assessment and the first treatment session. Informants felt that the eligibility criteria could be expanded to add people with a previous drug offence to the target group.

Most police supported the program. They had a positive attitude to promoting harm minimisation and addressing drug use and dependency as a health issue. The program was seen as a practical solution to a difficult social problem. Most police saw the program as being worthwhile because it offered the opportunity for assessment, education and rehabilitation. The police were aware that the program was likely to 'capture' only a small proportion of the population using illicit drugs; however, they felt it offered an alternative and useful strategy in their everyday policing. A small number of police, however, did feel that the program put them at odds with their primary task of policing of illicit drug use. They saw a conflict between responses directed at harm minimisation and the legitimate desire to address criminal activity in the supply and selling of drugs in the community (see also James and Sutton 2000). Differing views were also reported across the police service hierarchy.

The program was slow to start in terms of the number of people placed on it. McLeod and Stewart (1999) identified two reasons for this: the significant shift in the program required in relation to policing of illicit drug use, and the individual police officers' lack of comfort with implementing the shift. They advised that training of police needed to occur at a variety of levels.

There was some evidence during the evaluation that the partnership between the police and drug treatment agencies could be strengthened, assessment criteria were not consistently applied, and that there were differing views on what constituted problematic drug use. The sharing of information amongst agencies was not very effective, particularly when a participant changed treatment service providers. Many problems tended to be administrative, reflecting that it was a new program with new protocols, and in some instances overly cumbersome procedures. There were no standardised information collection, recording and management procedures, and most agencies saw so few clients during the pilot phase that individual workers never learned the appropriate protocols. This resulted in problems in relation to accessing payment of treatment agencies and the case management of program participants.

The majority of agencies in the study were confused regarding the relationship between the police's expiation of the caution with the nature of the assessment and treatment the program could provide. For expiation of the caution, the program required clients to attend two sessions: an assessment and the beginning of an episode of care. The expiation had to occur at some point, which had to be somewhat arbitrary because clients require different types and lengths of treatment. One treatment session was considered to be an appropriate cut off point because it meant the client was into the treatment regime. However, most agencies and workers saw the assessment and

episode of care for the client as being identical to the requirements for the expiation of caution. They felt the program was only a two-session intervention. Some clients required more extensive services, but they were normally referred to other workers within the agency or to another agency entirely. The result being that a treatment plan that may have been worked out with the client within the parameters of the program could be implemented outside the program. This caused a discontinuity of service, and the necessity of multiple assessments, which often impacted badly on the participant's experience of treatment.

In Victoria, Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT) is a court based diversion program that operates as part of the bail proceedings. Heale and Lang (1999), have produced a process evaluation of the CREDIT program. They explain that the program is a pre-adjudicative program which provides alleged offenders with the opportunity to access drug treatment as soon after arrest as possible. The program consists of a number of stages:

- At the point of arrest the attending police officer determines whether the alleged offender is eligible to participate in the program. Referral may also come from magistrates or the offender's legal representative. To be eligible a defendant must be charged with a non-violent, indictable offence; have a drug problem; be eligible and suitable for release on bail; and not currently subject to a community-based court order that includes a drug treatment component.
- The defendant is bailed to appear at the next sitting of a participating Magistrates' Court for an assessment with a CREDIT drug clinician¹⁰ who reports to the Magistrate on the defendant's acceptability.
- If the Magistrate decides the defendant should be accepted onto the program – given CREDIT bail - the Victorian Offenders Support Agency organises treatment with an approved alcohol and drug treatment service provided. Treatment must commence within three working days of the court decision. The drug clinician keeps in contact with the defendant throughout the treatment phase. During the bail period the defendant may undergo a progress hearing before the same Magistrate.
- On completion of treatment the defendant returns to the court to enter a plea. The drug clinician prepares a pre-sentence report for the Magistrate containing information about the defendant's participation

¹⁰ The Court Clinician is assist by the advice of other relevant professionals: disabilities officer, a psychiatric nurse, a juvenile justice liaison officer and a community corrections officer.

in treatment and any further treatment recommendations. Where the plea is guilty the same Magistrate who awarded the defendant CREDIT bail sentences the defendant. Those who are sentenced to community based dispositions are able to continue receiving drug treatment from the same provider who treatment them whilst on the CREDIT program (Research and Prevention 1999 cited in Heale and Lang 1999).

Treatment available in this program includes: counselling, consultancy and continuing care; residential withdrawal; residential rehabilitation; youth outreach; specialist methadone; home based withdrawal; alcohol and drug supported accommodation; youth counselling, consultancy and continuing care; youth residential withdrawal and youth residential rehabilitation.

CREDIT has a number of features that are similar to drug courts including:

- The level of interaction and co-operation between a range of government and non-government agencies;
- The focus on treatment; and
- The ongoing contact with, and supervision of, participants.

There is one important difference: defendants do not have to plead guilty in order to be admitted to the program.

Heale and Lang's (1999) evaluation was conducted between November 1998 and August of 1999. Three hundred and ninety-nine people were referred by police for assessment by CREDIT drug clinicians. One hundred and ninety-nine were subsequently placed on the program – an average of 21 per month. Of the 200 not placed on CREDIT, 26% failed to attend for assessment, 25.5% declined CREDIT due to lack of interest or because they claimed to be arranging their own drug treatment, 16.5% were already receiving drug treatment, 9.5% were ineligible (usually because they were already on a community based order) and 9% were assessed as not suitable. The majority of participants were male with a mean age of 25 years. Heroin was the main substance problem for all but two participants, with the average period of use being just over four years. Drug offences followed by property offences were the main changes faced by participants.

Approximately two thirds of those entering the program had previous treatment experience. Counselling was the most utilised treatment (86%), followed by residential withdrawal and residential rehabilitation. Just over half of the CREDIT participants completed their treatment conditions. A

significant relationship was found between attending the first appointment and subsequently completing treatment.

An analysis of available police data (which only represents offences which are detected) found that there was no statistically significant difference between the rate of reoffending while on bail of CREDIT participants and non-participants over a 12 week period from the bail date. There was little difference in the type of reoffending between the two groups, with theft and failure to attend court the most common, followed by possess drug of dependence, burglary and traffic drug of dependence.

Heale and Lang (1999) argue that these results should be treated cautiously because of a number factors: the newness of the program, the relatively short operating time; the nature of drug dependency; the variations in length of bail periods; the limitations imposed by the available data – in particular the lack of reliable data on overall reoffending while on bail, and the fact that there was no useful comparison or control group. Furthermore, they reported that the majority of informants interviewed during the evaluation expressed the view that reduced rates of reoffending are not a useful or the only indicator for assessing such a program. Other factors that should be considered include:

- Increased awareness of service availability;
- Social improvements (for example, in housing or personal relationships);
- Progress in dealing with drug use issues;
- Achieving a treatment goal; and
- Having a positive treatment experience.

The successful completion of the program had a positive impact on sentencing outcomes through the imposition of a more favourable disposition than would have otherwise applied. It was not clear how poor performance might be dealt with in the longer term. Heale and Lang (1999) suggested that there could be unintended consequences: a person who has been unsuccessful on the program may receive a heavier sentence than might have been expected, and this could contribute to the development of a negative view of treatment and inhibit future access.

In terms of process, Heale and Lang (1999) concluded that the program was slow to start due its newness, limited catchment area and a lack of awareness of referral procedures and/or support among police officers. Interviews with police showed that the level of understanding (and training received) regarding the program varied considerably between officers. Magistrates also

acknowledged some confusion about CREDIT – in particular the role of referral.

In terms of throughput, effective operation required limited numbers of participants – described by a quota system – because of the limited availability of clinical staff. There were some instances where timely access to treatment was problematic due to intake procedures of some agencies. Some of the accredited treatment services were not equipped to quickly process justice clients, because they had initially built their processes around voluntary clients. Others found it difficult to fulfil reporting requirements that demand immediate feedback.

The major issue in relation to the treatment brokerage process was the availability of treatment places – especially residential withdrawal - and access to emergency or crisis accommodation. Many residential services were equipped to carry out the initial assessment straight away, but they were unable to provide places for between two and seven weeks. The lack of accommodation meant that many clients were not able to engage with their treatment as effectively as possible because their accommodation needs were far more significant.

The potential benefits identified in relation to the program included:

- Enhanced working relationships between agencies;
- Early access to treatment and the opportunity to address both drug use issues and offending;
- Reduced burden on the criminal justice system, although it could be argued that increased interaction at the court level – two appearances instead of one – offsets any benefit that may flow through as reduced prison numbers;
- Defendants received appropriate therapeutic attention while on bail and Magistrates had the benefit of resultant professional advice and reports which informed the sentencing process; and
- The effects of the program for the broader community resulting from reductions in drug use and crime.

Deferred sentencing is another court-based option available in Victoria. It targets persons from 17 to 25 years of age. Sentencing is deferred for up to six months with a specific condition of drug treatment. Treatment available in relation to this program includes: counselling, consultancy and continuing care; youth outreach; residential rehabilitation; residential withdrawal; youth counselling, consultancy and continuing care; home based drug withdrawal; specialist methadone, and rural drug withdrawal.

The Children's Court Diversion to Drug Treatment Program aims to provide early drug treatment for alleged offenders who are engaged in problematic drug use. Two court based drug clinicians at the Children's Court Clinic conduct assessments and facilitate access to drug treatment for young offenders, they also provide the Court with information about the treatment of young substance users.

QUEENSLAND

Under the Queensland Illicit Drug Diversion Initiative (QIDDI) two programs are available - the Police Diversion Program for minor cannabis offences; and the Illicit Drugs Court Diversion Program in Brisbane (a pilot program that began in March of 2003).

In the Police Diversion Program (PDP) people who admit to committing a 'minor drugs offence', as defined in legislation, who have no history of violence and who have not previously been offered diversion can be directed to attend a one to two hour assessment and education session with an accredited provider. If the person accepts the offer of diversion, they are not charged with the drug offence and an appointment to attend a Drug Diversion Assessment Program (DDAP) is made by police through the Diversion Coordination Service (DCS). If the person does not attend, a charge for contravening the direction of a police officer may be raised against them.

A number of elements distinguish the Queensland diversion program from those operating in other states:

- It is police-based only (not court-based);
- Offering diversion to an eligible offender is mandatory (the officer has no discretion);
- It applies only to cannabis and implements for smoking cannabis;
- It is a one-off intervention;
- The intervention is assessment and education based; and
- PDP was not trialed in any location in Queensland prior to the state-wide rollout.

A distinctive feature of the Queensland initiative is that, in contrast to all other states and territories, the numbers of people who have engaged with the diversion program has far exceeded initial expectations. It is likely that this is a result of the mandatory requirement that police offer diversion where an offender meets the eligibility criteria and the efficient role played by the Diversion Coordination Service (DCS) and its 24 hour operation (HOI 2003, p.55).

The Illicit Drugs Court Diversion Program is aimed at diverting all eligible offenders who appear in the Brisbane Magistrates and Brisbane Children's Court charged with possession of a small amount of an illicit drug for personal use. Eligible and consenting illicit drug offenders are directed by the court to attend a standardised assessment and education session at an authorised service provider. The offence is expiated on completion of the session. Diverted offenders, who are identified as dependent on an illicit drug are also offered referral to an authorised provided of outpatient treatment programs. The Court Diversion Program operates under the legislative frameworks described in the *Penalties and Sentences Act 1992 (QLD)* and the *Juvenile Justice Act 1992 (QLD)*.

SOUTH AUSTRALIA

South Australia has a long history of programs concerned with diverting drug related offenders from the criminal justice system. *The Young Offenders Act 1993 (SA)* provides three strategies for dealing with young people: informal caution, formal caution and family conference. *The Controlled Substances Act 1984 (SA)*, provides strategies for dealing with adults. Offences of personal possession and use of cannabis can be dealt with by way of a Cannabis Expiation Notice (CEN). The Drug Assessment and Aid Panel (DAAP) is a pre-court diversionary program for non-cannabis simple possession offences. The Panel determines if the person should be prosecuted or diverted to the health/community services sector.

South Australia's diversion system is for all illicit drugs, it is a tiered approach implemented by the police with different interventions depending on the nature of the apprehension. It is clearly organised as two separate systems designed to address juvenile and adult drug offenders respectively.

When an offender is apprehended for a 'simple drug offence' (i.e. one which involves possessing or using an illicit drug and /or possessing equipment for the use of those drugs) the attending police officer calls the Drug Diversion Line (DDL) who checks the offender's diversion history and advises the police officer of the intervention type, appointment time and location. The offender is provided with a referral notice – a copy of which is sent to DDL. DDL confirms the referral, enters the details into a database and faxes the referral to the intervention service who confirms the appointment.

For adults, following a third and any subsequent offence, referral to diversion comes from Department of Public Prosecutions or Magistrates' Court, rather than the police.

WESTERN AUSTRALIA

Like South Australia this state also has a long history of diversion. Currently diversion in Western Australia is coordinated by the WA Drug and Alcohol Office and includes two programs: the WA Police Diversion Program and The WA Court Diversion Program.

These programs involve the following strategies:

- Police diversion of first time offenders into compulsory assessment and participation in treatment; and
- The expansion of the Court Diversion Service (CDS) to include repeat offenders for simple drug offences and minor property offences.

Two programs are available through the WA Police Diversion Program: the Compulsory Education Program (which refers to cannabis cautioning) and the Compulsory Assessment Program (which is concerned with diversion for drugs other than cannabis). The Western Australian *Young Offenders Act 1994* makes provision for police diversion of juveniles.

The cannabis cautioning system provides formal cautioning of first-time offenders apprehended for simple cannabis offences. Bookings for the education session are made by the police officer at the time the diversion notice is issued. The sessions must be completed within 14 days.

The Compulsory Assessment Program is for first time offenders apprehended for a simple drug offence other than cannabis. Participants must have no prior convictions involving charges, diversion notices under the *Misuse of Drugs Act 1981* (WA) or offences involving a crime of violence. Appointments for assessment are arranged by the police officer at the time the diversion notice is issued. This program consists of three compulsory individual counselling sessions comprising assessment, development of a treatment plan and commencement of that plan. These sessions must be completed within 30 days, any failure to comply results in a summons being issued for the offence.

Three treatment regimes are available as part of the WA Court Diversion Program: the Brief Intervention Regime (BIR), the Supervised Intervention Regime (SIR) and the Drug Court Regime (DCR).

The BIR is a pre-sentence option for defendants who plead guilty to second or subsequent charge of possession or use of cannabis or possession of an implement. The defendant pleads guilty and is referred to the drug court to appear in six weeks time. The defendant is released on bail and immediately reports to Court Assessment and Treatment Service (CATS) and a bail

undertaking to appear in the drug court is signed. CATS assess the defendant to determine their suitability for the program. If they are unsuitable the matter will be finalised by the drug court on the set date. BIR consists of three compulsory or group sessions conducted by a Community Drug Service Team (CDST). The requirements must be completed within six weeks.

The Supervised Treatment Interventions Regime (STIR) is a pre- and post-sentence option for offenders who have problems with drug use, whose offending is directly related to their use and who are charged with a relatively minor offence (for example, possession of drugs, stealing, fraud, or damage). STIR consists of the provision of a short term residential or non-resident treatment program for a minimum of three months. Participants are supervised by CATS.

The Drug Court Regime (DCR) is an intervention for offenders who require a intensive level of intervention and supervision and who are otherwise facing a term of imprisonment. The DCR is a pre-sentence option for those with significant problems relating to their substance use who are charged with a serious offence (or offences) that are linked to their drug dependence. Participants are judicially managed while in treatment and rehabilitation. This regime involves weekly case management meetings (see Murphy 2000 for more detail on the Western Australian Drug Court).

Forms of treatment or intervention available through these programs include:

- Compulsory education and assessment;
- Detoxification (medical, low medical and community or home based);
- Brief intervention (for court referred cannabis offences only);
- Day treatment/outpatient;
- Residential rehabilitation;
- Pharmacotherapy counselling support; and
- Family support.

TASMANIA

Diversion in Tasmania is delivered as a graded response to drug use, dependent primarily upon the drug type, the offender's age and the number of prior drug events and/or convictions. Intervening police officers may divert users who admit guilt from the criminal justice system to education, assessment, and treatment as an alternative to receiving a criminal penalty. An offender may not be diverted if a concurrent violent crime or offence has been committed with the illicit drug offence.

Eligible offenders, identified for the first time, possessing or using cannabis are formally cautioned and provided with a set of educational materials. Those identified for a second time are cautioned and diverted to a brief intervention session that involves face-to-face counselling with an accredited health professional. Offenders are prosecuted in they fail to make initial contact within three days of being issued the notice or to attend the brief intervention session within a specified time. There is scope for negotiating the time frame under special circumstances. Eligible offenders identified for a third time possessing or using cannabis and eligible offenders identified using or possessing other illicit drugs, are diverted to drug assessment and treatment.

Charges associated with the drug offence are only pursued if the offender fails to attend the drug assessment or comply with treatment requirements. Juvenile offenders are treated in a similar manner to adult offenders, with the inclusion of a number of 'juvenile' considerations (for example, parental presence and/or the involvement of school staff if it is considered to be appropriate). The types of interventions that were available in the Tasmanian system for diverted offenders include:

- Assessment;
- Withdrawal management;
- Counselling; and
- Information and Education.

AUSTRALIAN CAPITAL TERRITORY (ACT)

The ACT program involves both police and court diversion, and covers both cannabis and other illicit drugs. As with Tasmania and SA, the ACT has a tiered response. Tier 1 is the Simple Cannabis Offence Notice Scheme (SCONS) where police divert offenders into education as an alternative to paying a fine. Tier 2 is directed at other illicit drugs. Police divert offenders apprehended for possession of other illicit drugs from the judicial system to the Assessment and Coordination Team. They are assessed and referred to a suitable education or treatment program. The third tier - the Court Alcohol and Drug Assessment Scheme (CADAS) - involves diversion to the Assessment and Coordination Team as part of bail or a pre-sentencing option in the Magistrates' or Children's Courts. Finally, at the Magistrates' and Supreme Court level, offenders can be diverted into treatment through the fourth tier Court Treatment Referral Program (CTRP).

Police make referral to the Assessment and Coordination Team under Tiers 1 and 2 at the time the offender is apprehended. Contact is made via a 24-hour telephone service and an initial short interview is conducted at the time if the

person is identified as suitable for diversion. The police provide the offender with an assessment appointment that must be kept within four days of apprehension. If the person is found to be suitable on assessment he or she is referred to education or treatment within a further five days. The types of treatment available for diversion include:

- Education;
- Counselling;
- Detoxification; and
- Rehabilitation.

NORTHERN TERRITORY

The Northern Territory Illicit Drug Pre-Court Diversion Program is proposed for delivery beginning in 2003. It incorporates diversion for adults and juveniles as well as a capacity building component to ensure equitable access to drug treatment services. The key elements are:

The Cannabis Expiation Scheme that currently operates for adults apprehended with less than 50grams of cannabis. The Scheme has been enhanced by the provision of an education and self-referral information pamphlet to all cautioned offenders.

An Illicit Drug Pre-Court Diversion Program which will enable police to divert first time drug offenders possessing a non-traffickable quantity of an illicit drug. These offenders will be given the opportunity to participate in assessment, education and/or treatment to expiate the offence.

Juveniles will be eligible for both cannabis cautioning and diversion for possession of other illicit drugs.

The capacity building component focuses on ensuring that drug and alcohol treatment agencies are able to deal with diverted clients without displacing voluntary clients. An element of this has involved training which builds on existing knowledge and skills regarding illicit drugs. Historically, most services in the NT have primarily provided services for alcohol use. Special attention is also being given to building capacity in rural and remote areas. NT police have commenced training to ensure that officers have an understanding of the program and their roles and responsibilities regarding the diversion of offenders.

COAG EVALUATION STUDIES

Three Sentinel Studies were reported as part of the evaluation of the COAG Illicit Drugs Initiative. They included: a System Impact Study, a Diversion Outcomes Study and an Indigenous Sentinel Study. The results of these studies are briefly described below.

The System Impact Study

Health Outcomes International (HOI) undertook the System Impact Study in Victoria and Tasmania. Its purpose was to assess the impacts of various diversion initiatives, individually and collectively, on three main components: the police, courts and treatment services.

This study adopted a qualitative methodology that relied on interviews and focus groups across the three interest areas. The authors found that an acceptance by police that the diversion of eligible offenders to relevant treatment is a worthwhile activity and is commensurate with the role of police underpins the successful delivery of such programs. Gaining such acceptance is not a simple process. It requires a commitment to providing resources and support for educating and training police in the various aspects of diversion. In the case of Victoria and Tasmania these requirements were underestimated at the time of planning and implementation. Acceptance and support however increased over time, and there remains a need for ongoing training and reinforcement among new and existing police officers, together with the establishment of feedback mechanisms on the activities and outcomes of the programs. HOI (2003) indicated that the same could be said of court-based diversion programs and those responsible for their administration and operation.

The System Impact Study concluded that that the operation of diversion procedures must be made as straightforward as possible. Ideally diversion should be easier than the alternative (that is, referral to court). In particular, this should involve simplified paperwork and referral mechanisms that minimise disruption to police activities. Application of diversion on a wider scale would depend on both acceptance and administrative ease. Communication between treatment service providers and police is seen as a key for the acceptance and development of diversion programs. There needs to be increased understanding of what happens to referred offenders. This communication needs to be systematic and regular (HOI 2003, pp.82-88)

The Diversion Outcomes Study

Turning Point Alcohol and Drug Centre conducted the Diversion Outcomes Study (DOS). It was focused on client outcomes from programs operating in Victoria and Tasmania. The aim of the study was to examine the effectiveness

of diversion for participants. Initially in Victoria and Tasmania, this study was designed and implemented as an interrupted time series design with a set of interviews from baseline to follow-up conducted over a 12 month period. Participants were to be drawn from police diversion, court diversion (Victoria only), a geographic comparison group (Victoria only) and a voluntary treatment comparison group. There was a target of 350 participants from Victoria and 75 participants from Tasmania.

The rate of recruitment was extremely low. As a result the methodology at both study sites was changed to a qualitative case study approach concerned with diversion experiences. Thirteen clients were interviewed in Victoria and 10 in Tasmania. The DOS target group was expanded to include service providers who had worked directly with clients. Thirty-five Victorian service providers agreed to be involved. The researchers reported that recruitment was affected by a number of issues, including the heroin drought in Victoria, low police and court referral to diversion programs during the study recruitment period and a recruitment strategy that placed the burden of first study contact on potential participants.

The authors of the study concluded that based on the reported experiences of diversion clients and service providers, the Victorian and Tasmanian diversion programs have impacted positively on clients. The majority of clients spoke favourably about their diversion experience and reported that treatment provided them with an opportunity to engage and get assistance with their drug problems. Service providers and clients reported that diversion also enabled clients to avoid a court appearance, talk about relevant issues and reflect on life, while motivating them to remain drug and crime free. There was some evidence of reduced drug use and criminal activity amongst diversion clients. An important issue raised by service providers was that the low number of diversion referrals served to undermine the potential impact of diversion treatment. Feedback focused on strengthening programs through enhanced police commitment to the initiatives. This is not surprisingly considering the findings of the HOI study described above. Improving police knowledge and communication about diversions, and better resourcing, were seen as critical to increasing police diversion referrals (HOI 2003, pp.88-107).

The Indigenous Sentinel Study

Urbis keys young undertook the Indigenous Sentinel Study, which sought to assess the impact of the Indigenous Drug Diversion Initiative (IDDI) among indigenous people. The objectives of the study were:

- An increased understanding of the impacts of the IDDI among the Indigenous community to date;

- An improved understanding of treatment outcomes for indigenous offenders and how these ‘lessons learned’ may be applied more broadly;
- Potential models of good practice for the diversion of Indigenous offenders for illicit drug related offences; and
- Potential models of good practice for early intervention fro illicit drug use with regard to Indigenous clients.

SA, NSW, Queensland and WA were the focus of the study because of the large number of Indigenous participants in IDDI in those States. A qualitative methodology that relied on interviewing key informants - representatives of key agencies, community organisations and Indigenous people - was employed.

This study was faced by two key challenges. Firstly, given the relatively early stage of the implementation of the IDDI, much of the information sought was not yet available. Some of the informants consulted expressed the view that the project was premature and that it was too early to be able to establish whether there are issues, patterns or problems concerning Indigenous people’s involvement in IDDI. Others however felt that a number of issues were already evident and that these need to be addressed as early as possible in the initiative. Overall, however, relatively few of those consulted were able to comment constructively on how the IDDI is operating in practice with specific reference to Indigenous people. Secondly, the consultants had little success in accessing Indigenous clients of services. Nevertheless, they felt that they were able to make some informed comment regarding the delivery of such services.

While researchers acknowledged that it was difficult to draw any reliable conclusion about whether Indigenous people were under or over-represented at a quantitative level in the IDDI, they were of the view that the official figure may under-estimate the true picture. This is likely because there is considerable discrepancy between police practices in each of the states and territories for recording the Indigenous status of offenders. Urbis, keys young (in HOI 2003) suggest that a more systematic – nationwide – approach is needed. This would require police training in terms of cultural sensitivity.

Study informants identified issues for the IDDI in relation to admission criteria. These included the requirement of admitting guilt to the police, limited access to legal services, limited knowledge of the program by legal services, reluctance of lawyers to work in the drug court system, the significance of previous convictions, convictions for certain types offences and the effect of multiple charges limiting access for Indigenous people.

Both Indigenous and non-Indigenous stakeholders who were consulted emphasised the need for culturally appropriate services for Indigenous clients. It was reported that some, or perhaps many, Indigenous people will have a clear preference to see an Indigenous-specific service/worker for a variety of cultural and historical reasons. Many informants stressed that a holistic approach is also important in this context. The drug problem should not be treated in isolation but in the context of the whole range of client issues or problems that may be associated with the drug use. This includes cultural issues such as feeling alienated from their Indigenous community.

Other considerations identified as important included: inclusion or consideration of family issues; the potential for a shorter duration of intervention; the importance of community development; the flexibility/ability of treatment to adapt to the needs of users; the need to proactively 'sell' treatment to clients; the value of skills and activity based programs over standard 'talking therapy'; the shortage of appropriately skilled Indigenous agencies and workers, the tyranny of distance and differential police practices (HOI 2003, pp.108-133).

Other Australian Diversion programs

From the table presented in Appendix B it is clear that a number of diversion programs are operating that are not part of the suite of the COAG initiatives. These largely consist of specialist drug courts in NSW, Victoria, SA, WA and Queensland that have been established according to the American drug court model described above. They are generally funded by state governments, nevertheless are often integrated with the COAG program and can have elements that funded under that scheme. For example, the early intervention elements of the Western Australian drug court are funded as part of the COAG strategy. Each of these state drug court programs has recently undergone, or is currently undergoing, review; however, with the exception of NSW, evaluations of these courts are yet to become publicly available. Descriptions of the operation of these other courts are available in a number of discussion papers (see for example Freiberg 2001, or Anderson 2001 and respective state websites – see Appendix C).

The NSW Drug Court

The New South Wales (NSW) Drug Court began operation in 1999. It targets drug dependent adult offenders who are facing a custodial sentence using 'the threat of imprisonment as an incentive for treatment entry and the fear of return to prison as a reason for complying with drug treatment while on parole or probation' (Hansard 27/10/1998, p.9031 in Taplin 2002, p.1). It is

based on the models which have been operating in the US which are described above.¹¹ The NSW edition differs from the US courts in a number of ways:

- A higher proportion of NSW Drug Court participants are dependent on heroin than in US drug courts where there is greater usage of amphetamines and cocaine;
- In NSW the target criminal population is at the higher end of criminality than in the US (NSW Drug Court 1999a in Taplin 2002);
- Most drug courts in the US are abstinence based, but the NSW Court provides a range of treatment options including methadone and naltrexone; and
- The NSW Court limits the use of material rewards (see Taplin 2002).

Another significant feature of the NSW Drug Court in comparison to drug courts around the world is that it is legislation-based, with its operation is determined by the *Drug Court Act 1998* (NSW)¹².

Offenders appearing before both the Local Court and the District Court can be referred to the NSW Drug Court. Eligibility criteria are clearly laid out in section 5 of the Act. In order to participate an individual must:

- Be charged with an offence under the jurisdiction of the Local and District courts, excluding charges of physical violence, sexual assault or drug trafficking;
- Be dependent on illicit drugs;

¹¹ A 1999 review of NSW Drug Court Procedures outlined ten components of the US drug courts there were applied by the NSW Court. They included:

- Treatment is integrated into the criminal justice system;
- Prosecution and defence lawyers work together as part of a drug court team;
- Eligible offenders are identified early;
- Participants have access to a continuum of quality treatment and rehabilitation services which meet their health needs;
- Participants are frequently monitored for illicit drug use;
- Any non-compliance by a participant results in a swift and certain sanction by the court;
- There is ongoing judicial supervision and regular judicial interaction with each participant;
- There is evaluation of the rehabilitation outcomes achieved through the drug court;
- The drug court team and others associated with the court receive ongoing interdisciplinary education;
- Networks are forged with other drug courts, law enforcement authorities public bodies, treatment providers and the community (NSW Drug Court 1999a, point 3.10 in Talpin 2002, p. 8).

¹² The operation of the drug courts in some other states in Australian is also based on legislative provisions. See table at Appendix C.

- Be willing to plead guilty to the offence with which they have been charged;
- Be highly likely to be sentenced to full time imprisonment;
- Be willing to participate in the drug court;
- Be a resident of the area in which the Court operations; and
- Not be suffering from any mental condition that could prevent or restrict their active participation in the program (Lind et al 2002, p. 7-8).

Access to the program, however, can be limited by the availability of beds in the Detoxification Unit where a preliminary health assessment stage is conducted before they are accepted, or by the availability of facilities (like treatment places) for their continuing participation.

Three types of treatment programs are available to participants. They include abstinence-based programs or pharmacotherapy involving methadone or naltrexone. Each of these programs can be undertaken either in the community or in a residential treatment environment¹³. The Drug Court Team¹⁴ has a clearly defined policy for matching treatment to offenders (see Taplin 2002 p. 17). There is a list of specific agencies which can be involved in the provision of services to offenders. These include gender specific services – for men or for women – or agencies that accept both men and women. One of the programs for women and one of the mixed gender programs also accepts children of the participants. Those who undertake a community-based treatment program must satisfy the Drug Court Team that place of residence is suitable. The Court has a policy that describes what is considered unsuitable residential accommodation (see Taplin 2002, p.18). A house has been leased in order to provide suitable accommodation for drug court participants who need it.

The drug court program has three distinct phases aimed at initiation and stabilisation, consolidation and early reintegration, and finally reintegration. Each has its own specific goals and associated restrictions and requirements. The degree of supervision decreases as participants progress through the phases. Program participants must maintain contact with the Probation and

¹³ Those on methadone maintenance treatment or Naltrexone attend the clinic on a daily basis. There was some possibility for receiving takeaway doses on weeks as a reward for program compliance (Taplin 2002, p.34).

¹⁴ The NSW Drug Court Team includes the Judge, judge's associate, a registrar and other officers for the administration of the Act, two solicitors for the DPP, Solicitors from the Legal Aid Commission, a Police Inspector, two Probation and Parole coordinators (representing case managers), and a Nurse Manager from Corrections Health Service (representing treatment providers).

Parole case manager and participate in regular home visits. They are also required to attend counselling and day programs on topics covering social and lifestyle issues such as financial planning, parenting, nutrition, oral hygiene and smoking. Participants must provide a minimum of two supervised urine samples per week either at the Court registry, their treatment provider or the Drug Court bus.

Individuals are terminated from the program when they successfully complete the program, on their own request or if the drug court decides to terminate the program. The criteria for termination are clearly laid out in policy. Participants must be drug free for six months prior to graduation. As with the US drug courts sanctions are an integral part of the program and are used to ensure that participants comply with the conditions. Section 6 of the *Drug Court Act 1998* (NSW) outlines the types of sanctions that can be imposed by the Drug Court on an offender who fails to comply. The NSW Drug Court Team has developed more detailed guidelines for the use sanctions and rewards.

Taplin's (2002) process evaluation described a dynamic and evolving program that was prepared to be flexible in relation to solving problems limiting its operation. A major obstacle in the early stages of operation was the philosophical and professional differences that arose between treatment providers and the court. Treatment providers claimed that they were directed by the court in areas where they had greater expertise, while the court team claimed that treatment providers were failing to cooperate with their directions. It was reported that this relationship had improved over time. Several interviewees identified a need for a senior treatment provider from the community to be a member of the Drug Court Team. Specific problems arose in relation to requirements regarding informing the court of program breaches, urine testing and the use of custodial sanctions.

It was also apparent that the needs of certain client groups were not well addressed. Taplin (2002) identified a failure in the planning phase to anticipate the high proportion of participants experiencing multiple health problems, most notably mental health problems. As a result the needs and management of participants with mental health problems were poorly addressed. Aboriginal offenders were considered to be disproportionately excluded from entry onto the program because of their 'antecedents' or having committed some 'violent' offence in the past under s 7(2) of the *Drug Court Act 1998* (NSW). The facilities and services available to women were considered to be inferior to those for men. It was also noted that the level of activity required by the Drug Court program resulted in difficulties for participants with the primary responsibility for childcare, most of whom were

women. The intensity of the program also placed limits on participation in employment.

The level of intervention and supervision described in this process evaluation was very intensive. For example, initially case managers conducted random home visits twice per week in order to closely monitor their clients and their living situations. Case managers organise appointments for participants, remind them of the appointments and drive participants to appointments. Counsellors spent a lot of time on letters and phone calls to housing and Centrelink and sorting out bank accounts, and were in constant contact with case managers. One of the principal service providers employed counsellors who had mobile phones that were generally *left turned on* so that they could be contacted in times of crisis. Some dimensions of the original design could not be maintained as caseloads increased, for example, twice weekly random home visits by case managers quickly became unmanageable.

Some saw this degree of intensity as a positive aspect. One service provider explained that 'the intensity of the whole package and the resources and time being put into them, the feeling that someone cares about them is a major advantage' (in Taplin 2002, p.80). While others thought that it was 'unethical and harmful to the participants to provide so many resources and support when they are on the drug court program, then suddenly take it away', adding that 'some fall apart when they leave and there is a sudden withdrawal of services' (Taplin 2002, p.60). Similar views were expressed by probation and parole case managers who explained that once supervision stops participants cannot maintain the changes (Taplin 2002, p. 60). These views highlight the importance of additional follow up and aftercare for graduates, as the removal of intensive supervision was often associated with the likelihood of relapse.

Other aspects of the program that were seen as positive by informants in Taplin's study included the ability of participants to change the type of drug treatment they were receiving, and the intersectoral approach which led to some breaking down of barriers between professions and a better way of dealing with drug dependent offenders.

On the less positive side of the equation the criteria for graduation were considered to be too onerous resulting in the small number of graduates from the program. Of the 457 people who had been accepted onto a Drug Court program by 30 April 2001, 41% (233) had been terminated because the court was not satisfied that there was a useful purpose to be served by further participation. Briscoe and Courmarelos (2000) reported that of the 133 who had been terminated by June 2000 121 (91%) had not progressed beyond

phase 1 of their program. It was also felt that such criteria had the effect of diminishing the value of substantial, sustained improvements that are achieved by some participants who are unlikely to ever achieve the current criteria for program graduation. In this context some informants expressed the view that [in some cases] there should be no sanction for cannabis use (Taplin 2002, p.46). This, however, points to problems in relation to consistency: problems that are likely to, and do arise, in the context of individualised indeterminate sentencing practices like those implemented in the context of drug courts.

More general difficulties with the program arose in relation to a range of matters including: staff turnover and finding appropriately trained staff; conflicts of interests in relation to professional expectations; the provision of suitable physical infrastructure; clear definition and distribution of roles; systems of record keeping and documentation (information and communication management systems); the view that the Corrections Health Service (CHS) Nurse Manager (in the context of the Drug Court Team) was not able to represent the interests of treatment, supervised urinalyses; and issues for treatment providers in relation to confidentiality.

Karen Freeman's evaluation of the impact of drug court participation on health and wellbeing was based on interviews with participants prior to their commencement (n=202) and three follow-up interviews at four month intervals with those remaining on the program. Approximately one third of the baseline sample (51 participants) completed all three follow-up interviews. She found that there were improvements in outcome measures for health, social functioning and drug use, and that these improvements were sustained over the 12 month follow-up period. Social functioning significantly improved within the first four months of participation with further improvements by eight months. Illicit drug use was significantly reduced. This points to benefits for the wider community because a reduction of illicit drug use among this group of offenders presumably impacts positively on their rate of offending to fund their drug use. It is important to recognise that these improvements are obtained in an environment in which participants are largely unrestrained and therefore have the potential to access the illicit drug markets they were involved with prior to commencement on the program (2002, p. 40).

Freeman noted that over 60% of participants were terminated from the program within 12 months. She concluded that given the high rate of termination from the program, the overall effectiveness of the program could be improved if the retention rate for the program increased. This study found that the length of suspended sentence was the only factor that predicted

retention on the program for at least 12 months (or graduation within this period). Freeman (2002) argues that targeting offenders facing substantial gaol terms, as their alternative to Drug Court, would increase the proportion of participants who remain on the program for at least 12 months, leading to a more effective use of resources (2002, p.vii) – and a reduced risk of net widening.

Overall participant satisfaction with the Program was very high. Less than 15% indicated any dissatisfaction with treatment services, Legal Aid or Probation and Parole. They felt that the program was neither ‘easy’ nor ‘difficult’. Treatment was most commonly identified as the ‘best’ and the ‘worst’ feature of the program. Participants appeared to lack a clear understanding of the nature of participation in the drug court prior to commencement on the program. It is worth noting, however, that because of the nature of drug dependence – a complex and relapsing condition – any long term efficacy of this program is unlikely to be evident for some years.

Two limitations were acknowledged in the context of this study. Firstly, only those participants who were actively participating on the program were re-interviewed. Persons not interviewed due to termination or absconding are likely to have significantly different responses in regard to satisfaction and perceptions of the fairness of the court and ease of the program. Second, only including persons who remained actively participating on the program at each round of follow-up interviews in the analysis of change in wellbeing may have overestimated the positive effects of the program (2002, p. 39).

Costs

Any evaluation of cost effectiveness in relation to the COAG suite of initiatives is yet to be conducted. Until recently there had been no reported cost effectiveness studies of drug courts (Lind et al 2002). Some US evaluations have obtained cost information (see Belenko 2001, cited above). The US material is limited in the Australian context because Australian courts are generally far less punitive than US courts in their responses to people arrested for drug and drug-related offences. Secondly, while most drug courts in the US are abstinence-based, the NSW Drug Court makes substantial use of pharmacotherapies such as methadone maintenance treatment which have been shown to be successful in reducing recidivism by drug dependent offenders (Hall 1996 cited in Lind et al 2002 p. 7). In this context Lind et al (2002) addressed the cost effectiveness of the NSW drug court program.¹⁵

¹⁵ A cost effectiveness study of the Queensland Drug Court should be available in the near future.

Their calculations are based on a study that compare a group of 309 drug court participants with a randomised control group of 191 offenders deemed eligible for the program but sanctioned in the usual way (for the most part with imprisonment).

The estimated total cost of the drug court program for the 309 participants was \$13,495,727. More than half of this amount (\$8,805,146) was spent on individuals who were terminated. Health care treatment (\$3,352,341), court attendance (\$2,846,362) and sanctions (\$1,417,677) were all important contributors. The cost per day for an individual placed on the drug court program (\$143.87) was slightly less than the cost per day for offenders placed in the control group and sanctioned by conventional means (\$151.72). There was little difference between the Drug Court and conventional sanction in terms of their cost effectiveness in increasing the time to the first offence. There was a larger difference between the alternatives in relation to the cost effectiveness of reducing the rate of offending. It cost approximately \$5,000 more for each shop stealing offence averted using conventional sanctions, and an additional \$19,000 for each possess/use opiated offence averted than it cost using the Drug Court (2002, p.viii).

These authors concluded that:

- An improved ability to identify offenders who will benefit from the program;
- Earlier termination of those unsuited to the program;
- Improvement in the match between offenders and treatment programs;
- More realistic graduation criteria; and
- An improved level of coordination between agencies involved in the program

would enhance the cost effectiveness of the NSW Drug Court as a form of intervention (Lind et al 2002).

Summary

As with the UK, diversion in Australia operates through a fairly centralised system which has largely been shaped by government initiatives at the commonwealth and state level. For example, the *Illicit Drug Diversion Initiative* provided the framework for the COAG initiated system of programs. At the same time, this national program has been enhanced or complemented by a range of state initiatives like the 1999 NSW Drug Summit or the Victorian *Turning the Tide* initiative.

Despite this centralised and coordinated approach, diversion in the Australian context is characterised by diversity. It includes programs that resemble the arrest referral schemes described in relation to services available in the UK as well as the drug courts of the US. Despite similarities these services, however, have qualities that are unique to the Australian context. For example, in Australia, police play a more active role in arrest referral than is the case in the UK, and the intervention may consist of either educational/self referral material or referral to an appointment for assessment. Drug courts in Australia, in contrast to those in the US, are based on legislation, they tend to be less punitive and not strictly abstinence based - they can involve the use methadone or naltrexone pharmacotherapies. In addition, in Australia a range of case management approaches delivered as part of the bail process (CREDIT and MERIT, for example) and deferred sentencing options are also available in some states. It is clear from the discussion above that a range of diversion programs are available in Australia, and while they are consistent with national guidelines they differ in their detail. This amounts to variations in eligibility criteria, the range of substances covered, who has the discretion to divert, the range and length of interventions available, referral processes and mechanisms and penalties for non-compliance.

The complexity of the Australian system is a by-product of the relationship between the states and the commonwealth in our federal system of government; specifically the desire - expressed in the *Illicit Drug Diversion Initiative* - to provide a basis for the implementation of diversion that would facilitate national action and cooperation whilst providing states and territories with opportunities to respond to local priorities and conditions (Commonwealth Department of Health and Ageing 2001).

In Australia, to date, outcome evaluations are yet to provide much detail with regard to the effects of diversion on offenders' illicit drug use and offending patterns. This is largely the case because of the difficulties associated with conducting research in this field - the difficulty of conducting follow-up interviews and of constructing adequate comparison groups. The slow rollout of programs, which meant that there have been fewer participants than anticipated, has also hindered outcome evaluations. This situation has not allowed the collection of sufficient data for reliable statistical analysis. The NSW drug court evaluation is the exception here. Because evaluation was planned into the trial from the outset data were available. Researchers were able to conclude that that participation in this program was associated with improvements in health and social functioning as well as reductions in illicit drug use and offending. Admittedly these views were qualified because of sample bias. Those who were terminated from the program were not

included, and as a result it was likely that the benefits were magnified. Furthermore, the results are limited to behaviour change that occurred during the program, longer-term effects are yet to be assessed.

It is worth noting that respondents (key stakeholders) in both Australian and international studies have argued that the benefits of diversion cannot be measured simply in terms of cessation of, or reductions in drug use and crime. Other potential benefits for the offender include: an increased awareness of service availability, social improvements in relation to housing, employment and interpersonal relationships and having a positive treatment experience. On a broader level the potential for better understanding and more effective working relationships between professionals involved in the care and supervision of drug dependent offenders is also desirable.

Despite the differences between Australian programs and those operating in other countries, a number of factors have consistently emerged as important issues in the literature evaluating the delivery of diversion programs. Persistent themes were as follows: rollout takes longer than expected; initial take-up rates will be lower than expected; offenders must be matched to appropriate interventions; those involved in the delivery of diversion programs require ongoing training and support; monitoring and information management systems are difficult to implement and maintain, they require the commitment of adequate resources; program objectives and protocols must be clearly laid out and easy to follow; roles and responsibilities of stakeholders must be clearly defined and agreed upon; and finally, securing an understanding of, and a commitment to diversion practices from criminal justice stakeholders - the police, corrections and court personnel - is essential.

BEST PRACTICE

Introduction

It is clear from the research literature that while there are well-defined key programs operating in the US, UK and Australia, the specific implementation of these programs varies considerably. Local applications are shaped by a range of factors that can include: funding; geographic location; political and/or community support; the nature of the local drug-using population; or the range and philosophy of treatment and support services available.

As Walker (2001) points out in relation to drug courts, it is difficult to identify a single model as the way to go, because what works well in one jurisdiction may not in another. Nevertheless, the consistency of findings in the literature tends to suggest that core principles for the delivery of effective diversion programs can be identified. Indeed while Lawrence and Freeman (2002) are correct in their assessment that there have been very few effective evaluations carried out in Australia that could guide best practice in diversion, a number of documents do exist which describe factors which are considered to contribute to successful programs.

Admittedly these documents are not specifically based on evidence derived from experimental research – something which in the drug and alcohol field has proved very difficult to do. They are, instead, based on the advice of expert groups or key stake-holders. There is a considerable degree of consistency between them, and importantly, it is possible to derive support for the practices they recommend from available scholarly literature. This section of the report outlines some of these documents – noting their similarities – and then demonstrates that the ‘best practice’ standards they describe have been supported in the research.

International standards of success and best practice

In December of 1999 the United Nations International Drug Control Program (UNDCP) convened an Expert Working Group (EWG) on improving intersectoral impact in drug abuse offender casework. It was made up of senior judges and other key justice system personnel who are leading multi-disciplinary teams of prosecutors, defence, law enforcement, prisons and probation, health care, social services and other related sectors in court directed treatment and rehabilitation. This group gave special attention to the experience of drug treatment courts (EWG 1999, p.9). This focus is not surprising considering the constituency of the working group: six of the nine

participants were judges or magistrates, and some of these were in drug courts themselves.¹⁶

The expert group conceded that the experience of the US and other countries demonstrates that there is no single model for drug courts - what works best in one jurisdiction may not work in another. However, based on a review of practices the EWG identified important core underlying characteristics and produced a list of factors that contribute to successful programs along with guidelines for best practice in drug courts. These are described in the table below:

Table 2: Success Factors and Drug Court Best Practice – Key Principles identified by the UN Expert Working Groups on ‘Improving Inter-sectoral Impact in Drug Abuse Offender Casework’ June, 2000	
Success factors underlying court directed treatment and rehabilitation programs	Best practices recommendations and key principles
Effective judicial leadership (together with regular review hearings)	Integrate substance dependency treatment and rehabilitation services with justice system case processing
Strong interdisciplinary collaboration of judge and team members while each maintains his or her professional independence	Using a non-adversarial approach, the prosecution and defence promote public safety while protecting offenders’ due process rights
Good team knowledge (including the judge) of addiction, treatment and recovery by the non-healthcare court team	Eligible offenders are identified early and promptly integrated in to the program
Operational manual to ensure consistency of approach and ongoing program efficiency	Access to a broad range of treatment and recovery services (Programs ensure access to a continuum of substance dependency and treatment and other rehabilitation services)

¹⁶ It is worth noting the experts included in the EWG:

- Judge - Ontario Court of Justice, Canada
- European Monitoring centre for Drugs and Drug Addiction
- Representatives from Maastricht and Tilburg Universities – the Netherlands
- Judge – Sweden
- Chief Probation Officer, SE London Probation Service, Bromely UK
- Judge – District Court Dublin, Ireland
- Judge - Sixteenth Judicial Circuit of Missouri, USA (Molly Merrigan – a key player in the drug movement (NADCP) in the US, see Nolan 2001)
- Resident Magistrate – Manchester, Jamaica
- Senior Judge (Murrell) Drug Court of NSW, Australia.
- (Mr Todd McGuffin – associate to the Senior Drug Court Justice, Drug Court of NSW, Sydney Australia – Observer)

Clear eligibility criteria and objective eligibility screening for potential participant offenders	Objective compliance monitoring through frequent drug testing
Detailed offender assessment of each potential participant offender	A co-ordinated strategy governs responses of the court to compliance/non-compliance by offenders
Fully informed and documented consent of each participant (after receiving legal advice) before participating in a program	Ongoing judicial interaction with each offender in a program is essential
Speedy referral of participating offenders to treatment and rehabilitation	Monitoring and evaluation measure the achievement of program goals and gauge program and effectiveness
Swift, certain and consistent sanctions and rewards for non-compliance or compliance	Continuing interdisciplinary education promotes effective planning, implementation, and operation of these court directed programs
Ongoing program evaluation and willingness to tailor program structure to meet shortcomings	Forging partnerships among courts directing treatment and rehabilitation programs, public agencies and community based organisations generates local support and enhances program effectiveness
Sufficient, sustained and dedicated funding	Ongoing case management includes the social support necessary to achieve social reintegration, if necessary including the family of, or those who have close relationships with the offender
Changes in underlying substantive and procedural law, where necessary or appropriate	There is appropriate flexibility in adjusting program content, including incentives and sanctions to better achieve program results with particular groups, such as women indigenous people and minority ethnic groups

The Expert Working Group acknowledged that the first 10 success factors are based on principles first identified by the US National Association of Drug Court Professionals Drug Court Standards Committee in 1997 (citing 'Defining drug courts: The key components' 1997, US Department of Justice). They were modified in minor ways by the EWG to be technically capable of implementation across the world's major legal systems (EWG 1999, pp.6-7).

While the American drug court model provided the basis for the development of the standards adopted at the level of the United Nations, it is worth noting that this model is itself based on criteria developed in relation to an earlier form of diversion. The 10 TASC critical elements, first described in the program brief published by the Bureau of Justice Assistance in 1992, were initially recommended as a guide to developing effective drug court programs (Anglin et al 1999, see also Wenzel et al 2001). They are outlined in Table 3 below.

Table 3: Ten TASC Critical Elements (Bureau of Justice Assistance 1992, Appendix A, Anglin et al 1999, p. 194)	
Organisational elements	Operational elements and performance standards
1. A broad base of support form the criminal justice system with a formal system for effective communication	6. Explicit and agreed on eligibility criteria
2. A broad base of support for the treatment system with a formal system for effective communication	7. Screening procedures for the early identification of eligible offenders
3. An independent TASC unit with a designated administrator	8. Documented procedures for assessment and referral
4. Required staff training, outlined in TASC policies and procedures	9. Documented policies, procedures and technology for drug testing
5. A system of data collection for both program management and evaluation	10. Procedures for offender monitoring with established success/failure criteria and constant report to criminal justice referral source (<i>i.e. judicial review</i>)

Before the advent of drug courts these elements became the model that TASC programs were measured against (Anglin et al 1999). Considering the genealogy it is not surprising that there is a clear degree of consistency between this set of guidelines and those described in relation to the drug court above.

In England and Scotland, the Home Office and the Effective Interventions Scottish Executive respectively have produced guidance manuals aimed primarily at Drug Action Teams (DATs) and local partnerships set up under DATs, criminal justice agencies and drug services to assist in the development of drug intervention programs in the criminal justice system. These guidelines are clearly based on the extensive evaluations that have been conducted on behalf of these government bodies – and that are described earlier in this report. While the Home Office document deals fairly broadly with diversion, the Scottish document is specifically focused on ARSs. The contents of these guidance manuals describe similar criteria for the delivery of effective services to those described in relation to drug courts and TASC above. See for example the checklist for the development of services in the Scottish guidelines (Appendix D).

In October 1996 the Alcohol and other Drug Council of Australia (ADCA) held a two day forum group to explore best practice in the diversion of drug offenders. It was attended by 50 representatives from police services, health and Attorney Generals Departments in each state and territory joined the staff of drug diversion programs, consumers and representatives of the ADCA

Law and Law Enforcement Reference Group. The forum saw this broad group examine current practice in diversion, develop ideal models for diversion, identify barriers to the implementation of good diversion practice and develop action plans for better diversion practices. This process was based on and informed by:

- work conducted by ADCA reviewing Australian and international literature on the subject of diversion;
- a telephone survey of practitioners involved in the diversion of drug offenders;
- in depth interviews with a range of key stakeholders representing various perspectives on the issues of diversion; and
- a series of six case studies which examined programs currently diverting drug offenders.

The ADCA Diversion Forum developed a set ‘Principles of Best Practice in Drug Diversion Programs’, as well as models for ‘The Ideal Pre-court Diversion Program’ and ‘Ideal Court Diversions and Alternative Sentencing Options’ (see Appendix E). The principles of best practice are summarised in Table 4 below. A full account of them is available in Appendix E. These principles have been applied as a measure of effective diversion in Australian research (see McLeod and Stewart 1999).

Table 4: Principles of Best Practices in Drug Diversion Programs.
Shared philosophical principles of harm reduction within a social view of health
A range of options for different types of offences and levels of drug use
Coherent legislation across different jurisdictions
Planning that includes major stakeholders
Clear and ongoing communication among stakeholders
Information about the program
Clear definition of roles within the program
A client charter that guarantees procedural fairness and the right to choose between the diversion program or the criminal justice system
A program that is accessible and available to people regardless of their background, age, gender, geographic location and main substance used
Follow-up of those clients who need additional support services
Training for those people administering the program
Sufficient funding for the program on a three year cycle
Evaluation of the program to ensure it is meeting its objectives

While each of the documents described above is aimed at different forms of diversion it is possible to identify a list of principles which are consistently

recommended,¹⁷ moreover they are supported by evidence found in the research literature. They include the following:

Philosophy

All those involved in the program should have a sound understanding of and a commitment to the philosophy that works as the foundation of the program.

The most obvious examples of the significance of this requirement occurs in relation to the conflict that arises in relation to the allegedly competing philosophies of harm minimisation and abstinence in the treatment sector, and harm minimisation and law enforcement in the policing sector. Alternatively drug courts are only able to operate if all participants recognise that they involve a nonadversarial approach. Failure of participating judges or legal advocates to adopt this view is seen to undermine the viability of the approach (Nolan 2001).

Problems arising in relation to conflict over philosophy – harm minimisation or abstinence – in the treatment sector were addressed in Turnbull et al (2000). These authors described how the failure to agree on philosophy (among other things) undermined the delivery of the Gloucestershire DTTO program; service providers were unable to reconcile their philosophical differences and as a result were unable to work together effectively as a team. An example of the limitations that arise in relation to conflict between harm minimisation and law enforcement objectives was evident in the Victorian Drug Diversion Pilot Program. McLeod and Steward (1999) reported that while most police supported the program and its harm minimisation orientation a small number of police felt that it put them at odds with their primary task of policing of illicit drug use. This undermined the delivery of the program. In this respect HOI (2003) noted that gaining police acceptance and support is crucial; their System Impact Study acknowledged that this is not an easy task.

It is worth noting here that harm minimisation and abstinence approaches are not necessarily mutually exclusive. From a harm minimisation perspective the goals of treatment are framed as a hierarchy of desirable outcomes with abstinence from illicit drug use at the top followed by a number of less desirable outcomes (Stimson 1990 cited in Ward, Hall and Mattick 1992, pp 220-221). In other words, if total abstinence is not feasible then a range of other options that have positive consequences for the user and the community is possible. Such an approach, for example, provides for the replacement of

¹⁷ For a comparative review of the documents see Appendix F.

illicit opioids with legal ones like methadone, and acknowledges that benefits – like reductions in crime and improved social functioning can flow from this.

Eligibility

Programs should be carefully targeted with clear eligibility criteria. A systematic assessment process should be in place for early identification of eligible offenders.

Almost every evaluation reviewed in the previous section noted the importance of eligibility criteria. Without effective guidelines police failed to refer appropriate candidates to diversion programs. This impacted negatively on the flow of referrals and service providers' ability to develop effective responses, protocols and procedures. McLeod and Stewart (1999) reported that assessment criteria were not consistently applied, and there were differing views on what constituted problematic drug use (see also Turnbull et al 2000). Moreover, given the costs involved with diversion programs it is important to minimise the proportion of inappropriate referrals. Making this point Turnbull et al (2000) noted that in relation to DTTOs just over 40% of those assessed were not put forward for a DTTO. Similarly Lind et al (2002), in relation to the NSW drug court, concluded that improved ability to identify offenders who will benefit from the program would enhance its cost effectiveness.

Access

Programs should be available to all eligible offenders regardless of age, substance used, gender, cultural background, geographic location or economic status. They must be able to address the needs of particular groups that may have special needs. There should be speedy referral of participating offenders to intervention services.

Access is clearly an issue for diversion programs. As noted elsewhere in this report certain groups of drug dependent offenders – young people, women, those suffering with mental illness and people from particular cultural and ethnic backgrounds - have special needs (see pp.99-106 below), to which many programs are unable to respond. Women, for example, are often primary care givers for dependent children and these responsibilities inhibit their ability to participate in drug court programs; while people from particular cultural backgrounds can experience communication problems that limit their access to intervention services (see Taplin 2002, and p.110 below). Alternatively, as the Scottish evaluation of DTTOs notes, the availability of treatment services and as a result suitable diversion programs is often limited by geography (p.30 above). Delays in treatment access undermined program delivery in the case of the NSW drug court, and the Victorian CREDIT program experienced problems in relation to the brokerage of treatment. In contrast the speedy delivery of assessment and access to treatment was

described as a strength of the Drug Diversion Pilot Program (McLeod and Stewart 1999).

Client rights

The process must not compromise the rights of the offender. It must not be more intrusive than the traditional criminal justice system response. Participation is only with informed consent.

All the programs reviewed reported that they were run on the basis of informed consent. While there may have been an element of coercion, participants had the choice of entering the diversion program or progressing through the usual criminal justice processes. A number of studies reported that where offenders felt that the intervention was more onerous than the alternative, they opted for business as usual in the criminal justice system. This was particularly the case with young people (Spooner 1999) and women with family responsibilities (Taplin 2002, see also pp.106-108 below).

Compliance monitoring/judicial review

Clearly defined procedures must be in place to monitor compliance. This should involve the identification of specific criteria describing success and failure to comply with stipulated program demands, relevant sanctions that are swift, certain and consistently applied. Clear processes should be outlined for regular reporting to criminal justice referral agencies – this may include judicial review.

Research has found that compliance monitoring, or judicial review, is an important factor in programs that seek to divert drug offenders from the criminal justice system into drug treatment program (Harrell et al 2002). This means that program requirements must be clearly articulated and enforced in a consistent and timely manner. Turnbull et al (2000) explains that schemes need to keep a close watch on enforcement rates - the proportion of orders where warnings, breach proceedings and revocations occur. A high failure rate in the early stages of an order can mean several things:

1. Orders are being made for inappropriate offenders;
2. There are delays in getting offenders fully assessed and into treatment;
or
3. There are treatment queues or lack of appropriate treatment (Turnbull et al, 2000, p. 87).

Anglin et al (1999) found that many offenders referred to TASC programs never reported to the agency while many others who enrolled in TASC dropped out of treatment prematurely, often without being subject to consequences. This was possible because justice agencies failed to monitor

compliance with treatment referrals and drug test results. Young and Belenko (2000) describe how DTAP programs have attempted to address this with the use of behavioural contracts and the engagement of criminal justice agents – prosecutors, judges, defence attorneys and warrant investigators – to inform and monitor clients. They found that DTAP’s more structured and consistent approach to enforcement and monitoring contributed to higher retention rates relative to a comparison group engaged in a voluntary treatment program.

Program monitoring and evaluation

There should be ongoing monitoring and evaluation of program delivery and outcomes. Effective and efficient systems for the collection and management of data must be developed and maintained - this includes the means for sharing data between all organisations involved. Monitoring and evaluation arrangements should be clearly defined.

Effective information management systems consistently emerged as a problem in the evaluations and literature reviewed. In the Australian context McLeod and Stewart (1999) identified the lack of standardised information collection, recording and management procedures as one of the weaknesses of the Victorian Drug Diversion Pilot Program. Taplin (2002) similarly noted difficulties experienced by the NSW drug court program in relation to record keeping and documentation, while Heale and Lang (1999) commented on the limited ability of some treatment service providers involved with the CREDIT scheme to fulfil judicial reporting requirements that demanded immediate feedback. Turnbull et al’s evaluation of DTTOs in the UK pointed to a need for schemes to implement monitoring arrangements to gather data on the referral and assessment process, offenders’ level of contact with the program and enforcement; while Eley et al (2002) noted the importance of ensuring that computerised systems are in place for monitoring gate-keeping and providing information about the progress and outcomes of DTTOs in Scotland.

Training

Training should be provided for all those expected to deliver various aspects of the program. This may include, for example, police, magistrates and judges, court workers, and those providing treatment and other services. Training should address the principles underlying the program, but should also make clear the specific tasks and functions each of the key stakeholders is expected to perform. It is important that all those involved understand their own role as well as the role of other participants. This should include issues to do with drug dependency, treatment and intervention as well as matters concerned with criminal justice system processes and objectives.

Heale and Lang (1999) found that the level of understanding and training received regarding the CREDIT program varied considerably between police officers. Magistrates also acknowledged some confusion about CREDIT – in particular the role of referral. This was not inconsistent with findings in McLeod and Stewart (1999) which led these authors to advise that training of police needed to occur at a variety of levels. On the strength of similar results in the System Impact Study, reported above, HOI (2003) found that there is an ongoing need for training and reinforcement, together with feedback mechanisms on the activities and outcomes of the program for those who are responsible for their administration and operation.

Turnbull et al (2000) noted the problem of a lack of knowledge of DTTOs amongst potential referrers. Many of the problems these researchers found in relation to interagency working and staff turnover would have been addressed by effective training regarding the principles underlying the program as well as the roles of each of the participants. These authors also concluded that court reviews seem to be a positive and productive innovation in those courts where sentencers are *properly trained* and where it is possible to provide for continuity of sentencers in the review process. They note, however, that ‘sadly this has been a rare occurrence in the pilot sites’ (2000, p.52).

Management, communication, role definition and demarcation

Intervention services should be well integrated with criminal justice system processes. Guidelines should be outlined in such a way that good diversion practices is recognised and supported as a legitimate part of the work of police, court workers and others for whom diversions may not generally considered a part of ‘core business’. This requires a broad base of support from both the health and criminal justice sectors. There should be clear management structures with operational roles and processes agreed upon and clearly set out. There should be agreement about the distribution of resources and who will manage those resources, including who takes on staff and process management roles. Management and operational procedures should facilitate collaboration and clear communication between the all those involved in the delivery of the program.

In the literature reviewing diversions programs management and operational issues often featured as problems identified in evaluations. McLeod and Stewart (1999) found in relation to the Victorian Drug Diversion Pilot, that the sharing of information amongst agencies was not very effective; and police did not always see diversion as compatible with the business of law enforcement. Many problems arose in relation to the administration of the program. This occurred because it was new with poorly understood protocols, and in some instances overly cumbersome procedures. The

majority of agencies in the study were confused regarding the relationship between the police's expiation of the caution with the nature of the assessment and treatment the program could provide. This impacted badly on the offender's experience of treatment. This is consistent with HOI (2003) conclusion that communication between treatment service providers and police is seen as key for the acceptance and development of diversion programs. This communication needs to be systematic and regular.

The staff of the NSW youth drug court (Anderson 2001) experienced difficulty because of a failure to clarify operational details and inter agency roles and responsibilities during the planning phase. While Taplin (2002) explained that the NSW drug court had well defined guidelines and protocols, a number of administrative matters and staffing issues still impacted badly on the program.

Turnbull et al's (2000) assessment of DTTOs in the UK also found cause for criticism regarding management issues. Several of the programs they reviewed suffered because they had no clearly lines of management. In relation to the Liverpool pilot these authors noted that no formal or informal roles or responsibilities were articulated in terms of which members of staff deliver different components of the intervention to drug-using offenders. There were no care planning procedures to prevent duplication of work and confusion of the offender. There were no clear processes for reviewing supervision/treatment goals. Although there was an excellent range of possible interventions the lack of clear treatment/supervision philosophy meant that offenders were often inappropriately referred (2000, p.53). Problems regarding the roles and management of team members also arose in the Gloucestershire program and this resulted in high staff turnover which impacted negatively on program delivery.

Partnerships

Good diversion involves a broad base of support from both the health and criminal justice sectors. This involves collaboration and communication between police, offenders, corrective service, juvenile justice, treatment and education services magistrates and court workers.

Drug diversion involves, at its core, cooperation between criminal justice, treatment, education and social/welfare sectors. Turnbull et al (2000) found that the lack of effective inter-agency working was perhaps the single most important factor to address in relation to the delivery of DTTOs. Each of the pilot sites in their study faced problems in this respect – 'they struggled to develop an effective model of inter-agency work' (2000, p. 53). McLeod and Stewart's (1999) evaluation of the Drug Diversion Pilot Program concluded

the partnership between the police and drug treatment agencies could be strengthened. While evaluation of the NSW drug court noted that the process was undermined by conflict that arose between treatment providers and the drug court team (Taplin 2002).

Documentation

Policies and procedures should be clearly documented to ensure consistency of approach and ongoing program efficiency. Documentation should include such things as eligibility criteria, procedures for assessment and referral, monitoring compliance (including drug testing where relevant), delivering sanctions, protocols on confidentiality and sharing information on security and safety, tracking clients and program monitoring and evaluation.

The significance of clear guidelines in relation to eligibility and assessment criteria has been noted above. They should be clearly documented to ensure consistency. Without clear and easily implemented guidelines in relation to protocols service delivery becomes ineffective and ad hoc (McLeod and Stewart 1999). In order to resolve problems that arose in the context NSW drug court, the Drug Court Team developed a range of guidelines – regarding, for example, drug testing, sanctions and matching offenders to treatment – they built onto and clarified the framework provided in the *Drug Court Act 1998* (NSW) (see Taplin 2002). Young and Belenko (2002) found that clear communication and implementation of protocols for the delivery of services had positive effects on treatment outcomes.

Legislation

Programs should be supported by legalisation that ensures consistency of delivery across jurisdictions as well as infrastructure support.

The significance of the relationship between legislation and consistent delivery of diversion programs is clearly apparent in the comparison between the operation of SACPA and drug courts operating in California, described above (see p.50). SACPA was able to provide a reliable intervention to a much broader and clearly defined constituency (Uelmen et al 2002). Turnbull et al (2000), in their review of DTTOs, highlight the importance of consistency in relation to breach procedures; however, they note that while minimum standards need to be set out in legislation and/or national guidelines difficulty arises in relation to the individualised nature of intervention programs. They suggest that more work needs to be done in clarifying the procedure for breaches and improving the speed of police response in executing warrants. Indeed, Young and Belenko (2002) found that retention in treatment was enhanced by a timely, structured and consistent approach to the enforcement of warrants for program breaches.

Access to a range of intervention options:
treatment/education/support

A broad range of options should be available for diversion allowing different levels of intervention according to the needs of the offender and the seriousness of the offences that have brought them into the criminal justice system. The range of options should also include programs able to address the needs of those who have traditionally been poorly managed by both the criminal justice and alcohol and drug sector; for example: women, young people, those from diverse cultural backgrounds, Indigenous people and those with mental health problems.

Eley et al (2002) found that the implementation of DTTOs in Scotland was undermined by the limited availability of a broad range of treatment services. As a result, in comparison to the UK programs, there was a greater reliance of methadone maintenance. In Australia, the availability of detoxification beds was an issue for the NSW Drug Courts (Taplin 2002), while Heale and Lang (1999) and Anderson (2001) describe problems that arose because of limited access to suitable crisis accommodation and residential rehabilitation services. As noted above the viability of a diversion program can be enhanced or undermined depending on its ability to access of range appropriate complementary services.

At a more fundamental level, while suitable services might be available, access for particular offender groups may be restricted. For example, a number of evaluations reported that those suffering from mental illness were excluded if it was thought that their condition would inhibit their ability to engage with the program (Nolan 2001, Taplin 2002). Alternatively, Taplin (2002) described how offenders from non-English speaking backgrounds could be excluded because of communication problems. For more detail on this point see the discussion on access and equity pages 106 to 114 below.

Social support and follow up

Drug problems rarely occur in isolation from other social integration issues. It is necessary to address the interplay of social issues that may co-exist with problem drug use. These may include problems with employment, finance, housing, family and other legal issues. Ongoing case management is necessary to achieve social integration. Good follow-up services and aftercare should be available to offenders once the legal obligation is fulfilled.

Most of the programs reviewed provided a range of services that addressed problems beyond the alcohol and drug problems experienced by participants (see the descriptions of UK probation based programs and DTTOs pp.28-32 above). Housing was a factor that often impacted on those seeking to enter

treatment. In the context of CREDIT, for example, the limited availability of suitable accommodation meant that many clients were not able to engage with their treatment as effectively as possible because their accommodation needs were far more significant (Heale and Lang 1999). Counsellors, in Freeman's (2002) study of the health and social functioning of drug court participants, reported that they dealt with a range of issues including housing, employment and financial problems. Along with case managers they expressed concern regarding the high risk of relapse following the withdrawal of the intensive social support services on completion or termination of NSW Drug Court Program. The importance of social support and aftercare were also discussed by Crossen-White and Glavin (2002) and Edmunds et al (1998, 1999). Belenko (2000) described similar concerns regarding the risk of relapse in relation to the absence of aftercare and social support programs for drug offenders recently released from prison.

Funding

Sufficient, sustained and dedicated funding should be available. Funding allocations should cover all those activities from assessment to evaluation associated with the program.

Not surprisingly, funding was consistently identified in the literature as an important consideration (Edmunds et al 1999, Turnbull et al 200). The delivery of alcohol and drug treatment services has long been affected by uncertainty in relation to sustained availability of sufficient resources. Belenko (2000) noted that the one of the reasons for the limited availability of diversion programs in the US was because diversion programs require additional screening, assessment, and monitoring resources that many prosecutors' offices or courts lack; while Nolan (2001) described how American drug court went about raising funds to support the program from the local community. In the TASC context, programs were found to be less effective at ensuring that participants followed through to treatment and were appropriately sanctioned in relation to breaches because case managers sometimes must manage too many cases with too few resources (Anglin et al 1999).

In the Australian context, HOI (2003) concluded in their national review that funding delays and difficulties impacted negatively on the rollout of diversion in Australia, and that service providers were anxious about the availability of future financial support. As part of the System Impact Study, these same authors indicated that gaining police support was crucial and this involved providing adequate resources for education and training of police. They found that in both Victoria these requirements were underestimated at the time of planning and implementation.

Summary

The best practices guidelines for drug courts, TASC and diversion in general, which are described above, consistently identified a range of principles that should be taken into account in the delivery of programs. While these guidelines were developed as a result of consultation with key stakeholders, or are the product of an expert working group, rather than the outcome of experimental research, the standards they define are supported by the findings of researchers. It is important to acknowledge, however, that research in this field is fraught with the methodological problems – which are often referred to – they include: weak design having no or poor comparison or control groups; and the difficulty of obtaining sufficient sample sizes or of conducting follow-up or longitudinal research with both successful and unsuccessful program participants. Nevertheless, it is clear that certain themes are frequently repeated in the literature, and as a result it is possible to make cautious claims supporting the value of the best practice guidelines that have been established.

Many programs have recognised the existence of these best practice guidelines and adopted them in their design and delivery. It is clear from the literature, however, that even when this is the case the recommendations may be difficult to operationalise. Indeed, Harrell et al (2002, p.189) note that while ‘[l]essons from over a decade of research on drug use among offenders points to several key principles about effective interventions for reducing crime related to drug abuse ... it has not proved easy to put these principles into practice’. When considering this dilemma it is worth keeping in mind Rose and Miller’s view of government as a congenitally failing operation, where ‘the sublime image of a perfect regulatory machine is internal to the mind of the programmers. ... Things, persons or events always appear to escape from the bodies of knowledge that inform governmental programs, refusing to respond according to the programmatic logic that seeks to govern them’. Strategies for governing produce unexpected problems, are hampered by under funding, professional rivalries, the impossibility of producing the technical conditions that would make them work - ‘reliable statistics, efficient communication systems, clear lines of command, properly designed buildings [or] well framed regulations’ (1992, p.175).

This is certainly the case with diversion. These are exactly the types of problems that were constantly described by evaluators. Professional rivalries worked against the effective implementation of DTTOs in the UK (Turnbull et al 2000) and the drug court in NSW (Taplin 2002). Victorian programs failed to develop effective protocols and procedures because of the low number of referrals; a situation that arose because of the slow rollout, but also as a result

of unrelated of police industrial action (HOI 2003). The NSW drug court and youth drug court struggled to find appropriate premises (Taplin 2002, Anderson 2001), and intervention programs in the Victorian Police Drug Diversion Pilot where not equipped to fulfil reporting and feedback requirements because they had been initially developed for voluntary clients. Finding and retaining properly trained staff was also an issue (Turnbull et al 2000, Taplin 2002, McLeod and Stewart 1999) as was the systematic management of multidisciplinary teams. The possibility of responding to many of these factors is beyond the scope of program designers and service providers; for this reason, policy makers and evaluators must remember that the operationalisation of effective diversion is more complex than the simple transfer of knowledge into practice.

EQUITY AND ACCESS: ADDRESSING THE NEEDS OF OFFENDERS

Introduction

The literature demonstrates the value of diversionary practices. However, it is consistently noted that some groups fare better than others in these programs - white men of about 30. Notable groups who do not appear to respond well to/benefit from diversion - do not accept/follow up on assessment, or are not retained in treatment - include: women, young people, Indigenous people, people from particular cultural/ethnic backgrounds, and those with mental illness (dual diagnosis). This is not surprising; traditionally these groups have not been well managed in either the criminal justice or the alcohol and other drug treatment sectors. While there is some speculation on why programs fail to successfully engage these groups, the diversion literature offers few suggestions as to how these groups might be served better.

Those working in the alcohol and other drug treatment field have acknowledged this problem for some time, and programs have developed to try to better meet the needs of these particular groups. It is worth reviewing the literature from this field to glean what lessons the criminal justice system might learn from the health sector's experiences in this regard. The section below briefly addresses each of the groups who, according to the literature, are difficult to retain in treatment.

Women

Green et al (2002) note that women are more likely than men to experience circumstances that interfere with their ability to successfully navigate the drug treatment process. Standard interventions have been criticised as male oriented. These authors identify barriers to treatment for women including: childcare responsibilities; poverty; stigma; and inconsistency between women's gender roles and drug use. Their research found that women entering treatment appear to have less social support and more family responsibilities than men. Women were also more likely to face employment problems, family issues and social and psychiatric difficulties.

These findings were supported by the results of Taplin's (2002) evaluation of the NSW Drug Court, which concluded that women were under-represented as participants. Members of the drug court team and treatment service providers reported that some women were deciding not to start a drug court program even after they had been accepted, and when they did engage with the program they dropped out at a higher rate than men. This occurred when they did not have extended family help with childcare because the

incarcerations in the detoxification unit (used as a sanction) and the commitments required on the program were too great. Taplin found that the level of commitment required on the program was disadvantageous for those with parenting commitments, who were primarily women (2002, p.35). One service provider explained that it was easier for them to 'do their time in gaol' and 'get it over with' (Taplin 2002, p.25). A lack of suitable treatment options for women who have children also limited their participation.

Bean (2002a, see also Callaghan and Cummingham 2002) came to a similar conclusion in a chapter which canvasses the differences in drug use and treatment outcomes between men and women. In additions to those problems identified above Bean specifically notes that women face additional health issues in relation to pregnancy (see also Tuten, Jones and Svikis 2003) which may in turn lead to psychological issues such as overwhelming feelings of guilt and shame (see also Weiner, Wallen and Zandowski 1990), feelings of failure as a woman and anxiety in relation to attempts to retain or regain custody of their children. The high rate of sexual abuse amongst women who use drugs was regularly noted in the literature (Bean 2002a, Belenko 2001, Green et al 2002, Nelson-Zlupko and Kauffman 1995).

In general, authors recommended that specialised gender specific programs were needed to address the needs of women – often these needs included the needs of their families (Nelson-Zlupko and Kauffaman 1995, Bean 2002a, Weiner, Wallen and Zankowski 1990). Bean (2002a) recommended that treatment should focus on: parenting and relationships, contact with children, vocational training and career opportunities, and ensuring receipt of adequate health care. Weiner et al (1990) agree, arguing that programs responding to women with drug dependency problems should focus on women's health issues, family communication, role conflicts, assertiveness, sexuality, life-skills, money management and job search procedures, housing issues, relationship problems and lack of female social support.

Salmon, Joseph, Saylor and Mann (2000) provide insight into program characteristics that proved effective in maintaining abstinence amongst pregnant and parenting substance-using women in an outpatient treatment program. Social support was reported to be one of the most valued aspects of the program they studied. Education classes were identified by the majority of participants as effective in helping them maintain abstinence. Classes on parenting, relapse prevention¹⁸, drug education, personal development and

¹⁸ It is worth noting here that Brown et al (2002), in a study that investigated the effectiveness of relapse prevention and 12 step programs in relation to the individual

spiritual guidance were particularly valued. Additional factors viewed as helpful were: transport to and from the program; referrals for medical care and other relevant programs; and assistance with social services, legal and housing information. Participants reported that the provision of childcare, advocacy services, meals and maths classes would have improved the program. These findings are consistent with the work of Bean (2002a), and Green et al (2002).

Swift and Copeland (1998) surveyed 100 treatment workers and 267 women clients and concluded that the advantages of specialised services for women included: the provision of a safe environment both physically and emotionally; greater honesty and openness; support from and identification with other women; provision of childcare and improved treatment outcomes. These services were particularly important because of the high rate of sexual abuse amongst women who use drugs, and the subsequent barriers to effective participation that male service providers may present. The staff members surveyed identified funding, staffing and lack of understanding of gender issues by male staff as the chief impediments to their agencies' provision of specialised services.

Young People

Young offenders have consistently been identified as being at high risk of failure in diversion programs (Goldkamp 1994, Lang and Belenko 2000, Peters Haas and Murrin 1999, Spohn 2001). While this research is largely focused on drug courts, similar results have been reported in relation to police based arrest referral diversion programs (McLeod and Stewart 1999). Unlike older offenders, young people are removed from drug court programs for not showing up for treatment or meetings, rather than drug use relapse. They do not see themselves as drug dependent (McLeod and Stewart 1999), and do not want to 'sit around and listen to middle aged men talk about their alcohol and drug history and how important AA was to them' (Alcoholism and Drug Abuse Weekly 2000, p.3). Cooper et al (2002) also found that 12 step models - models that were developed in the context of AA and NA - have had little success with young people because they do not see themselves as addicts.

Terry, Vanderwaal, McBride and Van Buren (2000), however, found that young people that attended AA and NA groups following inpatient treatment experienced higher abstinence than those that received inpatient treatment alone. These authors also note that relapse is particularly high with young

characteristics of substance users found that 12 step programs were associated with better outcomes for women.

people, making aftercare and follow-up services particularly important in relation to peer pressure and family and school stressors. Taking this into account, AA and NA programs may have been able to provide support as after-care, even though they have been unsuccessful as a primary intervention. Alternatively, this success may be the result of the interaction of this type of intervention with other individual characteristics; for example, high levels of psychological disturbance or a pre-treatment profile of multiple drug use - factors which are often identified in the context of young people's drug using - or gender (see Brown, Seraganian, Tremblay and Annis 2002).

The differences relevant to drug treatment between young people and adults engaged in diversion have been identified in a study that reviewed the views of representatives of 10 different juvenile drug courts (Cooper et al 2002). According to this work, young people think differently than adults, they have limited coping skills; many have re-occurring mental disorders which may not become clear until they are well into treatment or when the use of drugs has stopped. Young people need to be motivated to change - they need to recognise that positive developments will occur in their lives when they do not use drugs; they have not yet developed a view of the future and punishment does not work well as a motivator. Young people are more difficult to motivate.

As a result young drug users have different treatment needs to adults (Bean 2002a, Alcoholism and Drug Abuse Weekly 2000). For example successful therapeutic programs for adults usually involve long term residential care where clients are often isolated from community contact. In contrast, Terry et al (2000) propose that a model of successful treatment for young people involves shorter stays and family participation, in programs where staff undertake a supervisory role. Treatment involves family therapy and social skills training which incorporates assertiveness training, communication skills, anger management and peer resistance skills. Spooner (1999) also notes the importance of family and interpersonal skills development, and she argues that vocational issues and coping skills should also be included.

Young people are often alienated from society and social institutions (Cooper 2001, Spooner 1999). Young people are also subject to the greater influence of peers and sometimes family. Working with family is more crucial for juveniles (Applegate and Santana 2000, Cooper 2001, Cooper et al 2002, Bean 2002a, Spooner 1999). In the Victorian Drug Diversion Pilot Program described above some young people chose to attend the drug treatment agencies with their parents, and agencies endeavoured to work in a family centred way (McLeod and Stewart 1999). Programs should facilitate social bonding and encourage pro-social behaviours and family and school

involvement (Spooner 1999, Applegate and Sanatana 2000, Bean 2002a, Cooper 2001).

Key factors in the delivery of youth drug courts include ensuring intervention occurs as soon as possible after the young person's initial contact with the justice system, development of a program that addresses the multifaceted needs of juveniles (mental health, education and family circumstances), on-going monitoring, immediate judicial response, gender specificity, cultural sensitivity and developmental appropriateness (Cooper 2001, Spooner 1999). Programs should involve integrated care provided cooperatively through school court, police human services agencies and treatment programs (Terry et al 2000). Program representatives interviewed in Cooper et al's (2002) study argued that post-adjudication drug court programs tended to work better as pre-trial drug courts lack adequate authority to supervise and sanction – as many young offenders prefer to submit themselves to a criminal sanction rather than face drug court. Young offenders engaged in programs reported that helpful aspects included: constant support, monitoring, positive reinforcements, a sense of humour in the drug court team and judicial review (Shaw and Robinson 1998).

People from diverse cultural backgrounds

In many jurisdictions the proportion of cultural and ethnic minorities in drug court programs exceeds their percentage in the population (Creswell and Descheres 2001). Goldkamp (2001) identified race as an offender attribute associated with re-arrest. In the Australian context, however, it was noted that Indigenous offenders were often considered ineligible for the drug court program because they nearly always have alcohol related violence on their record, and those with a history of violent offending were excluded. As a result Aboriginal offenders were said to be under-represented (Talpin 2002, p. 25). Australian researchers suggested that more flexible criteria and procedures were needed in order to facilitate access for this group (HOI 2003).

Research in the broader alcohol and drug field demonstrates that members of cultural and ethnic minorities are more likely to drop out of drug treatment and are less likely to reduce or eliminate substance use during or after treatment (Campbell and Alexander 2002, Finn 1994). Creswell and Descheres (2001) found that cultural and racial minority groups experienced drug courts differently to those not from those groups. They view the drug court as more severe than non-minority participants, and non-minority participants found these programs to be more effective than minority participants in reducing drug use.

The NSW drug court evaluation reported that some South East Asian offenders were found to be ineligible for the program because of language difficulties – or because of their parents’ language difficulties which limited communication with case managers. This problem was partly addressed by the employment of a Vietnamese case manager, but there were no South East Asian counsellors employed at treatment centres. This meant that potential participants could not participate in counselling or other programs required by the court (Taplin 2002).

Finn (1994), studying the American context, suggests that limited success with cultural and minority groups in treatment programs may be a result of more subtle cultural tensions between clients and staff, and argues that culture cannot be overlooked in treatment because this denies important aspects of clients’ identity and ignores important cultural characteristics that may impact on client-therapist relationships and impede recovery. For example, building trust may be more important with some groups than others, as may reassurances of confidentiality and the use of non-confrontational counselling techniques (see also Jerrell and Wilson 1997). Alternatively, some cultural groups value frankness and welcome expressive communication styles. Service providers must be careful not to misinterpret behaviour that may be culturally based including lack of eye contact, silence, gesturing and physical proximity.

In response to this problem researchers note the importance of cultural sensitivity – often in conjunction with other client characteristics requiring specialist attention (Cooper 2001, Spooner 1999). The use of culturally competent treatment practices (CCTPs) has been identified as a means of contributing to the reduction of racial disparities in treatment outcomes (Campbell and Alexander 2002). CCTPs include providing clients with staff of the same racial background, hiring personnel who are bilingual to enhance communication between staff and clients and providing all staff with training to develop awareness, knowledge and skills in cultural competency (see also Jerrell and Wilson 1997). Campbell and Alexander (2002) argue that while these practices are evident in the US, processes enhancing cultural sensitivity are ad hoc, with treatment services characterised by low numbers of bilingual staff, cultural competency training delivered as a one-off experience where it should be ongoing and the existence of few single race services or group sessions.

Indigenous People

While Indigenous persons often experience the problems described above, a number of authors have suggested that particular problems arise for these

people as a result of a history of colonisation (Alati, Peterson and Rice 2000, Brady 1995). Brady (1995) argues that in Canada culturally sensitive treatment programs are the result of increased understanding of the etiology of drug use amongst Indigenous people. They stress the impact of colonisation, and acknowledge the resultant disruption of cultural practices and dispossession. Other authors argue that this trend in treatment is the result of the recognition by Indigenous communities that substance use in an unwelcome encroachment of broader society on their traditional lifestyle and values.

In Canada programs which reassert native identity and reintegrate cultural beliefs and practices have been successful in responding to drug problems among Indigenous people. Western psychotherapy is still practised, but it is integrated with traditional ceremonies that are used to reassert cultural practices and values. Brady (1995) argues that the positive outcomes achieved in these programs suggest that drug treatment programs for Indigenous people in Australia should be located philosophically within the context of cultural revitalisation and should incorporate traditional values and practices. It is worth noting, however, that it is important not to make essentialising assumptions in relation to cultural practices and contexts.

These claims for cultural sensitivity and the need to recognise the problems posed by a colonial past for Australian Indigenous people appear to be in accord with the results of the *urbis keys* young study (HOI 2003 above), which reported that service providers felt that the availability of culturally appropriate services is crucial for Indigenous clients. This is because some, or perhaps many, Indigenous people will have a clear preference to see an Indigenous-specific services/worker for a variety of cultural and historical reasons. A holistic approach was also identified as important. The drug problem should not be treated in isolation but in the context of the client's whole range of associated issues or problems that may be associated with the drug use. This includes cultural issues such as feeling alienated from their Indigenous community. Other important considerations noted by *urbis keys* young (in HOI 2003) included: inclusion or consideration of family issues; the potential for a shorter duration of intervention; the importance of community development; the flexibility/ability of treatment to adapt to the needs of users; the need to proactively 'sell' treatment to clients; the value of skills and activity based programs over standard 'talking therapy'; the shortage of appropriately skilled Indigenous agencies and workers; the tyranny of distance and the effects of differential police practices (HOI 2003).

A variation on these views is expressed in the work of Alati, Peterson and Rice (2000), which is critical of the use of the disease model of drug dependence with Indigenous Australians. The disease model presents the

drug user as the victim of an illness for which a cure of life long abstinence is required. These authors argue that this model, in which the first step is the recognition of powerlessness in relation to the drug, promotes passivity and weakness which fits comfortably with the construction of social and cultural 'sickness' that has been associated with Indigenous people. Alati et al (2000) advocate a public health model based on social learning where clients are actively engaged in the process of behavioural change (focused on, for example, relapse prevention) rather than processes that reinforce powerlessness.

People with mental health problems

Research conducted in both the US and the UK found that the odds of having a substance misuse disorder is significantly higher amongst psychiatric patients, than the general population, and likewise the odds ratio of having a psychiatric disorder is significantly higher amongst patients with substance misuse disorders (Weave et al 2001). This finding appears to be reflected in the high incidence of mental illness reported amongst offenders who are engaged in drug diversion programs (and drug treatment programs). Belenko (2001) and Goldkamp (2000) in the US, and Freeman (2002) and Taplin (2002) reporting on the Australian experience, draw attention to the high rate of mental problems amongst clients of drug courts. Papers by Lang and Belenko (2000), Young and Belenko (2002) and Taplin (2002) report that mental illness and psychological difficulties are associated with program drop out.

Weave et al (2001) argue that patients experiencing both mental health and drug problems have complex needs, and highlight the significance of interagency collaboration and training for staff so they will be equipped to manage such co-morbidity. A number of drug diversion programs have reported that they are equipped to respond to the needs of clients experiencing mental illness. In the UK, many of the Drug Action Teams included personnel with mental health expertise (see Russell and Davidson 2002, Edmunds et al 1998, and Turnbull et al 2000). Evans (2001) describes the role of court mental health liaison staff in the Toronto Drug Court who assess whether offenders have any mental health problems that might interfere with the program. The Brooklyn Treatment Court, which is described as an innovative – and extremely well resourced – program, has an on site psychiatric clinic (along with an on site medical clinic and an on site laboratory to conduct urinalysis). In recognition of the unique problems faced by mentally ill substance users, it partnered with 'Project Return', a 40 bed residential setting to which participants may be referred to address underlying mental health issues. The court also employs an on-site psychiatric nurse practitioner to provide psychiatric assessment and ensure the needs of

mentally ill offenders (particularly women) are addressed (Justice Program Office 2002).

Similarly, in the NSW example, Corrections Health Service (CHS) psychiatrists are involved in the assessment and management of drug court participants. Where there is concern regarding suitability for the program in relation to the danger an offender may pose for community safety, they report on the potential participant's propensity for violence. One of the doctors has become involved in seeing drug court participants on an ongoing basis in order to manage their conditions in the community as it became evident that there was a gap in service provision for these participants. This psychiatrist conducts outpatient clinics at the drug court once per week and prescribes medication as needed (Taplin 2002).

Sacks, Sacks and De Leon (1999) identifies the central features of a successful drug and alcohol treatment program for those with a co-occurrence of psychiatric problems and substance use. They conclude that effective programs must be holistic addressing not only psychological dysfunction and substance use, but also providing solutions to clients' needs in terms of health, housing, life skills and employment. Programs should provide a highly structured daily regimen, foster personal responsibility and self help, and use peers as role models and guides through the sharing of personal stories. It is worth noting that these recommendations are consistent with the democratic therapeutic community model first described by Maxwell Jones as a result of his work with shell shocked people in England following World War II. Jones' model has been successfully employed to treat both drug problems and mental illness.

Sacks, Sacks and De Leon (1999) advised that programs should be structured in phases corresponding to the progression of clients. This is consistent with Brown et al's (2002) finding that 12 step programs – that are structured in this way – were more effective for those with high levels of psychological disturbance than relapse prevention programs which are not.¹⁹ Sacks et al (1999) go on to note that the staff together with the client should determine the rate of progress through the treatment phases, and programs should be highly individualised. Ideally they should involve educational, therapeutic, work and recreational components. Isolation should be discouraged. Meaningful integration should be stressed; however, exchanges should be less confrontational and intense than in other treatment settings.

¹⁹ Relapse prevention involves cognitive therapy where participants practice responses they might use to avoid high risk situations.

CONCLUSION

Programs that are designed to divert drug dependent offenders from the criminal justice system into education and treatment have recently captured the imagination of authorities in both national and international forums. This trend is based on the view that these types of intervention are more effective than punishment in achieving behavioural change (Murphy 2000, Walker 2001).

The review of the international literature above demonstrates that strategies designed to achieve this end can take a variety of forms. In the UK, diversion is delivered through a fairly centralised system of programs that are generally supported by relatively consistent legislation and are clearly defined in Home Office and Scottish Executive documents which provide guidelines for practitioners. Diversion currently includes arrest referral schemes (ARSs), conditional probation orders and drug treatment and testing orders (DTTOs). In some places, drug treatment courts are being trialled. In the US diversion programs for drug dependent offenders are dominated by drug treatment courts, which are both pre-adjudicative and post-adjudicative in their focus. Other programs exist including case management approaches to drug dependent offenders (TASC), programs that divert offenders from prison (DTAP), and programs like Breaking The Cycle (BTC) which combine aspects of drug courts, TASC and graduated sanctions in order to improve the retention of offenders in treatment. Australian diversion initiatives include programs that resemble the arrest referral schemes available in the UK as well as the drug courts of the US. In addition, a range of case management approaches, delivered as part of the bail process (CREDIT and MERIT, for example), and deferred sentencing options are also available.

Despite the differences between programs - those operating in Australia and elsewhere - evaluations have tended to produce consistent results. In general, they conclude that whilst engaged in a diversion program drug dependent offenders are able to reduce their level of illicit drug use. Logically, this has positive effects reducing associated drug related crime. While, findings supporting this view regarding reduced recidivism have tended to be positive; the interpretation of these results is more complex. Unlike drug use which can be measured through urinalysis, as well as self report, indicators of offending behaviour are limited to the self report of program participants, who may be concerned about possible sanctions, and recorded crime statistics. The latter, of course, are only able to represent those offences which have been detected. Researchers noted that positive outcomes beyond

reductions in illicit drug use and crime also flowed from the programs. These include:

- Enhanced working relationships between health, law enforcement and social services agencies;
- Reduced burden on the criminal justice system;
- Better informed judicial processes;
- Early access to treatment;
- Increased awareness of service availability;
- Social improvements (for example, in housing, employment status or personal relationships) for offenders;
- Opportunities to address both drug use and offending issues; and
- Having a positive treatment experience.

A number of other factors consistently emerged as important issues in the literature evaluating the delivery of diversion programs. Persistent themes were as follows: rollout of national and state programs takes longer than expected; initial take-up rates will be lower than expected; offenders must be matched to appropriate interventions; those involved in the delivery of diversion programs require ongoing training and support; monitoring and information management systems are difficult to implement and maintain, they require the commitment of adequate resources; program objectives and protocols must be clearly laid out and easy to follow; roles and responsibilities of stakeholders must be clearly defined and agreed upon; certain groups of offenders will be under-represented in diverted populations, specialised programs are needed to address their particular needs; and finally, securing an understanding of, and a commitment to diversion practices from criminal justice stakeholders – the police, corrections and court personnel – is essential.

Systematic evaluation of diversion programs has proved to be difficult. This is largely because research in this field is fraught with the methodological problems including: weak design having no or poor comparison or control groups; the difficulty of obtaining sufficient sample sizes or of conducting follow-up or longitudinal research with both successful and unsuccessful program participants. With this in mind, Lawrence and Freeman's (2002) claim that there have been very few effective evaluations carried out in Australia that could guide best practice in diversion is not surprising.

There are, however, a range of documents available that describe best practice principles in relation to diversionary practices. These include the guidelines for 'Success Factors and Drug Court Best Practice' produced by the UN Expert Working Group on Improving Inter-sectorial Impact in Drug Abuse

Offender Casework; the 'Ten TASC Critical Elements' identified by the Bureau of Justice Assistance in 1992 (cited in Anglin et al 1999, p.194); guidelines for the delivery of diversion and ARSs developed by the British Home Office and the Effective Interventions Unit of the Scottish Executive; as well as the 'Principles of Best Practice in Drug Diversion' described by the Alcohol and other Drug Council of Australia. A comparative analysis of these documents reveals that they are consistent in their advice; what is more, available empirical research is able to provide support for the recommendations proposed.

Because of the methodological problems faced by researchers described above, this is a cautious claim that evidence supporting best practice guidelines is available in the literature. To date evaluation research has largely been conducted with successful participants. Future research needs to be conducted with those who are not so successful in coerced treatment: with offenders who are unsuccessful because they breach the conditions of the program in relation to drug use, offending or technical violations. More broadly criminologists have reported that a small number of offenders commit a large proportion of crimes. It could well be that those who are assessed as ineligible for, or are otherwise excluded from, diversion programs are responsible for a significant proportion of illicit drug use and related offending behaviour. Engaging or retaining this group in treatment could impact significantly on crime rates. To a degree this undermines claims for targeting treatment at those most likely to succeed. It could well be that they will succeed anyway and that the greatest returns can be derived from those whose drug use and offending is most problematic, those who have extensive criminal histories (including violence) and are often excluded from involvement.

Many programs have recognised the existence of best practice guidelines and adopted them in their design and delivery. It is clear from the literature, however, that even when this is the case the recommendations may be difficult to operationalise. Indeed, Harrell et al (2002, p.189) note that while '[l]essons from over a decade of research on drug use among offenders points to several key principles about effective interventions for reducing crime related to drug abuse ... it has not proved easy to put these principles into practice'. When considering this dilemma it is worth keeping in mind Rose and Miller's view of government as a congenitally failing operation, '[t]hings, persons or events always appear to escape from the bodies of knowledge that inform governmental programs', and refuse 'to respond according to the logic that seeks to govern them'. Strategies for governing produce unexpected problems, are hampered by under funding, professional rivalries, the impossibility of producing the technical conditions that would make them

work - 'reliable statistics, efficient communication systems, clear lines of command, properly designed buildings [or] well framed regulations' (1992, p.175). The possibility of responding to many of these factors is beyond the scope of program designers and service providers; for this reason, policy makers and evaluators must always remember that the operationalisation of effective diversion is more complex than the functional transfer of knowledge into practice.

APPENDIX A:
European Union (EU) alternatives to custodial sentences

Member State	Alternative measures to prosecution for drug offences
Austria	<p>The public prosecutor and the court must suspend penal proceedings for a probation period of two years in cases of possession or acquisition of a small amount of psychotropic or narcotic substances for personal use. If the offender needs treatment, the provisional suspension of the criminal procedure depends on his or her willingness to undergo treatment. For all other drug-related offences, the prosecutor or court may suspend proceedings. The court must suspend the sentence provisionally for up to two years if the sentence does not exceed two years and the offender agrees voluntarily to undergo therapeutic treatment. If the sentence is for up to three years, the court may proceed accordingly.</p>
Belgium	<p>The public prosecutor has the discretionary power to decide whether or not to proceed with the prosecution. The public prosecutor also has the power to propose that an offender who declares his or her addiction should undergo treatment. The case will then be dropped and declared closed. The court may order probation with a deferred or suspended sentence. Treatment is commonly a condition of probation. Compulsory treatment is possible under the <i>Insanity Act</i> of 26 June 1990.</p>
Denmark	<p>The public prosecutor may exercise discretion as to whether or not to prosecute. Traditional alternatives to prison include suspended sentences and conditional discharge. The prison authorities have the power to transfer prisoners to hospital or other suitable establishment where appropriate.</p>
Finland	<p>The public prosecutor and the courts may withdraw prosecution or waive punishment when the offender voluntarily undergoes therapeutic treatment.</p>
France	<p>The public prosecutor, magistrate and courts may issue treatment orders to drug addicts. French legislation provides for compulsory treatment in addition to, or instead of, conviction. This measure is often applied in cases involving addicted offenders.</p>

Germany	German legislation provides for suspending proceedings in certain circumstances. For penalties of less than two years, the sentence may be suspended if the addict is undergoing or intends to undergo treatment. Sanctions can also be applied according to the penal code, but this is rare.
Greece	Addicts may be declared irresponsible and consequently incapable of moral liability for their offences. Addicts can be order to be detained for compulsory therapeutic treatment in a closed establishment. Time spent in the treatment facility counts as part of the sentence.
Ireland	The sentence may be deferred when a drug offender voluntarily agrees to undergo treatment. A drug offender may also be ordered to undergo treatment if he or she is already in custody.
Italy	Both the prefect and the courts can provide the broadest facilities for drug users and for addicts who voluntarily undergo therapeutic treatment. If the penalty is for less than four years, the sentence is suspended for a probation period of five years. If the rehabilitation therapy has been successful, the case will be closed.
Luxembourg	An addict may be compelled to undergo detoxification. The examining magistrate, upon application from the public prosecutor of the accused, may order detoxification in relation to the offence. If the therapy is successful, the offender will not be prosecuted. In cases of voluntary treatment, the sentence is suspended for a probation period of two years. The court can order addicts to undergo compulsory treatment. Offenders can also be order to undertake community service instead of being sent to prison.

Netherlands	The public prosecutor may drop proceedings for drug addicts who voluntarily agree to undergo treatment. The court can make a provisional judgement as to whether a drug user will attend a treatment centre. The court can also compel a drug addict to be treated. The courts are allowed to commit addicted offenders to special closed or semi-closed facilities. This provision called the 'Order under the criminal law for the care of addicts' (Strafrechtelijke opvang voor verslaafden), enables compulsory placement by the court for a maximum of two years.
Portugal	Users/possessors of small amounts are seen by the Commission for the Dissuasion of Drug Abuse rather than a court, with the aim of treating and rehabilitating rather than sanctioning. For sale or trafficking, the public prosecutor has the option to propose treatment and the sentence may be suspended for offenders who agree to undergo voluntary therapeutic treatment. The suspended sentence may be accompanied by a probation order.
Spain	Individual settlements by the public prosecutor are not possible. The court may encourage addicts to seek treatment with a conditional suspended sentence for those sentences to less than two years who choose to undergo treatment. Spanish law includes measures (such as restriction of freedom of movement, compulsory therapeutic treatment, etc.) for addicts considered a danger to society. A drug addicted offender may avoid imprisonment following rehabilitation when the penalties are equal or less than two years.
Sweden	The courts may order rehabilitation treatment as part of a probation order. If the offence is more serious, the court may, as an alternative to imprisonment, issue a probation order with detailed provisions on treatment (contract treatment). A prerequisite is that the contract treatment is matter of key importance to the decision to sentence the offender to probation and that the offender is ready to undergo treatment. Treatment may be ordered by the administrative courts in cases of intensive abuse of alcohol, drugs or solvents whenever the necessary care cannot be provided under the <i>Social Services Act</i> .

<p>United Kingdom</p>	<p>A range of community sentences is available to the courts for offenders whose offences are not so serious as to warrant imprisonment, but are nonetheless serious enough to justify such a sentence. The main community sentence for adults aged 16 and over are:</p> <ul style="list-style-type: none"> ▪ Probation order involving supervision for between six months and three years and a programme of activities designed to tackle offending behaviour and other problems; ▪ Community service order involving between 40 and 240 hours of unpaid work designed to be of benefit to the local community; and ▪ Combination order involving elements of probation supervision and unpaid work within a single integrated sentence. <p>A Drug Treatment and Testing Order (DTTO) was introduced in 1998 as part of the <i>Crime and Disorder Act</i> to break the links between addiction and offending. This order gives the court the power to impose drug treatment with the consent of the offender, to specify some of the terms of the treatment – although not its content – and to review the offender’s progress. Regular but random mandatory drug testing is an integral part of the treatment. Persistent failure to comply with drug treatment or testing leads offenders back to court and possible imprisonment.</p> <p>The <i>Criminal Justice Act 1991</i> (UK) gives the court the power to include a requirement in a probation order that the offender undergo treatment for drug misuse, provided that it is satisfied that arrangements can be made for the treatment intended to be specified in the order. If the court does not decide to make treatment a condition, the supervising probation officer can arrange for a treatment programme to be undertaken voluntarily by the offender.</p>
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APPENDIX B

Australian Diversion Programs

Jurisdiction	COAG initiatives	Other
New South Wales	<p>Cannabis Cautioning Scheme with information (1st offence) or assessment (2nd offence)</p> <p>Young Offenders Scheme: Warning, caution or conference – as provided for by the Young Offenders’ Act 1997</p> <p>Drug Offenders Compulsory Treatment Pilot (Caution plus assessment and commencement of treatment of illicit drug offences other than cannabis – which is no longer operating)</p> <p>MERIT (Magistrates’ Early Referral into Treatment) program</p> <p>Youth Drug Court</p>	<p>NSW Drug Court (http://www.health.nsw.gov.au/public-health/dpb/projects/drug_court.htm)</p>
Victoria	<p>Police Diversion at Point of Arrest</p> <p>Cannabis Cautioning – information</p> <p>Drug Diversion (non-cannabis) – Assessment and treatment</p> <p>CREDIT (Court Referral Evaluation for Drug Intervention and Treatment): Treatment as condition of bail</p>	<p>Drug Court of Victoria (http://www.magistratescourt.vic.gov.au/text/drugcourt1.html)</p>

	<p>Court Diversion at Point of Sentencing: Deferred Sentencing for six months to obtain treatment (17-25 year olds only)</p> <p>Rural Outreach Diversion Workers</p>	
Queensland	<p>QIDDI Police Diversion Program (PDP) – Cannabis Diversion to assessment and education</p> <p>QIDDI Illicit Drug Court Diversion Program (in Brisbane)</p>	<p>Drug Court (Intensive Drug Rehabilitation Order) in Queensland Magistrates Courts (http://www.justice.qld.gov.au/courts/pdfs/qc_fact3.pdf)</p>
South Australia	<p>SA Police Diversion Initiative</p> <p>Multi-tiered systems for juveniles and adults</p> <p>For adults:</p> <p>Level 1: Cannabis: Cannabis Expiation Notice and education</p> <p>Level 2: Other illicit, 1st or 2nd offence: Assessment and advice.</p> <p>Court Diversion:</p> <p>Level 3: Illicit Drugs 3rd and Subsequent Offences: Referral for assessment and legal advice</p>	<p>[Adelaide] Magistrates Court Diversion Program (http://www.courts.sa.gov.au/courts/magistrates/program_information.pdf)</p>

<p>Western Australia</p>	<p>WA Police Diversion Program</p> <p>Compulsory Education (Cannabis cautioning with education)</p> <p>Compulsory assessment (other illicit): 3 sessions to assess and start treatment</p> <p>Juveniles are currently followed up by welfare services until change in legalisation allow for conditions to be attached to cautions</p> <p>Drug Courts located in the Court of Petty Sessions, the District Court and the Perth Children's Court with three treatment regimes:</p> <ol style="list-style-type: none"> 1. Brief Intervention Regime 2. Supervised Treatment Intervention Regime 3. Drug Court Regime (funded by the State) 	<p>Drug Court [COAG funds the early intervention elements of the Drug Court (Brief intervention Regime and Supervised Treatment Intervention Regime). While the WA Government funds the continuing and later states, including the Drug Court Regime]</p>
<p>Tasmania</p>	<p>1st Level Cannabis Diversion (1st offence): Caution and information</p> <p>2nd Level Cannabis Diversion (2nd offence): Brief intervention</p> <p>3rd Level Cannabis Diversion (3rd offence) and Diversion of Other Drug Offences: Assessment and treatment</p>	

<p>Australian Capital Territory</p>	<p>1st Tier: Simple Cannabis Offence Notice Scheme (SCONS): Diversion to education as an alternative to paying a fine</p> <p>2nd Tier: Other illicit: Diversions to the Assessment and Coordination Team (ACT)</p> <p>3rd Tier: Court Alcohol and Drug Assessment Scheme (CADAS): Diversion to the ACT as part of a bail or pre-sentencing option in the Magistrates' and Children's Courts</p> <p>4th Tier: Court Treatment Referral Program (CTRP): Diversion into treatment at the point of sentencing, at Magistrates and Supreme Court Level</p>	
<p>Northern Territory</p>	<p>(To commence in 2003)</p> <p>Cannabis Expiation Scheme with information</p> <p>Illicit drug pre-court diversion to assessment, education and/or treatment</p>	<p>A Drug Court is currently being established</p>

APPENDIX C

Australian Legislative Provisions for Drug Courts

Jurisdiction	Drug Court legislation?	Act/Provision	Description
Queensland	Yes	Drug Rehabilitation (Court Diversion) Act 2000 (Qld); Drug Rehabilitation (Court Diversion) Regulation 2000 (Qld).	The Queensland legislation sets up a scheme whereby certain courts (pilot program courts, i.e. Ipswich, Beenleigh, Southport) operate a diversion program. Magistrates at these courts can refer an eligible offender for assessment and order that they appear before a pilot program magistrate. The pilot program magistrate can make an intensive drug rehabilitation order, thereby requiring the offender to attend treatment, courses, etc. When the order ends, the magistrate must impose a final sentence, taking the offender's level of compliance into account.
New South Wales	Yes	Drug Court Act 1998 (NSW)	The NSW legislation provides for the establishment of separate Drug Courts to which other courts may refer defendants who appear to be eligible, and who agree. It is not clear from the legislation just who devises the offenders' programs, and how they do so. Rather, the legislation focuses on procedural matters and contingencies (for example, non-compliance, the administration of sanctions and rewards, etc.).
Australian Capital Territory	Yes	Drugs of Dependence Act 1989 (ACT), Part 9	Under this legislation, offenders who commit drug-related offences may be ordered at the pre-sentence stage to submit to an assessment by a "treatment assessment panel" (made up of a lawyer and two other persons with appropriate

			<p>knowledge/training). The court may then, on the basis of the panel's recommendations, make an order requiring the offender to submit to specified treatment at a specified treatment centre, and comply with any other conditions the court sees fit (for example, defendants may be required to come before the panel from time to time, and/or to be supervised by a probation officer). Processes are spelt out in the Act in the event of non-compliance, attempting to abscond, etc. The legislation also lays down requirements for becoming an approved treatment centre.</p>
Victoria	Yes	Sentencing Act 1991 (Vic), Division 1	<p>This Act provides for combined treatment and custody orders (subdivision 1B) and drug treatment orders (subdivision 1C – added March 2002). For the former, defendants are sentenced to prison – they serve part of that sentence in a custodial setting and the remainder in the community. That part served in the community is subject to conditions, including attendance at treatment/counselling sessions for drug/alcohol dependency. The latter orders are only available at the Drug Court. They consist of two parts: a treatment and supervision part and a custodial part. The custodial part is not served unless an order to that effect is made by the court. Drug court orders are much like the orders made in other states – requiring treatment, and possibly detoxification in a residential setting. Indeed, the legislation is similar in many ways to the Queensland legislation.</p>

South Australia	Yes and No	Controlled Substances Act 1984 (SA)	This legislation allows for offenders charged with simple possession offences to have their case dealt with by a “drug assessment and aid panel”, comprised of one lawyer and two persons with extensive knowledge of the problems and treatment associated with drug dependency. If the panel does deal with the case, they can require the offender to enter into a “written undertaking” that they will participate in treatment, educative/rehabilitative programs, etc. Prosecution for a simple possession offence cannot proceed unless authorised by the panel. In addition, a Drug Ct at Adelaide Magistrates Court was piloted for two years (pilot ended May 2002, however the court is still running).
Western Australia	No		Drug courts are currently being piloted in WA, and whether or not they will be permanently established depends on the outcome of an independent evaluation. The pilot ends on 4 December 2002, and the evaluation is not expected to be completed until the end of the financial year (June 2003). Ph: 08 9425 2391.
Tasmania	No		There are no drug courts in Tasmania, and there are no plans for a pilot or legislation in the future. Currently, it is up to magistrates to take evidence of relevant specialists into account in sentencing. The Sentencing Act 1997 (Tas) provides for the imposition of conditions attached to suspended sentences (s 24), community service orders (s 28),

			<p>probation orders (s 37), and release orders (s 59), and the use of these conditions is the only way magistrates can stipulate that offenders must attend treatment, etc. Apparently, there are a number of magistrates in Tasmania who are vehemently opposed to the introduction of drug courts and this has impeded progress. Contact court administration officer, Ph: 03 6233 7912.</p>
Northern Territory	No		<p>NT is currently in the process of establishing a court liaison/referral service for drug dependent defendants. It will be based on the CREDIT/MERIT systems (i.e. it will be a bail court program), and it is hoped that it will target alcohol dependent defendants, defendants who sniff petrol, etc. (since they, rather than illicit drug use, are the major concern in the NT), however a decision on this has not yet been made. It will be up to the NT Health Department, as it is they who received the Commonwealth funds. Clinicians will be placed at Darwin and Alice Springs Magistrates courts, and they will conduct assessments and devise treatment plans. Planning only began in September 2002, and the service is expected to be up and running by December 2002. If this referral service is successful, drug courts may be piloted, but this will not be considered until the end of 2003.</p>

APPENDIX D

Scottish guidelines for the development of services:

Partnerships between agencies	At strategic level led by Drug Action Team and at operational level through a steering group. Agreement on objectives and priorities. Agreement about the resources and who will manage those resources. This will include who will employ and manage the arrest referral workers.
Proactive approach	The arrest referral worker meets all arrestees who express interest.
Skilled and competent arrest referral workers	Knowledgeable about drugs and drug problems knowledgeable about local treatment and support services counselling skills, assessment skills; skilled team worker. Has access to supervision and ongoing development.
Comprehensive common assessment	The arrest referral work assesses the range of needs of the individual to ensure appropriate referrals to drug treatment services or to other agencies.
Range of services available and committed	Drug services (National Health Service, social care, voluntary sector – prescribing, detoxification, rehabilitation), housing, employment and training, debt counselling.
Clear Management Structures	One agency to employ the arrest referral worker and provide management.
Monitoring and evaluation arrangements	Shared information and evaluation strategy.
Operational requirements	Time, space and staff resource.
Agreed terminology and definitions	Common understanding between agencies.
Agreed locations	Police states or courts or both: on site or on call. Agreement on space provided for the arrest referral workers and on safety and on supervision arrangements.
Operational roles clearly set out	How it works, who does what, do's and don'ts for arrest referral workers and custody officers.
Protocols	On confidentiality and sharing of information, on security and safety, on referrals, on tracking of clients.

Russell, P and Davidson P, 2002, Effective Interventions Unit, Scottish Executive, p.27.

APPENDIX E

Alcohol and other Drug Council of Australia Guidelines (1996)

Principles for Best Practice in Diversion:

Philosophical principles:

The principle of harm reduction underpins good diversion practices. It is therefore imperative that those professionals involved in delivering diversion programs, the politicians asked to fund the programs and the public who are asked to support the programs have sound understanding of the principles and implications of a harm reduction philosophy.

Diversion should be seen as initiating the process of social change, rather than simply treatment of 'drug problems'. Good diversion practices will recognise the interplay of various social issues, eg. employment, finance, health legal etc. and will engage where appropriate, a whole range of support services to address these issues.

Range of Options:

A broad range of options should be available for diversion, allowing different levels of intervention according to the need of the offender and the seriousness of the offences that have brought them to the attention of the police and the courts.

Legislation:

Where possible, state legislation should be consistent with, or at least not contradictory to the legislation of other states.

Planning:

The complex nature of both the criminal justice system and of drug problems indicate that good diversion practice will involve the following groups at appropriate stages of planning, implementation and review:

- Police
- Offenders/clients
- Corrections services
- Juvenile justice
- Treatment services
- Magistrates and judges
- Court workers.

Communication:

Good diversion practice will be characterised by clear communication between the various stakeholders involved in the delivery of the program. In more formal programs this will be manifest in procedures documents outlining roles and functions of each of the participants which are regularly reviewed.

Program Documentation:

Both formal and informal diversion practice should be documented clearly, providing guidelines for all workers involved in the various processes and providing a flexible framework within which police and other can operate confidently.

Clarity of Roles:

Processes and guidelines should be outlined in such a way that good diversion practice is recognised as a legitimate part of the work of police, court workers and others for whom diversion may not generally be considered a part of 'core business'.

Client Rights:

Good diversion practice will not compromise the rights an offender would enjoy during the normal course of the criminal justice process, in particular, rights to procedural fairness, the right to appeal and protection from self-incrimination.

As a general principle, the impositions of a diversion option should be not more onerous than the penalty that might have reasonable been expected had the criminal justice system run its normal course.

Accessibility:

While particular diversion programs should be carefully targeted, good diversion planning will ensure that a range of well targeted programs are available to offenders regardless of the age, preferred substance, gender cultural background, geographic location and economic status.

Follow-up:

Good diversion programs will ensure that appropriate follow-up services are made available to offenders once their legal obligations have been fulfilled. This requirement will be greater where the diversion has involved intensive or long-term intervention.

Training:

Diversion programs should provide specific training to all those expected to deliver various aspects of the program. This may include, for instance, police, magistrates and judges, court workers, and those providing treatment and other services. Training should address the principles underlying the approach (for instance harm reduction) but should also make clear the specific tasks and functions each key stakeholder is expected to perform.

Those involved in all states of direct client contact should be in a position to outline the various diversion options that might be available.

Funding:

Good diversion programs will be funded on a three year basis with clear procedures for review. Funding allocations will include a specific allocation for data collection and evaluation activities, consistent with the specified aims for the program.

Evaluation:

Good diversion programs will be evaluated according to agreed outcome measures. Such evaluation will collect quantitative data, demonstrating throughput and output measure along with qualitative data which might demonstrate the impact of the program on the lives of offenders who participate.

Where possible, and with due consideration for issues of privacy, databases held in different jurisdictions could be compiled in such a way as to allow comparisons across state and territory borders.

The Ideal Pre-court Diversion Program:

This brief outline has been developed as a combination of key factors considered desirable in an ideal model of pre-court diversion.

There are guidelines to clearly define the process, options and specific procedures emphasising the earliest possible diversion intervention.

Where possible any required enabling legislation is consistent, or at least 'harmonious', nationally.

No intervention to be initiated unless the client agrees to participate in the diversion.

The outcome for any client participation in an early diversion program should be less onerous than the imposition of the normal penalty.

Age should be no barrier to participation in a diversion program.

All staff involved in the diversion program need to be fully trained and committed to the principles of harm reduction and diversion (police, court workers, service providers, etc.).

All staff, clients and significant others should be aware of all the diversion options that are available.

All key stakeholders should have a clear understanding of their roles, and the roles of others involved in the process.

Different professions involved in the diversion should regularly communicate and where possible review individual's cases.

Access and equity is incorporated into the provision and availability of appropriate diversion options including; locality, culture, gender, age and drug of choice.

Equitable and long term funding should be provided for programs, including non-government service agencies.

Ongoing qualitative evaluation, consolidation and sharing of databases and monitoring of outcome indicators are fully funded ongoing components of good diversion practice.

There is high profile communication of the benefits (harm reduction) of diversion to all stakeholders and the broader community.

Adequate resources are provided – people and money – to match options with client needs.

There are safeguards to ensure privacy and protection of the interests of clients and other key stakeholders.

Where appropriate, support services are provided for significant others including, in some cases, victims of drug related crime.

Ideal Court Diversions and Alternative Sentencing Options:

This brief outline has been developed as a combination of key factors considered desirable in an ideal court diversion model.

Operates within a supportive environment.

Appropriate legislative framework which sanctions and enables diversion.

Common understanding between key stakeholders which is clearly articulated in agreed guidelines/procedures.

Appropriate availability of a range of accredited and appropriately funded treatment options (taking into account gender, culture, age, location).

Community and key stakeholders to appreciate the benefits of diversion.

Objectives:

- To reduce the harm arising from drugs
- To prevent/reduce crime
- To improve public health outcomes
- To improve individual health outcomes
- To provide a holistic, human approach
- To change individuals' future behaviours with respect to crime and health
- To be cost efficient.

Program description:

- Planned implemented, evaluated and supported by key stakeholders – clients, police, court workers, health and drug workers, significant others
- Tiered structure
- Many levels of intervention (from no intervention through to intensive intervention)
- Levels determined by severity of crime, severity of drug problems and provides a proportionate response
- Intervention is based on the potential for benefit
- Entry criteria
- Wide range of crime (excluding heinous crimes)
- Priority to juveniles/young adults/first offenders
- Legitimate choice for the client – diversion should not be more onerous than the sentence they would otherwise have received

- Full spectrum of accredited treatment options available which are accessible appropriate and relevant to the offender
- Coordinated, comprehensive, holistic, governing the continuum of criminal justice programs and responsive to client needs
- Cross sectoral case management approach using a common assessment so that the client is not being repeatedly assessed
- All staff appropriately recruited, trained and supervised, with a commitment and understanding of harm reduction and diversion
- Adequate funding and resources following client needs
- Appropriately documented and evaluated with client outcomes.

(Alcohol and other Drug Council of Australia, 1996, *Best practice in the diversion of alcohol and other drug offenders*, Proceedings of the ADCA Diversion Forum, Alcohol and other Drug Council of Australia, Canberra, October 1996.)

APPENDIX F

A Comparative Analysis of Best Practice Guidelines

Themes	Successful factors (SF) and Best Practice (BP) Recommended by the UN Expert Working Group.	ADCA Best Practice Guidelines.	TASC 10 Critical Elements.	Scottish Arrest Referral Guidelines.
Philosophy	Non adversarial approach, which takes into account both matters of public safety and the rights of the offender to due process (BP). [The literature defines the philosophy of drug courts as therapeutic jurisprudence. In programs running in the United States it is linked with expectations of abstinence, while in Australia there is greater acknowledgement of harm minimisation.]	All involved should have a sound understanding of the principles and implications of harm reduction philosophy.	No explicit account of philosophy.	No explicit account of philosophy. [However, the UK literature on ARS notes the negative impact of a failure to agree on a common philosophy, citing examples of opposition between ideas of harm minimisation and expectations of abstinence.]
Eligibility and access	Flexibility in adjusting program content, including incentives and sanctions to better achieve program results with particular groups, such as women, Indigenous and minority ethnic groups.(BP) Detailed assessment of each potential offender. (SF) Clear eligibility criteria and objective eligibility screening of potential participant offenders. (SF) Eligible offenders identified early and promptly integrated into the program. (BP) Speedy referral of participating offenders to treatment and rehabilitation. (SF)	Carefully targeted but available to all offenders regardless of age, substance used, gender, cultural background, geographic location or economic status.	Explicit eligibility criteria; and screening processes for early identification of eligible offenders.	Recommends the proactive approach. ARS should assess all eligible offenders, using a comprehensive common assessment.

Client rights	Fully informed documented consent of each participant (after receiving legal advice) before participating. (SF)	Good diversion practice will not compromise the rights an offender would enjoy during the normal course of the criminal justice process, in particular, rights to procedural fairness, the right to appeal and protection from self-incrimination. As a general principle, the impositions of a diversion option should be not more onerous than the penalty that might have reasonable been expected had the criminal justice system run its normal course.	[Not nominated in best practice guidelines but features in literature on TASC.]	[Not nominated in best practice guidelines but features in literature on ARS.]
Compliance monitoring and judicial review	A coordinated strategy governing responses of the court to non-compliance. (BP) Swift, certain and consistent sanctions or rewards for non-compliance and compliance. (SF) Compliance monitored by frequent substance abuse testing. (BP) Ongoing judicial interaction with each offender in a program is essential. (BP)		Recommends procedures for offender monitoring with established success/failure criteria and constant report to criminal justice referral source (<i>i.e. judicial review</i>).	
Monitoring and evaluation	Ongoing program evaluation and willingness to tailor program structure to meet shortcomings. (SF) Monitoring and evaluation measure the achievement of program goals and gauge program and effectiveness.(BP)	Monitoring and evaluation of both throughput and output measures.	A system of data collection for both management and evaluation.	Monitoring and evaluation arrangements.

<p>Training</p>	<p>Continuing interdisciplinary education promotes effective planning, implementation, and operation of these court directed programs.(BP) Good team knowledge (including the judge) of addiction, treatment and recovery by the non-healthcare court team. (SF)</p>	<p>Diversion programs should provide specific training to all those expected to deliver various aspects of the program. This may include, for instance, police, magistrates and judges, court workers, and those providing treatment and other services. Training should address the principles underlying the approach (for instance harm reduction) but should also make clear the specific tasks and functions each key stakeholder is expected to perform.</p>	<p>Required staff training, outlined in TASC policies and procedures</p>	<p>Should be staffed by skilled and competent Arrest Referral Workers who are knowledgeable about drugs and drug problems, local treatment and support services, have counselling skills, assessment skills, and are skilled team workers. Staff should have access to supervision and ongoing professional development.</p>
<p>Management, communication, roles, demarcations</p>	<p>Integrate substance dependency treatment and rehabilitation services with justice system case processing. (BP) Effective Judicial leadership of court directed treatment and rehabilitation team. (SF) Strong interdisciplinary collaboration of judge and team members while each maintains his or her professional independence. (SF)</p>	<p>Processes and guidelines should be outlined in such a way that good diversion practice is recognised as a legitimate part of the work of police, court workers and others for whom diversion may not generally be considered a part of 'core business'. Clear communication between the various stakeholders involved in the delivery of the program. In more formal programs this will be manifest in procedures documents outlining roles and functions of each of the participants which are regularly reviewed.</p>	<p>A broad base of support from the treatment system with a formal system for effective communication and collaboration. A broad base of support from the criminal justice system with a formal system for effective communication and collaboration. An independent TASC unit with a designated administrator.</p>	<p>Clear management structures. Operational roles clearly set out. Agreed locations. Agreed terminology and definitions. Also see below.</p>

Partnership	Integrate substance dependency treatment and rehabilitation services with justice system case processing. (BP) Forging partnerships among courts directing treatment and rehabilitation programs, public agencies and community based organisations generates local support and enhances program effectiveness. (BP)	See above. The complex nature of both the criminal justice system and of drug problems indicate that good diversion practice will involve the following groups at appropriate stages of planning, implementation and review: <ul style="list-style-type: none"> ▪ Police ▪ Offenders/clients ▪ Corrections services ▪ Juvenile justice ▪ Treatment services ▪ Magistrates and judges ▪ Court workers. 	See above.	Partnerships at strategic level should be led by Drug Action Team and at operational level through a steering group. There should be agreement on objectives and priorities, and about resources and who will manage those resources. This will include who will employ and manage the arrest referral workers.
Documentation	Operational manual to ensure consistency of approach and ongoing program efficiency. (SF)	Both formal and informal diversion practice should be documented clearly, providing guidelines for all workers involved in the various processes and providing a flexible framework within which police and others can operate confidently.	Documented policies and procedures and technology for drug testing. Documented procedures for assessment and referral.	There should be protocols on confidentiality and sharing of information, on security and safety, on referrals, and on tracking of clients.
Legislation	Changes in underlying substantive and procedural law, where necessary or appropriate. (SF)	Where possible, state legislation should be consistent with, or at least not contradictory to the legislation of other states.		[Need for legislative support is noted in the literature.]
Range of options	Access to a broad range of treatment and recovery services. (SF) Programs ensure access to a continuum of substance dependency and treatment and other rehabilitation services. (BP)	A broad range of options should be available for diversion, allowing different levels of intervention according to the need of the offender and the seriousness of the offences that have brought them to the attention of the police and the courts.	A broad base of support from the treatment system, and a broad base of support from the criminal justice system.	A range of services should be available and committed.

Social support and follow up	Ongoing case management is necessary to achieve social integration. (BP)	Diversion should be seen as initiating a process of social change rather than simply treating drug problems. Therefore it is necessary to recognise the significance of the interplay of social issues: employment, finance, health and legal issues – and engage with a whole range of support services to address social issues. Good Follow up services and aftercare should be available to offenders once legal obligation fulfilled.	[Need for follow-up support noted in literature.]	[Need for follow-up support noted in literature.]
Funding	Sufficient, sustained and dedicated funding. (SF)	Good diversion programs will be funded on a three-year basis with clear procedures for review. Funding allocations will include a specific allocation for data collection and evaluation activities, consistent with the specified aims for the program.	[Significance of funding noted in literature – where the focus is on how to get it, and not so much effects of limited resources.]	Operational requirements: time, space and staffing; must be met.

APPENDIX G

Annotated Bibliography

Melissa Bull & Tamara Walsh

Alati, R., Peterson, C., Rice, P.L., (2000) “The development of indigenous substance misuse services in Australia: beliefs, conflicts and change”, 6(2) *Australian Journal of Primary Health*, 49.

This article examines the importance of culture in the development and effectiveness of drug treatment services and programs targeted at indigenous people in Australia. Traditionally, indigenous drug treatment was based on the disease model – this model presents the drug user as the victim of an illness for which a cure of lifelong abstinence is required. This promotes passivity and weakness, which fitted comfortably with the construction of social and cultural “sickness” associated with indigenous people. This concept of indigenous powerlessness found expression in the philosophy of Alcoholics and Narcotics Anonymous, where the first step is recognition of powerlessness in relation to the drug. The “one day at a time” approach, the emphasis on shared stories and group meetings, and the spiritual dimension of AA and NA were also reflective of indigenous cultural practices and beliefs. The legacy of these programs on indigenous drug treatment practices still remains - abstentionist views are still widely subscribed to despite the proliferation of the public health model throughout mainstream drug treatment programs. The public health model is based on social learning whereby clients are actively engaged in the process of behavioural change rather than being considered powerlessness. Harm minimisation, sensible drinking and minimal intervention is preferred over intensive residential treatment and emphasis on abstinence. Many of these practices have been incorporated into programs addressing indigenous drug use – modern programs have been community oriented in focus, and have included strategies including limiting alcohol supply, instituting sobering-up shelters and dry camps, and organising alcohol-free events. However, many indigenous services still apply the old disease model. This conflict between old and new philosophies and the extent to which each is or is not accurately reflected in indigenous cultural beliefs and practices represent a challenge for the drug treatment field.

Alcohol and other Drugs Council of Australia (ADCA) (1996) “Best Practice in the Diversion of Alcohol and other Drug Offenders”, *Proceedings of the ADCA Diversion Forum*, The Alcohol and other Drug Council of Australia, Canberra, October 1996.

In October 1996 50 representatives from Police Services, Health and Attorney Generals’ Departments in each of the Australian states and territories joined with staff from drug diversion programs, consumers and representatives of ADCA’s Law and Law Enforcement Reference Group in a forum to explore best practice in the diversion of drug offenders. This report is product of that meeting. It reviews then current practices in relation to diverting drug offenders from the criminal justice system. Case studies from Western Australia, South Australia, the Australian Capital Territory, Victoria and the Northern Territory, provide the basis for a discussion of the strengths and weaknesses of current diversionary programs. The report identifies ‘Principles for Best Practice in Diversion’ as well as models for ideal pre-court and court diversion or alternative sentencing options.

Alcohol and Other Drugs Council of Australia (2000) “8.9 Diversion”, *Drug Policy 2000: A New Agenda for Harm Reduction*, June 2000, http://www.adca.org.au/publications/Drug%20Policy%202000/89_diversion.htm, (Accessed 16/07/2003).

Drug Policy 2000: A New Agenda for Harm Reduction represents a comprehensive policy agenda for the Alcohol and other Drugs Council of Australia (ADCA). It outlines current practices and good practice strategies, policy recommendations and targets for harm reduction in the alcohol and other drug field. The document was developed through consultation with those working in the field along with strategic their partners, and reflects ADCA’s best assessment of good practice at the time of its publication.

Alcoholism and Drug Abuse Weekly (2000) “St Louis drug court starts program for young offenders”, 12(48) *Alcoholism and Drug Abuse Weekly*, 3.

This article summarises an innovative program for young offenders who have not responded to the mainstream drug court program. St Louis’ drug court administrator reports that young people tend to be removed from drug court programs for reasons such as not showing up for treatment or meetings, rather than drug use relapse. They do not see themselves as drug dependent, and do not want to “sit around and listen to middle-aged men talk about their

alcohol and drug history and how important AA was to them". The young offenders program offers a four-month structured weekday program to offenders aged 17 to 22 years which offers group therapy, drug education, life skills training, and other courses specifically targeted at young people. After this program, participants attend evening follow-up sessions for a further 12 to 18 months. It is projected that this specialised service will engage this group who have proved themselves unamenable to traditional treatment or self-help groups.

Anderson, K., (2001) *Legal responses to Illicit Drug Use, Policy Research, Department of the Premier and Cabinet, Brisbane.*

This is a brief report which identifies a range of legal responses to illicit drug use. It concentrates on: trials of drug courts in several jurisdictions (including detail on the evaluation of the NSW Drug Court trial); diversionary options; and sentencing options. The report is principally focused on court based diversionary strategies, and drug courts in particular; although some cautioning/arrest referral programs are described. It summarises information available from evaluations available at the time that it was produced.

Anglin, M.D., Hser, Y.I., (1991) "Criminal justice and the drug-abusing offender: policy issues of coerced treatment", 9 *Behavioural, Sciences and the Law*, 243.

There is a growing body of evidence suggesting that drug users who are coerced into treatment programs by the criminal justice system emerge from the program with the same success rates as those who enter treatment voluntarily. Indeed, some studies have shown that the application of legal pressure increases long-term retention, and thus the overall effectiveness of the program. However, evaluations have shown that certain program characteristics are associated with improved treatment outcomes. For example, higher methadone dosage levels, more frequent urine testing and the integration of psychotherapy with drug treatment have been correlated with longer treatment retention and lower relapse rates. It has also been found that treatment lasting less than 90 days is of limited benefit. Some patient characteristics have been associated with lower retention rates, including psychological disturbance, ethnicity, polydrug-use, longer conviction records, singleness and unemployment. Also, some studies have reported that women are more likely to leave treatment prematurely. Programs with a more punitive orientation have been found to have lower retention rates, and higher professional quality of staff in diagnosis and

designing treatment plans have been found to enhance retention. It must be remembered that a lengthy period of intervention may be necessary as drug dependence is a highly relapse-prone condition. Intermittent drug use that does not seriously disrupt the individual's program should be dealt with on an individual basis. Program reactions should include detoxification or substitutionary prescriptions rather than punishment. Aftercare is vital, and several cycles of treatment may be necessary. Programs must initially provide a high degree of structure, and ancillary services such as psychiatric care and job training should be provided if retention is to be encouraged. Finally, regular evaluation is necessary to determine the program's effectiveness.

Anglin M. D., Prendergast M. & Farabee, D., (1998), "The Effectiveness of Coerced Treatment for Drug Abusing Offenders", *Office of National Drug Control Policy's Conference of Scholars and Policy Makers, Washington, D C, March 23-25.*

This paper presents a review of the substance abuse treatment literature regarding the effectiveness of various levels of coercion. The review provides overall support of the claim that legally referred clients do as well or better than voluntary clients in and after treatment. The authors' work reveals some divergence in findings which is significant in relation to the future design and delivery of programs that involve coerced treatment. They concluded that the majority of variation in coerced treatment outcomes is due to inconsistent terminologies for referral status, neglected emphasis on internal motivation, and infidelity or inconsistency in program implementation. The authors make specific recommendations in relation to ways to improve upon the relative success of current coerced treatment strategies. In accord with earlier work by one of the authors (Anglin and Hser 1991), they suggest that the period of intervention should be lengthy, treatment programs should provide a high level of structure, programs must be flexible and programs must undergo regular evaluation to determine their level of effectiveness and to detect changes in the client population they serve.

Anglin M. D., Longshore, D., & Turner, S., (1999) "Treatment Alternatives to Street Crime (TASC): An Evaluation of Five Programs", *Criminal Justice and Behaviour*, 26(2), 168-195.

This is a systematic evaluation of TASC which consists of a five site replication study, employing where numbers are large enough experimental design (2 sites) and elsewhere (3 sites) a quasi-experimental design. Study sites were selected by size (those treating at least 400 clients in the 18 months

prior to intake projected for the evaluation) to ensure a sufficient number of participants, and conforming to TASC model as present by the ten critical program elements and performance standards (Bureaus of Justice Assistance 1992). Four programs for adults and one for juveniles were included. Randomised design was practicable in 2 of the adult programs. The total number of participants was 2014. Comparison was across and between sites, and not aggregated. Researchers used a conservative design to ensure the significance of results. They were interested in the benefits/effects of TASC in relation to an alternative treatment or simply probation. In the experimental sites the alternative interventions were treatment programs that offered services appropriate to drug involved offenders but which did not do so under the TASC offender management model. TASC would have to outperform an alternative intervention by deliver more service units, monitoring offenders more closely, or in some other way separating itself from the alternative intervention. In the three quasi-experimental sites the alternative intervention was routine probation. To emerge more effective a TASC program had to outperform 'business as usual' probation in the same community. By conducting a five site replication study, researchers sought to determine whether consistent findings would emerge when each site is analysed separately. Four types of data were used: offender self report at intake/six month follow up interview; results of urinalysis at each interview; treatment records and criminal justice system records. The outcome variables assessed were services received, drug use and criminal recidivism. The study produced complex findings. The findings in relation to service delivery favoured TASC at four of five sites. Findings for drug use favoured TASC at 3 of 5 sites. At a fourth site authors found a marginally significant reduction in drug days favouring comparison offenders. Findings on drug crimes favoured TASC at two of the five sites. The analysis also revealed that many offenders referred to TASC programs never reported to the agency. Many others who enrolled in TASC dropped out of treatment prematurely, often without being subject to consequences because justice agencies failed to monitor compliance with treatment referrals and drug test results. These findings suggest that although TASC programs are frequently effective in linking offenders with treatment and decreasing substance use for those who choose to participate, their effectiveness may increase if drug involved offenders were compelled to remain in these treatment programs.

Anonymous (2001) "California enacts law mandating treatment for non-violent drug offenders", *Corrections Forum*, 10(2), 34-35.

In a move that caused much controversy in the criminal justice system, California became the first state in the United States to mandate drug

addiction treatment instead of prison for non-violent drug users. The *Substance Abuse and Crime Prevention Act 2001 (ca)* (SACPA), known as Proposition 36 was approved by 61% of California voters. Under the initiative individuals convicted of, or on parole for, a non-violent drug possession or drug use offence, will receive probation on the condition that they successfully complete up to one year of court supervised drug treatment. The new law has been promoted as a way to save the state hundreds of millions of dollars each year on the incarceration and re-incarceration of non-violent drug offenders, while at the same time enhancing public safety and health. Despite this many district attorneys and state drug court judges oppose the law, arguing that it will overwhelm the parole system and community treatment programs, as well as limit the power and effectiveness of existing drug courts.

Applegate, B.K., Santana, S., (2000) “Intervening with youthful substance abusers: a preliminary analysis of a juvenile drug court”, 21(3), *The Justice System Journal*, 281.

Juveniles face issues that adult offenders do not. Juvenile drug court programs must counteract the negative influences of peers and sometimes family members, thus drug courts may seek to work with the family as well as the juvenile. Also, juveniles are typically less mature than adults, and so they are often more difficult to motivate. The authors conducted an evaluation of a juvenile drug court in Florida. To be eligible, juveniles must have no history of violent offences, must be in need of substance use treatment, and must not have had more than four prior offences recorded. Eligible juveniles undergo a three day evaluation by a drug court case manager. Treatment may involve individual and group sessions, family meetings and attendance at educational institutions. They must meet a curfew, meet regularly with their case manager and appear in court for case reviews. Most juveniles accepted into the program had been charged with at least one offence previously; 83% were male and for 94% marijuana was their drug of choice. Retention rates were comparable to the national average for adult drug courts. Youths who had the most difficulty meeting the program requirements were black youths and youths whose families did not initially have a good attitude towards the program. Those who remained in the program longest, who were white, and enrolled in school when they entered the program, experienced the greatest improvements in functioning. The recidivism rate for those who graduated was 7% compared with 15% for those who were discharged from the program.

Barton, A., (1999) “Breaking the Crime/Drug Cycle: The Birth of a New Approach?”, *The Howard Journal*, 38(2), 144-157.

This article outlines the findings of an evaluation of the Fast-Track program operating in Plymouth and Torbay. Fast-track is described as a coerced treatment scheme for offenders who are committing property crimes in order to finance their drug use. Treatment for offenders consists of a multi-agency initiative between criminal justice agencies and the medical profession, which is aimed at breaking the link between dependent drug use and offending behaviour. The research describes a relatively successful program that is supported by all those who are involved with it, including the client group. Positive outcomes identified in relation to the program include a more effective working environment for police and probation and parole that allowed for more regular surveillance and monitoring of the most active offenders in the cities where the program was operating. At the same time drug workers – who expressed some reservations in relation to coerced treatment - came to see the criminal justice system as a means of keeping drug using offenders in treatment, especially during difficulty early stages. Coercion to remain in treatment at this stage can enhance the longer-effectiveness of treatment.

Bean, P., (2002a) “Women, drugs and crime”, Chapter 9 in *Drugs and Crime*, Willan Publishing, Devon.

In this chapter, Bean canvasses the differences in drug use and treatment between men and women. He notes that women face additional health issues as a result of their substance use, most obviously in relation to pregnancy and childbirth. This may in turn lead to unique psychological issues such as overwhelming feelings of guilt and shame, feelings of failure as a woman, and anxiety surrounding attempts to retain or regain custody of their children. Bean presents evidence suggesting that the marked increase in the female prisoner population in Britain may be attributed to drug offences, and that drug dependence of women in prison may be higher than that of men in prison. It is also noted that drug using women have different treatment needs to drug using men; women tend to be more passive and depressed about their situation and they have often been victims of sexual abuse. Treatment of women substance users should focus on: parenting and re-establishing contact with children; vocational training and career opportunities; and ensuring receipt of adequate health care. The chapter concludes with a section on juveniles – it is asserted that juvenile drug users have different treatment needs again, including the need to engage the family in treatment and the need to separate the child from peers who undermine their treatment.

Bean, P., (2002b) “The Drug Treatment and Testing Order and Drug Courts”, Chapter 5 in *Drugs and Crime*, Willan Publishing, Devon.

Currently in England and Wales, mandatory drug treatment and testing for offenders who misuse drugs is imposed via Drug Treatment and Testing Orders (DTTO). DTTOs are ordered by the court in which the offender is convicted. They are supervised by the probation service, although court reviews are conducted and breaching proceedings may be initiated by the probation service in response to non-compliance. Bean compares DTTOs with the Miami drug court model, citing a number of differences including: treatment approach (drug courts favour abstinence while DTTOs focus on harm minimisation); the adversarial approach is abandoned in drug courts while it remains intact under the DTTO system; and treatment services work for the court under the drug court model, while they work for probation under the DTTO model. He concludes that DTTOs are likely to fail as: there is no guarantee that the offender will appear before the same bench at each court appearance made, so there is no continuum of care; supervision is primarily performed by probation officers who lack the authority of the court; sanctions for non-compliance are not imposed swiftly enough; and drug testing procedures are not as rigorous. While the shortcomings of drug courts are acknowledged, Bean argues that the success drug courts have enjoyed suggest that a model akin to the Miami model should at least be mooted in Britain. Bean notes that drug courts targeted at hard-to-treat and serious offenders are to be introduced in Scotland at the end of 2001 within the existing legislative framework, implying that if successful, the Scotland model could be adopted throughout Britain.

Beckerman, A., Fontana, L., (2001) “Issues of race and gender in court-ordered substance abuse treatment”, *Journal of Offender Rehabilitation*, 33(4), 45.

The authors of this article start by stating that little attention has been given in the drug court literature to diverse client populations. Treatment effectiveness, they argue, is linked to the extent to which treatment services are synonymous with the client’s culture and gender-specific experiences. Their study was aimed at determining whether or not an “enhancement” program for female and African-American male clients who were not making progress in the regular treatment program resulted in better treatment outcomes. The focus of the enhancement program was on case management – these two groups of clients met in small single-gender groups and had

extensive contact with counsellors outside of group session times. It was found that those who participated in the enhancement program remained in treatment for significantly longer than the comparison groups, and had a significantly higher incidence of negative urinalysis test results. The authors conclude that gender and culture specific case management programs may be more effective than less specialised “traditional” treatment programs.

Belenko, S., (2001) *Research on Drug Courts: A Critical Review 2001 Update*, National Centre on Addiction and Substance Abuse, Columbia University.

This report provides a critical review of 37 drug court evaluations. Data suggests that program completion rates average at 47%, and drug use and criminal activity are relatively reduced while participants are in the program. Drug court program costs are reportedly lower than standard processing, however this is primarily due to reduced imprisonment, which implies that diversion may achieve the same results at less expense. One emerging theme is the high rate of mental health problems amongst participants, suggesting the need for services capable of addressing both mental illness and substance use. Demographic characteristics are being increasingly reported on in drug court evaluations. Findings indicate that most drug court participants are male (72%), with poor employment and educational achievements. 42% of participants are white, 38% are African-American and 17% are Hispanic. 74% have had at least one prior felony conviction and 56% have been previously incarcerated. Most participants exhibit poor mental and physical health, and female participants report high rates of sexual and physical abuse. These findings indicate the need for specialised services to be available to participants so that these issues may be addressed.

Belenko, S., (2000) “The challenges of integrating drug treatment into the criminal justice process”, *Albany Law Review*, 63(3), 833.

Steven Belenko profiles drug use and drug related offending amongst arrestees in the United States over the last few decades, and demonstrates that there has been an increase in inmates sentenced for drug law violations between 1980 and 1996. He notes that despite abundant research demonstrating that drug treatment can significantly reduce drug use and related criminal activity, access to treatment is limited for criminal offenders relative to their need. Belenko reviews the mechanisms available for integrating drug treatment into the criminal justice system, identifying them as pre-arrest diversion, pre-arraignment diversion and pretrial intervention. He provides some historical context to current processes. The body of this article is a literature review that describes the principal diversion programs

available in America along with available results from evaluations of these programs. The interventions addressed include: Drug Treatment Alternatives to Prison (DTAP), Drug Courts, Treatment Alternatives to Street Crime (TASC), probation-based treatment, parole-based treatment and corrections-based treatment. Despite this range of programs and the high prevalence of drug related problems among offenders, relatively few receive sufficient treatment or related health and social services. Belenko discusses the reasons for this. They included: budgetary limitations, staffing limitations, administrative difficulties, organisational cultural conflicts, legislative barriers, space and the complexity of health and social problems experienced by offenders in addition to their drug use. He also considers the value of criminal justice drug and alcohol treatment as an investment by reviewing the costs of such interventions. Citing a number of studies, he argues that diversion can yield substantial economic as well as social benefits. On the strength of the information provided this article concludes that reducing the impact of drug abuse on crime and the criminal justice system will require an investment in resources and a commitment to planning, implementing and evaluating a comprehensive system of substance abuse assessment, treatment referral, monitoring and aftercare. In order to achieve this it is necessary to: assess need for substance abuse treatment, modify current sentencing laws, expand alternatives to incarceration, expand treatment and other services for offenders, increase substance abuse treatment training, improve data collection and expand research and evaluation.

Belenko, S., (1999) "Research on drug courts: a critical review, 1999 Update", *National Drug Court Institute Review*, 2(2), 1.

This article is an update on the 1998 review reported below, which analysed 29 drug courts. It covers of 59 evaluations of 48 different drug courts from across the United States. The evaluation results are consistent with those reported in 1998, indicating that drug courts, compared to other treatment programs, provide more comprehensive supervision and monitoring, increase the rates of retention in treatment, and reduce drug use and criminal behaviour while participant are engaged in the drug court program. This latter review found, in addition, that drug courts are handling more serious offenders who have previously been unsuccessful in treatment, have prior criminal histories and have a broad range of pressing physical and mental health needs. Belenko also reports in this paper that there is some evidence of reduced recidivism in subjects of follow-up studies.

Belenko, S., (1998) “Research on drug courts: a critical review”, *National Drug Court Institute Review*, 1(1), 1.

This article presents the results of the first major review of drug court research. Despite the differences that exist between the various drug courts evaluated, some consistent results do emerge. First, drug courts are able to retain felony offenders with substance use problems in a treatment program. Drug court retention rates are much greater than retention rates typically observed for other criminal justice offenders. Second, although most drug court programs target first offenders, many researchers agree that it is the more “experienced”, older offenders for whom treatment intervention can have the greatest impact. Third, drug courts provide more comprehensive supervision of drug using offenders than other forms of community supervision. Fourth, it is generally agreed that drug courts result in economic benefits through cost savings (through reduced gaol and criminal justices system costs) and through the long-term benefits of reduced crime. Fifth, drug courts are generally agreed to have positive outcomes for clients – drug use is substantially reduced while offenders are in drug court programs and drug use has been found to be lower for drug court participants than comparison groups. Sixth, most evaluations find that criminal behaviour is substantially reduced both during participation in the program and post-program. Problems have arisen (eg. as a result of disagreements between drug court staff and treatment services regarding responses to relapse or treatment compliance), however overall, it seems that drug courts have been successful in dealing with underlying problems resulting in substance use and associated crime.

Brady, M., (1995) “Culture in treatment, culture as treatment: a critical appraisal of developments in addictions programs for indigenous North Americans and Australians”, *Social Science Medicine*, 41(11), 1487.

The emphasis on cultural treatment programs has come about partly as a result of increased understandings of the etiology of drug use amongst indigenous people, which stress the impact of colonisation through the disruption to cultural practices and dispossession. Alternatively, some argue that this trend has been brought about by the recognition by indigenous communities that substance use is an unwelcome encroachment of broader society on their traditional lifestyle and values. In Canada, programs which reassert native identity and reintegrate cultural beliefs and practices are being put forward as solutions to drug use problems amongst indigenous people. While western psychotherapy is still utilised, burning ceremonies and other

spiritual activities such as “sweats” (where participants sit together in a pit containing heated stones and water in darkness) and prayer are also incorporated into the program. Group leaders are often “reformed” drug users from the same cultural group, who serve as alternative role models. In Australia, some of these North American practices have been adapted and used in indigenous treatment programs. Aboriginal-specific cultural practices including going out bush, eating bush foods, ritual singing, spiritual healing and laying of on hands have also been integrated into some treatment programs. Pride in being Aboriginal is stressed, and connections with the land (and “Mother Earth”) are re-established. The success of cultural drug treatments in Canada implies that drug treatment programs for indigenous people in Australia should be located philosophically within the context of cultural revitalisation and should incorporate traditional values and practices.

Braithwaite J., (2001) “Restorative justice and a new criminal law of substance abuse”, *Youth and Society*, 33(2), 227-248.

Braithwaite argues that restorative justice processes have considerable potential in relation to responding to the injustices that result from substance abuse. For example substance abuse can impact on family members in ways that are profoundly unjust. He proposes that recognition by a substance abuser of the injustice caused by stealing from friends and family – those who are less likely or reluctant to report such offences to the police – lying or other untrustworthy behaviour is often the kind of recognition of injustice that motivates change through the restorative processes. He accounts for this motivation in terms of Prochaska, DiClemente, and Norcross’s (1992) model of how people move out of addictive behaviours. Braithwaite explains that restorative justice does not hinge on the question of whether it is right or wrong to punish substance abuse; rather it works to build a democratic commitment to repairing the harms that have arisen as a result of it. There is much in the drug and alcohol literature to support Braithwaite’s proposition. The restorative justice approach has much in common with Maxwell Jones’s concept of the democratic therapeutic community, which has been the foundation of many successful drug treatment programs. Its additional benefit, however, is that it does not only work to address the needs and problems of the drug using offender which is the case with most drug treatment approaches, but includes their family and close social network as well. In this way restorative justice through conferencing potentially works to address the risk of social alienation and maintain the social integration of the drug using individual, something that the research literature cites as one of the best indicators for cessation of drug use and prevention of relapse and offending behaviour. In an important respect this approach has benefits over

drug courts because in the adjudicative setting the therapeutic relationship is focused on the exchange between the sentencer and the offender. As a result, the therapeutic and reinforcing benefits potentially cease once judicial requirements have been fulfilled. Conferencing approaches work to restore the relationships between the offender and his/her family and the community – a support network that has the potential to remain after the initial intervention is complete.

Briscoe, S., Courmarelos, C., (2000) “New South Wales Drug Court: Monitoring Report”, *Crime and Justice Bulletin*, NSW Bureau of Crime Statistics and Research, NSW Attorney-Generals’ Department, Sydney. <http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/cjb52text>, (Accessed 10/02/2003).

The New South Wales Drug Court began operation on a trial basis on 8 February 1999. It provides an intensively supervised treatment program for drug-dependent offenders, aiming to assist them to overcome their drug dependence and cease criminal offending. This bulletin summarises the first 17 months of the Court’s operation, it is part of the New South Wales Bureau of Crime Statistics routine monitoring of the Drug Court. The main findings are listed as follows:

1. The Drug Court received 838 referrals in the first 17 months. Of those referred 503 did not enter the program because there was no place available at the time of referral (68 persons) or at the time of detoxification assessment (201 persons); or they were ineligible or unwilling to participate (225); or a highly suitable treatment plan was not available (9 persons).
2. The average length of the detoxification assessment period (17 days) was considerably longer than the seven-day detoxification period anticipated when the program was designed.
3. Of the 313 persons who had commenced the program 10 had graduated, 133 (42.5%) had been terminate, leaving 170 (54.3%) remaining. Of those still on the program 28 had progressed to Phase 3, and a further 54 had progressed to Phase 2.
4. Of the 133 participants terminated from the Program in the first 17 months, 121 (91%) had not progressed beyond Phase 1.
5. At least one custodial sanction had been imposed on 82.4% of Drug Court participants, with an average custodial sanction of 5 days.
6. Of the 313 Drug Court participants, 259 had a urine test at their last court appearance, with 54.4% testing negative to all drug prohibited by the court. Of the 142 participants who were still actively participating

on the program at 30 June 2000 and had been urine tested 57% tested negative to all prohibited drugs in their last urine test.

7. At 30 June 2000, 45.9% of the 170 participants continuing on the program were on a methadone program, 44.1% were on an abstinence-based program and 10% were on a naltrexone program. Seventy-one percent of participants were receiving treatment in a community-based setting.
8. Of those who had commenced the Drug Court program, 81.8% were male, 68.4% were under 30 years of age, 86.2% were born in Australia, 75.2% had previously been imprisoned, 59.4% had received prior treatment for drug dependency and 53.5% had not received schooling beyond Grade 9.

Brown, T.G., Seraganian, P., Tremblay, J., Annis, H., (2002) "Matching substance abuse aftercare treatments to client characteristics", *Addictive Behaviours*, 27, 585.

This study investigated differences in treatment outcomes for two substance use aftercare programs: a relapse prevention program (cognitive-behavioural intervention focusing on identifying potential relapse triggers, and increasing coping skills) and a twelve-step program. Aftercare is generally recognised as an integral component of substance use treatment; however it is usually only offered as an appendage to more intensive treatment. Both relapse prevention and twelve-step programs have been shown to provide benefits to participants, however this study was aimed at investigating the effectiveness of the two treatments based on individual characteristics of treated substance users. The results demonstrated that twelve-step programs were associated with better outcomes than relapse prevention for those with high psychological disturbance, those presenting with a pre-treatment profile of multiple drug use, and women. Better outcomes were also associated with self-selection of treatment type. The authors concluded that care should be taken before prescribing relapse prevention aftercare, particularly in relation to certain individuals, and that more attention should be paid to the development of gender-specific treatment modalities.

Bullington, B., Maier Katkin, D., (2002) "Introduction: German drug policy in the 21st Century", *Journal of Drug Issues*, 32(2), 357.

This article is a brief introduction to a special edition of the *Journal of Drug Issues* (JDI) which focuses on drug policy in Germany. With the changing face of the European continent: the emergence of the European Union, the fall of

communism, the opening up of the East and transnational crime and unrest not known in Europe in more than 50 years, the editor of the JDI thought it important to provide readers with 'cutting edge' scholarship by European experts on drug use, policy and research. The special issue on Germany is the fourth in a series of special presentations that include editions on England and Wales, Holland, Central and Easter Europe and the Czech Republic.

Burdon, W.M., Roll, J.M., Prendergast, M.L., Rawson, R.A., (2001) "Drug courts and contingency management", *Journal of Drug Issues*, 31(1), 73-90.

Drug courts have become an increasingly popular response to the increased burden placed on the criminal justice system by substance abuse. However, evaluation findings have been less than consistent with respect to the ability of drug courts to have the desired impact on drug use and criminal behaviour. This paper reviews the literature describing the emergence, rationale and evaluations of drug courts. It notes that they were originally introduced as a systematic response to overloaded courts. Therapeutic intervention was not an initial objective, but a latter refinement. Contingency management practices employed in the court are contrasted with those used in drug and alcohol treatment, and the authors identify an important difference: in treatment they are more focused on rewards while the courts emphasize punishment. The authors argue that contrary to most models, 'drug courts emphasize punishment and make limited positive, or at least inconsistent, use of reinforcement to promote behaviour change and abstinence from drug use'. In both treatment and drug courts timing and consistency are identified as important factors with regard to both positive and negative sanctions. The difficulty as well as the desirability of introducing, or enhancing the use of positive contingency management (rewards) in the court environment is discussed and the authors conclude that drug courts can not afford to be seen as paying for compliance or good behaviour.

Callaghan, R.C., Cunningham, J.A., (2002) "Gender differences in detoxification: predictors of completion and readmission", *Journal of Substance Abuse Treatment*, 23, 399.

Past research has shown that women enter drug treatment programs with greater psychological distress, more medical problems, more family and social difficulties and greater addiction severity than men. Thus, gender-specific treatment programs have sought to enhance treatment outcomes by tailoring programs to meet women's needs. Most studies have shown

treatment outcomes to be the same for women as men, however some have reported poorer treatment outcomes. The results of this study did not demonstrate that women are less likely to complete drug treatment than men. The only predictor of premature dropout was opiate use. However, women did report higher rates of parenting status, unemployment and were more likely to identify as indigenous. Women were also administered more prescription medication and were referred for more medical evaluation tests than their male counterparts.

Campbell, C.I., Alexander, J.A., (2002) “Culturally competent treatment practices and ancillary service use in outpatient substance abuse treatment”, *Journal of Substance Abuse Treatment*, 22(3), 109.

Various studies have indicated that members of racial minority groups are less likely to complete drug treatment, receive fewer services and are less likely to achieve recovery. This has led to a need to address the racial disparities in client services and clinical outcomes. The use of culturally competent treatment practices (CCTPs) has been identified as one means of contributing to the reduction of racial disparities in treatment outcomes. CCTPs include: racial/ethnic mixing (providing clients with staff of the same racial background), language concordance (hiring personnel who are bilingual to enhance communication between staff and clients), and cultural competency training (providing staff with training to develop awareness, knowledge and skills in cultural competency). This study found that in America, racial matching of clients and staff is occurring in many drug treatment centres; however bilingual treatment staff comprise only a small percentage of total staff. Many treatment centres provide their staff with cultural competency training; however this ranges from a once-off orientation program to regular in-service training. Also, very few services offer single-race groups, and this may be another strategy to encourage utilisation. The authors conclude that a drug treatment centre’s decision as to which CCTP to use should reflect program goals.

Carney, T., (1987) *Drug Users and the Law in Australia: From Crime Control to Welfare*, The Law Book Company Ltd, North Ryde.

This book explores the regulation of both illicit and licit drug use from the criminal justice and the welfare perspectives. It offers a detailed study of three approaches to the management of drug dependent people – sentencing dispositions, civil treatment programs and welfare schemes. The book begins by looking at the legislative schemes that regulate voluntary or involuntary

entry of patients to civil treatment schemes. It then examines the sentencing options and policies of the courts when dealing with offenders who have drug and alcohol related problems. It concludes with an analysis of health and welfare responses to drug use. Carey argues for the development of an integrated welfare model. While some of the propositions of this book are dated, it provides useful historical material.

Commonwealth Department of Health and Ageing, (2001) *Illicit Drug Diversion Initiative*, <http://www.nationaldrugstrategy.gov.au/nids/diversion/index.htm>, (Accessed 16/09/2002).

This is the website for Australia's National Drug Strategy. It contains Commonwealth policies and strategies for the regulation of illicit drugs.

Cooper, C.S., (2001) "Juvenile drug court programs", *Juvenile Accountability Incentive Block Grants Program Bulletin*, May, 1.

The author outlines important considerations in determining whether and how to establish a juvenile drug court. Indicators of need are summarised to include: extent to which delinquency is associated with drug/alcohol use, and the nature and volume of court cases involving drug/alcohol use; juvenile justice system's ability to address juvenile drug use problems through existing services; degree to which existing mechanisms promote accountability. The key elements of a juvenile drug court program include: the establishment of a drug court team (comprising of a judge, prosecutor, defence attorney, treatment provider and school representative); working closely with both the juvenile and his/her family; intervention as soon as possible after the juvenile's initial contact with the justice system; development of a court-supervised treatment program which aims to address the multifaceted issues that affect the juvenile (including mental health issues, educational needs, family circumstances); ongoing monitoring of the juvenile's progress; immediate judicial response in the form of rewards and sanctions; cultural sensitivity and gender specificity and developmental appropriateness; working within the school system and with community agencies; a focus on the training of officials involved in the program on adolescent developmental issues.

Cooper, C.S., Bartlett, S.R., (1996) *Juvenile Drug Courts: Operational Characteristics and Implementation Issues*, State Justice Institute, available at: www.american.edu/academic.depts/spa/justice/publications/juvrptt.htm, (Accessed 20/12/02)

This report provides an overview of the characteristics of juvenile drug courts in the US, including their procedures, treatment services, programs, eligibility criteria, use of rewards and sanctions, methods of evaluation and challenges encountered. The information it provides is now outdated.

Cooper, C.S., Nerney, M., Parnham, J., Smith, B., (2002) *Juvenile Drug Courts: Where Have We Been? Where Should We Be Going?*, OJP Drug Court Clearinghouse and Technical Assistance Project.

This paper records the reflections of representatives from ten juvenile drug court programs on their experiences, issues and needs that have emerged during the course of program implementation. Virtually all practitioners agree that juvenile drug courts are more effective in addressing the needs of substance using young people than traditional juvenile justice processes or drug court programs targeted at adults. There are many differences between juvenile and adult drug users which must be taken into account in juvenile court program planning: cognitively, young people think differently from adults (their brain chemistry is different, which has been used to explain their tendency towards risk-taking behaviour); they have limited coping skills; many have co-occurring mental disorders which may not be revealed until well into treatment, or when the use of drugs has ceased; young people need to be motivated to change – they need to recognise that positive developments will occur in their lives when they do not use drugs; punishment (eg. detention as a sanction) does not work well as a motivator; working with the family is even more critical for juveniles; drug using young people are often isolated from the mainstream youth community – they need to be reconnected with the mainstream community, eg. through enrolment in school; 12-step models have had little success with young people as they do not see themselves as “addicts” and they have not yet developed a view of the future; young people are subject to more intense peer pressure than adults, and many drug using young people only have drug using friends; post-adjudication drug court programs tend to work best for juveniles as pre-trial drug courts lack adequate authority to supervise and sanction – many juveniles would prefer to submit themselves to a criminal sanction rather than face drug court. It is concluded that these findings should be incorporated into the continuing evolution of juvenile drug courts.

Creswell, L.S., Deschenes, E.P., (2001) “Minority and non-minority perceptions of drug court program severity and effectiveness”, *Journal of Drug Issues*, 31(1), 259.

In many jurisdictions, the proportion of racial minorities in drug court programs exceed their percentage in the population. Studies have disagreed as to whether there is a strong relationship between ethnicity and drug court program outcomes. This study was aimed at identifying whether the perceptions of minority groups as to the helpfulness and severity of the drug court was different to that of non-minority participants. The results showed that there were statistically significant differences in their perceptions. Minority participants viewed the drug court program as more severe than non-minority participants, while non-minority participants viewed a sentence of imprisonment as more severe than minority participants. Non-minority participants viewed the drug court program as more effective in remaining alcohol free than did minority participants, while minority participants viewed the program to be more effective in obtaining and maintaining remaining employment, and gaining a better self-image. Further, minority participants rated the strength of vocational counselling and mentoring within the program to be higher than non-minority participants. The authors conclude that drug courts are effectively treating drug offenders from both minority and non-minority racial groups.

Crossen-White, H., Glavin, K., (2002) “A follow-up study of drug misusers who received and intervention from a local arrest referral scheme”, *Health Policy*, 61(2), 152-171.

While arrest referral is the most developed and researched form of drug diversion in the UK, much of the published literature is focused on process. This paper reports a follow-up study on the impact that intervention by an arrest referral scheme (ARS) had upon a group of drug-misusing arrestees (n=21) 18 months after their initial contact with the scheme. The results indicate that the intervention had a positive impact on both drug misuse and offending behaviour. Sixty-four percent had entered treatment and remained drug free following an intervention by the ARS. In addition, analysis of recorded offending (police national computer records) for the sample showed that 88% of those who remained drug free also ceased criminal activity. The study was able to identify a number of factors that had previously impacted on access to treatment, they included: a perceived negative attitude amongst health service providers to drug users; a lack of proactive, health-led interventions; the importance of aftercare to the recovery process and the

need for this aftercare to offer a broad range of services. Help with accommodation and life skills training were identified as important aftercare services.

Edmunds, M., May, T., Hearnden, I., Hough, M., (1998) *Arrest Referral: Emerging lessons from research*, Criminal Policy Research Unit, South Bank University.

This paper reports on evaluations of arrest referral schemes in Brighton, Derby and Southwark. The schemes were demonstration projects under the Home Office Crime Prevention Initiative. The study assembled a large amount of information about the size of the problem drug using population, the costs associated with problem drug use, types of referral schemes and the impact of these schemes. The study described three models of arrest referral: the information model, the proactive model and the incentive model. The information model involved the provision of information about local drug and other relevant services by the police to those who they had arrested. Information is offered on a 'take it or leave it' basis. Take up rate have been found to be low. The proactive model involves drug workers working in close cooperation with police, often with direct access to prisoners in custody. They provide assessment either on site or at a subsequent meeting. The police officers may screen or target arrestees, but the intervention is provided by the drug worker. The incentive model exploits the fact that the criminal justice system is a coercive one, through which incentives can be held out to encourage problem users to seek assistance in addressing their drug problems. The schemes available at the test sites matched the proactive model. The impact of these schemes was assessed by carrying out follow-up interviews with samples of people who passed through each scheme. The full sample consisted of 128 respondents. 90 of the 128 had involvement with drug workers at the point of arrest; the remainder were referred by probation or court staff. The analysis of arrest referral focused on 90 contacted at point of arrest. 86% of the sample was male, most used illicit opiates (82%) and stimulants (72%). Of the 90 respondents 66 were referred to drug agencies the remaining 24 were simply given advice and information. 53 of the 66 made contact with the relevant drug agency, and were offered various forms of assistance. 41 accessed help or treatment of some sort. Almost half the sample said that this was their first contact with any drug agency, though most had long criminal histories, with an average of 21 previous convictions. Respondents were interviewed six to eight months after first contact, the results indicated reductions in drug use and criminal offending behaviour. The researchers concluded that arrest referral schemes can be effective in reducing drug use and drug related crime. When schemes are successful in

putting drug users in touch with treatment agencies following arrest, they draw forward in time the reduction and cessation of drug use which inevitably will occur at some stage in the drug users' careers. The authors identify the essential ingredients of referral schemes as: a proactive mode of work, a working style which wins the respect and trust of users, adequate resourcing, a capacity to provide ongoing support, appropriate treatment services to which to refer and adequately resourced treatment services to which to refer.

Edmunds, M., Hough, M., Turnbull, P.J., May, T., (1999) *Doing Justice to Treatment: Referring offenders to drug services*, Criminal Policy Research Unit South Bank University.

This study assessed a range of criminal justice interventions designed to identify problem drug users as they pass through the criminal justice process and to refer them to treatment. 205 respondents were interviewed as they passed through arrest referral schemes or had contact with Criminal Justice Drug Workers in the course of probation supervision. In this latter group those serving probation orders with conditions of treatment (1A(6) orders) and others who attended clinics staffed by criminal justice drug workers whilst serving conventional probation orders. This report describes arrest referral schemes, probation orders and prison based schemes, presents findings derived from follow-up interviews carried out with participants, and addresses issues concerned with the implementation and management of these schemes. Those involved in these schemes tended to be white male opiate/polydrug users in their late twenties or early thirties; drug and crime careers had developed in parallel and were reported as 'mutually sustaining'; and two in five had never previously had contact with any drug services and four in five were not in touch with any drug agency on their first contact with criminal justice drug workers. Three-quarters of the respondents were referred to drug services, half of those entered drug programs. These programs involved counselling or substitute prescribing. Six to nine months after contact, participants were very positive about the help they received. 1A(6) probation orders performed well in retaining people in treatment. Large falls were reported in the use of opiates and especially stimulants. Weekly expenditure on drugs fell significantly and there were corresponding falls in levels of offending to finance drug use. The steepest fall in expenditure was for those service 1A(6) probation orders. Prevalence and frequency of injecting fell. There were no significant changes in employment status, accommodation or personal relationships. These conclusions should be interpreted with caution because the sample of offenders was biased towards the contactable; those who proved impossible to contact may include a

disproportionate number of 'failures'. Implementation and management issues which impacted on the delivery of schemes included organisational culture clashes and role conflicts – these differences were both between criminal justice and treatment agencies and within the treatment system and the criminal justice system. Some schemes were threatened by the fact that there were insufficient services to refer to, while others suffered from inadequate resourcing.

Eley, S., Malloch, M., McIvor, G., Yates, R., Brown, A., (2002) *The Glasgow Drug Court in Action: The First Six Months*, Department of Applied Social Sciences, University of Stirling, Scottish Executive Social Research.

The Glasgow drug court targets offenders aged 21 years or older (due to a belief that offenders aged under 21 years would lack the maturity and motivation required by the program) of both sexes who have committed a number of offences where there is a pattern of serious drug misuse. A guilty plea must be entered for offenders to be eligible for the program. Once referred to and accepted by the drug court, offenders undergo a four-week assessment. They then come before the drug court and are "sentenced". Drug court orders include Drug Treatment and Testing Orders and/or probation orders with a condition of drug treatment. Treatment usually involves substitute prescribing using methadone, supplemented by counselling, day programs, work programs and housing assistance. Compliance and progress is overseen and reviewed by the Drug Court Team, made up of the drug court sheriffs, social workers, addiction workers and medical officers. The team holds review meetings prior to court hearings (which the offender does not attend), and regular court reviews are also held where the sheriff has an opportunity to provide encouragement or sanctions depending on the offender's progress. All those involved with the drug court agreed that it was effective in reducing the drug use and offending behaviour of participants. Drug court participants reported that medication and their relationship with the sheriff and other staff members were crucial in assisting them to stabilise their lives, and staff agreed that drug testing was a useful way of monitoring compliance. Short-comings identified included unrealistic staff workloads, inadequate premises to ensure that the privacy of participants was respected, referral difficulties (some police officers demonstrated a reluctance to refer offenders to the drug court and a lack of understanding of referral criteria), delays in receiving drug test results, and disagreement between staff, offenders and doctors on methadone dosages. Some staff members believed that the program could be extended to younger offenders, and offenders with fewer prior convictions. The sheriffs reported that a greater variety of sanctions were needed, eg. the option of imposing a short prison stay or a

community service order. Gaps in service provision included lack of residential programs, lack of services for women and lack of abstinence-based programs.

Evans, D.G., (2001) "Canada's first drug treatment court", *Corrections Today*, 63(3), 30.

Following the lead of the US, Canada has established a pilot drug treatment court in Toronto. The Toronto drug court targets non-violent offenders, charged with possession or minor trafficking offences or prostitution-related offences, who are addicted to cocaine and/or opiates. Participants are placed on an extended period of bail to facilitate his/her attendance at outpatient treatment programs. Sanctions apply for non-compliance – they range from essay writing to short prison stays. To graduate, offenders must be drug-free for four months, and have stable housing and employment. One unique feature of the Toronto drug court is the role of mental health court liaison staff. One member of the drug treatment court team is a mental health staff member whose role is to discover whether offenders have any mental health problems that might interfere with the program.

Expert Working Group (1999) *Improving Intersectoral Impact in Drug Abuse Offending Case Work*, United Nations Drug Control Programme, United Nations, Vienna.

This is a report of an expert committee comprised on senior judges and other key justice system personnel who are leading multi-disciplinary teams in court directed treatment and rehabilitation. It provides an international overview of treatment and rehabilitation diversion programs in operation, paying particular attention to the utility and practices of drug treatment courts. It identifies successful factors underlying court-directed treatment and rehabilitation programs, they include: effective judicial leadership, strong interdisciplinary collaboration of judge and team members, while maintaining professional independence, good knowledge and understanding of addiction and recovery by the non-healthcare court team; operational manuals to ensure consistency of approach; clear eligibility criteria and objective eligibility screening of potential participants; detailed assessment of each participant; fully informed and documented consent of each participant; speedy referral to treatment and rehabilitation; swift, certain and consistent sanctions or rewards for non-compliance or compliance; sufficient, sustained and dedicated program funding and changes in underlying substantive and procedural law if necessary or appropriate. The report concludes by making

best practice recommendations described as ‘Twelve Principles for Court-directed Treatment and Rehabilitation Programs’. Best practice involves: integrating treatment and rehabilitation services with justice system case processing; using a non-adversarial approach; identifying eligible offenders early and promptly integrating them into the program; ensuring access to a continuum of intervention services; compliance monitoring by frequent drug testing; a coordinated responses to non-compliance; ongoing judicial interaction with each offender; program monitoring and evaluation; continuing interdisciplinary training; forging partnership between courts, intervention programs, public agencies, and community based organisations to generate local support; ongoing case management and appropriate flexibility.

Finn, P., (1994) “Addressing the needs of cultural minorities in drug treatment”, *Journal of Substance Abuse Treatment*, 11(4), 325.

Research has demonstrated that members of cultural and ethnic minorities are more likely to drop out of drug treatment and are less likely to reduce or eliminate substance use during or after treatment. This may be a result of cultural tensions between clients and staff. While some argue that it is best to ignore cultural issues in drug treatment on the basis that substance use is a “disease” which is “colour-blind”, others agree that overlooking culture denies an important aspect of clients’ identity, and ignores important cultural characteristics that may impact on the client-therapist relationship and impede recovery. For example, building trust may be more important with some cultural groups than others, as may reassurances of confidentiality and the use of non-confrontational counselling techniques. On the other hand, some cultural groups may value frankness and welcome expressive communication styles. Therapists must be careful not to misinterpret behaviour that may be culturally-based including lack of eye contact, silence, gesturing and physical proximity. The role of non-traditional treatments including acupuncture, meditation, spiritualism and herbal preparations should not be discourages, but respected and built upon. The article concludes by reinforcing the need for cultural sensitivity in drug treatment if effective treatment outcomes are to be achieved.

Freeman, K., (2002) *New South Wales Drug Court Evaluation: Health, Well-Being and Participant Satisfaction*, New South Wales Bureau of Crime Statistics and Research, Sydney.

The author presents the results of an evaluation of the NSW drug court program. Interviews were conducted prior to commencing the program, and follow-up interviews were conducted at four months, eight months and 12 months. The most popular drug of choice amongst the sample was heroin (82%) followed by amphetamines (10%). Only one respondent had no prior convictions – 76% of respondents had previously received a prison sentence. Most respondents were aged between 18-34 years, and most were in extremely poor health before commencing the program, with mental health and social functioning rating well below general population norms. Significant improvements in the health of respondents were recorded at the four month follow-up interview, while mental health, emotional functioning and social functioning steadily improved over the 12 month follow-up period. Drug use (as measured by change in weekly earnings) had fallen significantly by the four month follow-up interview, and this was maintained at eight and 12 months. These findings were supported by the results of urinalysis. When compared with the scores of NSW inmates, it was found that drug court participants rated higher than inmates in terms of health status. The only predictor of retention on the program for at least 12 months was the length of suspended sentence, with those whose sentences were longer more likely to remain in the program for at least 12 months, or graduate within that time. Respondents' considered the drug court to be less fair and more difficult as time went on, however most participants were satisfied with the program. It was found that perceptions of ease were related to well-being which may imply a need for increased support for those functioning at a lower level. Treatment was most commonly reported as both the best and the most negative aspect of the drug court program. Some insightful suggestions for improvement were made by respondents. Older participants stated that eligibility criteria should be restricted to older offenders, as young people were not sufficiently motivated to address their substance use issues. Participants suggested that therapy groups be homogenous in terms of treatment (ie. those on abstinence programs should not be placed in groups with those on pharmacotherapy treatment). Some participants considered custodial sanctions to be counter-productive, as they disrupt treatment and impact on employment. A number of women suggested that court appearances be less frequent, due to difficulties in arranging childcare. Lack of housing was also identified as an important issue for drug court participants.

Freiberg, A., (2001) *Sentencing Review: Drug Courts and Related Sentencing Options*, Department of Justice, Melbourne.

This Discussion Paper raises the question whether Victoria should introduce, on an experimental basis, an innovative court to deal specifically with drug offenders. This court, which would be a division of the Magistrates' Court known as the Drug Court, would be designed to deal with cases referred to it for judicially supervised drug treatment and rehabilitation. Freiberg describes measures that were then available in Victoria and throughout Australia. The paper also explores the opportunities for diversion that are available at different points in the criminal justice system, distinguishing between pre-court interventions, like police interventions and bail schemes, as well sentencing options including deferred sentencing, release on adjournment with or without conviction, community-based orders and intensive correction orders. An appendix provides a brief overview of Drug Court programs operating in New South Wales, Queensland, Western Australia and South Australia.

General Accounting Office (USA), (1997) *Drug courts: overview of growth, characteristics and results*, Washington DC, available at www.gao.gov (Accessed 20/12/02)

This report provides a synthesis of the results of 20 US drug court evaluations. It reports that while most drug court programs are targeted at adult, non-violent offenders with a substance addiction, some programs do target/service other populations, including women, juveniles (16%), violent offenders (22%), repeat offenders (78%) and probation violators (63%). Some programs have established specific ethnic and/or culturally sensitive treatment components, and/or have focused on special classes of defendants (eg. pregnant women, victims of sexual abuse, parents, etc.). Completion rates vary from 8% to 95% (average 48%) and retention rates range from 31% to 100% (average 71%). All drug courts reported having a treatment component as part of their program. Types of treatment vary between programs – most programs use an array of rehabilitation services including detoxification, stabilization, acupuncture, counselling, therapy, drug education and relapse prevention. Some provide services relating to personal and educational development after participants have responded to initial detoxification. On predicting program completion, some studies showed that certain population groups are more likely to fail the drug court program than others, eg. males, females, African-Americans, Hispanics, younger participants, unemployed participants, cocaine and amphetamine users and unmarried participants.

Goldkamp, J.S., (1994) “Miami’s treatment drug court for felony defendants: some implications of assessment findings”, *The Prison Journal*, 73(2), 110.

This article reviews the practices and procedures of the Miami Drug Court which was established in 1989. The unique role of the judge, defender and prosecutor are discussed, and it is noted that these court officers play a role that appears to be more therapeutic than adversarial in nature. Treatment occurs in three stages: detoxification, counselling and educational/vocational assessment and training. Acupuncture and drug testing are incorporated at each stage. The author then turns to the value of evaluations of drug court programs. Benefits include assistance with treatment program planning; indication of the feasibility of targeting other categories of offenders and offences; assistance in gauging public safety risks; and facilitation of the diversion of high risk defendants into more intensive or supervisory programs. An evaluation of the Miami drug court conducted by the author found that four variables successfully predicted rearrest during treatment: lack of college education, youth (aged less than 25 years); prior arrests for robbery; and prior instances of failing to appear at court for misdemeanour cases.

Goldkamp, J.S., (2000) “What we know about the impact of drug courts: moving research from ‘do they work?’ to ‘when and how they work’”, paper presented to the *Senate Judiciary Subcommittee on Youth Violence*, 10 March 2000.

In this presentation, Goldkamp reviews research undertaken on the drug courts in Las Vegas and Portland (see (2001) 31(1) *Journal of Drug Issues* 27, summarised below), in addition to reporting the results of focus groups with drug court participants. It was found that most participants were very seriously involved in drug abuse, many with long histories of abuse and failure in treatment. In addition, many suffered from mental illness. Participants reported that the drug court experience was a unique opportunity, and that they were impressed that “someone would want to help”. They viewed the single drug court judge as the main and most important element of treatment, and considered drug testing as key. They reported being strongly motivated by incentives and sanctions – the threat of jail was of particular concern due to its consequences including loss of employment and loss of custody of children.

Goldkamp, J.S., White, M.D., Robinson, J.B., (2001) “Do drug courts work? Getting inside the drug court black box”, *Journal of Drug Issues*, 31(1), 27.

The authors attempt to answer two questions through their research: do drug courts work? and if so, how do they work? Their results are based on evaluations of two of the longest operating drug courts in the US – Las Vegas and Portland. Their findings demonstrate that drug court graduates do generally show substantially lower rearrest rates over two year periods from entry than non-graduates, and that drug court graduates take between two and four times longer to be rearrested than non-graduates. However, when defendant attributes were controlled for, some of the apparent differences in re-offending rates disappeared. It was found that numerous contacts with the judge, regular drug testing, attendance at treatment services, length of time in treatment, positive incentives and acupuncture were all instrumental in bringing about favourable drug court outcomes. Jail sanctions were associated with higher rates of rearrest and lower rates of graduation, although many participants who received jail sanctions did produce positive outcomes. Offender attributes associated with rearrest included prior drug arrests, prior failures to appear in court, race and having an alias. The authors conclude from these results that participant attributes at entry into the drug court do consistently play a role in the probability of graduation and rearrest, independent of the effects of the drug court experience. However, some drug court functions do contribute to positive outcomes.

Goldsmith, R.J., Latessa, E., (2001) “Coerced treatment of addictions in the criminal justice system”, *Psychiatric Annals*, 31(11), 657.

Coerced treatment requires the presence of distinct pressures with clear consequences to get individuals to attend treatment sessions. The criminal justice system offers several opportunities for mandated treatment with abstinence and has a variety of contingencies for failure to comply with treatment and inducements for cooperative behaviour. This article reviews the elements essential for effective coercion in the alcohol and drug treatment field, and matches these to opportunities and practices in the criminal justice system in the US. It concludes that in the past 40 years, more than 70,000 addicts were included in four major outcome studies: the Drug Abuse Reporting Project (DARP), the Treatment Outcome Prospective Study (TOPS), the Drug Abuse Treatment Outcome Study (DATOS), and the National Treatment Improvement and Evaluation Study (NTIES). Treatment was mandated by the court for 40% to 50% of participants. Two major findings emerged: the length of time in treatment predicts outcome and coerced patients stay in treatment longer. Treatment must last at least 90 days to be

effective and 12 months is generally the minimum effective duration. Studies also found that some offenders for whom treatment was mandated by the court had a less favourable preadmission profile; however, they did at least as well as the groups who had been treated voluntarily. The four studies showed that all programs had a 50% dropout rate in the first 90 days, and that addicts who dropped out early showed no benefits. Taking these results into account coercion becomes a viable intervention for the unmotivated individual. A well designed program with participants who believe in the efficacy of coerced treatment can reach many individuals who would not voluntarily get into treatment. The advantage of drug courts is that they rely on one judge to interpret the legal contract with the authority to have the consequences come quickly and surely. The certainty of the consequence is identified as central to the efficacy of coerced treatment. Ambivalence about the coercive situation by those in authority can undermine its efficacy.

Green, C.A., Polen, M.R., Dickinson, D.M., Lunch, F.L., Bennet, M.D., (2002)
“Gender differences in predictors of initiation, retention and completion in an HMO-based substance abuse treatment program”, *Journal of Substance Abuse Treatment*, 23, 285.

It is well-established that women are more likely to experience circumstances that interfere with their ability to successfully navigate the drug treatment process. Standard treatment methods have been criticised as male-oriented and many services have begun to develop treatment methods that are more responsive to women. Barriers to treatment encountered by women include childcare responsibilities, poverty, stigma, and inconsistencies between female gender roles and drug use. Also, women entering drug treatment appear to have less social support and more family responsibilities than men entering treatment. Women are more likely to identify factors other than drug use as their primary problem (eg. mental illness, stressful life-events), and they are more likely to report experiencing abuse in the past. Women entering treatment also tend to have more severe substance-related problems than men, and they are more likely to be younger, have lower education levels and have lower incomes than men. It has been found that client matching based on needs often differentiated by gender (eg. childcare, transportation and housing) results in better retention outcomes. The present study found that women in drug treatment are more likely to face employment problems, family/social problems and psychiatric difficulties. Predictors of treatment completion for men and women overlapped, with income and psychiatric difficulties predicting non-completion for both.

Gregoire, K. A., & Schultz, D. J., (2001) "Substance abusing child welfare parents: Treatment and child placement outcomes", *Child Welfare*, 80(4), 433-452.

Gregoire and Schultz present findings from their study of 167 child welfare parents referred for substance abuse assessments. They found that clients who completed assessment and treatment had higher rates of post referral sobriety than did non-completers. Approximately one third of clients did not complete the substance abuse assessment, and only 23.4 % of those who commenced treatment were able to complete the program. A high number of these (60.1%) continued to use drugs. The effects of drug use on the families was devastating with over half of parents not having custody, and 21% losing parenting rights by two years after the assessment referral. These authors found that significant others' support emerged as having a strong relationship with treatment and custody outcomes. Gender differences existed, with females less likely to receive support than males. At the same time females were more likely than males to have substance-abusing partners, which may in part account for the lack of support. The women were also younger and had lower incomes, increasing their vulnerability to remaining with non-supportive men. Gregoire and Schultz found that prior treatment was associated with continued substance abuse after the referral, rather than with sobriety. They concluded that prior treatment may indicate addiction, where as no prior treatment suggests less severe involvement with drugs and alcohol. Further Court-order treatment did not appear to make a difference in outcomes for these clients.

Guydish, J., Wolfe, E., Tajima, B., Woods, W.J., (2001) "Drug court effectiveness: a review of California evaluation reports, 1995-1999", *Journal of Psychoactive Drugs*, 33(4), 369.

This study conducted a review of the 17 Californian drug court evaluations in existence at the time. It was found that drug court participants demonstrate a rearrest rate that is approximately 12% lower than comparison groups. The largest reduction in rearrest rates may be expected for drug court graduates, thus it seems that the degree of success increases proportionate to the length of exposure to treatment. Since evidence suggests that outcomes are better for program graduates, research should focus on retaining participants and increasing graduation rates, which ranged from 11% to 61% in these evaluations. One important comment made by the authors is that only around 25% of drug court evaluations are published in journals. This means that drug court research is relatively inaccessible and that many of them may not have met the quality assurance standard of peer-review. The authors conclude that

these studies strengthen the evidence supporting drug courts, however increased funding for drug court evaluations would enhance the quality of findings.

Hall, W., (1997) "The role of legal coercion in the treatment of offenders with alcohol and heroin problems", *Australian and New Zealand Journal of Criminology*, 30(2), 103.

Drug treatment under coercion is generally justified in terms of reducing individuals' likelihood of offending by removing a causal factor of their offending behaviour. This is particularly the case in relation to heroin-addicted offenders who are very likely to relapse to drug use upon their release from prison, and thus are likely to quickly re-offend. However, a number of ethical issues arise in relation to coerced drug treatment. Treatment programs may require offenders to spend months residing in a therapeutic community or otherwise significantly impact upon their lifestyle and intrude on their leisure time. Also, most legally coerced drug treatment programs in Australia are abstinence-based. More effective forms of drug treatment should be used in legally coerced treatment, such as methadone maintenance, as an alternative to imprisonment and a way of reducing relapse. Further, the expansion of treatment under coercion will require funding of additional treatment places. Otherwise, those who voluntarily seek treatment will be deprived of receiving it, and the effectiveness of treatment may be impaired if workers become demoralised by working with large numbers of involuntary clients. The effectiveness and cost-effectiveness of legally coerced drug treatment should be constantly evaluated, to ensure that scarce resources are not wasted on unsuitable clients and unsuitable treatment modalities.

Harrell, A., Goodman, A., (1999) *A Review of Specialised Family Drug Courts: Key Issues in Handling Child Abuse and Neglect Cases*, The Urban Institute, Washington DC.

This report reviews the processes, outcomes, and challenges of three family drug courts in the US. Family drug courts are aimed at addressing the substance use needs of parents who admit to abusing and/or neglecting their children. Thus, drug treatment is offered in the context of family court child protection proceedings. Stabilisation of the family, and/or reunification of parents with their children, is achieved through the court-coordinated delivery of multiple social services, addressing issues such as mental illness, housing, poor physical health, child protection, child care, and parenting as

well as substance use. Parents must consent to a treatment plan which generally includes inpatient or outpatient drug treatment, training in parenting skills, regular drug testing and the possibility of sanctions for non-compliance. Eligibility is based on age (varies between programs, either 18 or 21 years) and some programs exclude cases on the basis of mental illness and domestic violence. Family conferences are held throughout the program, a schedule of supervised visitation is drawn up for parents who do not have custody of their children, and home visits are conducted to assess whether reunification is suitable. Problems identified include: difficulties related to successful collaboration between service providers; the need for transitional and aftercare services for parents; family drug courts are very labour intensive; the need for more services for affected children; the need for specialist services for families affected by mental illness or domestic violence.

Harrell, A., Mithchell, O., Hirst, A., Marlowe, D., and Merrill, J., (2002) "Breaking the cycle for drugs and crime: Findings from the Birmingham BTC Demonstration", *Criminology & Public Policy*, 1(2), 189-216.

This paper presents findings from the process and impact evaluation of the Birmingham, Alabama BTC program, the first of three programs funded to serve adult offenders. The program is characterised by four core BTC components:

1. Early screening to identify drug users and assign them to appropriate interventions upon entry into the criminal justice system;
2. Required participation in drug interventions, including case management, drug testing and treatment as needed;
3. Use of graduated sanctions in response to drug test failures and other BTC requirements; and
4. Expanded judicial monitoring of compliance with requirements.

The research was designed to test the hypothesis that combining these components into a comprehensive system-wide intervention will reduce drug use and crime.

Most BTC cases were screened and placed in BTC shortly after release. Nearly 70% of the sample was assessed within a week of their release and almost all were drug tested at the time of assessment. Treatment referrals, made for 96% of the clients, were based on clinical assessment of treatment need. Twenty-one percent were referred to urine monitoring only. Two percent were referred to education groups operated by TASC. Fifty-seven percent were

referred to outpatient treatment, most of whom attended a program located at TASC with frequency dependent on group placement and progress. Sixteen percent were referred to residential treatment and a few were placed in methadone maintenance. The results suggest that intervention with drug involved offenders can begin shortly after arrest for a much larger portion of the arrestee population than is targeted by drug courts or pre-trial diversion programs. The program records indicate that drug users were referred to treatments that were appropriate for the level of severity of their drug problems and, moreover, that most of those referred to treatment were placed in services. The result was a substantial increase in the pool of defendants released, which helped reduce jail overcrowding without a significant increase in threat to public safety. The findings indicate that the benefits of this model of early intervention with drug involved felony defendants include significant reductions in drug use and some reduction in crime. These results were found with white but not African American participants.

Harrison, P. M., Karberg, J.C., (2003) "Prison and Jail Inmates at Midyear 2002", *Bureau of Justice Statistics Bulletin*, US Department of Justice, Office of Justice Programs, April 2003.

This is a statistical report which describes the distribution of inmates across prison and jail populations under Federal and State jurisdictions.

Heale, P., Lang, E., (1999) *Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT): Final Evaluation Report*, Turning Point Alcohol and Drug Centre Inc, Melbourne.

This report provides a process evaluation of the CREDIT program conducted in the Melbourne Magistrates' Court. The evaluation was based on a literature review, assessment of key performance indicators and a number of key informant interviews with Magistrates, clinicians, treatment service providers, police, officers of the Department of Human Services and the Office of Corrections and a small number of clients. Heale and Lang reported the following results: between November 1998 and August of 1999, 399 people were referred by police for assessment by the CREDIT drug clinicians. 199 were subsequently placed on the program. Of those not placed, 26% failed to attend for assessment, 25.5% declined CREDIT due to lack of interest or because they claimed to be arranging their own drug treatment, 16.5% were already receiving drug treatment, 9.5% were not eligible and 9% were assessed as not suitable. The majority of participants were male with a mean age of 25 years. Heroin was the main substance use problem for all but two

clients with the average period of use being a little over four years. Drug offences followed by property offences were the main charges faced by participants, most had a record of similar offences. Police data indicated that there was little difference in rates of reoffending between CREDIT clients and those did not participate in the program. Successful completion of the program was recognised at the time of sentencing through a more favourable disposition than would have otherwise applied. Interviews with key informants revealed that there were varying levels of understanding of the program – amongst police, magistrates and other services providers – and this impacted negatively on delivery. There were problems with the brokerage of treatment places, with the major issue being availability of residential withdrawal services and emergency or crisis accommodation. This meant that many clients were not able to engage in treatment effectively, because their accommodation needs were far more significant. Informants identified a number of important benefits that derived from the program. They included: gaining a better understanding and improved working relationships between the various parties and organisations involved in the treatment and management of drug dependent offenders; early access to treatment; reduced burden on the criminal justice system (this needs to be qualified: while there may have been reductions on correctional services, CREDIT involved a greater burden for the court); defendants received appropriate attention from drug and alcohol services while on bail, and professional advice from these services could usefully inform Magistrates’ sentencing decisions; finally the community benefits as a result of reduced drug use and crime.

Health Canada, (undated) “Reducing the Harm Associated with Injection Drug Use in Canada”, *Canada’s Drug Strategy*, available at: <http://www.hc-sc.gc.ca/hecs-sesc/hecs/dscs.htm> (Accessed 15/10/2002).

This is the website for Canada’s drug strategy. This particular page outlines a number of programs which have been, or might be, implemented to reduce the harm associated with the injection of illicit drugs. They include: needle exchange programs, supervised injection sites, drug user groups and networks, provision of harm reduction information and education to drug users and diversion programs.

Health Outcomes International (HOI) Pty Ltd (2003) *Evaluation of Council of Australian Governments’ Initiatives on Illicit Drugs, Final Report to Department of Finance and Administration October 2002, Volume 2 – Diversion Initiatives*, Department of Finance and Administration, Canberra.

This Report aims to provide a national evaluation of the COAG National Illicit Drug Strategy (COAG-NIDS). It addresses the range of drug diversion programs that have been implemented across all States and Territories in Australia as a result of COAG-NIDS funding. The report is divided into a number of sections which address the nature of illicit drug use, diversion programs currently operating overseas and in Australia, a detailed review of programs implemented in each State and Territory under the COAG initiative. These programs are not evaluated but data is provided on throughput for the initial years of operation. Between March 2000 and March 2002 almost 20,000 referrals to diversion had been made. Three associated studies are summarised in this report. They consist of three sentinel studies covering system impacts, client impacts and the impact of diversion programs on Indigenous offenders. The latter two studies are in some ways disappointing because of an inability to collect sufficient data for rigorous evaluation or because premature investigation. In each case the methodology was modified to allow qualitative rather than quantitative research that did not rely on large sample sizes or access to significant numbers of program participants. Nevertheless, the authors of the report are able to provide useful insights into the delivery of diversion. Many of their findings and conclusions are consistent with other research. They highlight the significant role played by police in the diversion process, the need for appropriate and sufficient infrastructural support, planning, training and resourcing. In relation to Indigenous people the evidence supports the need for cultural sensitivity by police in the delivery of diversion as well as the need for culturally specific treatment services. A final section of the report addresses the issue of data collection at the State and Territory levels and issues relating to a national data set for diversion programs.

Hiller, M.L., Knight, K., Kirk, M., Broome, D., Simpson, D., (1998) "Legal pressure and treatment retention in a national sample of long-term residential programs", *Criminal Justice and Behaviour*, 25 (4), 463-481.

This study examined the links between legal pressure and treatment retention in a national sample of 2,605 clients admitted to 18 long-term residential facilities that participated in the Drug Abuse Treatment Outcome Study (DATOS). The research investigated the relationship between background factors and legal pressure with treatment participation for 90 days or longer. Two thirds of the sample entered residential treatment with moderate to high pressure from legal authorities and they were significantly more likely than the low-pressure clients to stay 90 days or more. Furthermore, the difference in retention between moderate-to-high and low-pressure clients was even greater in programs with proportionally larger caseloads under legal

surveillance. The authors concluded that the criminal justice system can influence treatment participation and retention; furthermore, to maximise impact of coerced treatment it is essential for criminal justice system personnel and treatment service providers to maintain open and constructive relationships.

Home Office (1999) *Drugs Interventions in the Criminal Justice System: Guidance Manual*, Home Office, London.

This document is a manual aimed primarily at Drug Action Teams and local partnerships set up under Drug Action Teams, criminal justice agencies and drug services to assist in the development of drugs intervention programs in the criminal justice system. It explains the importance of the criminal justice intervention programs to the objectives of the Government's anti-drugs strategy *Tackling Drugs to Build a Better Britain*. It recognises that work in partnership to target and reduce drug related crime is a Ministerial priority for the police for 1999/2000. The number of offenders referred to and entering treatment as a result of arrest referral schemes is a key performance indicator for the police. It notes that Probation Services are encouraged to spend partnership funds on well founded anti-drugs interventions such as schemes for referring offenders to treatment as part of local Drug Action Team Strategies. It also takes account of the framework for drug interventions for prison inmates within the Prison Service drug strategy, *Tackling Drugs in Prison*. The objective of the manual is to support Drug Action Teams to develop prevention strategies based on evidence of good practice; to help to create supportive links between Drug Action Teams, building local capacity and promoting economies of scale; to invest in demonstration programs; to promote further learning; and to disseminate evidence of effective prevention.

Huddleston, C. W. (1998) "Drug courts and jail-based treatment", *Corrections Today*, 60(6), 98-101.

This is a brief article describing the form and functioning of drug courts in the United States. It describes the drug court model as involving a single drug court judge and staff who provide leadership and focus; expedited adjudication through early identification of appropriate program participants and referral to treatment as soon as possible after arrest; intensive long-term treatment and aftercare for appropriate drug-using offenders; comprehensive and well coordinated supervision through regular status hearings before a single drug court judge to monitor treatment progress and program compliance; increased defendant accountability through a series of graduated

sanctions and rewards; and mandatory and frequent drug testing. The judge has a critical role serving as an authority figure, providing attentive, dependable, if stern 'parental' supervision, and taking an active part in the defendant's treatment. Leverage, coerced abstinence and external pressure are often employed to keep the offender on track. Huddleston argues that the drug court team relies on a pragmatic sentencing philosophy known as 'smart punishment', which is the imposition of the minimum amount of punishment necessary to achieve the twin sentencing goals of reduced criminality and drug use. It relies on the use of progressive sanctions – the measured application of a spectrum of sanctions, whose intensity increases incrementally with the number and seriousness of program failures. The author also summarises the findings from existing evaluations of drug courts, noting that they vary considerably in scope, methodology and quality. In short: drug courts have been successful in engaging and retaining felony offenders who have substantial substance abuse and criminal histories but little prior treatment experience. They provide more comprehensive and closer supervision of drug-using offenders than other forms of community supervision. Drug use and criminal behaviour are substantially reduced while clients are participating in a drug court program. Criminal behaviour is lower after program participation, especially for graduates, although few studies have tracked recidivism for more than one year. Drug courts generate cost savings – at least in the short term, and they have been successful in bridging the gap between court and the treatment/public health systems.

Jerrell, J.M., Wilson, J.L., (1997) "Ethnic differences in the treatment of dual mental and substance disorders", *Journal of Substance Abuse Treatment*, 14(2), 133.

The prevalence of drug use and mental health disorders varies by ethnicity, gender and age. Also, the consequences of drug use vary between ethnic groups, with some ethnic groups experiencing more severe consequences in terms of both their physical and mental health. The treatment of dual disorders in ethnic groups is complex yet few studies have investigated treatment outcomes associated with specialised treatments for those with co-occurring mental health disorders and substance use. This study examined outcomes in relation to a racially mixed treatment group for dually diagnosed clients. It was found that white clients' functioning scores were only slightly higher than other ethnic groups' after treatment. Ethnic clients reported slightly more psychiatric symptoms and slightly greater drug use symptom reductions after six months of treatment. Clinicians reported that certain cultural groups reacted negatively to traditional confrontation treatment methods, resulting in higher drop out and relapse rates. Also, ethnic clients

experienced more difficulty in finding suitable twelve-step programs to attend as few were culturally-oriented. Younger male ethnic clients experienced more difficulty securing employment as they were viewed as unreliable by employers. Recommendations included intensive training regarding cultural differences for all staff, ethnic matching between staff and clients wherever possible, and staff advocacy for culturally relevant services.

James, S., Sutton, A., (2000), “Development in Australian Drug Law Enforcement: Taking Stock”, *Current Issues in Criminal Justice*, 11(3), 257-272.

Australian illicit drug control policy has undergone considerable review in the last two decades. New drug related programs and funding initiatives have been announced with great regularity. Many of these developments have occurred at the Commonwealth level under the auspices of the National Drug Strategic Framework 1998-99 to 2002-2003. James and Sutton examine the impact of these changes on the law enforcement sector and argue that the relationship between newly identified objectives – specifically harm reduction - and traditional crime control practices which reinforce prohibition is difficult. The observations outlined in their paper suggest that despite reforms, approaches to drug law enforcement represent an awkward compromise. The supply reduction sector (police) flirts with harm reduction, but has difficulty in embracing it as a core ethic. Moreover, in the current political environment police and other agencies are often being encouraged to pursue single-mindedly law and order priorities; faced with these competing pressures, the enforcement sector risks satisfying neither the prohibitionists’ demand for zero tolerance, nor the reformers’ call for an end to the adverse outcomes of prohibition. James and Sutton cautiously offer regulated markets as a solution.

Johnson, S., Koetzle Shaffer, D., Latessa, E.J., (2000) “A comparison of male and female drug court participants”, *Corrections Compendium*, 25(6), 1.

The authors provide a profile of adult men and women participating in eight adult drug courts across Ohio. They found that the racial profiles of male and female participants were significantly different (the majority of male participants were African-American while the majority of female participants were Caucasian). There were also differences in marital status (with women more likely than men to be married), and employment status (with more men than women in full-time employment). Men and women also differed in their drug of choice – women were more likely to report using crack/cocaine, while

men were more likely to report alcohol as their drug of choice. The authors conclude that these differences are important as they assist in predicting the likelihood of treatment success – married women may be more likely to leave programs early to care for children and crack/cocaine users are less likely to be successful in the program than alcohol users – and differences between men and women demonstrate the need for differential treatment. The authors conclude that further research is required on female drug users who participate in drug court programs.

Justice Programs Office, American University (2002) *Brooklyn Treatment Court Five Year Report July 1996- December 2001.*

The Brooklyn Treatment Court is a drug court with some innovative features that set it apart from the majority of US drug courts. First, the court itself is extremely well-resourced: it has an on-site medical clinic, an on-site psychiatric clinic, and an on-site laboratory to process urinalysis results. Also, the court receives instant information (including drug test results and assessments) via computer link-up. Second, the court has a number of sub-programs devoted to specific population groups. For example, female offenders were found to have more problems, greater severity of drug addiction and a lower program success rate. In response, the “Treatment Readiness Program” was established, whereby female defendants facing less serious misdemeanour charges attend a two-day series of educational workshops designed to encourage them to seek further treatment. Also, there is a long-term treatment mandate for more serious offenders and a short-term treatment mandate for defendants charged with misdemeanour drug possession crimes. Recidivism rates are as low as 7% for program graduates. Third, the court employs a number of creative sanctions including essay writing (titles include “My Goals for Treatment”) and the “penalty box” (ie. attending drug court as an observer for two days and presenting reflections to the judge). Fourth, the court recognises the unique problems faced by mentally ill substance users – it partnered with “Project Return”, a 40-bed residential setting to which participants may be referred to address underlying mental health issues, and the court employs an on-site Psychiatric Nurse Practitioner to provide psychiatric assessments and ensure that the needs of mentally ill offenders (particularly women) are addressed in treatment plans. And finally, the program incorporates a community service component to foster reintegration into the community - all participants complete one or two days of volunteer work.

Lang, M.A., Belenko, S., (2000) “Predicting retention in a residential drug treatment alternative to prison program”, *Journal of Substance Abuse Treatment*, 19, 145.

The aim of this study was to determine which characteristics, if any, differentiate drug treatment diversion program completers from “dropouts”. The results of this study were compared with previous research, which suggested that older females who are less severe drug users and have no history of psychopathology are more likely to complete drug treatment programs. A number of predictors of program non-completion could be distilled from the results, including a lack of social supports and networks, psychological difficulties (particularly anxiety, depression and suicidal ideation), lack of social conformity, younger onset of drug use, illicit drug use (as opposed to alcohol use), fewer felony drug convictions and a greater need for employment counselling. The authors conclude that this study provides reason for the development of therapeutic strategies addressing dual diagnosis – psychopathology requires specialised psychiatric treatment. Also, the authors argue taking a more holistic approach to rehabilitation by addressing issues such as cultural alienation, housing, employment and family functioning, will reduce dropout risk factors.

Lawrence, R., Freeman, K., (2002) “Design and implementation of Australian’s first drug court”, *Australian and New Zealand Journal of Criminology*, 35(1), 63-78.

In 1999 the New South Wales government implemented a trial of the first drug court in Australia. The pilot was supported by legislation which included provision for evaluation. The New South Wales Bureau of Crime Statistics was invited to carry out this task. This paper outlines the initial design and legislative framework of the Court, and the Court’s operation over the first six months. The Court was based on a North American model and as a result some aspects of its operation proved challenging in the Australian context. Difficulties in implementation are outlined, including difference in orientation of a health and welfare perspective compared to a criminal justice approach. The authors also note the importance of robust information management resources both in terms of the function of the court, and to support effective evaluation.

Lind, B., Weatherburn, D., Chen, S., Shanahan, M., Lancsar, E., Hass, M., De Abreu Lourenco, R., (2002) *New South Wales Drug Court Evaluation: Cost-Effectiveness*, NSW Bureau of Crime Statistics and Research, Attorney General's Department, Sydney.

This report examines the cost effectiveness of the NSW drug court in comparison to conventional sanctions in reducing drug related crime. The evaluation was conducted using a randomised controlled trial where individuals were randomly allocated to 'treatment' and 'control' groups providing more assurance of control over extraneous factors which might otherwise bias the evaluation. The use of this methodology is notable; it is a rare occurrence that it is able to be employed in research in the alcohol and drug field, and it is extremely unusual in evaluations of drug diversion programs. 309 participants in the NSW Drug Court program were compared with a randomised control group of 191 offenders deemed eligible for the program but sanctioned in the usual way (mostly through imprisonment). The average lengths of the follow-up periods for the two groups were 369 days and 294 days for the treated subjects and the control subjects respectively. The offence categories examined included break, enter and steal; fraud; larceny by shop stealing; other larceny; unlawful possession (of stolen goods); possess/use opiates; possess/use cannabis; possess/use other drug; and deal traffic opiates. There was little difference between the Drug Court and conventional sanctions in terms of their cost-effectiveness in increasing the time to the first offence. There was a larger difference between the alternatives in terms of the cost-effectiveness of reducing the rate of offending. It cost nearly \$5,000 more for each shop stealing offence averted using conventional sanctions, and an additional \$19,000 for each possess/use opiates offence averted than it cost using the Drug Court Program. The authors argue that efforts to improve the cost effectiveness of the NSW Drug Court should seek to (a) improve the ability to identify offenders who will benefit from the program (b) terminate the Drug Court involvement of those unsuited to the program at an earlier point in time (c) improve the match between offenders and treatment programs (d) develop more realistic graduation criteria and (e) improve the level of coordination between agencies involved in the program.

Longshore, D., Turner, S., Wenzel, S., Morral, A., (2001) "Drug courts: a conceptual framework", *Journal of Drug Issues*, 31(1), 7.

While the various aspects of drug courts have been listed by a number of researchers, the extent to which these aspects predict drug court outcomes have not been extensively examined. In this article, the authors set up a

framework for evaluating drug courts on the basis of five dimensions: leverage (the seriousness of consequences faced by participants who fail to meet program requirements); population severity (offender characteristics related to the severity of their drug problem and the seriousness of their criminal history); program intensity (the intensity of program requirements including frequency of drug testing and court appearances); predictability (the extent to which participants know how the court will respond to their compliance or non-compliance); and rehabilitation emphasis (the extent to which the program focuses on the goal of rehabilitation of offenders as opposed to punishment or case processing). The authors argue that the impact of participant characteristics including gender, employment status, mental illness and homelessness on outcomes are adequately reflected in these dimensions, and they conclude that although the framework will require periodic re-assessment, it reflects their current judgement of which drug court characteristics affect treatment outcomes.

Lurie, S., (2000) “Addiction medicine specialists add a new therapeutic approach”, *Journal of the American Medical Association*, 283(20), 2644.

Lurie presents the comments made by a number of specialists on the theory and practice of drug courts at an American Society of Addiction Medicine meeting. It was asserted that drug court participants bring with them a number of co-existing problems, including “a lack of inner emotional and mental resources”, poor housing, unemployment and poverty. Thus, the drug court functions as “an interdisciplinary problem-solving community institution”, coordinating input from a variety of legal and social services. Innovations include reducing participants’ court costs if they perform supervised volunteer work or complete a job-training program, and incorporating peer support into the program by ensuring that new participants be made to listen to the reports of those who have been in the program longer. One specialist stated that although some judges prefer to limit themselves to analytical rather than “social work” functions, they should aim to cultivate a good “bench-side manner”, treating defendants with dignity and allowing them time to tell their own narrative at trial. This will bring about higher levels of satisfaction with the process, regardless of the outcome.

Makkai, T., (1998) “Drug courts: issues and prospects”, September *Trends and Issues in Crime and Criminal Justice*. No 95. Australian Institute of Criminology, Canberra.

Makkai summarises the significant pieces of literature available at the time on US drug courts. Eligibility criteria are discussed and the important point is made that constraining drug courts to deal only with first-time offenders is an inefficient use of resources – optimal benefits will be achieved by targeting those offenders who are committing a high volume of crime, driven largely by their drug dependency. Effective treatment components are listed as including: intensive, long-term treatment; the use of sanctions; incentives for offenders, eg. promise of immediate treatment and a non-custodial sentence; offering a package of support including educational and social services as well as drug treatment; and effective and close collaboration between the court, law enforcement, treatment providers and other community groups. The importance of incorporating juvenile offenders into drug court programs is emphasised due to the young age at which many offenders begin their criminal careers and drug usage. It is noted that the role of judicial officers in drug courts are very different to those in traditional courts – the judge, prosecutor and defence lawyer are required to work together to achieve the best outcome. The author concludes by remarking that such coalitions between the criminal justice system and the community has the potential to restore public confidence in the criminal justice system.

Makkai, T., (1999) “Linking drugs and criminal activity: developing and integrated monitoring system”, *AIC Trends and Issues in Crime and Criminal Justice*, No 109. Australian Institute of Criminology, Canberra.

For intervention programs like drug diversion to be successful they need to be targeted and evaluated to determine their level of success. This requires the collection of empirical data that can provide a foundation for evidence based policing making and policing. This paper examines the utility of our national statistical collections, and explores national specialised collections; it suggests ways to build upon current research collections to enhance the capacity of policy makers at all levels of government to tackle the problem of drugs and criminal activity. It notes the limits of generalised collections in terms of augmenting our knowledge regarding the relationship between drug use and crime and argues that more specialised data collection is necessary.

Marlowe, D.B., Kirby, K.C., (1999) “Effective use of sanctions in drug courts: lessons from behavioural research”, *National Drug Court Institute Review*, 2(1), 11.

A substantial body of evidence indicates that legally mandated and coerced clients in drug treatment perform as well or better than voluntary clients. However, few studies have evaluated the use of graduated sanctions – this study aims to fill the void. The excessive infliction of pain is inconsistent with the goals of negative reinforcement – rather, orderly, modulated responses to elicit a predictable response are required. The impact of various forms of punishment on individuals (and thus its effectiveness) is highly individualised, for example in one study, impoverished prison inmates rated a \$5000 fine as being more aversive than six months in jail, and in another, married and employed inmates preferred lengthy probation to short-term incarceration. Also, punishments must be pitched at the right intensity, to avoid habituation – early sanctions should exceed a meaningful threshold of intensity as the most pressing issue at that stage is demonstrating that infractions can be detected and will be acted upon. A pattern of weak sanctions can serve as an invitation to test limits. Just as important is the regularity with which punishment is delivered – the smaller the ratio of punishment to infractions, the more consistent and enduring the suppression of the undesired behaviour is. Sanctions should be delivered as quickly as possible after an infraction occurs for maximum effect. Random drug testing may keep some clients clean, but others may “play the odds” – ideally, testing should be performed two to three times per week. A combination of positive (ie. where behaviour incompatible with undesirable behaviour is rewarded, eg. payment vouchers) and negative reinforcement (ie. where removal of a stimulus increases desired behaviour, eg. conditional release programs) is more likely to be effective.

McLeod, J., Stewart, G., (1999) *Evaluation of the Drug Diversion Pilot Program: A report prepared for the Drugs and Health Protection Services Branch, Public Health Division, Department of Human Services, Victoria.*

In June 1998, Victoria Police developed a proposal to extend the Cannabis Cautioning Program initiated in the previous year. The proposed extension was a similar cautioning program for users of other illicit drugs. A central feature of this Drug Diversion Pilot Program was to ensure people apprehended by the police would be linked with government funded drug treatment services. This report evaluates the pilot in relation to the literature on diversion, the operation of similar programs and the best practices guidelines developed by the Alcohol and other Drugs Council of Australia in

1996. It is a qualitative evaluation that involved interviews with key stakeholders in the program including: members of Victoria Police who were implementing the program in two study districts, Department of Human Services staff, and staff of the drug and alcohol agencies that assessed clients and delivered services. A small number of clients were also interviewed in order to triangulate the responses of other stakeholders. A detailed review was undertaken of 60 clients on the program between September 1998 and May 1999. Aggregated statistics describing this group were presented, because of the small number they should be interpreted cautiously. No comparison group was used. The average age of the program participants was 23, 78% of the program's clients met the requirements of the caution. The pilot was both successful and unsuccessful with young offenders, while older people often did not see their drug use as problematic. The short period of time between caution and access to treatment was identified as a strength of the program. Most police strongly supported the program, although there was some who felt that it was in conflict with law enforcement principles. Treatment services also tended to be supportive of the program. Administrative problems – unclear protocols and limited capacity for recording and reporting – as well as cultural conflict between police and treatment services providers also hampered delivery.

Miethe, T.D., Hong, L., Reese, E., (2000) “Reintegrative shaming and recidivism risks in drug court: explanations for some unexpected findings”, *Crime and Delinquenc*, 46(4), 522.

In their evaluation of the Las Vegas Drug Court, the authors found that drug court participants had higher recidivism rates than non-participants, particularly non-white offenders, and crack users. On the basis of their observations of the workings of that drug court, the authors conclude that these unexpected results may reflect the drug court judges' use of “stigmatising” as opposed to “reintegrative” shaming. While the outcome in reintegrative shaming is the reacceptance of the offender back into the community, stigmatising shaming labels the offender as deviant and is punitive and degrading rather than encouraging and forgiving. The authors comment that the judges of the Las Vegas drug court inflict a shaming process on the defendant, constantly berating them, and making comments including “I'm through with you”. This wide discrepancy between organisational rhetoric and practice may be implicated in the unfavourable outcomes of this court.

Miller, J.M., (2001) “Considering the need for empirically grounded drug court screening mechanisms”, *Journal of Drug Issues*, 31(1), 91.

The author of this article moots the question as to whether screening mechanisms should be utilised in determining eligibility for drug court program admission. The author notes that the enrollee failure rates of some drug courts are quite high, and that there is strong evidence to suggest that some participants are more likely to be successful than others, eg. those whose substance use problem is not “severe” (related to drug of choice), and those who are more socially stable (both at work and at home). The author raises arguments against screening being used as a tool for exclusion, ie. to the extent that predictors of success include race, gender, age and social class, such a process may amount to selection bias and an unequal distribution of resources. It is thus suggested that screening tools could be used as a form of assessment to help identify those participants in need of specialised assistance. An evaluation of the Richland County Drug Court (South Carolina) found that recidivism, crack as drug of choice, existence of criminality before drug use and prior drug treatment were significantly related to drug court failure. Other variables that influenced success were age of onset of crime, type of offence committed (violent and public order offences were associated with program failure) and social stability. The author concludes by arguing in favour of the use of screening devices, for the sake of both the community (in terms of resources) and the offenders themselves (as failure at drug court may lead to a harsher sentence being imposed).

**Murphy, T., (2000) “Coercing offenders into treatment: A comprehensive state-wide diversion strategy”, *Society for the Study of Addiction Annual Symposium*, Leeds, United Kingdom, October 2000, available at: [http://www.wa.gov.au/drugwestaus/html/contents/publications/reports_oth](http://www.wa.gov.au/drugwestaus/html/contents/publications/reports_other/speeches)
[er/speeches](http://www.wa.gov.au/drugwestaus/html/contents/publications/reports_oth/speeches) (Accessed 16/09/2002).**

Murphy discusses the value of coercing drug dependent offenders into treatment. He acknowledges that coercion is a contentious issue for treatment providers, but cites research which concludes that ‘drug dependent individuals who entered community based therapeutic communities and drug free outpatient counselling under “legal pressure” did as well as those individuals who were not under such “legal pressure”’. Accepting the legitimacy of coercing offenders in to treatment and the probability of attaining results at least similar to voluntary clients, Murphy moves on to explain that this observation, strengthened by the notion of therapeutic jurisprudence, provides the rationale for diversion policy in Western

Australia. In short, he explains that the recognition of treatment as the intervention that is most likely to change drug users' behaviour and prevent reoffending was essential to the introduction, in that state, of drug diversion strategies. The paper moves on to describe the diversionary programs available in Western Australia, as well as some preliminary findings in relation to both process and outcomes evaluations.

Nelson-Zlupko, L., Kauffman, E., (1995) "Gender differences in drug addiction and treatment: implications for social work intervention with substance-abusing women", *Social Work*, 40(1), 45.

The authors provide a detailed summary of the myriad of ways in which female substance users differ from male substance users, eg. women are more likely to use drugs in isolation; the onset of women's drug use is more likely to have occurred after a specific traumatic event in their life (eg. sexual assault) and thus their drug use is often a means of self-medication); drug using women often have a history of over-responsibility in their families of origin and they tend to have primary responsibility for child care and the care of other family members; drug using women are more likely to have a partner who uses drugs than drug using men; drug using women are more likely to have affective disorders while men are more likely to demonstrate sociopathic behaviour; drug using women who come before the criminal justice system have often committed crimes such as petty theft and prostitution to support their drug habit, while men are more likely to have relied on robbery; substance using women experience higher levels of guilt, shame, depression and anxiety about their addiction than men; and substance using women generally have less education, fewer work experiences and fewer financial resources than their male counterparts. These factors combine to demonstrate the need for gender-specific treatment for female drug users.

Nolan, J., L., (2001) *Reinventing Justice: the American Drug Court Movement*, Princeton University Press, Princeton.

James Nolan provides an overview of the drug court movement, its history, its effects on the courtroom workgroup and the administration of justice and criminal adjudication. The book focuses on understanding the drug court movement and the consequences of it for conceptions of justice. It reviews the legal efforts to control drug use such as the Harrison Act and the precursor to drug courts known as Treatment Alternatives to Street Crime (TASC). Between August 1994 and August 1998, Nolan visited and observed twenty-one different drug courts in eleven different states and the District of

Columbia. The study is concerned with drug treatment courts rather than expedited drug case management courts. Drug treatment courts focus on addressing the drug addiction problem of the accused, whereas expedited drug case management courts focus primarily on relieving court congestion. The location of the drug treatment courts included in his study varied by region: seven in the Northeast, six in the West, five in the Mid Atlantic, and three in the South. Some courts were in large urban areas while others were in rural sections of the United States. Eleven courts had existed for longer than one year; eight existed for less than a year and two were in the planning stages. He interviewed judges in each drug court face-to-face and held informal discussions with numerous drug court officials such as district attorneys, public defenders, treatment counsellors, private attorneys, program coordinators and drug court clients. Nolan also attended national drug court conferences and conducted more interviews with drug court officials. He even participated in the planning of a local drug court during a four month period.

Nolan considers the effects of drug treatment courts on courtroom participants. Comparing drug courts to a therapeutic theatre, he discusses the problems associated with orchestrating, planning, developing and evaluating drug courts. Nolan explains how the redefinition of the roles of defence attorneys and prosecuting attorneys, makes total acceptance of drug treatment courts hard to obtain. Shifts in thinking and development of a team approach are difficult to introduce in a normally adversarial environment. Prosecutors must yield a great deal of their authority to judges. Defence attorneys must be satisfied with taking a back seat to treatment counsellors. In the drug treatment court, the main drama unfolds between the defendant (referred to as a client) and the judge. Many judges find drug courts personally fulfilling, reinvigorating and liberating. Drug treatment judges depart from the typical role of judge as neutral fact finders. They are activists. In fact, the establishment of most drug courts is due to the administrative and political entrepreneurial activities of judges. They interact with the community, lobby on behalf of the drug court program, cultivate media relationships, seek support for other criminal justice agencies, and so on. Rather than remaining distant and impartial toward defendants, drug court judges cultivate an interest in their clients.

In Chapter 5, Nolan examines the importance of drug court storytelling. The stories include horror stories (which express disgust with the "old way" of dealing with drug offenders), war stories (which recount victories or obstacles to drug treatment and seek to rally the faithful), and happy endings (which expand on the successes of individual clients). Many evaluations of drug treatment courts include the drug court clients' perspectives on drug court

operations. Thus, client narratives have also influenced the evaluation of drug courts. In the last two chapters, Nolan explores the meaning of justice. He describes the retributive and utilitarian perspectives and contrasts these approaches with the rehabilitative and therapeutic ideals.

Peters, R.H., Haas, A.L., Murrin, M.R., (1999) “Predictors of retention and arrest in drug courts”, *National Drug Court Institute Review*, 2(1), 33.

The authors found that individuals with the greatest risk of failure in the Florida Escambia drug court program were younger, minority, single, unemployed defendants. Their study evaluated predictors of retention and subsequent arrests. They found that program graduates and non-graduates did not differ with regard to gender, age or rates of mental health problems but rather graduates were more likely to be employed, living with their parents, and were more likely to have completed high school (at least). Those who did not complete the program were more likely to be arrested during the follow-up period. Those arrested were younger, more likely to report alcohol or marijuana as their primary drug of choice (as opposed to cocaine), more likely to have had more frequent prior arrests, and more likely to have become involved in the drug court as a result of a drug possession charge. The authors conclude that their results may signal a need for specialised services/more intensive support for high-risk participants

Peters, R.H., Murrin, M.R., (2000) “Effectiveness of treatment-based drug courts in reducing criminal recidivism”, *Criminal Justice and Behaviour*, 27(1), 72.

This study evaluated outcomes associated with two drug court programs in Florida. Recidivism rates were recorded both during the treatment period (12 months) and a 30 month follow-up period. Results showed that graduates of the drug court programs were significantly less likely than matched probationers and non-graduates to be arrested during the treatment period and the follow-up period. The research identified a number of predictors of rearrest: gender (women were more likely to be rearrested than men), age (those arrested tended to be younger), and criminal history (those who had had more previous arrests were more likely to be arrested during the treatment and follow-up periods). Also, the length of involvement in the program was significantly related to the number of arrests during the follow-up period – those who remained in the program for longer recorded fewer arrests. The authors conclude by remarking that further research is required to examine the effectiveness of drug courts for participants who differ with

respect to gender, age, race and mental health status. They postulate that more intensive programming may be required to engage women with a history of prostitution, young offenders and offenders with mental health disorders.

Ravndal, E., Vaglum, P., (1998) “Psychopathology, treatment completion of five years outcome”, *Journal of Substance Abuse Treatment*, 15(2), 135.

This Norwegian study examined long-term drug treatment outcomes for a group of drug users exhibiting psychopathology or personality disorders. Past studies have shown that time spent in treatment is a powerful predictor of positive outcomes for drug users, so it is important to know whether psychopathology and personality disorders influence completion. Treatment in this study involved an inpatient program (a highly confrontational group therapy program) followed by an outpatient program (attendance at one group meeting once a week). Drug users were interviewed an average of five years after treatment. It was found that social functioning did not improve as the years passed, indicating that for those exhibiting psychopathology or personality disorders, social functioning does not necessarily improve even during a long period of abstinence. Treatment outcomes were far better for amphetamine users than opiates users. Women had a higher chance of dying than men, and at a significantly younger age, and having a narcissistic or antisocial personality was also predictive of death. Treatment completion was not a significant predictor of substance use outcome or death, however treatment completion was the only variable that could predict good social functioning years after treatment (although the positive effects of treatment seemed to decline after three and a half years). This finding indicates that this type of treatment program exerts its main influence on social functioning and only indirectly on substance use, and that a more long-term outpatient program may be needed if the benefits of treatment are to be enjoyed for further years.

Reilly, D., Scantleton, J., Didcott, P., (2002) “Magistrates’ Early Referral into Treatment (MERIT): preliminary findings of a 12 month court diversion trial for drug offenders”, *Drug and Alcohol Review*, 21, 393-396.

This paper is a brief communication that presents a description and the preliminary finds of a 12 months trial of MERIT, which is described as a Local Court diversion program. The aim of the intervention was to divert eligible drug offenders to treatment and rehabilitation services. A total of 172 offenders were assessed and 131 entered the program. The main forms of

treatment intervention included in the program were: case management, outpatient counselling, detoxification, residential rehabilitation and methadone maintenance.

Rose, N., Miller, P., (1992) “Political power beyond the State: Problematics of government”, *British Journal of Sociology*, 43(2), 173-205.

This paper is not concerned with drug diversion; instead it provides a discussion of the problem of government.

Russell, P., Davidson, P., (2002) *Arrest referral: A Guide to Principles and Practice*, Effective Interventions Unit, Scottish Executive, Edinburgh.

This is not a research document; it is a guide that provides an explanation of the rationale behind arrest referral, some key principles of arrest referral, some key questions to consider when setting up an arrest referral scheme, outputs from the ‘Effective Interventions Unit’ seminar (held in September 2001) on arrest referral, and key points from existing research gathered by the Home Office in England and Wales. The purpose of the document is to provide information and support to Drug Action Teams (DAT), Alcohol Action Teams (AATs), partner agencies and voluntary sector organisations planning or considering the establishment of a scheme in their area.

Sacks, S., Sacks, J.Y., De Leon, G., (1999) “Treatment for mentally ill chemical abusers: design and implementation of the modified TC”, *Journal of Psychoactive Drugs*, 31(1), 19.

This article identifies the central features of a successful treatment program for those with a co-occurrence of psychiatric problems and substance use. Effective programs must be holistic, addressing not only psychological dysfunction and substance use, but also providing solutions to clients’ needs in terms of health, housing, life skills and employment. Programs should provide a highly structured daily regimen, foster personal responsibility and self-help, use peers as role models and guides through the sharing of personal stories (the peer community as the healing agent), and view change as a gradual, developmental process. A climate of mutual responsibility should be fostered, with emphasis placed on stabilising and building a hospitable and cordial community atmosphere. Programs should comprise a stratified system of stages and phases, corresponding with the progression of the client – progression should be determined by both clients and staff. Activities

should include educational and therapeutic groups, work assignments, recreational activities and individual contacts. Isolation should be discouraged – rather meaningful social interaction should be stressed. Mutual self-help should be fostered, with all program members and staff acting as role models. Staff should maintain rational authority, using their duties to teach, guide and facilitate rather than correct, punish or control. Achievements should be explicitly affirmed and the duration of activities should be reduced for this particular group. Interpersonal interaction should be less confrontational and intense than in other settings, with fewer sanctions but rather opportunities for corrective learning experiences. Particularly important is that the program be highly individualised.

Salmon, M.M., Joseph, B.M., Saylor, C., Mann, R.J., (2000) “Women’s perception of provider, social and program support in an outpatient drug treatment program”, *Journal of Substance Abuse Treatment*, 19(3), 239.

The results of this study provide some useful insights into which program characteristics were effective in maintaining abstinence amongst pregnant and parenting substance using women in an outpatient drug treatment program. Women are more likely to state that their addiction occurred as a response to severe stressors. This is reflected by the fact that the women in this study reported social support to be one of the most valuable aspects of the program. The support received from both workers and other participants in the form of advice, non-judgemental responses, shared knowledge and a sense of commonality was reported as helpful. Educational classes were identified by a majority of participants as effective in helping them maintain abstinence, particularly those classes on parenting, relapse prevention, drug education, personal development and spiritual guidance. Additional aspects of the program viewed as helpful included the provision of transport to and from the program, referrals for medical care and other relevant programs, and assistance with social services, legal and housing information. Participants reported that the provision of childcare, advocacy services, meals and maths classes would have improved the program further.

Saum, C.A., Scarpitti, F.S., Robbins, C.A., (2001) “Violent offenders in drug court”, *Journal of Drug Issues*, 31(1), 107.

This study was primarily directed at evaluating the success of drug court programs in relation to violent offenders. The author notes that initially, drug courts were aimed at non-violent first offenders, however in recent years, many drug courts have moved to develop tracks for more complex clients,

including those with a history of crime. The author argues that the exclusion of violent offenders from drug court programs in the past has been a political decision, consistent with “get tough” law and order policies. However, the author presents a number of persuasive arguments in favour of including violent offenders in such programs: the rehabilitation of violent offenders is in the interests of the community to prevent further crime; violent offenders may benefit from treatment programs most due to the well documented association between drugs, crime and violence - treatment for addiction may lead to an abatement of violence. An evaluation of Track 1 clients of Delaware’s Superior Court Drug Court found that violent offenders were not more likely to fail the program when criminal history was controlled for. Extended criminal history was found to be the most accurate predictor of failure in the program. It was also found that older clients tended to be more successful in the program, and that crack users tended to be less successful than other drug users. Gender and race were not found to be significant predictors of success.

Shaw, M., Robinson, K., (1998) “Summary and analysis of the first juvenile drug court evaluations”, *National Drug Court Institute Review*, 1(1), 73.

Two juvenile drug courts were established in Santa Clara County and Delaware in an attempt to address special substance use needs of youthful offenders. The Santa Clara County Drug Court Treatment program was aimed at juvenile offenders charged with a non-violence offence, and who had no prior/pending drug sale convictions. Those who participated in the program had fewer citations during the year they participated than those who did not complete the program. Participants perceived the most helpful aspects to be: constant support, monitoring, positive reinforcement and sense of humour of the drug treatment team, and having to face the judge/meet court expectations. It was recommended by the researchers that the court incorporate the use of incentives into the operation of the court, and that judges be “tougher” on participants in the event of their violating the rules. The Delaware program was aimed at juveniles who had no prior criminal record and were arrested for a misdemeanour drug charge. The program was based on a case management approach, incorporating both individual and family counselling. During the treatment period, the treatment group had a recidivism rate of 21% while the non-treatment group had a recidivism rate of 30%. The researcher recommended that future juvenile drug court evaluations review the impact of religious issues, problems/success in school, family concerns and drug of choice in treatment outcomes.

Sondi, A., O'Shea, J., Williams, T., (2002) *Arrest Referral: Emerging findings from the national monitoring and evaluation programme*, Home Office, London.

Sondi, O'Shea and Williams (2002) summarise evidence that has emerged from a national arrest referral monitoring and evaluation program across England and Wales. They describe arrest referral schemes as partnership initiatives between the police, local drug services and Drug Action Teams (DAT)/Drug and Alcohol Action Teams (DAAT) that use the point of arrest within custody as an opportunity for drug workers, independent of the police, to engage with problem drug-using offenders and help them to access treatment. The monitoring and evaluation program used a multi-method approach across a number of sites in addition to studies with a national focus. The research consisted of three parts:

1. Epidemiological monitoring or surveillance methods to assess the number and type of problem drug using offenders, who were screened and referred for treatment by an arrest referral worker. Levels of treatment uptake were also determined.
2. Process evaluations examining how the delivery of schemes had been implemented using qualitative methods and interviews. A surveys of arrest referral workers also examined key processes issues, as well as the reasons why some problem drug using offenders do not engage with arrest referral workers or treatment services.
3. Outcome evaluations that combined biological testing and examination of police arrest rates to validate self report data. These studies provided an indication of the extent of behavioural changes in criminal activity and drug use.

The authors concluded from the results of these studies that arrest referral schemes have been effective in targeting prolific problem drug using offenders. Over half of all those screened had never had a previous treatment episode. 48,810 individuals were screened between October 2000 and September 2001 in England and Wales, of whom over half were voluntarily referred to a specialist drug treatment services. Of those referred 5,520 made a demand for treatment. Reductions in offending and drug using behaviours were reported. Treatment retention was identified as an important predictor of a successful outcome. Offenders who did not engage with specialist drug treatment services following referral included: black and Asian problem drug using offenders; older heroin and crack users who have had negative pervious experiences with treatment services, young male crack using street robbers, and female crack-using sex workers.

Spohn, C., (2001) “Drug courts and recidivism: the results of an evaluation using two comparison groups and multiple indicators of recidivism”, *Journal of Drug Issues*, 31(1), 149.

This article summarises the results of an evaluation of the Douglas County (Nebraska) Drug Court. To be eligible for admission, offenders must have no more than one prior arrest, no prior arrests for violent offences, and a demonstrated need for substance use treatment. Offenders are required to attend bi-weekly or monthly court hearings, regular treatment sessions and random urinalysis. It was found that drug court participants were significantly less likely than traditionally adjudicated offenders to be arrested during the follow-up period. It was also found that recidivism was more likely for younger participants, male participants and participants with more prior arrests. Race/ethnicity of the offender was found to have no effect on recidivism. [Note though that recidivism may not be a good measure of success: criminal history was not controlled for]

Spooner, C., (1999) “Causes and correlates of adolescent drug abuse and implications for treatment”, *Drug and Alcohol Review*, 18(4), 453.

This article reports on the original and perpetuating causes of drug misuse amongst adolescents and raises important subsequent implications for treatment. No individual risk factor predicts drug use, so drug treatments must be multifaceted and holistic in their approach. Gender-specific influences must be addressed, especially in relation to males as they are more likely to use illicit drugs. The predictive effect of alienation from society and social institutions must be combated; programs should facilitate societal bonding and encourage pro-social, health-enhancing behaviours, and family involvement in treatment should be encouraged where appropriate. The attractiveness of drug use in relation to self-medication and sensation-seeking must be dealt with, by helping adolescents channel this energy into equally attractive and comforting activities, and by ensuring that specialist treatment is received for past trauma, abuse and/or psychiatric symptoms. Cultural appropriateness must be ensured, and coping skills and interpersonal skills should be developed. Drug treatment services should also address vocational issues, as drug using adolescents tend to have a history of a lack of commitment to education. In addition, the name of the service should be selected carefully, as any use of labelling may encourage adolescents to find their identity in their drug using or delinquent behaviour.

Spooner, C., Hall, W., Mattick, R.P., (2001) “An overview of diversion strategies for Australian drug related offenders”, *Drug and Alcohol Review*, 20, 281.

This paper provides a descriptive overview of options for diversion of drug related offenders from the criminal justice system which is developed from a review of the literature and consultations with key informants from government departments, nongovernmental organisations, and research institutions – ‘key players, stakeholders and experts’ (p.282). It identifies the opportunities for diversion as they occur in the processes of the system as : pre-arrest, pre-trial, pre-sentence, post-sentence, and pre-release. Each of these options is discussed in relation to its strengths and weaknesses. Spooner, Hall and Mattick identify a range of issues that were repeatedly raised in the consultation phase of their study. Concerns were expressed regarding the risk of net widening, the effect of coercion on treatment, rights of families, cultural matters and systems management issues. The authors conclude that there has been insufficient evaluation research for firm conclusion to be made about the value of diversion programs. Future evaluations should address matters of program integrity, program reach, impacts as far as net widening and outcomes in terms of reductions in drug use and recidivism.

Sung, Hung-En, (2001), “Rehabilitating felony drug offenders through job development: a look into a prosecutor led diversion programs”, *The Prison Journal*, 81(2), 271-286.

Sung reports on a non-experimental study based on official records which seeks to evaluate the effectiveness of Drug Treatment Alternatives to Prison (DTAP) program run in New York State. The program targeted non-violent drug felons who committed crimes to support their drug addiction and who faced mandatory prison sentences under the New York State’s Second-Felony Offender Law. Qualified defendants who are motivated for long term treatment plead to a felony and undergo 15 to 24 months of rigorous residential treatment. All treatment is delivered in therapeutic, which provided structured therapeutic interventions, counselling, educational and vocational programs, on-site medical care and assistance in finding housing. Phased individual and group counselling and behavioural therapies are used to address issues of motivation, self esteem, interpersonal relationships, problem solving skills and relapse prevention. The long term residential settings facilitated the delivery of a range of services, including critical life skills training, to attend multiple needs of the individual and not just to

his/her drug use. To maximise public safety and to keep the legal pressure realistic, an enforcement team mobilizes to apprehend absconders, as soon as they leave the facility without permission, to return them to court for sentencing on the original charges. In contrast, those participants who remain in treatment have their charges dismissed after successful program completion.

The principle behind the program was that offenders diverted to it would return to society in a better position after treatment to resist drugs and crime than if they had spent a comparable time in prison at nearly twice the cost. DTAP included strategies to enhance human and social capital: basic education and marketable job skills and networking and job market information. DTAP participants made extensive use of the educational and vocational opportunities. Of those without a high school diploma or its equivalent 80% enrolled in educational remedy courses, while about two thirds of all participants started vocational training programs. The results were mixed. On 16% of those enrolled in education remedy courses successfully passed the exam. This was interpreted as a reflection of the limited market value of such educational qualifications for a 32-year-old individual with a fragmented employment history. In contrast 78% of those graduates who started vocation training in treatment were able to finish it. Participants were more motivated to learn new marketable skill than to work for a low academic qualification, because they expected higher financial returns form the former. The DTAP job developer's work was critical in maintaining an extremely high employment rate among graduates. Lack of control group and data did not allow conclusion about the effect of DTAP on post-treatment employment and recidivism, nor was it possible to elucidate causal mechanisms that link each of the program components to post-treatment outcomes.

Swain, M., (1999) *The illicit drug problem: drug courts and other alternative approaches*, NSW Parliamentary Library Research Service, Briefing Paper No 4/99.

This paper reviews approaches to the diversion of drug dependent offenders from the criminal justice system into appropriate treatment services. It describes schemes that exist or have existed in the Australian context, and positions the drug court model in relation to these. Swain describes the benefits that are said to follow from the drug court model. These include: a reduction in the rate of recidivism and drug usage by participants, increased likelihood of participants obtaining or holding jobs, improvement in family

relationships, and cost savings to the justice system. Factors relevant to the implementation of such are court in New South Wales are identified as: the provision of adequate resources to ensure sufficient treatment places are available; the provision of other support services to assist drug court participants in their daily lives; equity issues to ensure all eligible offenders are able to participate, and the impact on other voluntary drug treatment services currently in existence.

Swift, W., Copeland, J., (1998) “Treatment needs of women with alcohol and other drug problems: experiences and views of Australian treatment personnel”, *Drug and Alcohol Review*, 17, 59.

Treatment outcome was once seen to be primarily influenced by client characteristics, however there is increasing literature on the influence of agency characteristics and the quality of treatment received. This is particularly the case in relation to women who receive drug and alcohol treatment. The researchers in this study interviewed 100 drug and alcohol treatment personnel and 267 female clients to establish whether women did have special needs and whether these needs were being met by treatment services. The majority of respondents believed there was more stigma attached to women with drug and alcohol problems than men. Advantages of specialised services for women were stated to include provision of a safe environment both physically and emotionally, greater honesty and openness, support from and identification with other women, provision of childcare and improved treatment outcomes. The high prevalence of past sexual abuse amongst female drug and alcohol clients was also cited as a reason for ensuring that the choice of a female counsellor or group be available to clients. Only 16% of the sample believed that mixed-gender services were currently meeting the needs of female clients. Staff identified funding, staffing, and lack of understanding of gender issues by male staff and management as chief impediments to their agencies' provision of specialised services to women.

Tapin, S., (2002) *The New South Wales Drug Court Evaluation: A Process Evaluation*, New South Wales Drug Court Evaluation: Cost-Effectiveness, NSW Bureau of Crime Statistics and Research, Attorney General's Department, Sydney.

Over the past three years drug courts have been adopted in several Australian Jurisdictions to deal with drug dependent offenders. The first specialist drug court to be piloted in Australia commenced in 1999 in New South Wales. This

report – which is one of a series - presents a process evaluation of the court. It is not concerned with outcomes, but rather provides detailed information on the operation of the court obtained from interviews with members of the drug court team, offenders participating on the program, and professionals associated with various aspects of the program. Most of the key players were interviewed. The evaluation describes a flexible and dynamic program that seeks to respond to barriers and problems that limit its operation. The major findings of the report were as follows:

- Philosophical and professional differences between treatment providers and the court were major obstacles during the early stages of the Court's operation;
- Treatment providers reported that the requirement to inform the Court of breaches to participants' programs affected their ability to develop effective relationships with their clients;
- Urine testing was a contentious issue; in particular supervising urine tests presented problems for treatment service providers and probation and parole case managers. As a result the court assumed the responsibility for urinalysis;
- Sanctions other than incarceration should be available as a sanction for a breach of Drug Court program;
- There was a failure to anticipate the high proportion of participants experiencing multiple health problems, most notably mental health problems;
- Aboriginal offenders were considered to be disproportionately excluded from entry to the program;
- The criteria for graduation were considered to be too onerous;
- The program is onerous for women and those with primary child care responsibilities; and
- Additional follow-up and aftercare services should be available for graduates.

Positive aspects of the Drug Court program included the flexibility which allowed participants to change the type of treatment they were receiving; the high level of supervision and intensity of the program; and the intersectoral approach which had led to some breaking down of barriers between professions.

Terry, Y.M., VanderWaal, C.J., McBride, D.C., Van Buren, H.V., (2000) “Provision of drug treatment services in the juvenile justice system: a system reform”, *Journal of Behavioural Health Services and Research*, 27(2), 194.

This article puts forward a model for successful court-imposed drug treatment for juveniles. The connection between substance use and delinquency raises important implications for treatment services within the juvenile justice system. While no one treatment option has been identified as superior in terms of treatment outcomes, some models show more promise than others. For example, it has been found that youth who attend AA and NA groups following inpatient treatment experience higher abstinence rates than those who receive inpatient treatment alone. Also, treatment communities have been found to be more effective for adolescents where stays are shorter, family participation is incorporated, and staff undertake a supervision role. Family therapy (particularly multi-systemic therapies which are flexible, highly individualised, intensive and comprehensive) has been found to assist a wide range of family types including multi-problem and ethnically diverse families. And social skills training (including components on assertiveness training, communication skills, anger management, and peer-resistance training) has been found to address a number of problems associated with adolescent drug use. Research has shown that relapse rates are exceptionally high amongst adolescents, which implies the need for aftercare services to assist with peer, family and school stressors. Integrated care between a range of different agencies (including school, courts, police, human service agencies, and treatment programs) is also vital. The best way of accomplishing this coordination between various services is through case management. Juveniles should be assigned a case manager as soon as possible after their arrest/referral to mandatory drug treatment, whose role would be to perform ongoing assessment, connect the juvenile and his/her family to required services, and provide aftercare for as long as is necessary. Courts should retain a disciplinary role, but case managers should be allocated to provide a flexible and comprehensive continuum of care.

Turnbull, P.J., McSweeney, T., Webster, R., Edmunds, M., Hough, M., (2000) *Drug Treatment and Testing Orders: Final Evaluation Report, Home Office Research Study*, London.

This report presents the results of an evaluation conducted on the Drug Treatment and Testing Order (DTTO) project conducted at three sites in England. DTTOs were introduced as a sentencing option in England in 1998 to enable magistrates and judges to make an order requiring offenders (if they

consent) to undergo drug treatment if they are dependent on or misuse drugs and it is judged that they would benefit from treatment. DTTOs are restricted to offenders aged 16 years and over, and were intended to be targeted at those offenders committing high levels of acquisitive crime. During the pilot period, treatment was administered by the on-site DTTO teams and/or community organisations with whom the team had established partnerships. The cornerstone of treatment was substitute prescription (using mainly methadone), however individual and group therapy, detox and residential rehabilitation were also utilised. Offenders were also required to submit to drug tests around two to three times a week, and attend two or three court reviews throughout the period of the order - these reviews were rarely before the same judge or magistrate. DTTOs were concluded to be successful in reducing offending behaviour. Participants reported that the support of the staff and the routine provided by attendance at treatment reduced the chances of their using drugs and offending. Participants had substantially reduced or eliminated their use of illicit drugs and their offending behaviour within the first six months of the order. Shortcomings identified included lack of consistency in operation between the three sites, ineffective inter-agency collaboration, staff shortages, inadequate attention to the special needs of female, "black", homeless and young offenders, lack of childcare, and insufficient sanctioning options for judges and magistrates. It was also believed that greater benefits could be achieved were the same judge or magistrate to preside over reviews with the same drug-using offender.

Turner, S., Greenwood, P., Fain, T., Deschenes, E., (1999) "Perceptions of drug court: how offenders view ease of program completion, strengths and weaknesses, and the impact on their lives", *National Drug Court Institute Review*, 2(1), 58.

Offenders participating in the First Time Drug Offender Maricopa County drug court program were interviewed regarding their perceptions of the program, including its helpfulness, difficulties associated with compliance, strengths and weaknesses, etc. The majority of the participants interviewed were male, white and unemployed. Approximately 75% of participants felt that the drug court was either "very helpful" or "somewhat helpful" in remaining crime free, while almost 40% of participants felt that the drug court was "very helpful" in remaining drug/alcohol free. However, more than 65% of participants reported that the program was either "not at all helpful" or "not very helpful" in helping them find a job. Almost 70% of participants viewed urinalysis as a strength, and 80% felt that the use of a contract was a "strong" or "very strong" component of the program.

Taxman, F.S., Soule, D., Gelb, A., (1999) “Graduated sanctions: Stepping into accountable systems and offenders”, *The Prison Journal*, 79(2), 182-204.

Graduated sanctions are being promoted as a useful addition to many crime control initiatives. Taxman, Soule and Gelb argue that graduated sanctions are poorly understood in theory and poorly conceived in practice. This article presents a procedural justice theory for graduated sanctions and the critical components for this model. The legal issues of due process, double jeopardy, and separation of powers are reviewed to illustrate how graduated sanctions serve to protect the constitutional rights of the offender and to deter non-compliance. Finally, the implications for increasing compliance with release conditions are discussed in terms of the differential methods for implemented graduated sanctions.

Tuten, M., Jones, H.E., Svikis, D.S., (2003) “Comparing homeless and domiciled pregnant substance dependent women on psychosocial characteristics and treatment outcomes”, *Drug and Alcohol Dependence*, 69, 95.

Homeless persons receiving treatment for substance use generally exhibit a higher prevalence of medical, psychological and social problems, and homeless pregnant women receiving treatment for substance use have been found to require more intensive intervention. Thus, homelessness may predict poor treatment outcomes amongst pregnant substance using women. This study identified a number of characteristics specific to homeless pregnant women receiving drug treatment. Homeless pregnant women in this sample spent more money on drugs, but did not report higher rates of consumption. They reported having fewer long-term relationships with family members, and were more likely to report a history of family conflict and abuse. They exhibited greater rates of depression and suicidal ideations, and were more likely to have been prescribed psychiatric medication. They enrolled in treatment only 70% as long as domiciled pregnant substance using women and were not more likely to return to treatment during the pregnancy. The results of this study demonstrate that the needs of homeless pregnant women receiving drug treatment may be unique, and more intensive assistance may be required to avoid premature treatment disengagement and relapse.

Uelmen, G., Abrahamson, D.N., Appel, J., K., Cox, A.L., Taylor, W.A., (2002) Substance Abuse and Crime Prevention Act of 2000: Progress Report, Drug Policy Alliance, Sacramento, available at: www.prop36.org (Accessed 24/01/03).

California's Proposition 36, the *Substance Abuse and Crime Prevention Act 2000* (Ca) (SACPA) has been diverting low-level, non-violent drug offenders, convicted of possession for personal use, into community-based treatment instead of incarceration. This report describes how the state and the largest counties are implementing this legislation. It found that early indicators were positive. Across the seven counties reviewed in the report over 9,500 individuals had been referred to treatment through SACPA between 1 July and 31 December 2001. The average number of clients active in treatment was 71% of the total number of referrals. Methamphetamine was used by over 40% of those referred. SACPA enhanced collaboration between criminal justice and public health agencies at the county level, this included substance abuse and mental health departments, probation, parole and the courts. Some amendments to the legislation were required in order to enhance its operation. A range of concerns were identified in relation to program delivery. They included: the limited use of methadone maintenance treatment despite a clear demand; a lack of training amongst professionals involved in the program; individuals were not always provided with a treatment plan consistent with their needs; the range of treatment options available was limited and this impacted on potential for adequately matching clients to suitable services; the difficulty of retaining clients who fail to appear for treatment; and sober living environments available to clients were inadequately regulated and licensed.

Vaughn, T., Vaughan Sarrazin, M., Saleh, S.S., Huber, D.L., Hall, J.A., (2002) "Participation and retention in drug abuse treatment services research", *Journal of Substance Abuse Treatment*, 23, 387.

Methodologies of studies investigating the efficacy of drug treatment programs have been flawed in a number of ways. Biased results may be obtained if factors influencing participation or non-participation in both treatment and research are not taken into account. The purpose of this study was to identify client characteristics that predict participation and retention in drug treatment research. The results demonstrated that women were more likely than men to participate in research and complete a higher number of follow-up assessments. Those who completed follow-up assessments were also slightly older, more likely to have been previously diagnosed with a psychiatric disorder, more likely to have been abused within the last 30 days,

more likely to have a significant other and less likely to be in treatment due to the justice system. Clients demonstrating higher levels of medical, psychological and social need were more likely to agree to participate initially, as were those who use multiple substances. Enabling characteristics (eg. living close to the treatment facility) also predicted participation. The authors conclude that client characteristics are important considerations for researchers recruiting participants for evaluations and other projects as they may impact on the generalisability of results.

Vaults, L., (2002), "A seamless continuum of services for those in need", *Corrections Today*, 64(2), 80-4.

Vaults reported on Travis County counselling and Education Services (TCCES) – a diversion program that provides alcohol and drug assessments, screening, counselling and referrals to those who have come into contact with the law as a result of drug and/or alcohol use and helps them to avoid future arrests. It is a services that is independent from persecuting agencies, such as the district or county attorney and the probation department, TCCES provides progress reports to Travis county judges to help them make informed sentencing decisions regarding program participants. When detained in jail defendants make a decision either to pay for a surety bond with no conditions attached or accept a personal bond with mandatory conditions for a lower fee. The mandatory conditions include TCCES recommendations, alcohol and drug abstinence, and class or treatment participation. Before clients are released they are given appointments and required to report to TCCES offices at a specified time for assessment. During Assessments, levels of possible alcohol and or drug abuse or dependency are evaluated and appropriate education and treatment recommendations are made. If the defendants fail to comply the court may revoke the bond. Through case management, educational programs and counselling TCCES provides an array of services to meet clients' need. These included 12 step programs, contracts, counselling, group meetings and suspension of drivers licence. TCCES offers a tiered and structured program with reports on completion, it is for nondependent users of alcohol and drugs. The main focus is education and rehabilitation with an emphasis on increasing knowledge of the effects of drugs and alcohol and the nature of the addictive disease. This article was descriptive and provided no evaluation of process or outcomes.

Vermeulen, E, Walburg, J., (1998) “What happens if a criminal can chose between detention and treatment: Results of a 4 year experiment in the Netherlands”, *Alcohol and Alcoholism*, 33 (1), 33-36.

This article reports on a program know as the “Street Junk Project” which seeks to divert drug-using offenders into treatment through coerced choice. Persons who have been arrested at least four times in the past 12 months (not including the present arrest) are asked to choose between detention and treatment. The arresting police officer contacts a probation officer who visits the cells in order to conduct an assessment of the severity of problems. In 1993 there were 2350 ‘street junk’ arrests and 3300 in 1995. These figures however represent a much smaller pool of approximately 1000 to 1200 distinct persons, many of whom were arrested more than once. Over a four year evaluation 22% of people opted for treatment and actually commenced a treatment program. An additional 15% chose treatment but were unable to be accommodated within the program. The evaluators indicated that it was very difficult to follow-up participants and so no conclusions could be drawn about the impact of the program on recidivism. It was noted that while the level of police participation improved over the course of the evaluation, fewer arrests were actually assessed by probation officers. This was interpreted by the authors as an expression of diminished confidence, amongst program staff, that appropriated treatment places were actually available to take clients.

Walker, J., (2001) *International Experience of Drug Courts*, The Scottish Executive Central Research Unit, Edinburgh.

This is a report that was commissioned by the Scottish Executive. It is based on an 8 day study visit to California by the author, where she attended the 6th US National Drug Court Training Conference and visited a number of drug courts. Walker reports on the working of drug courts, reviews available evaluations and considers some examples of working drug courts from countries besides the United States. She describes a number of key components which make up the drug court approach. The core characteristics identified in the report include: effective judicial leadership, strong interdisciplinary collaboration; good team knowledge of addiction, treatment and recovery; clear eligibility criteria and screening; speedy referral to treatment; swift, certain and consistent sanctions and rewards; and clear documented consent of offenders. The report concludes with a discussion of the viability of implementing the drug court approach in the context of the Scottish criminal justice system.

Ward, J., Hall, W., Mattick, R., (1992) *Key issues in methadone maintenance treatment*, New South Wales University Press, Kensington.

Despite the growing availability of methadone maintenance treatment and recognition that it is an intervention that is able to reduce illicit drug use, the delivery of this treatment has remained controversial over the last few decades. Ward, Hall and Mattick provide a thorough and independent review of the literature evaluating methadone treatments. The book presents the results of both randomised controlled trials and observational studies of methadone maintenance that are focused on outcomes. Based on these evaluations the authors conclude that methadone maintenance retained patients in treatment and substantially reduced illicit opioid drug use and involvement in criminal activity. A range of issues that impact on the delivery of this treatment are also discussed. They include its utility in relation to the containment of HIV/AIDS and other infectious diseases, matters of assessment for treatment suitability, dosage levels, monitoring illicit drug use with urinalysis, the role of counselling and psychotherapy, the duration of treatment and termination from treatment, pregnancy and concurrent psychiatric problems.

Weave R. T., Hickman, M., Rutter, D., Ward, J., Stimson, G., Renton, A., (2001) "The prevalence and management of co-morbid substance misuse and mental illness: results of a screening survey in substance misuse and mental health treatment populations", *Drug and Alcohol Review*, 20, 407.

Patients with mental illness and substance use receiving treatment have been reported to experience poor prognosis, increased risk of suicidal, self-harm and violent behaviour, and poor treatment compliance. In the US, it has been found that the odds ratio of having a substance misuse disorder is significantly higher among psychiatric patients than the general population, and likewise, the odds ratio of having a psychiatric disorder is significantly higher amongst patients with substance misuse disorders. This study aimed to determine whether or not the same association between substance misuse and mental illness exists in the UK and whether the treatment needs of those demonstrating co-morbidity are currently being met. A survey of mental health and substance use treatment services servicing 1300 patients found that 34.8% of clients of substance misuse services had a current psychiatric diagnosis, and a further 18.5% displayed psychiatric symptoms requiring assessment. Of these, 60% were reported to receive some mental health treatment, however only a small majority were compliant with therapy. 24.4% of mental health service clients were reported to have a substance misuse

disorder, with higher rates of misuse observed among men and patients aged under 45 years. Of these, 75.3% were not receiving substance misuse treatment, and 51.9% were judged to have a definite unmet need for such treatment. The fact that co-morbidity is so prevalent and is associated with multiple and complex needs implies the need for further research, inter-agency collaboration, and training for staff so they will be equipped to manage co-morbidity.

Weiner, H.D., Wallen, M.C., Zankowski, G.L., (1990) “Culture and social class as intervening variables in relapse prevention with chemically dependent women”, *Journal of Psychoactive Drugs*, 22(2), 239.

The authors compare two groups of substance using women treated by their service: middle-class, working women, and lower class, socially and economically deprived women. They cite the similarities between the two groups as being family history of substance abuse, childcare responsibilities which may make entry into and continuation of treatment more difficult, and history of sexual abuse. However, a number of differences between the two groups are cited: lower class women commonly have fewer social supports, high levels of dependency on men, fewer educational/vocational skills, less work experience, less adequate life-management coping skills and subsequently more acute feelings of hopelessness, helplessness and guilt than middle-class women. Gender-specific programs are presented as vital to the treatment of substance using women. Single-sex group therapy is considered far more effective as women tend to be more passive and less willing to explore relationship issues in a mixed group, and invariably have different needs to men. Also, since many female substance users have been abused by men, the presence of men in group settings may cause distress. Seminars and training for substance using women should focus on women’s health issues, family communication, role conflicts, assertiveness sexuality, life-skills, money-management and job search procedures. Also, lower class women experience specific risk factors in relation to relapse, including housing issues, relationship difficulties and lack of social (and specifically female) supports. Aftercare planning should be directed at these risk factors.

Wellisch, J., Prendergast, M.L., (1995) “Toward a drug abuse treatment system”, *Journal of Drug Issues*, 25(4), 759.

The authors argue that matching substance using offenders to appropriate services according to their individual characteristics and needs will improve treatment effectiveness. They argue that since clients have different degrees of

dependence, different social, psychological and ethnic characteristics, and different addiction histories, goals, motivations, cognitive styles and coping skills, a range of treatment program types employing different treatment strategies are required to for optimal outcomes. A successful system must provide comprehensive and continuing care.

Wenzel, S.L., Longshore, D., Turner, S., Ridgely, M.S., (2001) “Drug courts: a bridge between criminal justice and health services”, *Journal of Criminal Justice*, 29, 241.

The needs of drug users extend far beyond treatment for drugs. The broad array of problems confronting drug users include physical and mental health, housing and family assistance, job training, employment and living skills. Substance using women face unique problems including reproductive/sexual health, pregnancy complications, and increased risk of victimisation. As a result, the provision of treatment services to drug users through drug courts will be enhanced by providing multiple services aimed at addressing these problems. The authors’ research examines the existence, formality and efficacy of linkages between drug courts and treatment services. The results show that the only formalised relationships between drug courts and service providers are with substance use services – linkages with mental health, public health, housing, family support, employment and education services are few and far between, and those that do exist are generally informal. Also, linkages between drug courts and outpatient services are much stronger than those with methadone and acupuncture treatment services. The authors argue that long-term funding uncertainty and resource shortages may be the cause of this; over-worked and under-trained court staff may have difficulty recognising co-existing difficulties in drug court participants, and pressure to process large numbers of cases may detract from the rehabilitation focus.

Wild, T.C., Newton-Taylor, B., Allento, R., (1998) “Perceived coercion among clients entering substance abuse treatment: structural and psychological determinants”, *Addictive Behaviours*, 23(1), 81.

This study examined factors that promote perceived coercion in the context of drug and alcohol treatments. The impetus behind the research was the debate regarding the ethics of mandated treatment: some advocates argue that treatment should not be forced at the expense of civil liberties, while others claim that mandated treatment is necessary both to protect the public and to treat the client’s “illness”. It was found that 35% of legally mandated clients reported no perceived coercion compared with 73% of non-mandated clients.

While the authors argue (without proof) that perceived coercion by drug treatment clients can lead to “unintended negative consequences” including inferior treatment outcomes, it is interesting to note that 37% of non-mandated clients reported feeling coerced into treatment. Thus, the results indicate that referral source is not the only factor correlated with perceived coercion in the context of drug and alcohol treatment. Others include age (older clients report higher levels of perceived coercion); interpersonal pressures exerted by friends and relatives; and belief by the client that they are not addicted.

Windell, P.A., Barron N., (2002) “Treatment preparation in the context of system coordination serves inmates well”, *Journal of Psychoactive Drugs*, 34(1), 54-60.

As part of the target cities funding initiative Portland developed an In Jail Intervention Program. This was a post arrest program that involved the delivery of a drug intervention for those held in jail who were likely to be released subsequent to adjudication but unable to meet bail conditions. It was a short treatment intervention based on principle underpinning therapeutic community. Ideally it involved assessment, counselling, treatment placement, bridge or link custody until appropriate community treatment became available and transport/escort to that treatment. The research found that the relationship with the counsellor was important particularly in relation to successful escort to treatment and follow up visits. The implementation of program was hampered by conflicting policies – the Commission’s mandate to maintain certain jail numbers meant that clients were sometimes released prematurely. Scarcity of residential treatment beds and long waiting lists also provided a barrier. Treatment retention was a problem with women, those with mental illness, unemployed and homeless this highlighted the significance of social support. Funding issues also undermined the program.

Young, D., (2002) “Impacts of perceived legal pressure on retention in drug treatment”, *Criminal Justice and Behaviour*, 29(1), 27-55.

Young notes the increased popularity of programs including Drug Courts, Treatment Alternatives to Street Crime programs, and other mandatory treatment models as policy makers strive to reduce reliance on costly custodial responses to drug related crime. Although past research supports this approach, little is known about the different forms of pressure used to compel treatment participation and their effects on client outcomes. This paper presents results from a study of 161 offenders mandated from different

criminal justice sources to attend long-term residential treatment. The results of this study suggest that providing information to clients about conditions and contingencies of treatment participation and convincing them they will be enforced are effective coercive approaches.

Young, D., Belenko, S., (2002) “Program retention and perceived coercion in three models of mandatory drug treatment”, *Journal of Drug Issues*, 32(1), 297.

This study compares three groups of clients (n=330) in three different models of legally mandated treatment in New York City. The study assessed the coercive policies and program features of the three models as well as participants' perceptions of these program components. Analyses compared client retention in the models and examined the role of coercion along with other program factors, as well as dynamic and static client characteristics on retention. They explored the policies and practices of two highly structured and coercive programs – Kings County (Brooklyn) DTAP and a large TASC program operating in and around New York city - and a third set of programs that represented more conventional mandatory treatment. The programs had important differences in policies and practices that were designed to increase legal pressure to stay in treatment. Young and Belenko tested the hypothesis that DTAP and TASC clients should show greater retention than those in the comparison group. They found that clients in the most coercive program, DTAP, had higher retention rates than comparison groups at six months and marginally so at 12 months post admission. Compared to those clients referred from other criminal justice sources, the odds of DTAP clients being in treatment at six months were almost three times greater than the comparison group's odds; at one-year post admission, DTAP clients had almost twice the odds of being retained. Retention rates for the TASC group were also higher than the comparison groups, but these differences were not significant. The evidence from their research offered support for the DTAP model and to a lesser extent the policies and practices of the TASC program. Compared to conventional approaches used by local courts and probation and parole officers, DTAP and TASC had more structured protocols for informing clients about the contingencies of their participation and the legal consequences of failing treatment. Based on client self-report DTAP stood out from the other programs in its use of behavioural contracts and in the number of criminal justice agents it engaged to inform and monitor clients. Findings also support DTAP's policy of developing formal agreements with the treatment programs it used, and requiring treatment staff to reinforce messages about treatment contingencies and consequences. The authors concluded that DTAP and TASC's more structured and consistent approach to enforcement and to a

lesser extent, monitoring, most likely contributed higher retention rates relative to the comparison group. Analysis suggested that TASC was strong on monitoring but had a limited enforcement capacity compared to DTAP.



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