Public Safety Canada | Sécurité publique Canada

ARCHIVED - Archiving Content

ARCHIVÉE - Contenu archivé

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Canada

Australian Government
Australian Institute of Criminology

Criminal justice responses to drug and drug-related offending: are they working?

Joy Wundersitz

Technical and Background Paper

No. 25

Criminal justice responses to drug and drug-related offending: are they working?

Joy Wundersitz

Technical and Background Paper

No. 25

Australian Government

Australian Institute of Criminology

© Australian Institute of Criminology 2007

ISSN 1445-7261
ISBN 978 1 921185 58 8

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the *Copyright Act 1968* (Cth), no part of this publication may in any form or by any means (electronic, mechanical, microcopying, photocopying, recording or otherwise) be reproduced, stored in a retrieval system or transmitted without prior written permission. Inquiries should be addressed to the publisher.

Project no. 131

Published by the Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601
Tel: (02) 6260 9272
Fax: (02) 6260 9299
Email: front.desk@aic.gov.au
Web site: http://www.aic.gov.au

Please note: minor revisions are occasionally made to publications after release.
The online versions available on this website will always include any revisions.

Edited by the Australian Institute of Criminology
Typeset by CRE8IVE

Contents

Tables

Abbreviations and acronyms

ACT	Australian Capital Territory
BIR	Brief Intervention Regime (WA)
BOCSAR	Bureau of Crime Statistics and Research (NSW)
CADAS	Court Alcohol and Drug Assessment Scheme (ACT)
CARDS	Court Assessment and Referral Drug Scheme (SA)
COAG	Council of Australia Governments
CREDIT	Court Referral & Evaluation for Drug Treatment (Vic and NT)
IDDI	Illicit Drug Diversion Initiative
IDP	Indigenous Diversion Program (WA)
MERIT	Magistrates Early Referral Into Treatment (NSW and Qld)
NSW	New South Wales
NT	Northern Territory
OTI	Opiate Treatment Index
PDDI	Police Drug Diversion Initiative (SA)
POP	Pre-sentence Opportunity Program (WA)
Qld	Queensland
SA	South Australia
STIR	Supervised Treatment Intervention Regime (WA)
Tas	Tasmania
Vic	Victoria
WA	Western Australia

Introduction

The criminal justice system is constantly evolving in response to changing social, economic and political pressures. One that gathered momentum during the 1980s and 1990s was community concern about increasing crime rates, particularly property and violent crime, and the perceived link with illicit drug use and drug dependency, notably heroin. In response, Australia has experienced a proliferation of criminal justice initiatives aimed at addressing the drugs/crime nexus. Over the past seven or eight years, almost every state and territory has implemented a range of so-called drug diversion programs that operate at different points along the criminal justice continuum.

At first glance the costs of these programs are substantial, with the Australian Government allocating supportive funding of $340m over 1999–2000 to 2007–08 (Australia. Department of Health and Ageing 2006: 33). This meant that in 2005–06 alone, Illicit Drug Diversion Initiative (IDDI) funding for a raft of drug diversion programs amounted to almost $17m for NSW, $12.3m for Victoria, $2.7m for Queensland, $4.9m for WA, $3.5m for SA, $0.9m for Tasmania, $1.2m for the Northern Territory, and $1m for the ACT (Australia. Department. of Health and Ageing 2006: 46). This is in addition to the state-based funding provided to drug courts, including initial establishment budgets of $13.5m over two years for the NSW Drug Court, $5.5m over four years for the Western Australian Drug Court and $6.3m over 2.5 years for the Queensland Drug Court (Tasmania Law Reform Institute 2006).

If these initiatives are achieving their objectives, then such costs should be more than offset by the benefits accruing to the community through a reduction in illicit drug use and related offending, improved health and wellbeing for former drug dependent offenders and reduced case loads for the criminal justice system. The key question is 'Are these programs working: are they, in fact, meeting their primary aims?'

This report attempts to provide some insight into these questions by giving an overview of key findings from national and state-based evaluations that have been undertaken of these initiatives. It will summarise the outcome-based results currently available, identify the knowledge gaps that still exist and point to areas where further work is required to provide a more definitive insight into the value of these programs.

Drug diversion initiatives

As Bull (2003: 59) points out, criminal justice initiatives specifically designed to divert drug offenders from the justice system are not new. South Australia, for example, introduced diversionary Drug Assessment and Aid Panels in 1984 to provide assessment and treatment at the pre-court level for offenders charged with simple possession or use of cannabis. This initiative was followed in 1987 by the inception of Cannabis Expiation Notices which allowed individuals to pay an on-the-spot fine, thereby avoiding prosecution in court. Similarly, commencing in 1989, magistrates in the Australian Capital Territory were able to refer offenders with an apparent drug problem to a panel for assessment, while in Western Australia, a Court Diversion Service was established in 1988 to provide access to treatment for people with an identified drug problem, with participation being included as a condition of court bail. However, initiatives such as these were relatively isolated and were rarely replicated outside of their state of origin.

The difference in the current range of drug diversion programs is the extent to which their implementation has been codified and supported at the federal level, and the degree of consistency (at least in broad terms) across jurisdictions in the types of programs. These initiatives can be divided into four groups, depending on their location along the criminal justice continuum:

- police-based programs that offer drug education and assessment for individuals detected for minor possession offences pertaining to either cannabis and/or other illicit substances
- court level, predominantly bail-based programs designed to provide assessment and short term treatment for less serious offenders whose criminal behaviour is related to their illicit drug use

- intensive pre- and post-sentencing drug court programs that offer long term, intensive treatment for entrenched offenders whose drug dependency is a key contributor to their offending
- the NSW Compulsory Drug Treatment Correctional Centre, specialising in abstinence-based treatment and rehabilitation for offenders with 'long term illicit drug dependency and an associated life of crime and constant imprisonment' (New South Wales. Government 2007).

Most of the police and intermediate court-based programs had their origin in and/or are consistent with the national framework for the IDDI that was developed by the Ministerial Council on Drug Strategy in 1999 at the request of the Council of Australian Governments (COAG). The aim of this framework, which encapsulates 19 principles, was to 'underpin the joint Australian Government/State/Territory development of an approach to divert illicit drug users from the criminal justice system to education or assessment, with a view to treatment', while at the same time, providing the flexibility to respond to local requirements (Ministerial Council on Drug Strategy 1999a). This framework, with its associated Australian Government funding, has enabled jurisdictions to establish new, or expand upon existing police and court-based diversion programs. By the end of 2006, Tasmania was the only state that did not offer both types of diversion for drug and drug-related offending.

In contrast to this nationally coordinated approach to the initiation and/or enhancement of programs at the front end of the criminal justice system, drug courts generally developed independently within each jurisdiction and still rely predominantly on state funding. (Exceptions include the NSW Youth Drug Court and the WA Children's Court Drug Court which are recipients of IDDI funding). Even without Australian Government input, most states have now implemented some form of drug court for adults, while a small number also offer a similar program for juvenile offenders.

This is not yet the case for specialist correctional facilities, with only NSW currently providing this option. Given that this facility has only been in operation since August 2006, it is too early to predict whether other states will follow suite. Its establishment may, however, herald a new developmental phase in the criminal justice system's response to drug and drug-related offending, which would provide a continuum of interventions stretching from initial police contact through to post-sentencing custodial care.

Police diversion

A key aim of the IDDI was the establishment or enhancement of a range of police-based interventions targeted at first or second time offenders detected in possession of cannabis and/or other illicit drugs (see Table 1 for a state-by-state overview of these programs). As noted, all states and territories have implemented some form of police drug diversion and while there are differences between these initiatives, their basic structures and *modus operandi* are somewhat similar. For example:

- All rely on the police as the referral source, although this may involve mandatory referrals (as in SA) or discretionary referrals (as in NSW).
- All focus on individuals detected in possession of minor amounts of drugs and/or drug implements. They do not target individuals charged with non-drug offences even if that offending is linked to their drug use.
- All have a component that targets cannabis use. However, the amount varies (from 100 gms in SA to 25 gms in the ACT, while Tasmania leaves it to the discretion of the police officer) as does the form that the drug can take (with NSW excluding cannabis resin, oil and living plants, while Tasmania allows all forms).
- Most have a second diversionary arm which focuses on the possession of other illicit drugs. Only a few (such as Tasmania's Level 3 response) also include the misuse of licit drugs, while even fewer extend to alcohol abuse or petrol sniffing.

- The majority involve an educational component, with the delivery varying from on-the-spot handouts of material by the detecting officer, to telephone-based education sessions, through to meetings with a specialist drug counsellor).
- All programs (with some exceptions including Victoria's Cannabis Cautioning Program and the NT Cannabis Expiation Scheme) also include assessment and, where appropriate, treatment. These components are generally undertaken by accredited agencies funded by IDDI, but the intervention provided is generally of very low intensity. South Australia's Police Drug Diversion Initiative (PDDI), for example, usually requires attendance at one assessment and counselling session only, with very few individuals referred on to treatment, while Western Australia's All Drug Diversion Program requires attendance at three treatment sessions, and Tasmania's Level 3 diversion may extend to five group sessions and three individual counselling sessions spread over a number of months.
- Most (but not all) have clearly defined eligibility/exclusion criteria. For example, many exclude people who, either previously or concurrently with the drug possession offence, have been charged with a violent crime or a sexual offence. Some jurisdictions exclude people previously convicted of more serious drug offences, such as trafficking. The original expectation was that these initiatives would deal mainly with offenders who were in the initial stages of drug use and offending (colloquially referred to as cleanskins), who would benefit from early intervention.
- There are usually restrictions on the number of diversions that a person may receive. For example, Queensland limits police drug diversions to one per person while Victoria allows two. In contrast, in South Australia there is no upper limit.
- In most cases, the individual must agree to the diversion and admit the offence, although some states, notably SA's PDDI, have no such requirement. Anecdotal evidence suggests that diversion is unlikely to be offered if guilt is an issue.
- Most are targeted at adult offenders. While a few include juveniles (such as SA's PDDI and Victoria's Drug Diversion Pilot Program), other states have excluded them on the grounds that generic diversionary processes already in place for young offenders (for example, formal police cautions and family conferences) provide adequate opportunity to respond to minor drug use among this age group.
- All operate as statewide programs.

Table 1: Police drug diversion programs

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
New South Wales								
Cannabis Cautioning Scheme (IDDI funding)	Cannabis only (dried), 15 g. Excluded: resin, oil and living plants	Adult	Defendant must: • not have prior convictions for drug or violent or sexual offences • not have concurrent criminal offence for which an evidence brief would be submitted • admit offence Limited to two caution notices only	*First caution notice:* contains health and legal information on cannabis use. Encouraged, but not required, to contact the NSW Alcohol and Drug Information Service *Second caution notice:* offenders required to contact Alcohol and Drug Information Service for mandatory telephone counselling and education session on use of cannabis	April 2000. Amended Sept 2001 to allow second caution notice	Statewide	Discretionary	*First caution:* not applicable *Second caution:* police informed. If offender appears in court at a later date, non-compliance may be disclosed
Drug Offenders Compulsory Treatment Pilot (now defunct)	Illicit drugs other than cannabis leaf	Adult	Two cautions only	Referral to health assessment or treatment service	July 2000 – June 2001. Ceased because of low referral rates	Illawarra and Northern Rivers	Discretionary	
Victoria								
Cannabis Cautioning Program (IDDI funding)	Cannabis only: 50 g of dried cannabis material. No plants, hash or hash oil	Adult	Defendant must: • not have concurrent offences except those that can be dealt with via an infringement notice • admit the offence No restrictions for prior offences. Amended in 2002 to allow persons with prior drug offences to be cautioned One previous cannabis caution or diversion only	Police caution (including cannabis brochure) + optional education session	July 1997	Statewide	Discretionary	Not applicable

Table 1: Police drug diversion programs (continued)

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
Drug Diversion Program (IDDI funding)	Illicit drugs excluding cannabis. Illegal use of prescription drugs	Adult + juvenile	Defendant must: • not have concurrent offences except those that can be dealt with via an infringement notice • admit the offence. No restriction for prior offences: eligibility criteria amended in Feb 2002 to allow offenders with prior history of drug offences to be cautioned. One previous cannabis caution or diversion only	Clinical drug assessment and attendance at least one drug treatment session	1998	Statewide	Discretionary	Police prepare brief for formal prosecution
South Australia								
Police Drug Diversion Initiative (IDDI funding)	Cannabis: less than 100 g. Excludes hash, hash oil, plants	Juvenile only[a]	No limit on number of diversions. No restrictions for prior offending. No restrictions for concurrent offences. No admission of guilt required	One assessment and intervention session and, where appropriate, referral to treatment[b]	Sept 2001	Statewide	Mandatory	Individual is charged with original offence
	Other illicit drugs. For juveniles, includes illicit use of licit drugs + petrol sniffing for Indigenous youth in the Anangu Pitjantjatjara lands	Juvenile and adult	No limit on number of diversions. No restrictions for prior offending. No restrictions for concurrent offences. No admission of guilt required	Referral to clinical drug assessment and drug treatment program	Nov 2001	Statewide, except petrol sniffing	Mandatory	Individual is charged with original offence

Table 1: Police drug diversion programs (continued)

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
Queensland								
Police Drug Diversion Program (IDDI + Qld Government funding)	Cannabis only: not more than 50 g	Adults and juvenile	Defendant must: • not have prior convictions for offences involving violence against the person or for which rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired • not have prior offences for production, supply or trafficking of drugs • not have concurrent indictable offences committed in circumstances related to the minor drug offence • not have possess cannabis offence where possession is an element in an offence involving production, supply or trafficking of cannabis • not previously have been offered opportunity to attend drug diversion assessment program • not have indictable offence in circumstances related to the minor drug offence • admit the offence	1 to 2 hour assessment and education and counselling with accredited drug diversion assessment program provider. May be given access to treatment program for cannabis dependence	June 2001	Statewide	Mandatory	Financial penalty + additional enforcement fees may apply
Western Australia								
Cannabis Infringement Notice Scheme (IDDI funding)	Cannabis only: up to 30 g dried leaf or no more than two cannabis plants grown non-hydroponically. Hashish or cannabis resin excluded	Adult	No restrictions for concurrent offences, but may be limited to offences that can be dealt with via an infringement notice No restrictions on number of cautions No admission of guilt required	Cannabis infringement notice, which can be expiated via payment of fine, or attendance at single education session, or dealt with in court	Commenced as pilot in one metropolitan and one country location. Extended statewide in March 2000	Statewide	Discretionary	Referred to Fines Enforcement Registry

Table 1: Police drug diversion programs (continued)

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
All Drug Diversion (IDDI funding)	Illicit drugs other than cannabis (although may include hashish)	Adult	Defendant must: • have no prior convictions for violent offences, or serious drug offences • admit the offence One diversion only (not including a cannabis education session) No restrictions on concurrent offences, although may be limited to offences that can be dealt with via an infringement notice	Compulsory assessment and attendance at three treatment and counselling sessions	Nov 2000	Statewide	Discretionary	Summons to appear in court issued
Young Person's Opportunity Program (IDDI funding)[c]	Cannabis, other illicit drugs, alcohol and other licit substances	Juvenile, 12–18 years	For chaotic and difficult to engage clients	Referred by police or magistrate to Juvenile Justice Team (JJT) who may refer to Young Person's Opportunity Program officer for extensive assessment and treatment or referral to treatment. Case management provided by JJT	April 2004	Metropolitan Perth and all regional centres	Discretionary	
Tasmania								
Early Intervention and Diversion of Illicit Drug users Framework (IDDI funding)								

Table 1: Police drug diversion programs (continued)

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
• Level 1: Cannabis caution	Cannabis only: amount discretionary. All forms allowed	Adult and juvenile	Defendant must: • be on first cannabis offence • not have concurrent crime involving illegal traffic, supply sell drugs; DUI; any violet crime; cause death by dangerous driving, any sexual offence or breach of restraining order • admit offence Eligibility based on previous drug events; these include formal and informal conferences, cautions, diversions pending charges, prior convictions, previous court appearances for a drug offence. No more than 3 such events allowed in past 10 years	Cautioning notice, including educational material issued	March 2000	Statewide	Discretionary	No further action
• Level 2: Drug diversion	Cannabis only: amount discretionary, all forms allowed	Adult and juvenile	Second cannabis offence Remainder – as per Level 1	Referral for brief intervention session involving face-to-face counselling with approved alcohol and drug worker	March 2000	Statewide	Discretionary	Prosecution in court
• Level 3: Drug diversion	Cannabis or other illicit drug or licit drug used illicitly	Adult and juvenile	Third cannabis offence or other illicit drug offence Remainder – as per Levels 1 and 2	Assessment session plus one or more follow up counselling and treatment sessions with Alcohol and Drug Service	March 2000	Statewide	Discretionary	Prosecution in court
Northern Territory								
Cannabis Expiation Scheme (IDDI funding)	Cannabis: less than 50 g	Juvenile and adult	Defendant must: • not have concurrent violent or other serious offence • admit offence • not have history of violent or drug offences • be first time illicit drug offender	Cannabis Infringement Notice plus provision of education and self referral pamphlet	2003	Statewide	Discretionary	No further action

Table 1: Police drug diversion programs (continued)

State	Type of drug	Age group	Eligibility criteria	Type of intervention	Start date	Location	Nature of referral	Result of non-compliance
Illicit drug pre-court diversion (IDDI funding)	Other illicit drugs	Juvenile	Defendant must: • not have concurrent violent or other serious offence • admit the offence Multiple diversions permitted if no serious crime involved	Referral to assessment, education and/or treatment		Statewide	Discretionary	
Australian Capital Territory								
Police Early Intervention and Diversion Program (IDDI funding)	Cannabis: 25 g, excluding hydroponically grown Other illicit drugs or licit drugs used illicitly	Adult and juvenile	Defendant must: • not have concurrent violent offences • not be charged with drug cultivation No restrictions on number of prior offence One prior diversion only	Police diversion to Alcohol and Drug Program Diversion Service for assessment and referral to approved treatment agency for education and treatment session	Oct 2001	Statewide	Discretionary	Possible summons/ arrest for prosecution of original offence

a: In South Australia, adults detected in possession of small amounts of cannabis are still issued with a Cannabis Expiation Notice. They are therefore not eligible for diversion via the PDDI

b: Until March 2003, juveniles aged 10 to 14 years at the time of their first offence could be given education material only. This has now been replaced by referral to assessment and counselling

c: This program is not, strictly speaking, a police diversion program, but operates via the Juvenile Justice Team. It has been included here for convenience

Intermediate court-based diversion programs

The second group of criminal justice initiatives designed to respond specifically to the drugs/crime nexus are those that, for the sake of convenience and to differentiate them from the more intensive drug courts, are referred to in this report as intermediate court-based programs (also referred to as court referral-into-treatment programs or court mandated drug diversion programs; Tasmania Law Reform Institute 2006: 2). These now operate in seven states and territories. The exception is Tasmania (see Table 2). However, in September 2006 Tasmania's Attorney General announced that his state had secured IDDI funding to pilot a court mandated drug diversion program intended to commence in 2007 (Kons 2006). The brief description provided by the Attorney General indicated that the program will target people with a history of illicit drug use who plead or are found guilty of a summary drug offence, a related indictable or summary non-violent property offence, including crimes of dishonesty, or a family violence offence.

As with the police-based programs described earlier, a number were implemented following the receipt of funding from the IDDI. However, several pre-dated IDDI, notably Victoria's Court Referral & Evaluation for Drug Treatment (CREDIT) program, which commenced in 1998 as a state-based initiative, and the NSW Magistrates Early Referral Into Treatment (MERIT) program, which arose from the recommendations of the NSW Government Drug Summit held in May 1999. While both programs now receive IDDI funding, CREDIT in particular provided the prototype on which at least some of the later programs in other states were modelled.

A number of broad similarities between intermediate court-based programs can be identified. The majority are targeted at adults and are located in the local or magistrates court, which limits the seriousness of offending with which they can deal. However, some jurisdictions, such as SA, ACT and Victoria, have comparable programs operating in the youth or children's court.

In most instances, the programs target individuals whose current offending is linked in some way to their use of illicit drugs. Thus, unlike the police diversion initiatives, they are generally not confined to dealing only with drug charges, but also respond to drug-using defendants brought before the court on a range of matters, including property, driving, fraud or good order offences. There are, however, some exceptions such as Queensland's Illicit Drugs Court Diversion Program and WA's Brief Intervention Regime (BIR), both of which respond only to minor offenders charged with the possession of cannabis and/or other illicit drugs. Both states also have a second arm to their intermediate court-based programs that target drug-related offending, however.

Most programs commenced as pilots in specifically designated locations, although some, notably MERIT and CREDIT, now extended statewide. In most jurisdictions, referral to the program can come from a variety of sources, including magistrates, lawyers, police and even the defendants themselves. However, defendants must agree to participate and be prepared to admit or at least give some intimation of their intention to plead guilty to the offence.

While the eligibility criteria vary considerably from one state to another, most of these programs exclude individuals charged with violent, sexual or serious drug offences, such as trafficking. Many also exclude persons with prior convictions for such offences, while some exclude those who have a mental impairment if it is likely to impact on their ability to participate fully in the program. Several states, including NSW and Victoria, exclude those serving an existing court order or currently attending a court-ordered treatment program.

Most programs involve two distinctive components:

- an initial clinical assessment to verify that the defendant has a drug problem that is in some way linked to their offending

- engagement in a treatment program usually provided by an accredited drug treatment agency. In many states, these agencies are the same ones that are funded to provide treatment for the police diversion program. All assessments and treatments occur in the community, rather than in custodial environments, although some programs offer a residential component as part of the treatment.

Anticipated program duration generally varies from three to four months, although this time period is often exceeded in practice.

Most programs are located at the pre-sentence stage of the court process, with two exceptions. Queensland's Illicit Drugs Court Diversion Program which occurs at the post-sentence stage for adults, although it operates at the pre-sentence stage for juveniles. South Australia's Court Assessment and Referral Drug Scheme (CARDS) which operates as both a pre- and post-sentence program for adults as well as juveniles. At the pre-sentence stage, if the defendant is considered suitable for the program, the matter is either adjourned or he/she is given bail in order to comply with the treatment plan. In the case of post-sentence programs, the individual is normally placed on a supervised order (such as a good behaviour bond) that lists program attendance as the primary condition.

Most programs require some level of monitoring of compliance, but the nature and intensity of that monitoring varies considerably. Unlike drug courts, only a few, such as the MERIT program in NSW, use urinalysis to track the defendant's drug use. However, these tests are used as a therapeutic tool rather than as a basis for potential disqualification from the MERIT program.

There is usually a requirement that the defendant re-appear before the magistrate at least once prior to sentencing for his/her progress to be assessed, but the number of such appearances is generally limited.

Successful adherence to the program may result in all charges being withdrawn but more commonly, the magistrate will take this into account when determining the final sentence. Failure to comply usually results in the charges being dealt with by the court in the conventional manner.

While these intermediate court-based programs possess these broad similarities, the differences between them are more pronounced than is the case with the police diversion schemes, while the degree of separation between them and the next level of court intervention – the drug court – is not always clear, as illustrated by the situation in Western Australia. During its first years of operation at the Perth Magistrates Court, the Drug Court comprised three quite distinct elements – BIR, a Supervised Treatment Intervention Regime (STIR) and the Drug Court Regime. Of these, only the Drug Court Regime exhibited characteristics normally associated with a conventional drug court. In contrast, STIR, which at that stage offered a less intensive program for offenders with lower levels of criminal and drug involvement than the Drug Court Regime, seemed to have more in common with the intermediate court-based diversions operating in other states. Moreover, while the BIR could also be classified as an intermediate program on the grounds that it was court-based and resulted in a court-imposed sanction (Crime Research Centre 2003: 99, 107), it also bore a strong resemblance to police-based diversions in that it was limited to offenders charged only with minor drug possession offences.

The situation in Western Australia became more complex when, in late 2003, both BIR and STIR ceased to operate under the umbrella of the Perth Drug Court but continued to function, albeit in modified form, at other selected locations in Western Australia. BIR, for example, is now one of two sentencing options used by the Geraldton Alternative Sentencing Regime, which deals with a wider range of offences, such as domestic violence (see King 2003 for further details). And while STIR no longer operates in Perth, it is functioning in a number of Magistrates' Courts in that state.

At the same time as BIR and STIR were discontinued as components of the Perth Drug Court, three other options were introduced:

- the Pre-sentence Opportunity Program (POP), which bears some resemblance to BIR but deals with minor drug-related offending and possession of illicit drugs other than cannabis. It now operates in at least five Magistrates Courts in Perth and in most regional courts
- the Indigenous Diversion Program (IDP), which is equivalent to POP but is designed specifically for Indigenous offenders. It currently operates in the Kimberly and Gascoyne regions of WA
- the Pre-sentence Order Program, which was introduced to augment the Drug Court Regime.

For the purposes of this report, BIR, POP, IDP and STIR have been classified as intermediate court-based drug diversion programs, while the Drug Court Regime and the Pre-sentence Order Program have been allocated to the drug court category discussed in the next section.

The Western Australian situation clearly illustrates the difficulties in trying to allocate drug diversion programs to neat, clearly delineated groupings. It also illustrates the highly fluid nature of the drug diversion environment, with programs being introduced, modified or terminated within relatively short time periods in response to changing political, systemic and offender needs.

Despite these obvious variations, intermediate court-based diversion programs are clearly quite separate from police diversion programs, when taken as a whole. They also exhibit features that differentiate them from what are formally labelled as drug courts in the Australian context. Unlike the latter, for example, they do not offer the intense judicial case management characteristic of drug courts. They do not require a fundamental shift in the way the court conducts its business. There are no interdisciplinary team attached to the court to assist the judicial officer, no dedicated magistrate appointed specifically to hear drug-related matters and no change required to the adversarial roles of the defence and prosecution.

Table 2: Intermediate court-based drug diversion programs

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
New South Wales								
MERIT (Magistrates Early Referral Into Treatment) (IDDI funding)	Drug-related offending, particularly theft, drug and driving offences. Alcohol-related offending included under a second phase pilot scheme operating at the Dubbo Court	Local	Pre-plea, pre-sentence	Defendant must: • have a treatable drug problem linked to their offending, but not alcohol • be motivated to receive treatment and have a treatable illicit drug problem, but not alcohol • not be charged with, or have pending, a wholly indictable offence, or a violent or sexual offence, or be charged with ongoing supply of drugs • not currently be on court-ordered treatment program • be eligible for release on bail	Clinical assessment followed by referred to external treatment and support services. Much of treatment provided through case workers rather than through referrals to external services. Regular reports provided to magistrate	3 months	July 2000 as pilot program. Now extended statewide	Commenced in Lismore. By Sept 2005, operating in 53 local courts
Wellington Option Program (IDDI funding)		Local (adults and juveniles)		Defendant must: • have drug and/or alcohol problem	Intensive drug treatment, family support and case management	12 months	2001	Wellington
Victoria								
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment)a (IDDI + Victorian Government funding)	Minor to moderately serious drug offences and drug related offending (e.g. property offences, driving, fraud and breach matters)	Local	Pre-sentence bail	Defendant must: • have a demonstrable illicit drug problem that is related to their offending • be charged with a non-violent offence (defined as offence where no physical injury inflicted) • not be on a current community-based court order or parole with a drug treatment component • be eligible for bail No admission or plea required	Clinical assessment followed by involvement with accredited drug treatment agency. At least one court review prior to sentencing	4 months	Pilot in late 1998. Progressive roll out commencing late 2000	Piloted in Melbourne Magistrates Court, now operating in 11 courts

Table 2: Intermediate court-based drug diversion programs (continued)

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
Deferred Sentencing Option	Persons with identified drug problem	Lower	Post-plea, pre-sentence	Defendant must: • have a drug problem • be aged 17 to 25 years • be found guilty of the offence	Magistrate defers sentencing while the offender undergoes clinical drug assessment by Community Offenders Advice and Treatment Service assessors. Condition of deferred sentence is attendance at treatment. Progress report to court before sentencing	Up to 6 months	Statewide	Introduced under *Sentencing Act 1991* s 83A
Children's Court Clinic Drug program (IDDI funding)	Possession of illicit drugs, alcohol and other licit substances	Children's	Post-plea, pre-sentence	Defendant must: • be engaged in problematic drug use • have been found guilty of offence • not be on another court order with drug treatment condition	Magistrate refers offender for assessment by court based drug clinicians (part of Children's Court clinic, an independent body working with the Department of Justice) who also facilitate access to drug treatment	Up to 4 months	Nov 2001	Statewide
South Australia								
CARDS (Court Assessment and Referral Drug Scheme) (IDDI funding)	Illicit drug offences (including cannabis) or drug related offences, excluding indictable offences	Magistrates Youth Referrals can also be accepted from the Family Conference Team	Pre-sentence, pre-plea Post-sentence	Defendant must: • have a treatable licit or illicit drug problem (excluding alcohol) that is demonstrably linked to the offending • be willing to engage in treatment • be charged with a summary and minor indictable offence in the Magistrates Court or a minor or major offence in the Youth Court • not currently be charged with a sexual or violent offence or a major indictable offence • eligible for release into the community • not on another court ordered drug treatment program	Adults and juveniles placed on either supervised bail or a supervised court order to undergo drug assessment and referral to an accredited drug treatment agency. Minimum of four counselling sessions with option of voluntary involvement in more intensive treatment. Supervised bonds are supervised by officers from the Department of Corrections. Those on bail are required to report back to court	3 months	Pilot program June 2004	Adelaide, Port Adelaide, Elizabeth, Christies Beach, Murray Bridge and Mount Barker Magistrates Courts and at the Adelaide Youth Court

Table 2: Intermediate court-based drug diversion programs (continued)

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
Queensland								
Illicit Drugs Court Diversion Program (IDDI funding)	Minor offenders charged with possession of small amount of illicit drugs who are not eligible for police drug diversion program	Lower Children's	Post-sentence (adult) Pre-sentence (juvenile)	Defendant must: • plead guilty to eligible drug offence (i.e. offence against *Drugs Misuse Act 1986* s 9 or s 10) • not be convicted or have pending a 'disqualifying offence' e.g. sex offence, trafficking dangerous drugs, indictable offence involving violence against the person • have no more than two diversions under Police Diversion Program or under the Illicit Drugs Court Diversion Program • have no offences concurrent with the drug offence	Adult: placed on recognisance order to attend drug diversion assessment and education session with approved Queensland Health service provider Juvenile: directed by magistrate to attend drug and education session. Not placed on order but matter adjourned	Minimum of 4 months	March 2003	Initially Brisbane Magistrates Court, Central Magistrates Court and Brisbane Children's Court – now extended statewide via Brisbane-based Diversion Team which coordinates diversions to drug treatment providers for all Magistrates Courts
MERIT (Magistrates Early Referral Into Treatment)[b]		Lower	Pre-sentence bail	Defendant must: • have demonstrable and treatable drug problem (excluding alcoholism) • have offences charged related to problematic drug use • be motivated to address illicit drug use • not be previously or concurrently charged with violent, sexual or other offence that is not eligible to be dealt with in the Magistrates Court • be eligible for bail	Assessment by QMERIT team attached to court and referral to treatment. Regular judicial review of progress	12–16 weeks	Pilot commenced 2006	Redcliffe and Maroochydore

Table 2: Intermediate court-based drug diversion programs (continued)

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
Western Australia								
BIR (Perth Drug Court)[c]	Defendants who plead guilty to a second or subsequent possess cannabis or equipment charge	Lower	Pre-sentence, post-plea		Clinical assessment followed by three compulsory individual and group sessions conducted by Court Assessment and Treatment Service	6–8 weeks	Dec 2000 – 2003	Perth
POP (Pre-sentence Opportunity Program) (IDDI funding)	Minor drug and drug-related offending	Lower		Defendant must: • be likely to be facing a fine or community based order • have no, or only minor, criminal history and less extensive drug use • not be charged with drug trafficking, sexual or violent offence • not be facing mandatory imprisonment	Assessment and referral to drug treatment delivered by POP project officer, with progress monitored and reported back to court	6–8 weeks	Pilot: March 2003	Five locations in metropolitan Perth + all regional centres
STIR (Supervised Treatment Intervention Program) (IDDI funding)[d]	2000–2003 (when part of the Perth Drug Court): moderately serious drug-related offending including drug possession, stealing, fraud, property damage Post 2003: 'Moderate level offenders and higher levels of drug dependency' than POP (Salter 2006)	Lower	Post-conviction but pre-sentence Post-sentence	Defendant must: • have acknowledged substance abuse problem • have offending directly related to their drug use • not be facing mandatory imprisonment • not face charges of drug trafficking or serious organised drug offence, sex offences or violent offences • have no history of violent or sexual assault • be convicted of the offence • not require ongoing psychiatric or psychological intervention • be likely to receive a community based order or Intensive Supervision Order	Assessment and engagement in short term residential or non-residential treatment program with supervision by Community Corrections officer. Regular monitoring (including urinalysis). Differs from POP in that it provides ongoing case management of offenders	Minimum of 3 months	Replaced the Court Diversion Service	Originally Perth, as part of the Perth Drug Court Post 2003: all regional centres (not Perth). Investigating possibility of extension to Perth

Table 2: Intermediate court-based drug diversion programs (continued)

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
IDP (Indigenous Diversion Program) (IDDI funding)	Minor drug related offending, including alcohol related and volatile substance abuse	Lower	Post-conviction	Defendant must: • have alcohol and/or other drug problem related to offending • have no previous record or concurrent charges involving drug trafficking, sexual or violence offences • not be facing mandatory imprisonment	Equivalent to POP but specific to Indigenous offenders. Participants are referred by circuit magistrate and undergo assessment by IDP project officer	6–8 weeks	Pilot: early 2004 at Broom and Carnarvon	Kimberly and Gascoyne with possibility of extension to Pilbara, Goldfields, Great Southern and Murchison
Northern Territory								
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment) (IDDI funding)	Drug-related offending. (Consideration being given to extension to alcohol-related crime)	Lower	Pre-sentence bail	Defendant must: • be drug dependent	Magistrate referral to court-based clinicians for assessment and referral to treatment and rehabilitation programs provided by accredited agencies. Regular monitoring through court reviews	12 weeks – 5 months	May 2003	Darwin and Alice Springs
Australian Capital Territory								
CADAS (Court Alcohol and Drug Assessment Scheme) (IDDI funding)	Alcohol and other drug-related offences	Lower and Children's Higher	Pre-sentence	Alcohol and/or drug use must be a contributing factor	Court-based clinician undertakes assessment, recommends appropriate treatment plan, monitors program compliance and reports regularly to the court on client progress	Short term	Jan 2002	

Table 2: Intermediate court-based drug diversion programs (continued)

State	Type of offending	Court level	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location
Court Treatment Referral Program (IDDI funding)	Drug-related offence (i.e. crime committed to get drugs, money for drugs or while under influence of drugs, but excluding alcohol)	Magistrates Higher	Post-sentencing	Defendant must: • be under influence of drug of dependence or prohibited substance when offence committed	Instructed to undergo treatment rather than receiving a custodial sentence. Alternatively, involvement may lead to reduced custodial time. Treatment overseen by Treatment Referral Panel and provided by approved treatment agency	6 months – 2 years	Jan 2002	

a: For those rural areas which do not have access to CREDIT, a Rural Outreach Diversion Workers service was established in 2002 for offenders primarily under the age of 25 who are not charged with a drug offence but whose drug use is a factor in their offending. Individuals with an alcohol or drug problem may be referred by police, magistrates or lawyers after charges have been laid. It differs from CREDIT and other such programs in that the scheme operates from a local community-based drug treatment agency and the crime with which the offenders have been charged does not have to be a drug or drug-related matter. Involvement with treatment and other support services is monitored by the Rural Outreach Diversion Workers and there is no reporting back to court. It is therefore not considered to be a court-based diversion program

b: This program has now been enhanced with the introduction, in late 2006, of the QMERIT After Care Program. Funded by the Qld Dept of Health, its aim is to provide intensive support for QMERIT clients who want to voluntarily continue treatment once they have completed the requirements of the QMERIT program and have been sentenced by the court

c: The BIR was initially a component of the Perth Drug Court. Although it ceased to be an option of that court in 2003, a variant of this program constitutes one of two sentencing options available to the Geraldton Alternative Sentencing Regime which operates out of the Geraldton Court of Petty Sessions and the Geraldton Children's Court. However, unlike the Perth-based BIR, the Geraldton version caters not only for drug-related offending but for individuals with a range of problems such as domestic violence and drink driving. For further details, see King 2003

d: STIR was originally a component of the Perth Drug Court but was terminated as an option at this location in 2003 because of the small number of offenders referred to it

Note: Tasmania has no drug diversion program at the court level but it is anticipated that one will be introduced in 2007

Drug courts

As has been well documented elsewhere (Bull 2003; Crime Research Centre 2003; Lind et al. 2002), Australia's drug courts are based on American drug courts, albeit with some modifications. A mere decade or so after the first such court was established in Dade, Florida in 1989, not only had these courts spread to over 600 other locations across America (Jefferies 2003) but they had also found their way to Canada, the United Kingdom, Europe and Australia, with the first drug court in this country being established in New South Wales in late 1999. All other Australian jurisdictions, with the exception of Tasmania, the Northern Territory and the ACT, have since followed suite, with the most recently established drug court commencing operation in Victoria in May 2002.

In all states, drug courts sit at the 'hard end' of the criminal justice continuum, offering support and treatment for serious, usually repeat offenders whose criminal behaviour is the direct result of long term drug dependency, particularly involving heroin and, more recently, amphetamine use. While each program operates somewhat differently in each jurisdiction, there are a number of underlying similarities that clearly distinguish them as drug courts (see Table 3). At least in theory, all:

- target serious high-end offenders with significant drug dependency issues that are linked to their offending
- respond to individuals who are facing a likely term of imprisonment (or who, in the case of the post-sentencing courts operating in NSW, Victoria and Queensland, have actually had a custodial sentence imposed as a pre-condition of their entry to the program)
- engage the offender in intensive drug treatment, and provide access to a range of additional support services, including assistance in obtaining accommodation, financial advice, health care etc.
- offer programs that run for at least 12 months, the exception being Western Australia's Drug Court Regime which is only of six months duration
- are presided over by a judicial officer who is specifically appointed to the drug court
- provide intensive judicial supervision, with defendants required to appear in court before the same magistrate or judge for regular reviews, often weekly in the first stages of the program, to monitor progress
- have an interdisciplinary team of specialists appointed to assist the court, including clinical psychologists and case managers whose responsibilities range from initial assessment, development of individualised treatment programs, brokering access to external treatment agencies, monitoring client progress and regularly reporting back to the court
- develop working relationships between the judicial officer, the prosecution and the defence lawyers, which require them to exchange their normal adversarial roles for a more collaborative approach where the rehabilitation of the client is considered paramount
- require a collaborative partnership between justice and the health care systems responsible for treatment and service provision
- have in place a system of graduated rewards and sanctions, the latter including short periods of incarceration for continued non-compliance
- require participants to undergo frequent and random urinalysis for drug use, the results of which are routinely fed back to the presiding officer and may provide grounds for termination from the program.

There are some key points of difference between the various programs. For example:

- some (such as NSW) operate as post-adjudicative, post-sentencing programs; others (such as South Australia) are situated at the pre-sentence level with defendants placed on bail in order to participate, while yet others (notably Western Australia's Drug Court Regime and associated Pre-sentence Order program) in combination offer both pre-sentence and post-sentence interventions
- some (such as NSW and Victoria) have legislative backing while others rely on administrative direction. South Australia's Drug Court, for example, relies on the fact that its *Bail Act 1985* allows magistrates to place defendants on extended periods of remand (known as Griffith remands), which ensures sufficient time for program completion
- some (notably NSW) require defendants to be drug free before they can successfully graduate from the program, while in other states (such as South Australia) defendants are considered to have completed the program if they participate in treatment for 12 months, even if they are still using drugs at the end of that period.

Yet despite these differences, drug courts have now become a very distinctive and recognisable feature of the criminal justice landscape in most Australian jurisdictions.

Table 3: Drug courts

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
New South Wales									
Drug Court (developed from recommendation 6.11 of NSW Drug Summit 1999)	Serious drug-related offending	Local Accepts referrals from District Court	Post-sentence	Offender must: • be charged with offences linked to serious misuse of illicit drugs • have potential for rehabilitation • not be charged with or have violent or sex offence pending • not be charged with offences under the *Drug Misuse and Trafficking Act 1985* other than summary offences (i.e. not charged with a wholly indictable drug offence) • plead or be found guilty of offence and consent to being convicted and sentenced under the *Drug Court Act 1998* • be facing a custodial sentence • not be suffering from any mental condition that would prevent or restrict active participation in the program • agree to participate in a detox program	Mandatory participation in a custodial-based detoxification program prior to commencement. Defendant given suspended sentence and commences a supervised program of treatment and rehabilitation Three phases: • Phase 1: initiation and stabilisation • Phase 2: consolidation and early integration • Phase 3: integration	12 months or more	Feb 1999	Parramatta Local Court	NSW *Drug Court Act 1998* Amended Dec 1999

Table 3: Drug courts (continued)

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
Youth Drug and Alcohol Court (IDDI funding)	Serious drug or alcohol related offences, including some indictable matters	Children's: youths aged 14–18 years	Pre-sentence, post-plea	Offender must: • have serious drug problem • be entrenched • face custodial sentence • have offended as the result of illegal drug or alcohol abuse • not able to be dealt with under the *Young Offenders Act 1994* (i.e. via a Youth Justice Conference) • be suitable for treatment and rehabilitation • not be charged with sex, traffic or serious indictable offences • be deemed suitable for treatment • plead guilty to charges	Intensive judicial supervision and case management. Individualised program plans involving treatment and assistance with health, housing and educational needs	6–12 months	July 2000	Initially western and southwestern Sydney. Expanded to Sydney and eastern Sydney	
Victoria									
Drug Court (IDDI funding)	Serious drug-or alcohol-related offending	Lower	Post-sentence	Offender must: • be drug or alcohol dependent • have offended as the result of dependency • be facing a sentence of imprisonment • not be charged with sex offence or violent offence involving infliction of actual bodily harm • not be subject to Combined Custody and Treatment order or a Sentencing Order or Parole Order Offender may have extensive criminal history	Defendant sentenced to imprisonment but deferred. Placed on Drug Treatment Order involving judicial supervision of intensive treatment program. Three phases: • Phase 1: stabilisation (12 weeks) • Phase 2: consolidation (12 wks) • Phase 3: reintegration (26 wks)	12 months (but can operate for up to 2 yrs)	Pilot: May 2002 Ongoing funding: June 2005	Dandenong region	*Sentencing (Amendment) Act 2002* established Drug Court Division of Magistrates Court and created Drug Treatment Orders

Table 3: Drug courts (continued)

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
South Australia									
Drug Court	Serious offences not including major indictable matters[a]	Magistrates	Pre-sentence, post-plea	Offender must: • have either a current dependency on illicit drugs or a previous dependency which is not current due to an involuntary or enforced abstinence, but has a high probability of returning • be facing a potential sentence of imprisonment • reside at a residence which is suitable for electronically monitored home detention bail • have no previous offences of violence • not currently be charged with a major indictable offence • not currently be charged with a violent offence or have a history of violence	Intensive judicial supervision, mandatory drug testing and case management of individualised treatment regime. The program is divided into three phases, with graded levels of sanctions/rewards associated with each. Each defendant is required to be on electronically monitored home detention bail	12 months	Pilot: May 2000	Adelaide Magistrates Court	None

Table 3: Drug courts (continued)

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
Queensland									
Drug Court (funded by Queensland Government)		Magistrates Court	Post-sentence	Offender must: • be dependent on illicit drugs which contribute to their offending • be likely to be imprisoned for offence • not have previously served a term of imprisonment longer than 12 months and not be serving a current prison term • plead guilty or intend to plead guilty to the referring charge • not be subject to pending violent or sexual offence • not suffer any mental condition that could prevent active participation on a rehabilitation program	Following assessment, defendant placed on an Intensive Drug Rehabilitation Order, involving a prison term. This is deferred while defendant participates in treatment based on a three-phase rehabilitation plan	12–18 months	Pilot: June 2000, now permanent	Initially 3 in South East Queensland (Beenleigh, Ipswich and Southport). Extended to 2 North Queensland courts (Cairns and Townsville) in Nov 2002	*Drug Rehabilitation (Court Diversion) Act 2000.* *Drug Rehabilitation (North Queensland Court Diversion Initiative Amendment Act 2002.* *Drug Legislation Amendment Act 2006* made Drug Court a permanent sentencing option for participating courts

Table 3: Drug courts (continued)

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
Western Australia									
Perth Drug Court Regime[b]	2000–03:Moderately serious drug related offending Post 2003: less serious drug-related offending	Court of Petty Sessions, but can accept and case manage referrals from the District Court	Pre-sentence bail	2000–2003: Offender must: • have significant substance abuse problems • be charged with a serious offence relating to drug addiction • not be facing a mandatory prison term • plead guilty to offence • not be charged with drug trafficking or serious organised drug offences or sex offences • not have history of violent or sexual assaults • not require ongoing intensive psychiatric or psychological intervention Post 2003: Offender must: • face short prison term or other non-custodial sanctions	Assessment including psychological screening, followed by entry to judicially managed treatment and rehabilitation program run by external agency. Drug Court Judicial Officer supported by Court Assessment and Treatment Service (CATS)	6 months	Pilot: Dec 2000	Perth Court of Petty Sessions	*Magistrates Court Act 2004* enables Chief Magistrate to establish divisions within the court to deal with special classes of offenders such as drug offenders
Pre-Sentence Order Program	Serious drug related offending	Magistrates Court, District Court	Post-sentence	Offender must: • have extensive and entrenched history of offending and illicit drug use • be likely to be facing lengthy prison term	PSOs managed by the Drug Court		Late 2003	Perth Drug Court	

Table 3: Drug courts (continued)

State	Type of offending	Court jurisdiction	Pre/post sentence	Eligibility criteria	Type of intervention	Duration	Start date	Location	Legislative backing
Children's Court Drug Court (IDDI funded) (equivalent to adult Drug Court Regime)	Drug related offending where charges are serious enough to be sentenced by a Judge	Children's Court 12–18 years at time of offence	Pre-sentence	Offender must: • be substance dependent • have direct causal link between drug use and offending	Judicially case managed treatment with a CATS officer, including fortnightly reviews. Conditions similar to those that ordinary children's court can impose in community based order or intensive supervision order, e.g. drug counselling, urinalysis. Key difference is judicial management of case, rather than criminal justice services	6 months		Perth Children's Court	

a: When first established, the SA Drug Court could also accept offenders charged with major indictable offences who would normally be dealt with by the District Court. On completion of the Drug Court program in the Magistrates Court, these offenders were referred to the District Court for final disposition and sentencing. However, because of process difficulties, major indictables are no longer accepted by the Drug Court

b: A variant of this, referred to as the Court Supervision Regime, is offered as one of two sentencing options available to the Geraldton Magistrates Court as part of its Alternative Sentencing Regime (see King 2003). However, unlike conventional drug courts, it is used to respond to a range of offending, including drug related matters, drink driving and domestic violence. Hence, while the program could be classified as a problem solving court, it is not a specialist Drug Court

Note: Tasmania, the Northern Territory and the ACT do not have Drug Courts

Compulsory drug treatment correctional centres

New South Wales established Australia's first (and at present, only) specialist correctional facility for drug dependent male offenders in August 2006. This program has its legislative base in the *Drug Courts Act 1998*, the *Crimes (Sentencing Procedure) Act 1999* and the *Crimes (Administration of Sentences) Act 1999*. It is linked to the NSW Drug Court which can order offenders to serve a period of compulsory drug treatment detention, ranging from 18 months to three years, as part of its sentencing options. By separating these individuals from mainstream prisoners, the aim is to provide a more conducive environment for the provision of comprehensive drug treatment and rehabilitation programs specifically designed to break the drugs/crime nexus among a hard-core group of drug dependent offenders who, in all likelihood, have already served considerable time in other correctional facilities.

The treatment itself is abstinence-based and comprises three stages:

- Stage 1 – closed detention
- Stage 2 – semi-open detention
- Stage 3 – community custody.

During Stage 1, participants undergo an initial period of stabilisation and commence an intensive therapeutic program targeted at their drug use and offending. Over the next two stages, the offenders are gradually reintegrated into the community 'with active linkages to education and employment, income support, health care, housing and other services' (New South Wales. Government 2007). Post-program support, including mentoring assistance, is also offered for a period of up to 12 months post-release.

While the facility is designed for male offenders only, the NSW government has flagged the possibility of extending the concept to female offenders in the future.

Conceptual underpinnings of diversionary options

As noted, the types of diversion specifically designed to address the drugs/crime nexus sit at different points along the criminal justice continuum. However, as Freiberg (2003) identified, this has happened more by coincidence than by design. He notes that 'programs have been implemented on an *ad hoc* basis as a pragmatic response to a preconceived lack', a process he describes as 'pragmatic incrementation'.

Even the presence of the IDDI framework has not succeeded in overcoming this fragmentation for several reasons:

- for a start, it did not incorporate drug courts, which essentially remain state-based initiatives, and it certainly did not envisage specialist correctional facilities
- as originally conceived, its target was police-based diversions, with IDDI funding for the intermediate court-based programs occurring on an incremental basis as the need for a post-police response to low level drug-related (rather than drug-specific) offending became more obvious
- each state started from a different base. Some jurisdictions, such as the Northern Territory, already had a system of police-based cannabis cautioning in place which they simply modified by including an educational component. Other states (notably Victoria and NSW) had existing intermediate court-based diversion programs that have remained essentially unchanged except for the infusion of IDDI funding.

As a result, not only are there variations from one jurisdiction to another even among those initiatives that ostensibly sit at the same level in the criminal justice continuum, but even within each state, programs have generally evolved independently of, and are managed separately from, the each other. In South Australia, for example, while both the Drug Court and CARDS are managed centrally by the Diversion Courts Unit within the Courts Administration Authority, the lead agency for PDDI is the Department of Health. Moreover, to date, neither the Australian Government (via IDDI) nor any of the jurisdictions have attempted to develop a clearly articulated policy or operational framework that integrates the multiple tiers under a single, holistic banner which spells out their interrelationships in terms of aims, target groups, processes and resources.

As a result, those involved in administering these options often express some confusion about which individuals should be dealt with by which programs. Health Outcomes International (2002, Volume 2) for example, in their evaluation of Victoria's drug diversion programs, found 'considerable confusion among police and service providers about the eligibility criteria and roles of the range of diversion programs offered, particularly between police and court based diversions'. This is compounded by the fact that, while there is usually a set of eligibility criteria in place to guide decisions about who should or should not be accepted on to a program, in reality these are sometimes ambiguous and are not always adhered to. This results in a blurring of the boundaries between the different program levels. For example, it seems that, although designed to target 'cleanskins' (those individuals at the very early stages of their drug use and offending careers), in practice many of the police diversion programs deal with well entrenched offenders with a long history of drug use. As a result, the degrees of separation between the police-based and the intermediate court-based initiatives are diminished.

Nevertheless the notion of a continuum of responses, whether achieved by design or by coincidence, has validity. This is in Table 4, which summarises the key elements involved in the gradation from police drug initiatives at the low end through to drug courts, and more recently, a correctional centre, at the high end of the system. Most of these gradation elements such as increasing severity of offending and drug use, increasing intensity of interventions and supervision, and increasing consequences attendant upon a failure to comply with the diversion, were described in the preceding discussion.

The conceptual approaches underpinning these initiatives and how they vary along the continuum has not yet been considered is. In many ways, this is fundamental to understanding the differences between the initiatives.

The current crop of drug-related programs embody two quite distinctive criminological concepts, albeit to varying degrees. One is the long-standing notion of diversion and the other is the relatively new paradigm of therapeutic jurisprudence which, according to the Tasmania Law Reform Institute (2006: 32) was first articulated by Wexler and Winick in the late 1980s in the context of mental health law.

Table 4: Continuum of responses to drug offending

Position on criminal justice continuum	Pre-arrest, pre-court	Pre-sentence, lower court	Pre- or post-sentence, lower or higher court
Extent/nature of diversion	High diversion from apprehension/prosecution	Moderate diversion from court/standard non-custodial sentence	Low/no diversion from imprisonment
Extent of therapeutic jurisprudence	Low	Moderate	High
Type of diversion program	Police diversions	Intermediate court-based diversions	Drug courts/Drug Treatment Correctional Centre
Offence seriousness	Minor drug	Minor-moderate drug or drug-related	Serious drug-related
Extent of drug use	Minor		Serious dependency linked to offending
Criminal history	None or minor		Entrenched
Prior engagement with treatment	None or minor		Possible history of failed engagement
Extent of compliance monitoring	None		Intensive, by judicial officer
Level of intervention	Limited number of assessment/treatment sessions	3–4 month program	12 months+ treatment and regular court reviews
Result of failure to comply	No further action or commencement of prosecution	Sentenced for original charges	Sentenced for original offences with high likelihood of imprisonment

Diversion

In broad terms, diversion involves the re-direction of offenders away from conventional criminal justice processes, with the aim of minimising their level of contact with, or extent of penetration of, the formal system. The use of diversion has a long history. In the case of juveniles, for example, it can be traced back to the establishment in the late 19th century of the first children's court, which was designed to redirect offending children away from punitive adult courts into a more informal and more benign system which could better meet their need for specialist guidance and treatment (Seymour 1988).

In its purest form, the term 'diversion' applies to those processes that sit at the very front end of the criminal justice system – at the pre-apprehension stage, before any formal charges are laid – and are focused on diverting individuals *from* that system rather than *to* an alternative form of processing. The obvious example here is informal police cautioning, where individuals are given a verbal warning with no further obligations placed on the offender and no official record kept of the contact, instead of being apprehended and charged by police.

However, over the decades, the term has acquired broader application. It is now commonly used to refer to *any* processing option that offers what is perceived to be a different and less punitive response from that which would otherwise have applied. In addition, there is now a much greater emphasis on diverting individuals *to* an alternative program rather than simply diverting them *from* the system. These two elements are encapsulated in the definition of drug diversion put forward by the Expert Working Group of the UN International Drug Control Program (1999: 13 cited in Bull 2003: 10). The Group defined diversion

as 'the re-routing of substance abusing or substance dependent offenders who would otherwise be convicted and penalized through the traditional criminal justice process, and includes the re-routing of such offenders at any stage of the criminal justice process'.

According to this broader definition, all of the illicit drug options now embedded in Australian criminal justice systems can be classified as diversionary because each type aims to re-direct offenders away from the conventional justice processes, thereby limiting their penetration deeper into the system. For example:

- At the front end of the system, police-based initiatives divert minor drug offenders at either the pre-apprehension or post-arrest/pre-court stage, thereby avoiding the imposition of formal criminal charges and prosecution in court.
- The intermediate court-based programs are also diversionary in that, if defendants successfully complete the program, they may either have all charges withdrawn or be given a lesser sentence. Hence, the defendants are 'diverted' from either acquiring a formal criminal record or from receiving the more onerous sanction that would have applied had they not attended the program.
- The drug courts have also been labelled as diversionary because, irrespective of whether they sit at the pre- or post-sentencing stage of the court process, they are generally targeted at offenders who would be facing a period of imprisonment under normal circumstances. While some court programs initially envisaged that successful completion of the program would result in the withdrawal of charges, in the main this is a rare occurrence, given the usually severe nature of the offending and prosecutorial reluctance to go down that path. Instead, they generally result in either a non-custodial sentence or in a reduced term of incarceration.
- Even the NSW Compulsory Drug Treatment Correctional Centre could be considered diversionary in that it redirects offenders away from the mainstream prison system into a separate, more specialised treatment-based environment.

However, while the concept of diversion underpins all of these programs, the extent to which this is true varies. If diversion, in its purest form, involves redirection from the criminal justice system, then the term applies most strongly to front-end police-based programs. By operating at the pre-arrest stage, these schemes ensure that individuals are not charged with any criminal offence, do not acquire a criminal record and so are fully diverted from the justice process. Moreover, in at least some states, responsibility for record keeping pertaining to individuals diverted under this scheme does not rest with police. In South Australia, for example, it belongs to Drug and Alcohol Services South Australia. Their databases are not linked with any SA police criminal justice information system databases and do not share any common identifiers with that system.

At the other end of the scale are the drug courts and the correctional centre. Their positioning deep within the criminal justice system precludes them from offering any pure' form of diversion. At best, they provide an alternative method of processing and, in the case of the drug courts, the possibility of a less severe penalty, including the potential to avoid imprisonment.

The other element to consider is the extent to which these programs provide diversion *from*, as opposed to diversion *to*, an alternative process. As noted, in its purest form, the concept of diversion as re-direction *from* the system meant that the individual was not required to comply with any further conditions. As a result, there was no potential for any secondary consequences if those requirements were not fulfilled. Almost all of the drug initiatives now in place entail diversion *to* an alternative, rather than diversion *from* the system. The only exceptions are those police-based programs that are limited to the on-the-spot distribution of education material (as is the case with Victoria's Cannabis Cautioning Program) or the provision of contact details for a drug counselling or treatment service which the individual is encouraged, but not required, to follow up (e.g. the NSW Cannabis Cautioning Scheme's first caution notice).

However, while the overwhelming majority of these programs involve diversion to some form of intervention, the intensity and duration of these alternatives exhibit a clear gradation from the relatively low key, short term interventions offered at the level of police diversion (which may range from a telephone-based education session to attendance at an assessment interview and several treatment sessions) through to the extremely intensive, often year-long treatment program mandated by the drug court.

The other element here is the extent to which the individual is required to maintain involvement with, and accept scrutiny from, agents of the criminal justice system. In police diversion, police generally have no further contact with the individual once appropriate referrals have been made. At the other extreme, drug courts require the individual to attend regular court-based review hearings and, even outside these formal occasions, the presiding judicial officer plays an active role in on-going monitoring, including (in some states) participation in regular meetings with case managers, prosecutors and lawyers to discuss the individual's progress. The level of criminal justice intervention is so intense that at least some of those associated with the drug court (including some defendants themselves) perceive this option to be more intrusive and potentially more punitive than the normal processing options, particularly as there is no firm guarantee at the end of the program that they will avoid a term of imprisonment. The level of scrutiny is even more intense in the NSW Compulsory Drug Treatment Correctional Centre, as would be expected from a prison environment.

In summary then, while all four types of initiative embody some element of diversion, this concept is strongest at the police level and least evident at the level of the drug court and the correctional centre. However, as discussed below, the elements that contribute to this sliding scale along the diversion continuum also operate, but in the reverse direction, in relation to the second main concept underpinning these programs – namely, therapeutic jurisprudence.

Therapeutic jurisprudence

According to Wexler (1991), the therapeutic model of jurisprudence requires the law itself to function as a therapist. He argues that:

> Legal rules, legal procedures and the roles of legal actors… may be viewed as social forces that can produce therapeutic or anti-therapeutic consequences. The prescriptive focus of therapeutic jurisprudence is that, within the important limits set by principles of justice, the law ought to be designed to service more effectively as a therapeutic agent (Wexler 1991: 280).

This approach shifts the role of the criminal justice system from an adversarial to a problem solving one, with the commission of an offence used as the trigger to engage an individual in appropriate support and treatment programs designed to address the factors underpinning their offending. It is based on the notion that the criminal justice system can and should play an active role in the rehabilitation of offenders. It reaffirms the system's faith in rehabilitation as an achievable goal, in stark contrast to the 'nothing works' philosophy that held sway in the 1970s and early 1980s in response to the work of Martinson (1974).

The drug courts are the pre-custody drug diversion programs that adhere most closely to the notion of therapeutic jurisprudence, to 'use the authority of the court to address the underlying problems of individual litigants' (Berman & Feinblatt 2001: 125). In particular, these courts rely on the active use of judicial authority to solve problems and change the behaviour of litigants, with the judicial officer taking an active role in the type of treatment provided and the ongoing monitoring of the offender. There is also a much greater emphasis on an interagency team approach, designed to provide appropriate case management and support for the individual, through collaborative working relationships between the agents of the court and external treatment providers.

At the post-court level, the Compulsory Drug Treatment Correctional Centre also embodies a very strong therapeutic jurisprudence approach. As with drug courts, it uses the offender's contact with the criminal justice system as the trigger for providing intensive intervention in the lives of chronic, drug dependent offenders for whom other options have failed. It offers individually targeted treatment programs in a highly structured and closely monitored environment and its primary purpose is rehabilitation designed to ensure that, upon release, offenders are able to 'lead productive crime free and drug free lives' (New South Wales. Government 2007) rather than that of punishment. The therapeutic jurisprudence approach is also evident in the Centre's reliance on a close working relationship between the correctional authorities and health and other service providers which is not typical of normal prison environments.

In contrast to both drug courts and the correctional centre, a therapeutic jurisprudence approach is less evident among intermediate court-based diversion programs and least present at the level of police diversion. It could be argued that the only characteristic of police diversion reflective of a therapeutic jurisprudence approach is the fact that these programs rely on criminal justice agents to re-direct certain detected drug users to a brief assessment or treatment, with the aim of addressing their drug use. However, as noted earlier, the level of intervention is very low key, of short duration and lacks any ongoing monitoring by, or involvement of, criminal justice agents.

In summary, while diversion and therapeutic jurisprudence underpin the range of drug initiatives now operating within Australia's criminal justice system, the relative balance between the two approaches varies depending on where they are located along the criminal justice continuum. The police drug diversion initiatives located at the front end of the system are primarily diversionary, with only a very small component of therapeutic jurisprudence. At the other end of the scale, drug courts and the associated Compulsory Drug Treatment Correctional Centre in NSW, primarily embody a therapeutic jurisprudence approach, while still retaining a small diversionary element.

Evaluating the programs

The need for rigorous evaluation of the drug diversion programs was recognised by both levels of government early in their establishment phase, and funding was set aside for that purpose. For those police-based and intermediate court-based programs that fall under the umbrella of the IDDI, Principle 18 of the national framework states:

> The approach must be monitored and evaluated to inform best practice and continuous improvement and reflect the intent of the COAG Communiqué and the goals of the national drug strategy.

In line with this, the Australian Government has funded several national evaluations of the IDDI initiatives (see Health Outcomes International et al. 2002) while some states have used a portion of the IDDI funding to undertake in-depth, state-specific studies of both the police and intermediate court-based programs. Similarly, although they do not come under the IDDI umbrella, every state/territory government has commissioned independent evaluations of their drug courts, while the NSW Compulsory Drug Treatment Correctional Centre is currently being evaluated by the NSW Bureau of Crime Statistics and Research (BOCSAR).

These activities have resulted in a plethora of both process and outcome evaluations (see Tables 8, 12 and 16) which have all contributed to an understanding of how these programs are working. Nevertheless, outcome-based assessments are not yet available for all of the initiatives. While reports are now available on all five adult drug courts and at least one youth drug court (NSW), the same close scrutiny has not been applied to the other types of drug diversion programs. In relation to court-based diversion programs, published reports were located only for the NSW MERIT program, the Victorian CREDIT program and the four programs now on offer in Western Australia, notably the BIR/STIR components of the WA Drug Court, the recently introduced POP and IDP, and the modified STIR program. Coverage of police drug diversions is also patchy, with no published outcome-based evaluation reports identified for those programs operating in Western Australia, South Australia, the NT, the ACT or Tasmania.

It is recognised, however, that evaluation reports may exist for some of these programs, but have not been publicly released. No attempt was made to access such reports for this exercise. Other evaluations are being planned, are underway or nearing completion. For example, the Office of Crime Statistics and Research is in the final stages of evaluating SA's PDDI and CARDS programs. Evaluations or reviews of the Northern Territory's CREDIT program, Queensland's MERIT program and the ACT's four diversionary programs (Simple Cannabis Offence Notice Scheme, Police Early Intervention and diversion Program, Court Alcohol and Drug Assessment Scheme (CADAS) and the Court Treatment Referral Program) and WA's Cannabis Infringement Notice Scheme (incorporating the Cannabis Education Session) are either underway or in initial planning stages. The NSW Drug Treatment Correctional Centre is also being evaluated by BOCSAR. At a national level, the Australian Government has commissioned three new evaluations in 2006¬¬–07 to examine the impact of police diversion on recidivism, to assess the impact of IDDI on diversion in rural and remote Australia, and a cost-effectiveness evaluation.

An holistic approach that examines the relationships, interactions and composite outcomes of all types of initiatives within one jurisdiction is lacking, however. While police drug diversions, intermediate court-based diversions and drug courts are designed to provide a continuum of responses to drug and drug-related offending (Table 4), no evaluation has yet attempted to determine whether these programs complement or compete with each other for clients and resources, whether the continuum is working in practice and whether the various tiers in combination are achieving mutually reinforcing outcomes. Only one evaluation – that of Victoria's court-based diversion programs – made some attempt to do so (see Alberti et al. 2004a; Alberti et al. 2004b; King & Hales 2004; and King et al. 2004). However, although it drew some comparisons between that state's generic Criminal Justice Diversion Program, CREDIT and the Drug Court, it still focused primary on each program separately, and did not include the police-based programs.

With these provisos in mind, the remainder of this report consolidates the results of the various published evaluations to identify the current state of knowledge about whether the programs are achieving their intended outcomes. It is first necessary to clarify the aims and objectives of each program and to outline some of the methodological difficulties encountered by the various studies which impact on the conclusions that can be drawn from them.

Identifying program objectives

It is critical to articulate clearly what a program is designed to achieve, not only when planning the program itself but also when determining what should be evaluated. There is little point, for example, in measuring post-program recidivism levels if the program being assessed was never designed to impact on the criminal behaviour of its participants. As many evaluators have learned from experience, programs do not always come with a clear statement of intent. Instead, what is put forward as the aims may contain statements about what the program will do in operational terms, such as 'provide early drug treatment for alleged offenders who are engaged in problematic drug use' (Victoria's CREDIT Program as cited by Heale & Lang 1999) or 'engage the client in treatment' (ACT's CADAS Program). Others couch their aims in slightly more abstract terms, such as 'provide an incentive for offenders to identify and treat their illicit drug use' (WA's POP) or increase participants' 'knowledge about harms and risks of drug use' (Victoria's Cannabis Cautioning Program). These statements do not indicate an over-arching purpose. What, for example, does a program hope to gain from providing 'early treatment' or 'incentives to treat illicit drug use'? If taken at face value, an evaluation designed to measure the extent to which such aims are being achieved would simply need to consider whether the program was operating as intended – whether it was actually providing 'early intervention' or 'appropriate incentives'. It would not be required to measure whether the provision of such incentives made any difference to the offender, in terms of drug use or criminal behaviour.

Hence, the outcomes selected for inclusion in the following discussion for each of the drug diversion programs are those that seem to constitute high level or primary objectives, such as 'decrease drug-related offending' or 'improve physical and mental health'; that is, statements that reflect the ultimate goal or end game of the program. In contrast, those that could be classified as second level outcomes, such as 'increased retention in treatment' or 'changed attitudes towards police and courts', have not been included because they seem to be stepping stones for achieving the higher order objectives.

Tables 5 to 7 summarise the key aims of each program as articulated in the public documentation (usually web-based) provided by relevant government agencies or in evaluation reports. However, as indicated in these tables, there are some gaps where no public statement pertaining to a high-level outcome could be located. It should be noted that where objectives have been derived from evaluation reports, there is no indication of the extent to which the evaluators themselves constructed them based on what they perceived to be the intent of the program.

Nevertheless, Tables 5 to 7 suggests that, whether implicitly or overtly, there is a relatively high degree of overlap in the intended outcomes, not only between programs that sit at the same level within the criminal justice continuum, but also across program levels.

Overall, five primary objectives apply to the various levels of drug diversion, with varying intensity:

- reduction in or cessation of drug use
- reduction in or cessation of drug or drug-related offending
- improvement in the general health and wellbeing of the diverted individual

- reduction in workloads at particular points of the criminal justice system
- cost effectiveness.

These aims generally accord with the over-arching objectives of the National Framework for Illicit Drug Diversion. However, as is the case with the programs themselves, there is some variation in how these aims are stated, depending on which public document is cited. For example, the Department of Health and Ageing (2006: 33) lists the IDDI aims as follows:

- increase incentives for drug users to identify and treat their illicit drug use early
- decrease the social impact of illicit drug use within the community
- prevent a new generation of drug users committing drug-related crime from emerging in Australia.

In contrast, the Ministerial Council on Drug Strategy (1999a) provided a more pragmatic and hence, more measurable, set of aims:

- people being given early incentives to address their drug use, in many cases before incurring a criminal record
- an increase in the number of illicit drug users diverted into drug education, assessment and treatment
- a reduction in the number of people appearing before the courts for the use or possession of small amounts of illicit drugs (cited in Alcohol and Other Drugs Council of Australia 2003: 3).

Table 5: Police drug diversion initiatives: key objectives

State	Reduction in illicit drug use	Reduction in crime	Improved health and wellbeing	Reduced level of criminal justice response	Cost effective	Other (secondary objectives
New South Wales						
Cannabis Cautioning Scheme	Assist offenders to consider the legal and health ramifications of their cannabis use			Diversion of minor cannabis offenders from the court system	Time and cost efficiencies for police and local court	
Victoria						
Cannabis Cautioning Program	Decrease or cessation of drug use	Decreased drug-related criminal activity	Improved physical and mental health status Increased employment prospects Enhanced family and social relations	Minimise the further progress of persons who have committed minor drug offences through the Victorian justice system		Change attitudes towards police and courts Increase knowledge about harms and risks of drug use Increase retention in treatment
Drug Diversion Pilot Program	Decrease or cessation of drug use	Decreased drug-related criminal activity	Improved physical and mental health status			
South Australia						
Police Drug Diversion Initiative	Reduce number of illicit drug users in SA	Reduce criminal harm associated with drug use	Reduce health and social harms associated with drug use			
Queensland						
Police Drug Diversion Program	Provide people with an incentive to address their drug use earlier and before acquiring a criminal record Decrease or cessation of drug use	Decrease drug-related criminal activity	Improve physical and mental health status Increase employment prospects Enhance family and social relations	Reduce number of people appearing before courts for possession of small quantities of cannabis		Increase number of illicit drug users accessing assessment, education and treatment

Table 5: Police drug diversion initiatives: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and wellbeing	Reduced level of criminal justice response	Cost effective	Other (secondary objectives
Western Australia						
Cannabis Education Session (now part of Cannabis Infringement Notice Scheme)				Divert drug dependent offenders from more serious contact with the criminal justice system		Educate cannabis using offenders about: • the adverse health and social consequences of cannabis use • treatment of cannabis-related harms • laws relating to use, possession, cultivation of cannabis
All Drug Diversion						Provide an incentive for offenders to attend a mandatory education session Provide counselling and develop and implement a treatment plan for offenders in the program Refer offender to continuing treatment at conclusion of program Engage family members/significant others if appropriate Refer offenders to other support services, if appropriate

Table 5: Police drug diversion initiatives: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and wellbeing	Reduced level of criminal justice response	Cost effective	Other (secondary objectives
Young Person's Opportunity Program				Divert young offenders from the criminal justice system into drug treatment		Increase number of young offenders accessing drug education and treatment services Match offenders with most appropriate treatment agency Assist offenders to access and remain engaged with treatment service Monitor offenders' attendance at treatment program Inform Juvenile Justice team of progress of offenders Refer offender to continuing treatment at conclusion of program
Tasmania						
Early Intervention and Diversion of Illicit Drug Users Levels 1–3	Provide drug users with incentives to address their drug use problem before becoming involved with the criminal justice system					
Northern Territory						
Cannabis Expiation Scheme						
Illicit Drug Pre-Court Diversion						
Australian Capital Territory						
Police Early Intervention and Diversion Program						

Table 6: Intermediate court-based drug diversion programs: key objectives

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduced level of criminal justice response	Cost effective	Other
New South Wales						
MERIT (Magistrates Early Referral Into Treatment)	Decrease illicit drug use during and after program completion Break the drugs/crime cycle by involving defendants in treatment and rehabilitation programs	Decrease drug related crime during and after program completion Prevent defendants committing crime and returning to drug use	Improve health and social functioning during and after program completion	Reduce sentences due to better rehabilitation prospects		
Wellington Option Program	Address alcohol and/or drug problems of offenders in the Wellington community as a whole and specifically within the local Aboriginal community in order to reduce drug and alcohol related crime	Reduce drug and alcohol related offending				
Victoria						
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment)	Minimise drug use	Delay or reduce further offending behaviours Minimise drug related offending	Help defendants become more productive members of the community Improve the quality of life for participants	Reduce the likelihood of a sentence involving incarceration Divert offenders with a drug problem from further involvement in the criminal justice processing through drug treatment programs, i.e. reduced numbers entering prison system	Reduce costs to he health system Reduce direct costs to the justice system	Provide early drug treatment for alleged offenders engaged in problem drug use Develop commitment on part of drug users to treatment Develop a model drug treatment diversion program
Deferred Sentencing Option						

Table 6: Intermediate court-based drug diversion programs: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduced level of criminal justice response	Cost effective	Other
Children's Court Clinic Drug program		Reduce risk of further offending to support drug use		Minimise the progress of young offenders with drug use problems through the criminal justice process Divert young offenders with a drug problem from further involvement in the criminal justice process through participation in drug treatment		Provide early drug treatment for alleged young offenders engaged in problematic drug use Develop a commitment on the part of young drug users to harm minimisation and drug treatment
South Australia						
CARDS (Court Assessment and Referral Drug Scheme)	Decrease illicit drug use during and after program completion	Decrease drug related crime during and after program completion	Improve health and social functioning during and after program completion			
Queensland						
Illicit Drugs Court Diversion Program				Reduce number of offenders appearing before court for possession of illicit drugs		Increase access to drug education and treatment Provide incentives for minor offenders to address their drug use
MERIT (Magistrates Early Referral Into Treatment)		Reduce offending by addressing drug use with which it is associated				
Western Australia						
BIR (Perth Drug Court)	Reduce substance use and addictions	Reduce recidivism and re-arrest rates	Improve the life circumstances of offenders who participate in treatment	Reduce number of offenders with substance use problems and addictions being imprisoned	Cost savings to the community and government	Reduce the post-treatment supervision requirements of offenders who have participated in a treatment program

Table 6: Intermediate court-based drug diversion programs: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduced level of criminal justice response	Cost effective	Other
POP (Pre-sentence Opportunity Program)	Provide incentive for offenders to identify and treat their illicit drug use					Provide face-to-face assessment for offenders Match offenders with the most appropriate treatment agency Monitor offender progress through the treatment program Inform the court on the progress of the offender through the program Refer offender to continuing treatment at conclusion of program
STIR (Supervised Treatment Intervention program)	Reduce substance use and addictions	Reduce recidivism and re-arrest rates	Improve the life circumstances of offenders who participate in treatment	Reduce number of offenders with substance use problems and addictions being imprisoned	Cost savings to the community and government	Provide incentive for offenders to attend and treat their drug use Engage offender in suitable treatment to address their drug use Provide ongoing supervision to support offenders participant in program Engage family members significant others if appropriate Refer offenders to other support services as required Refer offenders to continuing treatment at conclusion of program Reduce the post-treatment supervision requirements of offenders who have participated in a treatment program

Table 6: Intermediate court-based drug diversion programs: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduced level of criminal justice response	Cost effective	Other
IDP (Indigenous Diversion Program)	Reduced substance use and addictions	Reduce recidivism and re-arrest rates	Improve the life circumstances of offenders who participate in treatment	Reduce number of offenders with substance use problems and addictions being imprisoned		Increase number of Indigenous persons accessing IDDI programs Increase number of Indigenous persons trained to work with mandated clients Increase availability of culturally secure diversions in regional areas of WA Provide culturally secure community development, prevention and early intervention strategies Establish links between indigenous persons, local drug treatment agencies, support services and magistrates Implement Indigenous prevention and early intervention strategies in regional WA
Northern Territory						
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment)	Reduce illicit drug use	Reduce drug-related crime	Improve the health and social contribution of participants	Reduce likelihood of sentence involving incarceration	Reduce cost to the justice and health systems	
Australian Capital Territory						
CADAS (Court Alcohol and Drug Assessment Scheme) Court Treatment Referral Program		Reduce recidivism				Engage the client in treatment

Note: Tasmania has no drug diversion program at the court level

Table 7: Drug Court programs: key objectives

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduce number of drug offences being dealt with by courts (diversion)	Cost effective	Other
New South Wales						
Drug Court	Reduce the drug dependency of eligible persons and eligible convicted persons (*Drug Court Act 1998*) Help adult offenders with serious drug problem break the cycle of drug dependency, criminal activity and imprisonment	Reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies (*Drug Court Act 1998*) Reduce the level of criminal activity resulting from drug dependency (*Drug Court Act 1998* s 3)	Promote the re-integration of drug dependent persons into the community (*Drug Court Act 1998*)			
Youth Drug Court	Reduce drug use	Reduce offending where alcohol and other drug use was a contributing factor	Improve health and social functioning			
Victoria						
Drug Court		Reduce offending by addressing drug and alcohol dependence issues where linked to offending				
South Australia						
Drug Court	Minimise or stop the use of illicit drugs by offenders	Prevent or decrease any further drug-related offending	Improve overall health and social functioning			

Table 7: Drug Court programs: key objectives (continued)

State	Reduction in illicit drug use	Reduction in crime	Improved health and well-being	Reduce number of drug offences being dealt with by courts (diversion)	Cost effective	Other
Queensland						
Drug Court	Reduce the level of drug dependency in the community: *Drug Rehabilitation (Court Diversion) Act 2000* s 4.1	Reduce the level of criminal activity associated with drug dependency: *Drug Rehabilitation (Court Diversion) Act 2000* Improve ability (of drug dependent persons) to function as law abiding citizens: *Drug Rehabilitation (Court Diversion) Act 2000* s 4.2	Reduce health risks to the community associated with drug dependency: *Drug Rehabilitation (Court Diversion) Act 2000* Improve employability and health of drug dependent persons: *Drug Rehabilitation (Court Diversion) Act 2000* s 4.2	Reduce pressure on resources in the court and prison system: *Drug Rehabilitation (Court Diversion) Act 2000*		
Western Australia						
Drug Court Regime	Reduce drug dependence levels of offenders Reduce substance use and addictions	Reduce recidivism and re-arrest rates	Improve the life circumstances of offenders who participate in treatment	Reduce number of offenders with substance use problems and addictions being imprisoned	Cost savings to the community and government	Reduce the post-treatment supervision requirements of offenders who have participated in a treatment program
Pre-Sentence Order Program	Address substance abuse of offenders appearing before the District Court	Assist offenders to deal with offending-related problem	Provide the ability to lead constructive, happy and law abiding lives	Help reduce number of offenders with substance abuse problems who are imprisoned		Identify post-treatment supervision requirements of offenders who have participated in Drug Court program
Children's Court Drug Court						

Note: Tasmania, the NT and the ACT do not have a Drug Court

Some methodological issues

One critical factor that impacts on a study's ability to show that a program is achieving its objectives is the methodological rigour used for data collection and analysis. Most of the Australian drug diversion evaluations share a similar set of problems that make it difficult to determine whether any observed changes or improvements in an individual's drug use, offending or health and wellbeing are actually due to his/her contact with the program or to a host of extraneous factors unrelated to the program. However, in saying this, several factors should be stressed:

- First, most of the evaluators acknowledged the methodological limitations of their studies and were generally careful to take these into account when drawing their conclusions.
- Second, these problems are not specific to evaluations of Australian drug diversion initiatives but bedevil many outcome-based criminal justice evaluations undertaken here and overseas. Belenko (1998: 2001), for example, in his influential reviews of evaluations of American drug courts, noted that many were marred by serious methodological weaknesses. Similarly, Bull (2003: 13), in an overview of drug diversion program evaluations in the United Kingdom and the United States, commented that these were generally 'hampered by weak design, having small numbers, no comparison groups and post-program follow-up'.
- Third, while some of these issues could be addressed through better research design, access to more comprehensive data and better timing, deriving a 'foolproof' way of determining long term programmatic impacts will always be fraught. Because each individual is part of a broader and highly complex societal framework with a multiplicity of factors impacting on his/her behaviour, the task of trying to isolate the specific effects of any given program will inevitably remain a difficult task.

The main methodological limitations inherent in drug diversion evaluations are summarised below.

Timing of the study

Many of the studies took place in the early stages of the programs' operations. While early assessment is of critical importance when assessing whether a program is being implemented as intended, it has some drawbacks when trying to measure outcomes. In particular, it often leads to very small sample sizes and relatively short follow-up periods within which to assess program impacts on issues such as drug use and offending. In fact, in several of the studies canvassed in this report, no individual had actually graduated from the program, which meant that no data were available on long term changes following program completion.

These early findings also do not necessarily reflect the present situation. In the initial stages of establishing a new program, many unforeseen process and implementation issues generally need to be resolved (as the evaluations themselves identified). Until these have been fully addressed, the program's ability to deliver on its intended objectives will be reduced. Hence, outcome-based evaluations conducted during the establishment phase of a program may indicate lower 'success' levels than anticipated, simply because the program was not operating as intended. Evaluations conducted a number of years later may produce very different, and potentially more positive, results.

Use of client interview data

Studies that sought to measure the program's impact on drug use, health and wellbeing generally relied on interviewing the same set of participants at different stages during and after their involvement with the program. This approach, referred to as an interrupted time series design, is the most viable. However, it presents some problems, including:

- low success rates in recruiting participants, as illustrated by the Australian Government-funded evaluation of the Victorian and Tasmania diversion programs which was only able to recruit 13 of an anticipated 350 respondents (Health Outcomes International et al. 2003)
- high respondent attrition rates during the course of the interviews (often with far fewer clients being interviewed at the final contact point than at the beginning). This may potentially skew the results in a positive direction because of the probability that those who are interviewed at the final point are the more successful ones (as evidenced by the fact that they are easier to locate and are willing to continue their involvement with the evaluation)
- the potential bias resulting from respondents' unwillingness or inability to provide accurate answers. This may be particularly problematic when attempting to assess drug use and offending among participants still engaged in drug diversion programs, where continued drug use and offending are a potential justification for termination.

Use of official crime statistics

While there are some advantages in using official crime data rather than self-report data to measure recidivism – notably the fact that they are generally more accessible and do not rely on a respondent's capacity for accurate recall or on their willingness to give honest responses – such data bring their own set of problems. For a start, not all offending incidents committed by an individual come to police attention, which means that they are never officially recorded. Hence, these statistics underestimate levels of criminal activity.

More crucial though, is the fact that all but one of the drug diversion evaluations, notably Lind and colleagues' (2002) study of the NSW Drug Court, lacked a randomised control group against which any shifts in reoffending among program participants could be compared. As a result, most studies either lacked a point of comparison or relied on groups that differed from the participant group on critical factors such as the frequency and severity of prior offending. Such initial differences could help to explain any post-program differences in reoffending between the participant and comparison groups without any reference to program involvement. An alternative approach used by a small number of studies (such as South Australia's evaluation of its drug court) was to compare pre- and post-offending patterns within the participant group itself. Again, however, any observed change between pre- and post-program offending could be due to variations in other factors over the same time period that are quite independent of program involvement. For example, even if an offender's criminal behaviour remains constant over time, changes to policing practices may increase his/her likelihood of detection, while legislative changes may mean that previously expiable offences may become prosecutable (as was the case in South Australia when its drug laws were changed to reduce from 10 to three the number of cannabis plants an individual could grow and still be eligible for a Cannabis Expiation Notice. This resulted in a substantial increase in the number of individuals formally charged with cultivation).

Also problematic is the fact that a number of the studies, in assessing post-program reoffending, did not take into account the time that members of the participant or comparison groups spent in custody during that period and so were not free to offend. In those situations where, as was often the case, the comparison group was likely to have been incarcerated for longer periods of time than the participant group, the use of elapsed rather than free time had the potential to underestimate the recidivism levels of the comparison group to a greater extent than for the participant group.

Inability to compare recidivism results across programs

The ability to compare the recidivism findings for one program with those for another was difficult because each evaluation tended to use a different set of official crime data, replete with different counting

methods. Some, for example, used discrete criminal events (defined as all charges laid against an individual that occurred on the same day), while others focused on police apprehensions, court convictions or recontact with correctional services. Because at least some cases drop out of the system between the initial point of apprehension and finalisation in court, those evaluations that used data derived from 'deeper' in the system were likely to produce lower recidivism rates than those using data from the 'front' end.

In some respects, it could be argued that a criminal event, as identified from police data, provides the closest approximation to actual offending that can be extracted from criminal justice records because it is based on the date of the actual incident rather than on dates generated by the system itself, such as the date of apprehension or court appearance. It also has the advantage of including all offending that comes to the attention of the formal justice system, whereas court data, for example, do not include any offending that is subsequently dealt with by other methods, such as diversionary police cautions or family conferences. Apprehension records provide a more timely measure of reoffending than court convictions or imprisonments because of the shorter processing time involved. To illustrate, if a person is re-apprehended for a fresh offence soon after program completion, details of that offending will appear very quickly in the apprehension database. In contrast, because it may take some time for charges to reach finalisation in court, a formal conviction may not be recorded within the study's time frame and so will not be counted in the recidivism results. The immediacy of police apprehension data is therefore particularly useful in studies where the follow-up period used to assess reoffending is relatively short. On the downside, however, apprehension data potentially include matters that are later withdrawn or result in a not guilty outcome.

Issues associated with cost benefit analyses

Another problem was the lack of a comprehensive and standardised methodology to underpin the various cost benefit analyses. Understandably, none of the studies were able to incorporate the full range of benefits potentially stemming from program participation, largely because of the difficulty (if not impossibility) of deriving quantitative estimates for what are often intangible benefits, such as those accruing to an offender as a result of improved family relationships arising from his/her reduced drug use and offending. Apart from this, very few studies attempted to quantify the benefits from the one factor that could have been included; namely, a reduction in reoffending. Instead, the main focus was on determining the costs of actually providing the program. But even here, the full range of costs accruing to police, legal services, courts, treatment agencies and custodial services were not generally factored in, because of a lack of relevant data.

In summary, given this range of limitations (together with some additional problems specific to particular studies), it is difficult to draw firm conclusions about the effectiveness of drug diversion programs in achieving their five key objectives. However, the results provide a broad indication of whether behavioural changes are present, even if these cannot be conclusively attributed to involvement in the program itself.

Police drug diversion initiatives: outcome-based evaluation findings

Of the eight Australian states and territories with some form of police drug diversion included as part of their criminal justice repertoire, New South Wales, Victoria, South Australia and Queensland have released independent evaluation reports (see Table 8).

- The Victorian evaluation of the first nine months of the Drug Diversion Pilot Program (see McLeod & Stewart 1999) focused mainly on process issues, with only a minor attempt to assess whether the initiative was achieving a reduction in reoffending.
- The NSW evaluation of the first three years of operation of its Cannabis Cautioning Scheme (see Baker & Goh 2004) provides a useful and comparatively rigorous quantitative assessment of whether the program was successful in reducing court work loads and costs. However, it inferred the programs' impact on participants' health and wellbeing by looking at the number of clients who made contact with or were referred to treatment by the Alcohol and Drug Information Service. It did not include an assessment of the program's other key objectives of reducing drug use and drug-related offending.
- The evaluation of Queensland's Police Drug Diversion Program (Hales et al. 2003) attempted to assess changes in drug use, criminal behaviour, physical health/risk taking and social functioning via personal interviews with diversion participants. Using validated instruments such as the Opiate Treatment Index (OTI; see Freeman 2002 for a detailed description of this and the SF36 scale which is also frequently used in these studies), it was intended to conduct four separate interviews over time with a large sample of clients who had attended the mandatory cannabis assessment and education session. For comparative purposes, the study also intended to interview a group of individuals who, although referred to the diversion program, had failed to attend the required session. The interviews were to take place immediately following attendance at a diversion session (baseline) and at the six week, three month and six month point.

  Again, while producing some useful results, the analysis was hampered by the very small sample size of the comparison group (with successful baseline interviews being conducted with only 15 of the proposed 50 individuals). Moreover, although overall respondent attrition was not particularly marked when total numbers interviewed at each point were considered (with 172 of the original 224 respondents being surveyed at the six month mark), only 72 individuals were interviewed on all four occasions.

  Although not included in the outcomes section of their report, the Queensland study also used court data to compare subsequent offending behaviour (as defined by a court finding of guilt) between three groups of individuals – those who complied with the diversion, those who were referred but did not comply and those who were not diverted. However, neither of the two comparison groups was matched in any way to the participant group.

Table 8: Published evaluations of Australian police drug diversion initiatives			
State	**Authors**	**Nature of evaluation**	**Outcomes**
National			
	Health Outcomes International et al. 2002 (includes police and intermediate court based diversions funded via IDDI)	System and client impacts (including impacts on Indigenous persons) Limited outcomes	Criminal activity Physical and mental health status
New South Wales			
Cannabis Cautioning Scheme	Baker J & Goh D 2004	Processes Outcomes	Extent of diversion of minor cannabis offenders from court Impact on criminal justice system time and resources
Victoria			
Cannabis Cautioning Program	No evaluation report located		
Drug Diversion Program	McLeod J & Stewart G 1999	Processes Client perspectives Outcomes	Reoffending
South Australia			
Police Drug Diversion Initiative	Evaluation in progress		
Queensland			
Police Drug Diversion Program	Hales J et al. 2003	Processes Outcomes	Changes in drug use Reoffending Change in physical and mental health status Social functioning
Western Australia			
Cannabis Education Session (now part of Cannabis Infringement Notice Scheme)	Penter C, Walker N & Devenish-Meares M 1999 Evaluation in progress as part of *Cannabis Control Act 2003*	Processes Limited outcomes	Reoffending
All Drug Diversion	No evaluation report located		
Young Person's Opportunity Program	No evaluation report located		
Tasmania			
Early Intervention and Diversion of Illicit Drug Users: Tiers 1–3	No evaluation report located		
Northern Territory			
Cannabis Expiation Scheme	No evaluation report located		
Illicit Drug Pre-Court Diversion	No evaluation report located		
Australian Capital Territory			
Police Early Intervention and Diversion Program	Evaluation in progress		

In addition to these state-based studies, the Australian Government funded a national evaluation of the IDDI (Health Outcomes International et al. 2002: 77–128), which included:

- a systems impact study to assess the impacts of diversionary programs on police, courts and treatment services
- a diversions outcome study to determine whether the police-based drug diversions and the intermediate court-based diversions were achieving their objectives
- an Indigenous sentinel study to assess the impact of the IDDI among Indigenous people.

The diversions outcome study focused primarily on Victoria and Tasmania. It was intended to use an interrupted time series design involving baseline, three, six and 12 month interviews with participants of both police and intermediate court-based drug diversion programs to assess post-program changes in drug use, criminal activity, attitudes towards police, knowledge of harms and risks of drug use, physical and mental health status, employment prospects and family and social relationships. In Victoria, the aim was to recruit 350 participants from four subgroups: diverted by police, dealt with by CREDIT, a geographic comparison group, and a voluntary treatment comparison group (see Health Outcomes International et al. 2002: 84). In Tasmania, 75 participants were to be recruited from the Cannabis Cautioning Program, the Other Illicit Drugs Diversion Program and a voluntary treatment group. However, these targets were never met. In fact, only 13 clients were recruited in Victoria, of whom just one had participated in a police diversion program. The remainder were CREDIT clients. In Tasmania, 10 participants were interviewed, all of whom were drawn from the police diversion scheme operating in the northern region of the state, with no participants from the Hobart region.

Given these extremely low numbers and the fact that only one round of interviews was conducted (at baseline), the evaluation could not assess changes over time. Interpretation of the findings was also confounded by the fact that in some sections of the report the authors combined the results for the two states, even though one set of clients was predominantly derived from an intermediate court diversion program while the other was from a police diversion program. Given the broad conceptual and implementation differences between police and court-based diversions, such a strategy is questionable (even if understandable in this case because of the small number of respondents interviewed). As a result, even though this national study gathered a range of very useful process-based information, it was not able to provide much insight into whether police diversions were achieving their key objectives.

The predominantly process-based Indigenous sentinel study, conducted as part of this national evaluation also found it difficult to gather empirically-based evidence relevant to an assessment of outcomes. Its data collection phase relied primarily on interviews with a relatively small number of key informants drawn from Indigenous and non-Indigenous agencies and field visits to selected locations in which IDDI was operating. While the intention had been to conduct in-depth interviews with Indigenous persons who had actually participated in the IDDI programs, together with a comparison group of non-participants, no results were included in the interim report (Health Outcomes International et al. 2002: 103–128) and no final published report could be located.

Overall, while the state and national evaluations described above provide valuable information on process-related issues, they are more limited in terms of outcome-based analysis. This is not unexpected given that many were conducted soon after program inception. This factor, for example, was cited as a key contributor to the low recruitment levels achieved by the national diversions outcome study. The authors noted that, despite expectations that approximately 3,000 clients would be diverted to court-based programs in Victoria once the schemes were fully implemented, at the time of the recruitment phase for data collection, fewer than 300 clients had been diverted to either CREDIT or the Drug Court (Health Outcomes International et al. 2002).

With these issues in mind, a summary of the key outcome-based findings from these reports is detailed below.

Impact on drug use

Queensland

The evaluation of Queensland's police diversion program (Hales et al. 2003) obtained data on self-reported drug use via a series of interviews with participants who attended the mandatory cannabis education and assessment session. It also provided comparative results for 15 individuals who, although referred to the police diversion program, failed to attend. However, given this small sample size, these are not included here or in any subsequent summary of the Queensland results.

The findings from this study were somewhat mixed. As summarised in Table 9, there was a decrease in the percentage of respondents reporting regular use of cannabis. This decrease was observed for both males and females, with the proportion of male users declining from 97 to 77 percent and the percentage of female users decreasing from 89 at baseline to 67 percent at the six month follow-up point.

The proportion who indicated that they were regular users of alcohol remained relatively stable over the six month period and this held true for males and females. The same applied to amphetamine use although some gender differences were evident, in contrast to alcohol. While the proportion of males who indicated they used amphetamines remained stable (20% at baseline and 21% at the six month point), the percentage of female users declined (from 19% to 15%). However, no results were provided by the evaluators to indicate whether these changes were statistically significant.

Regular use of other drugs such as heroin and cocaine was relatively low (which, as the authors point out, is not surprising, given that the diversion program is designed to target cannabis users only), with no marked changes from the baseline interview to the six month follow-up survey.

Table 9: Self-reported regular drug use by drug type

	Baseline[a]		Six month follow-up	
Type of drug	%	n	%	n
Cannabis	95	220	74	172
Alcohol	89	221	87	172
Amphetamines	20	223	19	172
Hallucinogens	9	223	13	172
Heroin	3	220	3	220
Other opiates	5	220	2	220
Tranquillisers	6	223	3	223
Cocaine	3	222	3	222
Inhalants	2	223	1	223

a: Time of assessment

Source: Hales et al. 2003: 108–116

Those who did admit to using a particular drug on a regular basis in the month prior to interview were also asked about the frequency of use during that period. Although only the four most commonly used drugs are listed in Table 10, respondent numbers for all but cannabis and alcohol were too small to draw any meaningful conclusions. As shown, the frequency of cannabis use among regular male users remained relatively high but stable across time - 3.0 times a day at the baseline interview and 3.3 times

a day at the six month follow-up. In contrast, the frequency of use among females was higher than that of males and increased across time, from 4.2 to 5.5 times a day. The level of alcohol use remained relatively stable at approximately three drinks per day in regular male users and just under two drinks per day for regular female users, while the level of use of both amphetamines and hallucinogens remained very low over the six month period.

Similar findings emerged when analysis was restricted to the 72 participants interviewed on all four occasions. Average levels of cannabis use among regular users in this group did not change over time, and this applied to both males and females. However, females had significantly higher levels of cannabis use across the study period, which the evaluators thought could be due to the smaller number of women (n=22) than men (n=51) in this sub-sample (Hales et al. 2003: 110). Again, no changes over time were observed in the level of alcohol use among male or female regular users, which is to be expected given that the diversion program does not target licit drugs. Sample sizes reported for the other drugs were too small to provide meaningful results.

Table 10: Level of drug use[a] for self-identified regular users (mean)

	Males				Females			
	Baseline		Follow-up		Baseline		Follow-up	
Drug	%	n	%	n	%	n	%	n
Cannabis	3.0	152	3.3	92	4.2	56	5.5	35
Alcohol	2.8	139	3.3	103	1.7	57	1.7	46
Amphetamines	0.3	32	0.1	25	1.7	57	1.7	46
Hallucinogens	0.1	17	0.1	19	0.03	2	0.02	4

a: OTI Q scores

Source: Hales et al. 2003: 109–113

The third element of usage measured was the amount (in dollars) spent per day of use. Again, data for only the most frequently used drugs are listed in Table 11. While there was a slight decrease in the amount of money reportedly expended on drugs over the survey period, the authors drew no conclusions from these findings.

Table 11: Average cost per day reported by regular users

	Total cost per day ($)	
Type of drug	Baseline	Six month follow-up
Cannabis	12	11
Alcohol	..	..
Amphetamines	77	61
Hallucinogens	44	39

..: not supplied

Source: Hales et al. 2003: 109–113

Western Australia

One other indication of the impact of police cautioning on drug use comes from a very early evaluation (Penter, Walker & Devenish-Meares 1999) of WA's police cautioning system during its 12 month pilot phase in 1998–99 when it operated in Mirrabooka and Bunbury. Follow-up interviews were conducted with 19 participants, of whom 13 indicated a reduction in cannabis use in the month following their caution, while the remainder reported no change in usage.

Impact on criminal behaviour

Victoria

An early evaluation of Victoria's Drug Diversion Pilot Program (McLeod & Stewart, 1999) contained a preliminary assessment of reoffending among those 60 clients dealt with during the program's first eight months of operation. That study found that almost three-quarters of the clients had not been re-apprehended by police for a drug-related crime. While numbers were extremely low, there was some indication that young people were more likely than adults to be re-apprehended for a use/possess drug offence.

Queensland

The evaluation of Queensland's Police Drug Diversion Program (Hales et al. 2003) relied on self-report data to assess changes in criminal behaviour. It found that relatively few respondents admitted being involved in any type of offending in the month prior to each interview. Of those who were, the most common offence listed (not surprisingly) was selling or possessing cannabis. The proportion of respondents reportedly involved in this type of behaviour decreased from 14.4 percent at baseline to 4.7 percent at the six month follow-up (Hales et al. 2003: 117). There were also decreases in the proportion of respondents with self-reported involvement in property crime (7% at the baseline to 1.2% at the six month follow-up), fraud (from 2.4% to 1.8%) and violent crime (from 2.9% to 0.6%). In addition, the frequency with which respondents engaged in cannabis dealing, while generally low, halved over this period, from a mean of once per month to 0.4 times per month. However, when analysis was limited to only those 72 participants who took part in all four interviews (eliminating the effects of respondent attrition), no significant difference was found in the average number of times respondents sold cannabis in the month prior to each of the interview periods.

Overall, the evaluators concluded that the observed reductions were 'very slight across a sample that engaged in low level criminal activity' and may be more a product of the low variance in the data set rather than a reflection of any meaningful shift in actual criminal behaviour (Hales et al. 2003: 117). However, it may also be due to respondents' unwillingness to admit to engaging in criminal activity.

The Queensland evaluation also used official court data to assess the number of court appearances that resulted in a finding of guilt for any minor illicit drug possession offence for persons following a referral to the police drug diversion program (see Hales et al. 2003: 48). Results showed that of those participants who attended the diversion session, approximately 85 percent had no subsequent court appearance for a possession offence in the following two years compared with 75 percent of those who were referred but failed to comply with the diversion. To provide a second point of comparison, a group of individuals who had never been referred to diversion but who had been found guilty in court of a possession offence after June 2001 (the date when the diversion initiative commenced) were identified and their subsequent offending records accessed. Analysis showed that 84 percent of this non-referred group had no subsequent court record for possession, which was almost the same as that recorded by successfully diverted respondents. Interpreting these results is difficult, particularly as the study did not assess whether the three groups differed in terms of other factors, such as prior offending records, that could potentially impact on the likelihood of subsequent offending.

Impact on health and wellbeing

Queensland

The evaluation undertaken by Hales et al. (2003) of Queensland's police diversion program sought to measure temporal changes in factors such as employment, physical health/risk taking behaviours, mental health and social functioning. Bearing in mind the limitations of self-report data and the possible impact of respondent attrition over the four interview periods, the survey revealed the following:

- *Employment*: the proportion of the diversion group who were in full-time paid work increased from 25 percent (at baseline) to 31 percent (at the six month follow-up) while those in part time or casual paid employment rose from 20 percent to 25 percent respectively. Conversely, the proportion who were unemployed decreased from 28 percent to 23 percent (Hales et al. 2003: 106). These patterns varied according to gender. While both males and females recorded an increase in the percentage in full time work (from 30% to 36% for males and from 14% to 21% for females), unemployment levels among females remained constant, while male levels decreased (from 31% at baseline to 23% at the six month follow-up).
- *Physical health*: based on responses to the OTI Health Scale, this study found that there were improvements for both males and females between the baseline and the six month follow-up interview in terms of general health, cardiorespiratory health, gynaecological health (female specific), musculoskeletal and neurological health. Total health scores showed minor improvements for both genders, with the average number of symptoms decreasing from nine to seven for males and from 10 to nine for females.
- *Risk taking*: the level of injecting drug use, which is considered to be indicative of risky drug using behaviour, was very low across all four interview periods, which is not unexpected for participants in a program targeted at cannabis use. It also decreased slightly from baseline to the six month follow-up. The scores for risky sexual behaviour were generally higher than those for injecting drug use, but these also decreased slightly over time.
- *Mental health*: the SCL-90-R self-report Psychological Symptom Inventory showed 'improvement across almost every… sub-scale for both genders', with 'overall symptomology, level of distress and number of symptoms all decreas(ing) to fall within the normal, albeit high, range of behaviour of non-patient adult population' (Hales et al. 2003: 120–121).
- *Social functioning*: based on the OTI Social Functioning scores, the study found that overall, respondents had good social functioning compared with the normed OTI sample and this remained stable across the four interview periods for both males and females.

While the study presented some comparative findings from interviews conducted with a small number of respondents (n=15) who failed to attend the diversion session, these are of limited comparative value because of the small sample size involved and the non-random nature of the selection process. Hence, in the absence of appropriate comparative data, it is not possible to determine whether any of these apparent improvements among diversion participants could be attributed to their involvement with the initiative.

Impact on court workloads

New South Wales

Baker and Goh's (2004) evaluation of police diversion in NSW assessed the impact of the program on court workloads by considering trends over time in:

- the number of charges laid by police for minor cannabis offences
- the number of cases dealt with by local courts involving cannabis charges only

- the number of persons convicted of a minor cannabis offence as their major charge.

The aim was to identify whether those trends changed with the inception of that state's Cannabis Cautioning Scheme in April 2000.

The key findings were:

- While there had been an upward trend (16%) in the number of police charges laid per month for minor cannabis offences in the three years prior to the program, in the three years after program commencement, a downward trend (of 11%) was evident. Overall, 6,679 fewer charges were laid after program inception.
- While the number of court cases involving cannabis charges only was relatively stable in the period preceding the program's commencement, there was a marked decline (26%) during the first three years of the program's operation. Overall, there were 5,241 fewer cannabis cases processed by the court in the three years after the cautioning program was established compared with the three years before.
- There was a similar decline in the number of cases where cannabis use was the principal offence convicted, with 2,658 fewer such cases in the three years post-program compared with the three years before.

Similar findings emerged when rates per 100,000 population rather than absolute numbers were examined.

On the basis of these results, the evaluators concluded that the program was achieving its objective of reducing the number of simple cannabis possession matters flowing through to court.

Although not included in any published evaluation report, evidence of a similar decrease in police charges and court cases involving illicit drug offences is available from other sources. For example, in South Australia:

- A comparison between the total number of charges laid by police in the 12 months preceding following the introduction of PDDI (October 2000 to September 2001 compared with October 2001 to September 2002) showed:
  - a 62.0 percent drop in the total number of use/possess cannabis or possess implements for cannabis use offences (from 1,572 to 597)
  - a 73.8 percent decrease in possess/use amphetamines (from 585 to 110)
  - an 89.7 percent decrease in possess/use opiates (from 117 to 12).
- The total number of lower court cases involving illicit drug possession halved, from 368 in the year that PDDI was introduced in 2001, to 185 in 2003 (OCSAR 2004: Table 2.10; 2002a).
- The number of juvenile apprehensions for possess/use drugs and implements decreased by 86 percent, from 476 in 2001 to 66 in 2002 (OCSAR 2003: Table 3.15; 2002b).

In many respects, these results are inevitable, particularly in states such as South Australia where referral to the police diversion program is mandatory. In this situation, the only way in which formal police charges or court cases involving drug possession would not decline would be if police were failing to use the diversionary schemes as intended or if the level of non-compliance with the diversion requirements was high (given that such non-compliance usually results in formal prosecution of the original offence).

Cost savings

New South Wales

Baker and Goh's (2004) evaluation of NSW's Cannabis Cautioning Scheme attempted to estimate the potential time and resource savings to the criminal justice system resulting from the introduction of the police drug diversion scheme. Based on the size of the reduction in both the number of police charges and the number of court cases involving simple cannabis possession matters, they estimated that over 18,000 police hours were saved in the first three years of the Cannabis Cautioning Scheme as a result of not having to charge the offender at the time of detection, not having to prepare matters for court and not having to attend the subsequent hearing. This figure was based on an original estimate of two hours per detection in laying formal charges (which was then reduced to 1.5 hours and applied to only 50% of all detections) and two days per detection in preparing and attending court (which was applied to only 30% of the cases to allow for the fact that not all cautions would result in the full savings).

These time savings translated to an estimated cost saving over the first three years of approximately $411,412 dollars (including $157,567 savings at the point of detection and $253,845 from the avoidance of a court hearing).

They also estimated court savings of $861,192 attendant upon a reduction in the number of cannabis possession cases finalised in court during the first three years of the scheme. This was based on their finding of 2,658 fewer persons convicted, at an average cost of $647 per finalised case – a figure which they then halved on the grounds that not all court costs or time saved could be usefully directed to dealing with other matters.

In total then, according to their calculations, the scheme resulted in savings of well over $1m during the first three years of operation. However, this has to be balanced against the program's operational costs, which were estimated at approximately $1,096,000 over the first three years. The evaluators therefore concluded that 'the Scheme appears to have at least paid for itself in its first three years' (Baker & Goh 2004: 37). They also noted that, because most of the costs identified were establishment costs expended in the first year of operation, these should reduce over time, thereby increasing the potential savings.

One final point to note, as the authors themselves acknowledged, is that this study did not entail a full cost benefit analysis. It did not, for example, include cost savings that may have accrued to other agencies, such as Legal Aid. Nor did it take account of the potential benefits to the offenders in terms of improved health and wellbeing, or of any potential savings that might accrue if the program were successful in reducing drug offending among this group of individuals. On the other side of the balance sheet, it did not include any ancillary costs generated by the scheme itself over and above the direct costs incurred.

Summary

Overall, the information currently available on the extent to which police diversion initiatives are achieving their primary objectives is limited. While at least some of these programs seem to be having a positive impact on court workloads, the extent to which they are instrumental in reducing drug use and related offending behaviour is inconclusive. However, if these front end programs, because of their positioning within the system and the relatively limited extent of intervention provided, are more about diversion from the criminal justice system than about impacting on behaviour, then they may be achieving all that can be expected of them. This is particularly true if, the programs are dealing with more entrenched offenders than originally intended, as some evidence suggests.

It should also be stressed that these results are applicable only to these programs during their early period of operation. In the absence of more recent studies, the extent to which these initiatives are currently meeting their objectives is not known.

Intermediate court-based drug diversion initiatives: outcome-based evaluation findings

In contrast to police diversion programs, existing evaluations of intermediate court-based drug diversion initiatives (see Table 12) tend to be more outcome focused even though coverage is still relatively limited, as outlined below.

- The evaluation of the first 18 months of the MERIT program (Passey 2003) used a combination of self-report data, official crime statistics and financial data to assess five key outcomes: impact on drug use, reoffending, health and social functioning, sentencing, and economic impact. The study faced the usual range of methodological problems, including the absence of a suitable control group for the recidivism study, small sample sizes and the potential bias resulting from respondent attrition during the interview process, with respondent numbers decreasing from 69 at entry to 55 at the post-exit follow-up.
- Victoria's CREDIT program has been the subject of two evaluations. The first, by Heale and Lang (1999), focused on the initial nine months of the program's operation and sought to measure reoffending levels among participants while most were still on the program, as well as the impact of program participation on sentencing outcomes, in addition to a range of process issues. Its comparison group comprised persons who chose not to participate, although referred and assessed as suitable for the program. In addition to the potential differences in characteristics between these two groups, an added problem was that many of the non-participants had actually gone through the CREDIT assessment process and had treatment plans developed for them. Hence, even if they never formally entered the program, they at least had some contact with it, which may have influenced their subsequent behaviour.

  The second evaluation of CREDIT (King et al. 2004) was part of a broader study of Victoria's Court Diversion Program and entailed an assessment of the program's impact on reoffending and on sentence outcomes. While it had the advantage of focusing on a more recent group of participants and used a longer follow-up period to assess reoffending following program commencement than the Heale and Lang study, it lacked a comparison group. As a result, there was no baseline against which to assess participants' post-program reoffending levels.

- The intermediate court-based components of Western Australia's Drug Court (namely BIR and STIR) have been the subject of three evaluations. The first of these (Crime Research Centre 2003), which focused on BIR and STIR when they operated as components of the Perth Drug Court, sought to measure two program objectives – recidivism and cost benefits. It targeted those individuals who commenced with the Drug Court (i.e. with BIR, STIR or the Drug Court Regime) during its first 18 months of operation and compared their reoffending post-program with three other offender groups that were matched to the participant group according to a number of demographic and offending variables. The maximum time available to reoffend was two years, which was a reasonable follow-up period, and results were provided for both elapsed and free time. One problem however, was that, while the study presented separate findings for the BIR component of the Drug Court, it combined the data for STIR with that for the Drug Court Regime. While the decision was logical (given that there were relatively few STIR participants compared with the Drug Court Regime), it provided no specific indication of the extent to which the STIR component of the Drug Court was achieving its objectives. Hence, only the results for the BIR component of this evaluation are summarised in this section of the report, while the combined STIR/Drug Court Regime results are outlined in the next section dealing with Drug Courts.

  The second evaluation, by the Department of the Attorney General, also focused on the Drug Court (Western Australia. Department of the Attorney General 2006) as it operated prior to late 2003 and attempted to measure reoffending and cost effectiveness. However, unlike the Crime Research Centre evaluation, it did not provide separate results for the BIR or STIR components of that court. The findings from this second evaluation will therefore be dealt with in the next section, on Drug Courts.

The third evaluation (Crime Research Centre 2007) was the first to concentrate on POP, the Indigenous Diversion Program (IDP) and STIR and stand-alone entities, separate from the Perth Drug Court. It assessed four program objectives: impact on drug use, impact on mental and physical health, reoffending and cost benefits of the program. While it was able to provide recidivism and cost benefit data for each program separately, however, relatively small client numbers and data linking issues resulted in information on changes in drug use and health were presented only for POP.

Finally, as mentioned earlier, although the Australian Government-funded Diversion Outcome Study (Health Outcomes International et al. 2002) collected some data from interviews with 12 CREDIT participants, the number surveyed was too small to provide any specific insight into the program's effectiveness and so will not be referred to in the ensuing discussion.

Table 12: Published evaluations of intermediate court-based drug diversion programs

State	Authors	Nature of evaluation	Outcomes assessed
National			
	Health Outcomes International et al. 2002 (includes police and intermediate court based diversions funded via IDDI)	System and client impacts (including impacts on Indigenous persons) Limited outcomes	Criminal activity Physical and mental health status
New South Wales			
MERIT (Magistrates Early Referral Into Treatment)	Passey M (ed) 2003	Processes Outcomes Participant perspectives Legal issues	Court outcomes – whether they received a lesser sentence than otherwise would have applied Drug use Recidivism Health and social functioning Economic assessment – costs and benefits during first 12 months
Victoria			
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment)	Heale P & Lang E 1999	Processes Outcomes	Court outcomes Re-offending
	King J et al. 2004 (includes CREDIT and the Drug Court)	Processes Policy and legislation Stakeholder experiences	Reoffending Court outcomes
	Alberti S et al. 2004a (includes CREDIT and the Drug Court)	Overview, summarising findings from Alberti et al. 2004b, King et al. 2004, and King & Hales 2004	
Deferred Sentencing Option	No evaluation report located		
Children's Court Clinic Drug program	No evaluation report located		
South Australia			
CARDS (Court Assessment and Referral Drug Scheme)	Evaluation in progress		
Queensland			
Illicit Drugs Court Diversion Program	No evaluation report located		
MERIT (Magistrates Early Referral Into Treatment)	Evaluation in progress		

Table 12: Published evaluations of intermediate court-based drug diversion programs (continued)			
State	**Authors**	**Nature of evaluation**	**Outcomes assessed**
Western Australia			
BIR (Perth Drug Court)	Crime Research Centre 2003	Process	Recidivism
		Outcomes	Included in cost benefit analysis but results combined with STIR and Drug Court Regime
	Attorney General's Department 2006	Outcomes	Possibly included in recidivism analysis but if so, results combined with STIR and Drug Court Regime
			Possibly Included in cost benefit analysis but if so, results combined with STIR and Drug Court Regime
POP (Pre-sentence Opportunity Program)	Crime Research Centre 2007	Process	Recidivism
		Outcomes	Changes in drug use
			Changes in mental and physical functioning
			Cost benefit analysis
STIR (Supervised Treatment Intervention Program)	Crime Research Centre 2003	Process	Included in recidivism analysis but results combined with Drug Court Regime
		Outcomes	Included in cost benefit analysis but results combined with BIR and Drug Court Regime
	Western Australia. Department of the Attorney General 2006	Outcomes	Included in recidivism analysis but results combined with Drug Court Regime
			Included in cost benefit analysis but results combined with and Drug Court Regime
	Crime Research Centre 2007	Process	Recidivism
		Outcomes	Cost benefit analysis
IDP (Indigenous Diversion Program)	Crime Research Centre 2007	Process	Recidivism
		Outcomes	Cost benefit analysis
Northern Territory			
CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment)	Evaluation in progress		
Australian Capital Territory			
CADAS (Court Alcohol and Drug Assessment Scheme)	Evaluation in progress		
Court Treatment Referral Program (IDDI funding)	Evaluation in progress		

Impact on drug use

New South Wales

As part of their evaluation of MERIT, Passey (2003) interviewed a sample of program participants (both completers and non-completers) who were accepted onto MERIT in the first 18 months of the program's operation. Interviews were conducted at the time of entry (n=69), exit (n= 50) and several months after program exit (n=55). The standardised OTI, combined with additional questions, was used to assess changes in drug use over time.

In terms of respondents' nominated drug of choice, the study found:

- reduced preference for heroin use (55% at time of entry to the program compared with 17% at the post-exit interview)
- decreased preference for amphetamines use (from 17% to 10%)
- increased preference for cannabis (from 23% to 44%), which the evaluators attributed to either the respondents' decision to substitute cannabis for heroin, or to a continued use of cannabis in the absence of heroin (Passey 2003: 50).

All of these changes were statistically significant. However, when analysis was limited to only those respondents who completed both the entry and post-exit interviews, the decrease in heroin use was less marked – from 57 percent at entry to 49 percent at follow-up.

The study also found:

- a significant reduction in self-reported illicit drug use, with less than 23 percent reporting no such use at the time of the post-exit interview
- a statistically significant increase in the percentage who indicated that 'no' or 'less than half' of their associates were regular drug users (from 21% at the point of entry up to 71% at post-exit)
- a significant decline in respondents' poly-drug use, from an average of 3.6 different drugs used at the time of entry to 2.7 at the exit interview, with this decline persisting through to the post-exit interview.

According to the evaluators, these results provide evidence for a 'reduction in self-reported drug use, and a change in the drug of choice' (Passey 2003: 49) which, in combination with other findings, suggests that the program was 'achieving its intended outcomes' (Passey 2003: xii).

Western Australia

Using a modified version of the Alcohol, Smoking and Substance Involvement Screening Test (ASSIST), the Crime Research Centre sought to measure drug use in the past four weeks among individuals referred to either POP or STIR. No forms were administered to IDP participants. The original intention was to obtain data from POP and STIR clients at three points in time: at initial referral to the program; at completion of the program; and at a follow-up point after program completion. Overall, attrition rates were relatively high, with 135 forms collected at the point of referral, 58 at the time of program completion and only two at follow-up. Moreover, only eight of the returned forms involved STIR clients. As a result, analysis was limited to POP clients, 49 of whom provided data at both the pre- and post-survey stage.

Results indicated that there was a statistically significant reduction in total drug use among these 49 individuals from the time of initial referral to program completion. In relation to changes in specific types of drug use, there was:

- a decrease from 46 to 4 percent in those reporting almost daily or daily use of alcohol
- a decrease from 74 to 16 percent in those indicating daily use of cannabis

- a decrease from 34 to 11 percent in those reporting daily use of amphetamines.

There were also significant decreases in:

- the desire to use drugs during the previous four weeks
- the frequency of drug use resulting in health, social, legal or financial problems
- the frequency of failing to do what was normally expected of the individual due to drug use in the previous four weeks.

The evaluators concluded that these findings suggest that 'POP clients who complete the program… achieve significant reductions in drug use' (Crime Research Centre 2007: 119). However, they also warned that the ASSIST form had 'not been in use for a sufficiently long period to be able to gauge if these improvements are maintained over time following completion of the program' (Crime Research Centre 2007: 119).

Impact on criminal behaviour

New South Wales

The NSW MERIT evaluation (Passey 2003) contained a comparatively rigorous assessment of the impact of an intermediate court-based drug diversion program on reoffending. This study focused on 175 individuals who commenced the program during its first 18 months of operation (July 2000 to December 2001) and compared the reoffending levels of completers and non-completers. Using the date of referral as the index event, the study assessed levels of reoffending within three months (when the majority of participants were still involved with the program) and within 12 months (when all had completed the program). The study also used survival analysis to examine the time between the date of referral and the first new offence. Reoffending was defined as 'any offence' as well 'any drug/theft/robbery offence' for which the individual was charged by police.

The results indicated that those who completed the program were significantly less likely to reoffend and took longer to reoffend than those who failed to complete the program. The study found that, at the three month mark, 25 percent of the 91 completers had reoffended (based on all charges) compared with 50 percent of the 84 non-completers. At the 12 month stage, the figures were 53 and 69 percent respectively. Significant inter-group variations were also evident when reoffending was limited to a fresh drug/theft/robbery charge, with 16 and 31 percent of completers reoffending within three and 12 months, compared with 30 and 54 percent for non-completers.

Further analysis showed that the relative risk of completers being charged with any offence was 0.5 at the three month mark and 0.76 at the 12 month mark compared with non-completers. However, for drug/theft/robbery offences, the relative risk was just over 0.5 at both the three and 12 month mark. According to the evaluators, these results suggest that the program was having a 'greater impact on drug, theft and robbery offences than other types of offences, as would be expected for a drug diversion program' (Passey 2003: 32).

The study also found that not only did fewer program completers reoffend following referral to MERIT, but the time to the first new offence was longer than was the case for non-completers. This applied to the time to any fresh offence (375 days for completers compared with 247 days for non-completers) as well as the time to a fresh drug/theft/robbery offence (462 days compared with 330 days respectively).

All of the above results applied to elapsed time only. However, although no data were presented in the report, the evaluators noted that the free time findings were very similar to those observed for elapsed time.

At one level, these results are positive, particularly given that, as the evaluators noted, 'those who completed the program had a long history of criminal activity and it is therefore unlikely that they would have spontaneously changed without the program' (Passey 2003: 34). However, the observed differences in reoffending between completers and non-completers could be due to factors other than their status on the program. In an attempt to assess this, the study used a Cox Proportional Hazards model to test the significance of a range of variables (notably, gender, age, Aboriginality, drug of choice, prior imprisonment and program completion) on reoffending. It found that of all of these, the only significant factor was program completion and this applied irrespective of whether reoffending was measured in terms of all offences or drug/theft/robbery charges only, and whether elapsed or free time was considered. This meant that, even when controlling for at least some potential differences between the two groups, program completion remained significantly associated with post-program offending.

One final indication of a potential link between program involvement and reduced offending was derived from the series of personal interviews conducted with MERIT participants. Responses to the OTI Criminal Activity scale indicated that levels of criminal activity (defined in terms of self-reported property crime, drug dealing, fraud and crimes involving violence) declined considerably between the time of entry to the program and the time of exit, with these decreases being sustained at the time of the post-exit interview. These results reinforce the findings from the analysis of officially recorded offending levels.

Victoria: CREDIT

In an early evaluation of the CREDIT program, Heale and Lang (1999) used police charge data to assess the program's impact on criminal behaviour among individuals referred to the program during its first nine months of operation (between November 1998 and July 1999). They found that, of those 164 individuals who participated in CREDIT and for whom relevant data were available, just under half (46.3%) had reoffended from the time of program referral to July 1999. These levels were slightly lower (but not significantly) than those recorded by persons who, although referred to CREDIT, did not participate in the program. Within this latter group, 54 percent reoffended over the same period.

In terms of the time taken to reoffend, the study measured the interval between the date on which the defendant was granted bail to participate in the program and the date of the first subsequent offence detected by police. The results indicated that many of those participants who reoffended did so relatively quickly. Nearly 30 percent reoffended within seven days of being granted bail to participate on the program. This figure was similar to that recorded by non-participants. Moreover, although the average time to the next offence was slightly higher for CREDIT participants (36 days) than non-participants (30 days), these differences were not statistically significant.

However, the analysis did not attempt to standardise the time available to reoffend across all clients. Nor did the evaluators have information on the actual period of time each client spent on bail as part of program attendance. In an attempt to overcome these problems, the rate of reoffending was re-examined, using a proxy bail period of 84 days per client, commencing from the date on which each client was granted bail. Those individuals who were bailed less than 84 days prior to the end of the data collection period were excluded. Analysis indicated that just over half (51.7%) of the CREDIT participants reoffended within this proxy bail period, slightly lower (but not significantly) than the 58.7 percent of non-participants who reoffended over the same period.

The study also found little difference in the type of reoffending between the participant and non-participant groups, with theft and failure to attend court the most common offences recorded after assessment for entry to CREDIT, followed by possess drug of dependence, burglary and traffic drug of dependence.

The more recent evaluation by King and colleagues (2004: 76–78), which focused on a sample of 100 participants who commenced CREDIT between 1 July 2002 and 31 December 2002, used a much

longer follow-up period to assess reoffending (ranging from a minimum of 325 days to a maximum of 508 days) following program commencement. They also used a different measure of reoffending – namely, offences dealt with by court. Their analysis indicated that, assuming an average of 417 days within which reoffending could occur, between 30 and 46 percent of the population of CREDIT participants would have reoffended within the first 12 months after program commencement. Of those individuals who did reoffend, each would have committed an average of between five and nine offences over that same 12 month period (King et al. 2004: 77). However interpreting these results is difficult, in the absence of any comparative data.

Western Australia

The Crime Research Centre's evaluation of Western Australia's Drug Court (2003) provided separate reoffending results for 75 individuals who commenced the BIR component of that court from the date of program inception to May 2002, with reoffending measured in terms of re-arrests following the program start date. The maximum time available to reoffend was two years, with time spent either or remand or as a sentenced prisoner taken into account.

The study used a range of comparison groups and approaches to assess the program's likely impact on reoffending, on the assumption that if, in combination, the results all pointed in the same direction, then at least some indicative conclusions could be drawn about its effectiveness.

- First, the performance of participants (disaggregated into completers and terminated) was compared with two groups of offenders selected from police apprehension data. Each of these comparison groups was matched to participants on factors such as age, sex, Indigenous status, prior arrest record and offence type. One group was selected from all persons apprehended for any offence, while the second group was limited to those previously apprehended in Western Australia since 1994 for at least one drug offence. The presence of a previous drug charge was taken as a proxy measure for drug use/dependency.
- Second, using survival analysis, the evaluators determined the likelihood of re-arrest among participants and compared these with the findings of an earlier study (Valuri, Indermaur & Ferrante 2002) which examined the likelihood of re-arrest among all persons charged with a drug offence in WA between 1989 and 1999.
- Third, using the Crime Research Centre's Adult Actuarial Risk instrument, the study calculated the risk of re-arrest for participants based on their offending record before entering the program, and then compared this with their actual recidivism patterns after their commencement with the program. This, in effect, provided a before and after comparison, with the participants acting as their own pseudo-control group. In the evaluators' view, this method 'provides perhaps the most realistic "comparison group" in the absence of an experimental design utilising random assignment' (Crime Research Centre 2003: 68).

The study found that:

- Of those who actually completed the BIR, 22.6 percent were re-arrested within the follow-up period. This was lower than that recorded for those BIR participants who were terminated prior to completion (35%).
- Survival analysis indicated that the probability of re-arrest 'ever' (not just within the next two years) for BIR completers was 0.38 (38% were likely to reoffend after program commencement), with a median time to fail of 1.1 years.

- When compared with the two comparison groups, the BIR completers had a slightly higher ultimate probability of re-arrest when compared with all matched offenders but a slightly lower probability of re-arrest when compared with the matched drug offenders, although neither difference was statistically significant. They took almost three times longer to reoffend than the matched drug offender group (see Table 13) and almost twice as long to reoffend than all matched offenders.

Table 13: Probability of re-arrest for BIR completers and matched comparison groups

Group	Ultimate probability of rearrest	Median time to fail
BIR completers	*0.38*	*1.1*
Matched offenders	0.34	0.6
Matched drug offenders	0.45	0.4

Note: the number who were terminated was too small for statistical analysis

Source: Crime Research Centre 2003: 116, 122, 123

- Compared with Valuri and colleagues' (2002) findings relating to the likelihood of re-arrest among all persons charged with a drug offence in Western Australia between 1989 and 1999, offenders who completed BIR had a lower probability of re-arrest. However, for those BIR completers who did reoffend, the time to fail was almost half that of Valuri's group (Table 14). Again, these differences were not significant.

Table 14: Probability of re-arrest for BIR completers compared with all drug offenders with prior drug arrests

Group	Ultimate probability of re-arrest	Median time to fail
BIR completers	*0.38*	*1.1*
All drug offenders – prior arrests for drug offences only	0.63	2.1

Note: the number who were terminated was too small for statistical analysis

Source: Crime Research Centre 2003: 116, 122, 123

- Finally, BIR participants' actual probability of re-arrest after program completion (0.38) was found to be lower than their estimated probability of re-arrest based on their pre-program offending record, as determined by the Crime Research Centre's Adult Actuarial Risk instrument (0.53), although these differences were not statistically significant.

Taking these results as a whole, the evaluators concluded that there was no evidence to indicate a reduction in reoffending that could be attributed to participation on BIR, although they cautioned that this could be due to the small sample size, the short period available for the recidivism analysis and the fact that none of the comparison groups were exactly matched to the BIR participants.

In their recent study of POP, IDP and STIR, the Crime Research Centre (2007) used a more restricted methodology. Rather than attempting to identify a suitable comparison group against which reoffending by program participants could be gauged, it relied on comparing the estimated probability of re-arrest for each participant before entering the program (derived from the Centre's Adult Actuarial Risk instrument) with that person's actual re-arrest rate after program referral, taking into account factors such as gender, age at arrest, Indigenous status and the most serious offence for which they were arrested. The maximum period over which reoffending post-referral could be measured was 2.5 years, although for some individuals the period was considerably shorter.

Changes in pre- and post-offending for those who completed the program were also compared with those recorded by participants who failed to comply with program requirements, but an inability to control

for potential differences between these two groups at the initial point of referral meant that any variation between them in relation to changes in offending patterns could not be attributed to the program itself.

One final point to note is the relatively small sample size used in this analysis, largely due to difficulties in matching client data across the health and criminal justice databases. From a starting number of 587 episodes, only 135 episodes (involving 134 individuals) were retained in the analysis. This included 44 POP clients, 57 STIR clients and 34 IDP clients.

Results showed that:

- almost six in 10 of the sample (57.8%) reoffended after referral to the program
- this varied from 47.7 percent of POP participants, 61.4 percent of STIR participants to 64.7 percent of IDP participants
- program completers were less likely to reoffend than non-completers (see Table 15)
- 40.7 percent had reoffended within six months after program referral (34.1%, 42.1% and 47.1% of the POP, STIR and IDP participants respectively).

Table 15: Participants re-arrested after program referral (percent)

Program status	POP	STIR	IDP
Completers	32.3	45.9	52.2
Non-compliant	81.8	88.9	90.9

Source: Crime Research Centre 2007: 105

In terms of pre- and post-offending comparisons, the study found that program completers had slightly lower re-arrest rates than were predicted by risk estimates and this applied across all three programs. Those who completed the IDP recorded the largest difference, with a mean risk estimate before program referral of .49 compared with an actual re-arrest level of 30.4 percent. Similar figures were obtained for POP completers (mean risk estimate of .45 while 30% were actually re-arrested in the 12 months following program referral). At the other end of the scale, differences between predicted and actual re-arrest levels were least pronounced for STIR completers (mean risk estimate of .37 based on pre-program offending levels compared with 30.4% actually re-arrested after program completion).

In contrast, participants who failed to complete the program had consistently higher re-arrest rates than those predicted by risk estimates. For example, non-compliant POP referrals had a mean risk estimate of .35 but 85.7 percent were re-arrested post-referral. Corresponding figures for STIR were .50 and 75 percent, and .52 and 100 percent for IDP.

When the analysis was limited to drug offending only, the study again found that those who completed the program had lower re-arrest rates than those who were non-compliant.

In summarising these findings, the evaluators stressed that they should be regarded as indicative only, because of the small and non-representative sample used for this analysis. However, in light of the study's other finding, that persons referred to the three diversion programs had a long history of involvement with the criminal justice system, these shifts are noteworthy.

Impact on health and wellbeing

New South Wales

The MERIT evaluation (Passey 2003) used standardised interview schedules incorporating the OTI and the SF 36 to assess changes in physical and mental health as well as social functioning among a sample of program completers and non-completers.

The results indicated that health and social functioning were generally very poor at the time of entry to the program among these respondents. However, there were some improvements over time, as outlined below.

- *Physical health*: There were significant improvements on the general health scales of the SF36 relating to bodily pain, general health and vitality between the entry and exit interview. These were sustained at the post-exit interview, except for bodily pain, which showed a non-significant decline. In contrast, there was a decline (not significant) in the physical functioning and role limits due to physical functioning scores of the SF 36 and in the general health and total symptoms scores as measured by the OTI.
- *Risk taking*: A significant decline was observed in the OTI mean score for risks associated with injecting drug use between the entry and post-exit interviews. However, there were no changes in risk taking associated with sexual behaviour.
- *Psychological health*: Psychological wellbeing, as measured by the OTI General Health Questionnaire, showed improvements in the scores for all four sub-scales but only those relating to somatic symptoms, anxiety and social dysfunction were statistically significant, while depression was not. These improvements occurred mainly between the time of entry and exit. However, the improvements on the mental health and role limits due to emotional functioning scales of the SF 36 were not significant.
- *Social functioning*: There was a significant improvement in the OTI social functioning score (a composite measure based on employment, residential stability, interpersonal conflict and social support), with the greatest gains occurring between the exit and post-exit interviews. There were also significant improvements in the SF36 social functioning scores which again, were more pronounced between entry and exit.

Considering these results in combination, the evaluators concluded that there were significant improvements in respondents' social functioning and health status, with improvements in psychological health more pronounced than physical health (Passey 2003: 50).

Western Australia

In its recent evaluation of intermediate diversionary programs, the Crime Research Centre (2007) used the SF8 scale to measure changes in physical and mental/emotional functioning among clients referred to either POP or STIR. Again, no forms were administered to IDP participants. As was the case in assessing drug use, the original intention had been to administer the form to POP and STIR clients at three different points in time. However, low response rates and high attrition levels meant that analysis was limited to only a small number (n=52) of POP clients for whom data were available at both the time of program referral and time of program completion. No separate analysis was possible for STIR. It should also be noted that the focus was on program completers, with no data obtained from those who failed to comply with the program.

Results indicated that there was:

- a statistically significant increase in emotional wellbeing over this time period, with the Mental Component Score increasing from 38.1 at the time of referral to 48.6 at the time of program completion
- a small but significant increase in physical functioning, with the Physical Component Score increasing from 48.0 to 51.6 over the same period.

Improvements were evident across all eight survey items, including an increase in the percentage of POP participants who reported that:

- their health during the past four weeks was excellent
- physical health problems did not limit their usual physical activities in any way; they had no difficulties in doing daily work because of their physical health
- they had no bodily pain in the last four weeks
- their emotional and physical health did not limit their usual social activities
- emotional problems did not bother them at all or keep them from doing their usual work.

According to the evaluators, these results are indicative of significant gains in mental and physical health during participants' involvement with POP.

Impact on court outcomes

New South Wales

To assess whether MERIT was achieving a reduction in the numbers of persons sentenced to imprisonment, Passey (2003) compared the outcomes for program completers with those for non-completers who were dealt with through the conventional court system. It also compared the actual sentences received by a sample of program completers with indicative sentences that, in the view of the Lismore Local Court Magistrate, would have been imposed on these same individuals had they not gone through the program. Their findings show that:

- Participants who completed the program received less severe sentences than non-completers, with only one of the 93 completers in the study receiving a custodial sentence compared with 38 percent of the 56 who were breached or removed from the program. However, analysis did not take account of any differences between the two groups in relation to such factors as the type of offence or their prior history, which may help to explain the differences in penalties.
- The actual sentences imposed on a sample of 39 completers were less severe than the indicative sentences. In particular, the study found that none of these 39 received a sentence of imprisonment, whereas the magistrate estimated that over six in ten (24 of the 39) would probably have done so if not for their completion of the program. Of the 24 likely imprisonments, 15 received a suspended sentence, one was given a community service order and eight were placed on a good behaviour bond (Passey 2003: 118).

In light of these results, the evaluators concluded that 'successful participation… had an enormous impact on sentencing outcomes' (Passey 2003: 31).

Victoria

The evaluation of Victoria's CREDIT program used a somewhat similar methodology to that of the MERIT study. Heale and Lang (1999: 49–50) reviewed case summaries of 39 CREDIT participants which

included magistrates' assessments of the probable sentence that each individual would have received had they not participated in the program. These were then compared against the sentences actually handed down. Their findings parallel those of the MERIT evaluation outlined above. Of the 16 who successfully completed the program, three-quarters (n=12) received a more favourable sentence than would have otherwise applied, including several who 'faced imprisonment but for their participation in CREDIT' (Heale & Lang 1999: 49). In contrast, of the 18 people who failed to complete the program, only three received a more favourable disposition than would normally have applied, while seven received the same sentence. Another seven failed to appear for sentence and one had all charges withdrawn. Although these results are based on very small numbers, they suggest that completion of CREDIT impacted positively on the sentence imposed.

In their more recent evaluation, King and colleagues (2004) compared the sentences received by those who successfully completed CREDIT with those received by non-completers. As summarised by Alberti et al. (2004a: 12), they found that, although the most common sentence imposed on both groups was non-custodial, a higher proportion of non-completers received imprisonment (30% compared with 2.5% of successful completers). Again, while not methodologically strong (given that the study did not control for any differences between the two groups in terms of such factors as the seriousness of the offence or length of prior record), these results provide some support for the conclusion reached by Heale and Lang.

Cost savings

New South Wales

The MERIT evaluation (Passey 2003) attempted to assess the costs and benefits of an intermediate court-based drug diversion program during one year of operation. The cost component covered the actual costs incurred by program completers excluding the one-off capital expenditure associated with setting up the program. The benefits component included estimated savings resulting from lower levels of:

- incarceration and probation supervision, based on the disjunction between actual and indicative sentences provided by magistrates described earlier
- police crime investigation
- hospitalisation, based on SF 36 findings obtained from the participant interviews described earlier
- criminal activity, derived from the reoffending analysis detailed earlier.

Three estimates of benefits were calculated: one based entirely on the direct savings accrued from the reduced sentences given to program completers, while the other two included different estimates of savings resulting from reductions in reoffending and hospitalisations.

The results indicated a potential benefit-to-cost ratio of between 2.41 when only gaol time and probation supervision savings were taken into account, and 5.54 when other factors were included. In other words 'savings range from the conservative savings case value… of $2.41 for every dollar spent to a possible value of $5.54 per $1 spent' (Passey 2003: 80). According to the evaluators, 'this equates to a conservative estimate of an annual net benefit of $914,214 for a yearly average of 55 LMPP completers, or $16,622 per completer' (Passey: xi).

Two points should, however, be noted:

- a number of potential costs and benefits associated with the group were not included either because of an absence of appropriate data or because they were too intangible to measure

- although the analysis was based only on those persons who actually completed the program in a 12 month period, those who only partially completed the program could also have benefited, at least to some degree, in terms of a reduction in drug use and associated offending, but such benefits were not included (Passey 2003: 44).

Western Australia

The Crime Research Centre's recent evaluation of WA's POP, STIR and IDP incorporated a cost benefit analysis for 2005–06. In determining costs, three components were factored in:

- the funding provided by COAG as part of the national IDDI framework
- court costs incurred by the Department of the Attorney General in administering the STIR program across all sites where the program operated (with court costs for POP and IDP assumed to be minimal)
- costs incurred by the Department of Correctional Services in administering STIR (with costs for POP not included on the basis that these were met by COAG funding).

Overall, the study estimated that the total cost for 2005–06 was just over $3.9 million, or $3,190 per client. Of the three programs, STIR was the most expensive, with an average cost per client of $9,048, of which 66 percent was provided by COAG, with the Departments of the Attorney General and Corrective Services contributing 18 and 16 percent respectively. In contrast, IDP cost $3,396 per client while POP cost $2,416 per client, both of which were fully funded by COAG. Further sensitivity analysis indicated that these costs could be reduced significantly if client numbers were to increase.

The study noted that at least some of the additional costs to the Department of Corrective Services in administering STIR could be offset by two factors:

- the department would have incurred some cost for these offenders anyway, given that they would normally be placed on either a community based order or an intensive supervision order
- the possibility that STIR clients who successfully completed the program could receive a lesser sentence (such as a fine or community based order rather than an intensive supervision order) than would otherwise have been the case.

In terms of benefits accruing from these programs, the evaluators pointed to their earlier findings that indicated a reduction in drug use and improvements in mental and physical health among those who completed POP, as well as a reduction in offending across all three programs. However, no attempt was made to quantify these outcomes for inclusion in the cost-benefit analysis.

Summary

Although there is only a limited number of studies currently available, they indicate that at least several of these programs (notably MERIT and CREDIT) are impacting on the types of sentences imposed by the court, with those who complete the programs being less likely than either non-completers or non-participants to receive a custodial sentence. However, findings in relation to reoffending are ambiguous. The two evaluations that compared program participants with either non-participants (CREDIT) or matched comparison groups (WA's BIR) did not find any significant differences between them. However, the MERIT evaluation found that program completion was significantly associated with lower reoffending levels following program commencement, even when certain other factors were controlled for. In terms of the other intended outcomes – such as reduced drug use and cost savings – the evidence is still too sparse to draw any conclusions. It should be noted that these results apply only to these programs during their early period of operation.

Drug courts: outcome-based evaluation findings

Of the three tiers of drug diversion, the drug courts have undergone the most stringent outcome-based evaluations, with reports now available on all five adult drug courts operating in Australia (see Table 16). In addition, an evaluation report is also available for the NSW Youth Drug and Alcohol Court (Eardley et al. 2004).

Of these, the most comprehensive and rigorous is the work undertaken by BOCSAR. In addition to a series of monitoring and process-based reports (see for example, Freeman, Karski & Doak 2000; Briscoe & Coumarelos 2000; Taplin 2002) , it has published several outcome-focused studies that investigate the court's impact on drug use, participants' health and wellbeing, reoffending and cost benefits (see Freeman 2002; Lind et al. 2002). The outstanding feature of the methodology used to assess recidivism was its reliance on a randomised experimental design. It is the only evaluation so far undertaken on drug diversion programs in Australia that has been able to adopt this approach. In large part, this was made possible by differences in the way the NSW Drug Court operates compared with those in other locations. In this state, offenders who are assessed as eligible for the Drug Court are initially required to undergo an in-custody detoxification program – a requirement which does not apply in other jurisdictions. Because this detoxification component could only take a limited number of clients, not all of those referred to and assessed as eligible for the Drug Court could be accepted. The court used a random allocation procedure to determine which offenders would be placed in detoxification and which would be referred back to a normal court for processing. The evaluators were then able to compare those who entered the Drug Court on the basis of this random allocation, with those who, were processed and sanctioned in the normal way, although eligible for and willing to participant in the program.

In contrast to the NSW study, assessments of the Drug Court's impact on reoffending undertaken in other jurisdictions all confronted the same set of limitations as those identified earlier in this report, including a lack of appropriate comparison groups, relatively small sample sizes and relatively short follow-up periods within which to track reoffending.

It should also be noted that, in order to assess changes in drug use, health and wellbeing, all of the evaluations (including that undertaken of the NSW Drug Court) relied on self-report data collected over a series of interviews with the same group of respondents. Hence, they all suffered from potential bias arising from respondent attrition. Most took place in the first years of the programs' operation when various implementation problems had yet to be resolved and when very few participants had actually graduated.

Table 16: Published evaluations of drug courts

State	Authors	Nature of evaluation	Outcomes assessed
New South Wales			
Drug Court	Briscoe S & Coumarelos C 2000	Statistical monitoring	
	Taplin S 2002	Processes	
	Freeman K 2002	Outcomes Participant satisfaction	Drug use Health and wellbeing
	Lind B et al. 2002	Outcomes	Recidivism Cost effectiveness
	Freeman K & Donnelly N Oct 2005	Processes Factors associated with program compliance	

Table 16: Published evaluations of drug courts (continued)			
State	**Authors**	**Nature of evaluation**	**Outcomes assessed**
Youth Drug and Alcohol Court	Eardley T et al. 2004	Processes Outcomes Legal issues Participant satisfaction	Extent of diversion from incarceration Reoffending Drug use Health and social impacts Costs
Victoria			
Drug Court	Alberti S et al. 2004b	Outcomes Participant satisfaction	Health and wellbeing
	King J & Hales J 2004	Outcomes	Recidivism Cost effectiveness
	King J et al. 2004 (includes CREDIT and the Drug Court)	Processes Policy and legislation Stakeholder experiences	Recidivism
	Alberti S et al. 2004a (includes CREDIT and the Drug Court)	Overview: summarises findings from above three reports	
South Australia			
Drug Court	Harrison A & McRostie H 2002	Processes	
	Corlett E, Skrzypiec G & Hunter N 2005	Outcomes	Reoffending
	Skrzypiec G 2006a	Factors associated with non-completion of program	
	Skrzypiec G 2006b	Statistical monitoring	
Queensland			
Drug Court	Makkai T & Veraar K 2003 (SE Queensland Drug Court)	Processes Outcomes Predicting drug court graduates	Reoffending
	Payne J 2005a (Nth Queensland Drug Court)	Processes Outcomes	Reoffending Dug use Health and social function
Western Australia			
Drug Court Regime	Crime Research Centre 2003 (includes BIR and STIR components)	Processes Outcomes Legal overview	Recidivism Cost benefit
	Attorney General's Department 2006 (includes BIR and STIR components)	Outcomes	Recidivism Cost benefit
Children's Court Drug Court	Crime Research Centre 2003 study included juveniles in its offending and cost benefit analysis but no separate results were presented		

Note: the NT, ACT and Tasmania do not have a Drug Court

Impact on drug use

New South Wales: Adult Drug Court

To assess the impact of the NSW Drug Court on participants' drug use, Freeman (2002) interviewed participants at four points in time: baseline (while they were undergoing detoxification just prior to program commencement), and then at the four, eight and 12 month mark. Attrition levels were relatively high over this period, with 202 baseline interviews and 65 at the 12 month mark. Moreover, only 51 (25%) of the 202 baseline participants completed all three follow-up interviews. The main reason for this high attrition rate was the large number of terminations, particularly within the first four months of program involvement. The other point to note is that all participants were still actively engaged with the program at the 12 month mark, which means that any observed changes in health and wellbeing related only to a period when participants were receiving the full support of the program.

To assess changes in drug use patterns, the evaluator opted not to re-administer the OTI Drug Use Scale after the baseline interview because of concerns that persons still involved with the Drug Court program might not be truthful about the extent of their illicit drug use (Freeman 2002: 9). Instead, as a proxy measure, respondents were asked how much money they generally spent per week, as well as the amount of their legal income. It was assumed that any reduction in spending would indicate reduced expenditure on illicit drugs which in turn, would suggest reduced drug use. This approach does not take account of the possibility that a change in spending is due to other factors, such as a switch to alternative, less expensive drugs, however (see the findings of Alberti et al. 2004a, as reported below) or to changes in their personal living circumstances.

The evaluation found that median weekly expenditure fell significantly, from $1,000 per week prior to program commencement to $175 per week after four months, with this reduced level of spending being maintained at the eight and 12 month interview point. At the same time, median weekly legal income levels remained essentially unchanged across the four time periods, indicating that a reduction in expenditure was not the result of reduced income. Instead, the study attributed it (at least in part) to reduced spending on illicit drugs and therefore, to reduced illegal drug use.

To verify this conclusion using a different data set, the evaluation examined the urinalysis results for a sample of 86 participants selected from the 112 respondents who completed the four month interview and who had at least one urine test per week while on the program. Of this group, 83 percent reported using heroin in the four weeks prior to entering custody for the Drug Court program and 71 percent indicated daily heroin use. However, during the first four months on the program, over 35 percent did not test positive to opiates on any occasion. At the other end of the scale, no participant tested positive to all tests while less than 5 percent returned a positive opiate reading to more than 50 percent of their tests. These results suggest a reduction in heroin use compared with the level of usage prior to commencement on the program (Freeman 2002: 22).

New South Wales: Youth Drug Court

To assess changes in drug use, the Youth Drug Court evaluation (Eardley et al. 2004) interviewed a small group of program participants soon after their acceptance onto the program and again at the nine to 12 month mark (after program completion). Of the 43 individuals who originally agreed to participate, successful baseline interviews were conducted with 33, but this dropped to 18 at the follow-up interview. In addition, approximately half of those surveyed failed to answer a number of the drug-related questions. Hence, the findings must be interpreted with caution.

Nevertheless, there were some positive results, including that, at the baseline interview, 21 of the 32 (66%) who responded to this question indicated that their drug use was much less than during the three

months before they started the program, which the evaluators considered indicative of the program's positive impact on participants during the early stages of their involvement. At the follow-up interview, 10 of the 18 respondents (55.6%) reported much lower levels of drug use during the preceding three months, which pointed to a continued reduction in drug use levels over time, according to the study.

Victoria

To assess the impact of the Victorian Drug Court on the level of drug use, Alberti and colleagues (2004b) surveyed a small number of individuals who participated on the program between May 2002 and June 2003. Baseline interviews were conducted with 28 of a possible 30 participants at the time of their commencement on the program, with follow-up interviews at the three and six month point when 22 were successfully contacted. Because of the limited timeframe, at the six month mark most of the participants had not proceeded beyond Phase 1 of a three phase program, while none had graduated. The results therefore applied to participants only during the early stages of program involvement when they had not 'had the benefit of the full Drug Court intervention' (Alberti et al. 2004b: 11).

According to responses to the OTI drug use scale, self-reported drug use decreased over time. At the six month mark, half the 22 respondents indicated they had used heroin in the four weeks prior to interview, compared with three quarters of the 28 respondents surveyed at baseline. Of those who continued to use this drug, the mean level of use had reduced to once a week or less, compared with daily use in the period prior to program commencement. These decreases in heroin use were statistically significant. In addition, there were slight but non-significant decreases in alcohol and tranquilliser consumption.

In contrast, while the use of amphetamines and other opiates remained stable over time, the number of participants who reported cannabis use increased (from 46% at the three month point to 55% at the six month mark) while the frequency of cannabis consumption among those who used this drug more than doubled (from over twice per day at baseline to more than four times daily at the time of the final interview). The evaluators attributed this increase to several factors, including a tendency to substitute cannabis for more serious drugs and a perception that cannabis use was more socially acceptable and less harmful, and therefore less likely to incur a heavy sanction if its use was detected by the Drug Court.

Queensland

The evaluation of the North Queensland Drug Court (Payne 2005) did not involve interviews with participants, but used their urinalysis results as a means of assessing changes in drug use while on the program. Overall, the study found a reduction in the proportion of positive tests, with 23 percent in Phase 1 of the program indicating some form of drug use compared with seven percent in Phase 2 and 8 percent in Phase 3. However, these results are not surprising, given that progression beyond Phase 1 is unlikely to occur if a participant consistently tests positive to illicit drug use. Moreover, the results excluded the unsuccessful participants who were terminated in the early stages of involvement, thereby potentially skewing the findings.

Impact on criminal behaviour

New South Wales: Adult Drug Court

To assess the impact of the NSW Drug Court on recidivism levels, Lind et al. (2002) compared 308 offenders accepted onto the Drug Court from February 1999 to June 2000 (referred to as the treatment group) with a randomised control group of 160 offenders who were assessed as eligible for, but not accepted onto, the program during the same time frame and who had spent at least some time in the community (and were therefore free to reoffend) during the study period.

Reoffending was defined as any theft or drug offence brought before either the local court or the Drug Court which was known to have been committed after the date on which the offender underwent assessment for the program. Theft offences (comprising break/enter and steal; fraud; larceny by shop stealing, other larceny, unlawful possession of stolen goods and motor vehicle theft) together with drug offences (possess/use opiates, possess/use cannabis, possess/use other drugs and deal/traffic opiates) were selected as proxy measures of drug-related offending.

Recidivism was measured in terms of the time to the first drug-related offence and the frequency of such offending per year. While results were calculated on the basis of both free and elapsed time, only the free time results are detailed below. The average number of free days within which the treatment group could reoffend was 243 days, compared with 145 days for the control group. However, for some individuals, the period was considerably below this average, with 18 percent of the treatment group and 47 percent of the control group having 100 or fewer days between assessment and the end of the follow-up period.

In terms of the time to first offence, survival analysis indicated that:

- The treatment group generally took longer to commit their first drug-related offence than the control group, with an estimated 49 percent of the former not committing any such offences in the 365 free days following program assessment compared with 44 percent of the latter, approaching, but not achieving, statistical significance.
- The average time taken to first offence was 325 free days for the treatment group compared with 279 free days for the control group.
- There were no significant differences between the two groups in terms of time to the first theft offence. However, when specific offence types within this broader category were analysed separately, a significant difference was found in terms of the free time to the first shop stealing offence, with an estimated nine percent of the treatment group having committed such an offence at the eight month mark compared with 20 percent of the control group. The mean time to the first shop stealing offence was 537 free days for the treatment group, compared with 469 days for the control group.
- While the percentages within both groups who committed a subsequent drug offence was relatively low, the treatment group took significantly longer to do so than the control group (on average, 544 free days compared with 485 days). Stated differently, within the first 300 free days an estimated 8 percent of the treatment group had committed a drug offence compared with 15 percent of the control group.
- However, when the specific offence types that comprised the broad drug category were analysed separately, only use/possess opiates showed a significant difference between the two groups, with a mean time to first offence of 561 free days for the treatment group and 511 free days for the control group.

When the frequency of reoffending (the number of offences committed per 365 free days) was measured, no significant differences were found between the treatment and control groups for theft and drug offences combined, or for theft offences (total) or for each of the theft sub-categories. There was a significant difference for total drug offences. However, as the evaluators point out (Lind et al. 2002: 44), the actual number of drug offences committed was very low (an average of only 0.08 per 365 free days for the treatment group and 0.62 per 365 days for the control group).

Overall, the study found relatively few differences in reoffending between the treatment and control groups. However, the fact that just over four in 10 (43%) of the treatment group were terminated because of non-compliance with the program raises the possibility that terminated offenders may have different reoffending levels than those who remained on the program. To investigate this, the study divided the treatment group into non-terminated and terminated. Because these groups could potentially differ on a range of other factors that might impact on reoffending, regression analysis was used to identify whether the individual's status on the program (treatment versus control group, and terminated versus

non-terminated) acted as predictors of reoffending when the effects of age, gender, prior imprisonment and prior convictions were taken into account.

In terms of free time to the first theft offence, analysis showed a significant effect for both group and termination status, with the terminated group taking a shorter time to commit such an offence (an average of 216 free days) than the control subjects, who in turn recorded a shorter time to reoffend (299 free days) than the non-terminated group (427 free days). The same finding applied to the time to the first drug offence, with the terminated group taking an average of 433 free days, the control group 485 free days and the non-terminated group 567 free days.

Both group and termination status also exerted a strong effect on the frequency of theft offending, with the terminated group committing a higher number of offences per 365 free days (5.8) than the control subjects (4.0 offences) while the non-terminated group recorded the lowest number (1.0 offences). A strong group and termination effect was also observed in relation to the frequency of drug offences. However, this time the control group recorded the highest number of offences per 365 free days (0.62) compared with the terminated group (0.15), while non-terminated individuals again had the lowest offending frequency (0.04 offences per 365 free days).

The study therefore concluded that, in terms of the time to first offence as well as offending frequency, the Drug Court participants who remained on the program fared significantly better than either the terminated group or the control group. In turn, those in the control group had generally lower levels of reoffending than the terminated group.

These results provide the best indication so far available that the drug court – at least as it operates in NSW – is achieving its objective of reducing drug-related offending among those who remain engaged with the program.

New South Wales: Youth Drug Court

The evaluation of the NSW Youth Drug Court (Eardley et al. 2004) focused on the 75 individuals accepted onto the program during its first two years of operation (August 2000 to July 2002). By the end of the follow-up period (December 2002), 29 had graduated, two were still involved with the program and 44 had either been terminated by the court or had self-terminated.

Unlike Lind et al.'s evaluation of the adult court, this study did not have access to a randomised control group. Instead, for comparative purposes it used a group of individuals who, although referred to the program, did not participate either because they were judged ineligible or opted not to. Recidivism was ostensibly measured by re-appearances in court for offences that occurred after program involvement. However, accurate offence dates were not always available. Hence, some offences that pre-dated participants' entry to the Drug Court, but which were dealt with in court during the study period may have been classified as reoffending. In addition:

- court appearance data obtained from different sources (the Youth Drug Court registry and BOCSAR) did not always agree
- although no breakdowns were provided, the follow-up period for reoffending was relatively limited, with six months as the minimum time
- no information was available on periods spent in custody, which meant that no free time comparisons between the participant and non-participant groups were possible.

The evaluation (Eardley et al. 2004: 61–62) found that:

- of the 75 participants (including both graduates and terminates) accepted onto the program during its first two years of operation, between 53 and 59 percent appeared in court for fresh offences while on the program, depending on the data set used
- approximately 37 percent of participants did not record a fresh offence post-program (after either having completed or been terminated from the program)
- graduates were less likely to reoffend post-program than terminates (43% of the 28 graduates for whom relevant data were available compared with 29.3% of the 41 mandated or voluntary terminates)
- the number of charges recorded against graduates who reoffended was smaller than that recorded by the terminates, while the types of offences committed were less serious.

On the basis of these results, the evaluators concluded that 'successful completion of the program is, for many of those involved, associated with continuing benefits, at least in the short term' (Eardley et al. 2004: 62). However, given the study's other finding, obtained from respondent interviews, that graduates were more motivated to address their drug use and offending behaviour, the evaluators noted that this could help to explain differences in reoffending rather than actual participation on the program.

Victoria

In assessing the impact of the Victorian Drug Court on reoffending, King and colleagues (2004) used three different approaches:

- First, reoffending among a group of 59 Drug Court participants who commenced the program between May 2002 and June 2003 was compared with that of 50 offenders randomly selected from persons appearing in the Magistrates Court during the same period on equivalent charges and who received imprisonment (the alternative sentence for those placed on the Drug Court). For the purposes of this study, reoffending was defined as any subsequent court appearance, with comparisons based on the average number of major charges convicted per individual per day. Reoffending was measured from the date of the Drug Treatment Order to late November 2003. The results showed that, based on free time to reoffend, members of the comparison group offended, on average, at a significantly higher rate than the treatment group (13.6 versus 4.1 offences per participant per 365 free days). When specific offence types were considered, the comparison group committed theft offences at a significantly higher rate than the treatment group (3.0 theft offences per person compared with 2.6 per 365 free days) but no differences were evident for drug offences.
- Second, the treatment group's rate of offending (court convictions) prior to entry into the Drug Court was compared with their rate of offending after their commencement on the program. Results indicated that reoffending was significantly lower after program commencement than before, with this group recording an average of 3.3 offences per participant year after program entry compared with 4.5 before (based on elapsed time). The comparison group was also subjected to a similar pre/post comparison but no calculations based on free time were included in the report.
- Finally, the reoffending patterns of those individuals still involved with the Drug Court were compared with those who had their involvement terminated due to non-compliance. Analysis showed that those who remained on the program had a significantly lower reoffending rate than those who were non-compliant (an average of 1.8 offences per participant per 365 free days compared with 8.8 offences). As the evaluators point out, however, this result is not unexpected, given that reoffending is a primary factor contributing to termination from the program.

These results suggest that the 'Drug Court is having a greater effect on reducing offending rates compared to the alternative of incarceration' (King & Hales 2004: 2). However, as the report itself acknowledges, these results must be treated with caution because of the methodological limitations of the study, which include:

- The facts that no data were available on the level of substance abuse (if any) among the comparison group and that, although both groups had been convicted on similar types of charges in the past and had similar lengths of custodial orders imposed at the time of selection, the comparison group recorded a higher rate of offending in the period preceding the selection date which may account for any observed differences in reoffending levels after program involvement.
- The short time period over which reoffending was observed. While all Drug Court participants had a minimum elapsed time of 161 days (5.3 months) and a maximum of 552 days (18.2 months) in which to offend, this reduced when time in custody was factored in. For the comparison group, although the elapsed time for reoffending varied from 222 to 553 days, 75 percent of total participant days for this group were spent in prison.
- Because of the short follow-up period, only one of the 59 Drug Court participants had actually completed the program, with most still in Phase 1.

Western Australia

As described earlier, the Crime Research Centre's (2003) evaluation of reoffending among 513 persons referred to Western Australia's Drug Court Regime included a small number of STIR referrals and some juveniles dealt with via the Children's Court Drug Court. However, these numbers were too small (21 STIR participants and 39 juveniles) to have any real impact on the results (Roberts L 2007, pers. com.). Hence, the findings presented below relate almost entirely to the adult Drug Court Regime.

The results were as follows:

- Of those who completed STIR/Drug Court Regime, 53percent were re-arrested within two years from the date of referral to the program. This was lower than recorded for participants who were terminated prior to program completion (81%).
- Survival analysis found that the probability of re-arrest 'ever' for STIR/Drug Court Regime completers was 0.75 (that is, 75% were likely to reoffend) which was lower than that for those who were terminated from the program (0.90). Moreover, the median time to fail was longer for the completers than for the terminated group (0.6 years compared with 0.2 years respectively).
- Those who completed the program also had a lower ultimate probability of re-arrest than those who, although referred to STIR/Drug Court Regime, were not accepted onto the program (0.75 compared with 0.87). Moreover, completers took longer to reoffend, with a median time to fail of 0.6 years compared with 0.2 years for the non-accepted group.
- Overall, however, the differences between completers and terminated, as well as those between completers and non-accepted individuals were not statistically significant. The evaluators indicated that this could due to the low numbers involved and to the relatively short follow-up period over which recidivism was measured.
- As shown in Table 17, when compared with the two non-participant comparison groups (that is, persons previously arrested for any offence and persons previously arrested for a drug offence who were matched to STIR/Drug Court Regime participants according to sex, Indigenous status etc.), results indicated that the STIR/Drug Court Regime completers had a higher ultimate probability of re-arrest than did all offenders but a lower probability of re-arrest than the matched drug offenders. Again, neither of these differences were statistically significant.
- Nor were there any significant differences between those terminated from STIR/DCR and the two matched groups.

Table 17: Probability of re-arrest and median time to fail: STIR/Drug Court Regime completers, compared with terminated and matched non-participant groups		
Group	**Ultimate probability of rearrest**	**Median time to fail**
STIR/DCR completers	*0.75*	*0.6*
Matched offenders	0.66	4.8
Matched drug offenders	0.92	0.5
STIR/DCR terminated	*0.90*	*0.2*
Matched offenders	0.82	0.4
Matched drug offenders	0.90	0.5

Source: Crime Research Centre 2003: 126

- A comparison between the seriousness of offending before and after referral to the Drug Court (or before and after arrest for the comparison groups) showed that there were no significant differences between persons who completed the STIR/Drug Court Regime and the two matched groups in terms of changes in offence seriousness. However, offenders who were terminated from STIR/Drug Court Regime were significantly less likely than the two comparison groups to record a reduction in the seriousness of their offending.
- When the probability of re-arrest among STIR/Drug Court Regime completers was compared with the probability of re-arrest for all persons charged with at least one 'drug plus other' offence in Western Australia between 1989 and 1999 (as reported by Valuri et al. 2002), no significant differences were found. However, offenders who were terminated from the STIR/Drug Court Regime had a higher probability of re-arrest than 'all drug + other' offenders and a shorter time to fail (see Table 18).

Table 18: Probability of re-arrest and median time to fail: STIR/DCR completers compared with terminated and a sample of all drug offenders		
Group	**Ultimate probability of re-arrest**	**Median time to fail**
STIR/DCR completers	*0.75*	*0.6*
STIR/DCR terminated	*0.90*	*0.2*
All 'drug + other' offenders – prior arrests for both drug and other offences (i.e. mixed) offences	0.77	0.7

Source: Crime Research Centre 2003: 124

- Finally, when STIR/Drug Court Regime participants' actual probability of re-arrest following program involvement was compared with their estimated probability of re-arrest based on their offending history prior to entering the Drug Court (as determined by the Crime Research Centre's Adult Actuarial Risk instrument), no statistically significant differences were found.

When considered as a whole, these findings indicate no significant differences in reoffending between STIR/Drug Court Regime participants and any of the comparison groups. However, those who completed the program had lower recidivism rates than those who were terminated as well as those who were not accepted onto the program. Similarly, the median time to fail (to be rearrested) was longer for completers than for the other two groups. The evaluators considered these results to be encouraging, although not conclusive given that the participants had a significantly lower estimated risk of reoffending than the comparison group prior to referral to the Drug Court (Crime Research Centre 2003: 129).

A more recent study of Western Australia's Drug Court (Western Australia. Attorney General's Department 2006) also focused on participants who were involved in the Drug Court when it comprised the three components of BIR, STIR and the Drug Court Regime. It also assessed the same two outcomes of

recidivism and cost benefits. However, its results are not comparable with the Crime Research Centre study because of the different methodologies used. In particular:

- It covered a longer period of the Drug Court's operation than did the Crime Research Centre study (the first three years compared with the first 18 months) and excluded juveniles (the Crime Research Centre study included them).
- Whereas the Crime Research Centre evaluation provided separate results for the BIR component of the Drug Court, this second study made no such distinctions. It did note that, of the 194 participants included in its reoffending analysis, 116 had completed the more intensive Drug Court Regime program while only 17 were referred to STIR. However, there were an additional 61 participants for whom information on the type of drug court component was missing. In the absence of any reference to the contrary and in view of the Crime Research Centre's finding that over one-quarter of those persons accepted onto the Drug Court from its inception to November 2002 were involved with BIR, there is the possibility that at least some of these 61 were in fact, part of that sub-program. If so, then combining the results for the less serious BIR and STIR participants with those involved in the Drug Court Regime itself would potentially produce more favourable outcomes than if the analysis was restricted to only those involved with the Drug Court Regime.
- While the Crime Research Centre study used police re-apprehensions as its recidivism measure, this evaluation opted to use return to corrections which is likely to produce a lower level of reoffending, for two reasons:
  - it does not include those individuals who, although charged with an offence, may receive sentences (e.g. fines) that do not involve either imprisonment or placement on a community corrections order
  - given the time taken for a matter to proceed through to the end of the sentencing stage, at least some individuals who actually reoffended and were charged by police after program commencement may not have had their matters finalised in court. While such offences would have been counted by the Crime Research Centre evaluation as part of the reoffending profile of participants, they would not have been included in this second study.
- It used different comparison groups, one comprising individuals released from prison between 2000 and 2003 and the other consisting of persons who completed a community-based order during the same period. However, unlike the Crime Research Centre evaluation, no attempt was made to match these groups with Drug Court participants on factors such as age, gender etc. Instead, two broad criteria governed the selection process; first, the individuals chosen either had to have a drug-related conviction or a known significant drug problem and second, they had to have committed offences which would have rendered them eligible for involvement in the Drug Court. Further analysis indicated that both of the comparison groups actually had more serious prior offending records than the Drug Court participants (Western Australia. Attorney General's Department 2006: 16), thereby bringing into question their appropriateness as reference points for the Drug Court group.
- Finally, unlike the Crime Research Centre study, the more recent one did not take account of time spent in custody when assessing recidivism levels despite the fact that about 17 percent of the Drug Court group and 35 percent of the community corrections group were imprisoned in the two years following program/order completion.

These differences may help to explain why the findings from the more recent study were more positive than those of the earlier Crime Research Centre evaluation.

The results from this second evaluation indicated that:

- Of the 194 individuals accepted onto the Drug Court between December 2000 and December 2003 for whom sufficient data were available, 46.4 percent did not return to corrections for fresh offending in the two years following program completion. (However, of these, 4.6% were admitted to prison for offences committed prior to program entry).
- This figure was higher than those recorded by the two comparison groups, with 29.4 percent of the prison group and 36.0 percent of the community corrections group not returning to corrections within two years.
- At the other end of the scale, 12.4 percent of the participant group had experienced re-contact with corrections within eight weeks of program completion which, interestingly, was higher than for the two comparison groups. In fact, only 7.0 percent of the prisoner group and 8.0 percent of the community corrections group had recontact for fresh offending in the first eight weeks following prison release/ order completion.
- However, while the time taken to reoffend was initially longer for the two comparison groups in the initial stages, by the 12 month mark, this had changed, with a lower percentage of Drug Court participants having experienced re-contact by this stage than either of the two comparison groups (16.5% compared with 19.6% and 19.3% respectively).
- Among Drug Court participants, the pattern of offending post-program had altered, with proportionately fewer recording a break and enter, fraud or theft offence as their most serious charge in the period following program completion than before their involvement with the Drug Court (14.4% pre- compared with 3.6% post- for break/enter; 19.6% pre- compared with 5.7% post- for fraud; and 21.1% compared with 8.8% for other theft). Deal/traffic drugs also declined, from 7.7 to 2.1 percent. However, while the evaluators considered this to be a positive finding, it should be noted that somewhat similar shifts were also evident for the two comparison groups. For example, of the prisoner group, 57.9 percent had break/enter listed as their most serious offence pre-prison compared with 25.7 percent post-prison, while other theft (mainly motor vehicle theft) dropped from 20.6 to 10.7 percent. Among the community corrections group, there was a decrease in break/enters (from 28.0% before to 13.3% after order completion), other theft (from 16.0% to 0.7%) and (interestingly) deal/traffic drugs (with 12.7% having this offence listed as their most serious charge before their community corrections order compared with 4.7% after).
- Finally, Drug Court participants recorded significantly fewer new court appearances (a term not defined by the study) after program completion than was the case for either prisoners (post-release) or community corrections offenders (post-order completion). Of those who did come back into the court system for fresh offending, 87.6 percent of Drug Court participants recorded between one and five new appearances compared with 46.3 percent of the prison group and 41.3 percent of the community corrections group. The remainder had six or more re-appearances before court.

Overall, the evaluation considered that these results provided 'strong evidence that involvement in a Drug Court program had a positive effect in reducing the level of reoffending among individuals charged with a drug-related offence' with the Drug Court 'associated with a net reduction in recidivism of 17% over prison and 10.4% over community corrections' (Western Australia. Attorney General's Department 2006: 1). However, in view of the somewhat ambiguous findings regarding the time taken to reoffend and the fact that the comparison groups also recorded positive shifts in the types of offences charged during the pre- and post- comparison periods, this conclusion should be treated with caution.

Queensland

Outcome-based evaluations of both the South East and North Queensland Drug Courts undertaken by the Australian Institute of Criminology (Makkai & Veraar 2003; Payne 2005) placed particular emphasis on measuring recidivism levels among Drug Court participants.

Makkai and Veraar focused on 264 individuals (the treatment group) who had entered the South East Queensland Drug Court program by 31 December 2002. This included 44 graduates, 113 terminates and 104 who were still on the program. Recidivism was defined as any offence which resulted in a court conviction. Two follow-up periods were used:

- from the time of commencement with the Drug Court (which therefore incorporated any offending while still on the program)
- from the time of graduation or termination (which covered only post-program offending).

When compared with some other evaluations, the period over which reoffending was tracked was comparatively lengthy, with the treatment group (described below) having an average of 441 days free in which to reoffend after program commencement while the refusal group had 536 free days and the prison group 533 free days.

Two comparison groups were used:

- First, 97 offenders who had been referred to the program but refused to participate. While this group was similar to the participant group in terms of sociodemographic, health and drug use factors, there were differences in their criminal histories, with the refusal group less likely to have a prior prison record and fewer prior offences.
- Second, a sample of 107 sentenced ex-prisoners who, among other criteria, had been under the influence of drugs at the time of the offence for which they were imprisoned and who would have been eligible for the Drug Court, on the basis of that offending. Again, this group had fewer prior offences and were less likely to have been imprisoned before than was the case for the treatment group.

In terms of the time to first offence, survival analysis showed that the treatment group took longer to reoffend following program commencement, with 59 percent not reoffending within 200 free days, compared with 69 percent of the prisoner group and 71 percent of the refusal group. Overall, however, differences in the time taken to reoffend were not statistically significant and this remained the case even when at least some of the potential areas of variance between the three groups (such as age at the time of Drug Court referral/release from prison, gender, prior imprisonment and prior offence records) were taken into account. This is noteworthy, given that the earlier finding that the treatment group was significantly more likely to have been imprisoned before and to have had longer prior offending rates than either of the comparison groups could suggest a greater propensity to reoffend under normal circumstances.

While there were no significant differences between the groups in terms of the likelihood of reoffending, when the treatment group was divided into graduates and terminated, the study found that a lower percentage of graduates reoffended than the terminates, refusals or prisoner group. These differences held true irrespective of whether reoffending was measured from the time of program commencement or from the time of program completion/termination. In relation to the former, 34 percent of graduates had reoffended by the end of the follow-up period compared with 72 percent of terminates. In terms of the latter time frame, nine percent of graduates had reoffended, compared with 32 percent of terminates. For the two comparison groups, reoffending levels remained the same (47% for the prisoner group and 61% for the refusal group) simply because the time to reoffend is unaffected by whether the program commencement or program completion date is considered.

Graduates also exhibited lower levels of reoffending when only drug possession charges were considered. From the time of program commencement, seven percent of graduates had been convicted of a fresh drug possession charge, compared with 12 percent of the refusal group, 19 percent of the prison group and 24 percent of the terminated group. In terms of the levels of reoffending after program exit, none of the graduates had been convicted for this type of offence by the end of the follow-up period, compared with seven percent of terminates, 12 percent of refusals and 20 percent of prisoners.

Overall then, irrespective of whether all offences or only drug possession charges were considered, graduates had the lowest rates of reoffending after program commencement as well as after program completion. However, the terminated group had higher reoffending rates than either the refusal or prison group after program commencement, but lower rates than these two groups after leaving the program.

Given these findings, the evaluators suggested that 'two distinct cohorts are being accepted into the drug court program' (Makkai & Veraar 2003: 40) with both cohorts reoffending during their time on the program but with the terminates reoffending more quickly and more frequently, resulting in their removal.

A second type of analysis, which compared the average rate of offending of each group during an equal period before and after referral to the drug court, was also undertaken. This pre/post comparison showed that, while all groups recorded a lower average rate of offending post-program commencement/ post-imprisonment than beforehand, the difference was more pronounced for graduates than for the other three groups. For graduates, the average rate of offending declined from 3.62 offences per person before program commencement to 0.48 afterwards – a decrease of 87 percent. In comparison, declines of 55 percent were observed for the terminates (from a mean of 4.38 to 1.93), 74 percent for the prisoner group (from a mean of 5.03 to 1.32) and 51 percent for the refusals (from 3.13 to 1.53).

In summary, the study concluded that, while there were no significant differences in reoffending between the treatment group as a whole and the two comparison groups, either following program commencement or after program exit, when graduates were analysed separately they exhibited significantly lower levels of reoffending and took longer to commit their first offence than either the terminates or the two comparison groups. Moreover, graduates recorded the greatest reduction in the frequency of offending in the period after program entry compared with before. Overall, it seems that relatively few of the graduates reoffended once they had successfully completed the program.

Based on the finding that both graduates and terminates were significantly less likely to be convicted of a drug possession offence after program entry than either the refusal or prisoner comparison groups, the evaluators suggested that the drug court had a specific effect on drug offending. This, in turn, could indicate that illegal drug use had been reduced.

The Australian Institute of Criminology's evaluation of the North Queensland Drug Court (Payne 2005) used a somewhat similar methodology to that used for the South East Queensland Drug Court, but with some variations. It focused on the first 18 months of the program's operation and compared the frequency of reoffending (defined as offences convicted in court) and the time to reoffend of a treatment group and a group comprising persons who, although referred to the Drug Court, refused to participate. However, unlike the South East Queensland Drug Court evaluation, it did not have access to a prisoner comparison group. Numbers were small, with 69 in the treatment group (including 24 graduates and 45 terminates) and 36 in the refusal group.

When reoffending was measured from the date of program commencement, survival analysis indicated that:

- At least in the short term, the treatment group took longer to reoffend than the refusal group. For example, it took an estimated 300 to 350 free days before half the treatment group had reoffended, compared with only 100 free days for the refusal group. However, in the long term, there were no significant differences between the survival functions of the two groups, with an estimated 80 percent of the treatment group likely to have reoffended after 650 days.
- Similarly, when the analysis was limited to fresh drug offences only, significantly fewer in the treatment group were likely to reoffend in the early stages of their involvement with the program, but in the long term these differences disappeared, with similar proportions in each group likely to have reoffended at the 650 day mark.
- Nor were there any significant long term differences between the treatment and refusal group in relation to the time to the first property offence.

The absence of any long term differences between Drug Court participants and those who were refused entry to the program mirror those of the South East Queensland Drug Court evaluation.

However, as was the case with the South East Queensland study, when the treatment group was disaggregated into graduates and terminates, Payne (2005) found that, even though the two groups did not differ significantly on a range of demographic, drug use and criminal history variables measured at the time of entry to the program, graduates were less likely to have reoffended between the date of program commencement and the end of the follow-up period (31 December 2004) and also took significantly longer to do so. Survival analysis indicated that the number of free days required for one half of all group members to reoffend was 634 days for graduates, 71 days for terminates and 91 days for refusals. In other words, those who commenced the program but who were subsequently terminated were more likely to reoffend and to reoffend more quickly than either the graduates or those who refused to participate.

This pattern held true when reoffending was measured in terms of the time to the first drug offence and the time to the first property offence. Particularly in the early stages, graduates performed significantly better than the other two groups.

To investigate whether involvement with the Drug Court remained predictive of a reduction in reoffending once some potential areas of difference between the three groups (such as age, gender, prior imprisonment, prior offence rates and the type of offence for which they were referred to the Drug Court) had been taken into account, further analysis using a Cox Proportional Hazards Regression model was undertaken.

Results indicated that, even controlling for these other variables, graduates were still less likely to reoffend than either terminates or refusals, with the refusal group being four times more likely to reoffend that those who successfully completed the program. The only other predictor of reoffending was age at the time of referral, with young offenders being at greater risk of reoffending.

When the analysis was repeated using property offending as the indicator, no differences in the likelihood of reoffending were found between graduates and refusals. However, those who were terminated were four times more likely than either of these two groups to commit a subsequent property offence. The only other predictor of property-related reoffending was the number of previous property offences committed, with higher prior records associated with a greater likelihood to commit a fresh offence.

In terms of drug offending, graduates were less likely to commit such an offence after program commencement than either the terminates or refusals, both of whom were four times more likely to do so.

However, the likelihood of reoffending was also higher for males than females and for young offenders with a prior imprisonment record.

While the above results apply to the likelihood of reoffending after program commencement, similar results were obtained when reoffending was measured from the date of program completion/exit, with graduates being less likely to reoffend than the other two comparison groups. More specifically, up to 31 December 2004, 29 percent of the graduates had reoffended following program completion, compared with 34 percent of the terminated group and 53 percent of the refusal group. This pattern also held true for property offences, with four percent of graduates committing such an offence by the end of the follow-up period, compared with 11 percent of the refusal group and 19 percent of the terminated group. However, there was some variation for drug offences. While graduates were still less likely to reoffend than refusals, they were more likely to do so than terminates (13%, 28% and 3% respectively). It seems that graduates who reoffended after Drug Court completion were more likely to commit a drug offence, while terminates who reoffended were more likely to commit a property offence.

One final set of results is also worthy of comment. In addition to assessing time to first offence, Payne (2005) compared pre- and post-program offending frequencies for graduates, terminates and refusals. Among graduates, the reoffending rate per 365 free days dropped from 4.8 pre-program entry to 0.6 post-program entry. Interestingly, there were corresponding decreases in reoffending rates among refusals (from 5.9 pre-referral to 1.6 post-referral) and among terminates (from 6.6 to 4.1).

South Australia

The South Australian Drug Court evaluation (Corlett, Skrzypiec & Hunter 2005) adopted a simpler approach to assessing the program's impact on reoffending. Because of the difficulty of locating a suitable comparison group, it relied instead on comparing the offending records of drug court participants during an equal 'free' period before and after involvement with the program. Moreover, it focused on Drug Court completers only, with no assessment of reoffending among the terminated group. Accordingly, it measured reoffending not from the date of entry to the program but from the date of completion. While this allowed the study to focus on the longer term impacts of the Drug Court once all program supports had been removed, it meant that analysis was restricted to a very small sample. In fact, during the first 38 months of the program – the period covered by the evaluation – only 43 participants had graduated, with the free time available to offend post-program varying between six months (for two clients) to over two years (for 20 clients). The study also used a different reoffending indicator from that of other evaluations – namely, a criminal event – defined as all offences charged against an individual that occurred on the same day.

The results showed that overall, there was a reduction in the number of completers who were charged with a criminal event after leaving the program as well as a reduction in the actual number of criminal events charged against them. For the group as a whole, almost one quarter (n=10 or 23.3%) were not charged with any offence in the free time following program completion while, of the 33 who continued to offend, 24 (55.8%) were charged with fewer events post-program than pre-program. In total, almost eight in ten completers (79.1%) were either not re-apprehended or were re-apprehended for fewer events post-program.

The total number of events charged against program completers also dropped significantly, from 420 during an equal free time period pre-program to only 183 post-program. The main contributor to this decrease was a substantial decline in the number of property-related events charged against the group, falling from 318 pre- to 67 post-program. In contrast, there was an increase in the number of driving-related and registration events (from 46 to 71 and from 23 to 53 respectively) which the evaluators attributed to changes in police detection methods (notably to a substantial increase in red light cameras)

and changes in police recording practices that occurred during the study period – a finding which highlights the difficulties inherent in using official statistics as an indicator of actual offending behaviour.

Finally, the study identified shifts in the seriousness of offending over time. Of the 43 completers, 39 (90.7%) had been charged with at least one serious offence pre-program (based on the Australian Bureau of Statistics' National Offence Index). After program completion nine of these 39 had not been charged with any offence, 13 had been charged with a minor offence only, and three had been charged with a moderately serious offence. In total, nearly two-thirds of the serious pre-program offenders had either not reoffended or were charged with less serious offences post-program.

Overall, these results suggest that 'the South Australian Drug Court may be having a positive effect in reducing offending levels among those who manage to complete the program' (Corlett et al. 2005: 29).

Impact on health and wellbeing

New South Wales: Adult Drug Court

As noted earlier, Freeman (2002) used self-report data to assess the impact of the NSW Drug Court on participants' health and wellbeing. Overall, the results were relatively positive.

An analysis of responses to the SF36 scale showed that among the 51 respondents who completed all four interviews:

- there was an increase in health scores from the baseline to the four month interview on each of the dimensions examined
- all of these increases were statistically significant except for that of 'role limits – emotional' – however, by the 12 month interview, this dimension also showed a significant improvement
- the increases observed in the other seven dimensions at the four month mark were maintained throughout the 12 month survey period with the exception of physical functioning which, due to a slight reduction over the last two interview rounds, did not show a statistically significant improvement from baseline to the 12 month point.

In terms of changes in the OTI social functioning scores, the 51 respondents showed steady improvements throughout their involvement with the Drug Court, with significant gains evident between baseline and four months, and between four and eight months. Further improvements were observed at the final interview, although these were not statistically significant.

Overall, the study concluded that there was 'strong evidence of improvements to health and well-being of participants after being placed on the NSW Drug Court program which are maintained through participation on the program, at least among participants who remained on the program' (Freeman 2002: 35). Moreover, the evaluators noted that the results may underestimate the extent of improvement for two reasons:

- First, the NSW Drug Court discourages participants from obtaining employment in the early stages of program involvement, which would reduce the OTI scores for those participants who had not progressed beyond that stage at the 12 month mark (19 of the 51 interviewees).
- Second, if the baseline interviews had been conducted prior to the commencement of detoxification rather than during the detoxification period when some changes in social functioning may already have occurred, initial scores may have been worse.

New South Wales: Youth Drug Court

To assess changes in health and wellbeing among Youth Drug Court participants, Eardley and colleagues (2004) interviewed a small group of individuals at the time of their acceptance onto the program and between nine and 12 months later. The study found that:

- The level of unemployment among program participants at the start of the program increased over time. Overall, 45 percent of the 33 participants interviewed at baseline indicated they were unemployed compared with 12 of the 18 (67%) at the time of the follow-up interview. Although numbers are extremely small, the evaluators concluded that the 'employment obtained earlier was likely only to have been of a short-term or casual nature' (Eardley et al. 2004: 67).
- The majority of participants at the time of the baseline interview indicated that their health was either excellent, very good or good (29 of 33 respondents or 88%), while three quarters (24 of 32 respondents) rated their general health at that time as much better than six months previously. The evaluators attributed these initially high levels of good health to the early benefits gained from participants' initial involvement with the program and in particular, its ability to address minor health problems. However, these early gains were not sustained. The proportion reporting excellent, very good or good health declined slightly to 72 percent (13 of the 18 young people included in the follow-up interview), while those who considered that their health was much better than six months previously dropped to 39 percent (n=7).
- The proportion of participants who reported experiencing no physical pain decreased between the baseline and follow-up interviews (from 59% to 53%) but this change was not statistically significant.
- In terms of their physical and emotional help, a slightly higher percentage of participants at the follow-up interview (22% compared with 19% at baseline) reported that problems in these areas were interfering moderately, quite a bit, or extremely with their social activities but again, these shifts were not significant.
- Based on responses to a shortened version of the SF6, the study found that participants' mean scaled mental health score was poorer at the time of their commencement on the program than the mental health scores of 18 to 24 year-olds in the general population. However, it showed a small, but not significant, improvement from baseline to follow-up interview (from 63.8 to 68.7). Analysis also showed that the mean mental health score for persons completing the program was higher than for the terminated group.
- A modified version of the Social Functioning Scale of the OTI indicated that:
  - participants experienced some stabilisation in relationships while on the program; the proportion who reported 'often to very often conflict' with relatives in the preceding six months decreased from 28 percent at baseline to 17 percent at follow-up, while those reporting 'often to very often' conflict with friends dropped from 25 to six percent
  - overall, graduates reported less conflict than those who either voluntarily left or were terminated from the program
  - there was a slight decrease (from 47% at baseline to 44% at follow-up) in the proportion of participants who reported that all or more than half of the people they had known in the past six months were drug users. Moreover, at both interview points, graduates reported knowing fewer drug users than did those who left the program.

Overall, the evaluators considered these results to be encouraging even though, given the study's methodological limitations, they noted that 'it was not possible to say that similar outcomes would not have been achieved in other ways' (Eardley et al. 2004: 125).

Victoria

The evaluation of the Victorian Drug Court (see Alberti et al. 2004b) used responses to the OTI Social Functioning Scale and the SF36 administered to 28 Drug Court participants at the time of entry and at three and six month follow-up interviews to assess the program's impact on participants' health and wellbeing. Results indicated that, at the time of their commencement on the program, the study group reported greater mental and emotional problems than a non-drug using population but relatively similar levels of physical health. Between the baseline and the six month interviews, there were:

- slight (but non-significant) improvements in social functioning (as measured by the OTI Social Functioning Scale)
- slight (but non-significant) improvements in the Physical Component and Mental Component summary scores over time, as measured by the SF36.

The study also found some improvements in employment status and retention in treatment:

- Full-time employment rates doubled from 11 percent at baseline to 25 percent at the six month mark while unemployment rates decreased from 86 percent at baseline to 54 percent at six months.
- Not unexpectedly, the proportion of participants in treatment programs increased from 50 percent at baseline to 68 percent at the six month mark. However, while the evaluators considered this an indication of a 'good level of participant engagement and retention in treatment' (Alberti et al. 2004b: 46) it does not take into account the fact that by the time of the six month interview, six respondents had dropped out, thereby potentially skewing the results.

Overall, the results, although not conclusive, are in the right direction.

Queensland

The evaluation of the North Queensland Drug Court relied on participant responses to the SF36 Health Survey administered by Drug Court personnel at the time of initial assessment and at the completion of each program phase to assess the program's impact on physical and mental health and wellbeing. Results indicated that during their time on the program, there were significant improvements across all eight general health dimensions measured, with the greatest improvements noted for the Role Physical and Role Emotional scales. However, these results must be treated with caution not only because of the small numbers involved (with only 16 individuals completing both the baseline survey and the final six month survey) but also because the interviews were conducted by Drug Court personnel, which may have encouraged respondents to give more positive answers than would have been the case if independent interviewers had been used.

Impact on court processing/outcomes and prison numbers

Interestingly, it seems that none of the publicly available evaluation reports deliberately set out to estimate the impact of drug courts on the type of court outcome received or on prison numbers. This is contrary to evaluations undertaken on drug courts in other countries, such as the United States and may be due to the fact that 'the political impetus for the creation of drug courts in Australia has had far more to do with widespread public concern over drug-related crime than with public, political or judicial concern over the effect of drug arrests or drug laws on court congestion' (Lind et al. 2002: 2).

However, the Crime Research Centre's (2003) evaluation of the Western Australian Drug Court undertook such a comparison as part of its cost benefit analysis. Although based on a relatively limited sample, with indicated and actual sentencing data available for only 98 offenders accepted on to the Drug Court Regime, it found that:

- Of the 62 who completed that program, the type of sentence actually imposed was less severe than anticipated. In fact, while almost half (28 or 45.2%) had an indicated sentence of imprisonment, only one (1.6%) was actually imprisoned.
- In contrast, there was very little difference between the indicated and actual sentences imposed on those participants who were terminated from the program prior to completion. Among this group of 36 individuals, 15 (41.7%) had an indicated sentence of imprisonment, while 14 (38.9%) were actually sentenced to imprisonment.

These results, according to the evaluators, 'provide qualified support for the finding that the drug court reduces the number of offenders with substance use problems and addictions being imprisoned in the short term' (Crime Research Centre 2003: 155), although this reduction was generally limited to those who actually completed the program.

Cost savings

New South Wales: Adult Drug Court

For their assessment of the cost effectiveness of the NSW Drug Court, Lind and colleagues (2002) compared the costs incurred by Drug Court participants with those incurred by a randomised control group who were dealt with in a conventional manner, although assessed as eligible for the Drug Court. Effectiveness was measured in terms of differences in reoffending between these two groups (as outlined earlier).

In determining costs, the study adopted what it called a provider perspective rather than a societal perspective The latter includes a much broader range of costs incurred by the offenders, their families, victims of crime and the community at large (Lind et al. 2002: 14). Under the provider perspective, five sets of costs were assessed for participants, dating from the initial point of assessment to the completion of their sentence:

- court costs (both drug court and conventional)
- assessment and detoxification costs
- treatment costs
- monitoring costs, including urinalysis
- incarceration costs.

A smaller set of costs was used for the control group (Lind et al. 2002: 20), including:

- the costs of initial Drug Court assessment
- subsequent court costs
- costs of incarceration.

The unit of measurement was the average cost per day for individuals included in the recidivism study. The study found that the average cost per day for the treatment group was $144, although this varied from $79 per day for the 23 participants who had graduated from the program by 31 December 2000, to $113 per day for the 91 individuals still on the program, and $180 per day for the 195 who had been terminated. The higher costs incurred by the terminated group were attributed to the higher gaol costs

resulting from sanctions imposed by the Drug Court during their involvement in the program and to post-program incarceration. By comparison, the average cost per day for the 138 offenders in the control group for whom relevant data were available was $151.72. These figures suggest that, in terms of straight cost, the Drug Court is a more expensive option. However, this does not take account of any benefits that may accrue from reduced recidivism levels.

To assess cost effectiveness, four reoffending measures were used: free time to first shop stealing offence and to first possess/use opiates offence, as well as offending frequency per unit of free time for these same two offence types. Shop stealing and possess/use opiates were chosen from the range of offences included in the recidivism analysis because they showed significant differences between the treatment and the control groups, as discussed earlier.

The results indicated that:

- In terms of the time taken to reoffend, it cost an extra $0.12 and $0.16 to achieve one additional day free from a shop stealing or use/possess opiates offence for the control group and Drug Court participants respectively. This indicates that the Drug Court and conventional sanctions were equally cost effective in reducing the time taken by participants to commit either of these two offences.
- In terms of the average number of offences committed, it cost an extra $4,921 to prevent one additional shop stealing offence and an extra $19,040 per day to prevent one additional use/possess opiates offence among the control group compared with Drug Court participants. In other words, 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 for participants in the Drug Court program. These findings indicate that the Drug Court is more cost effective when measured in terms of the frequency of reoffending. (However, the authors noted that the results pertaining to the use or possession of opiates should be treated with caution, because Drug Court participants were not always prosecuted for such offences if they came to the attention of the Drug Court team. Countering this is the fact that these participants would have been under much closer scrutiny than the control group as part of the Drug Court's routine monitoring processes and hence, more likely to be detected for such offending.

Sensitivity analysis, which involved varying some of the estimates used to calculate the costs for both the treatment and the control group, indicated that the conclusions outlined above were relatively robust.

One final point noted was the comparatively high cost incurred by those who failed to complete the Drug Court program. This is particularly pertinent given the high drug court drop out rate observed in NSW and in other states. The report concluded that the cost effectiveness of the Drug Court could be improved by ensuring the earlier termination of program participants who do not make sufficient progress in the initial stages of the program.

In line with this recommendation, Freeman and Donnelly (2005) undertook a subsequent study that sought to identify factors present during the early phase of the program that might be predictive of program non-compliance and reoffending. Other studies (such as Makkai & Veraar's (2003) evaluation of the South East Queensland Drug Court and Skrzypiec's (2006a) analysis of the South Australian Drug Court) have also attempted to identify factors that might be predictive of program termination. While the findings from these studies are not recounted here, because they do not pertain specifically to the question of whether drug courts are achieving their key objectives, they may be useful in highlighting strategies for improving the cost effectiveness of these programs in the future.

New South Wales: Youth Drug Court

The evaluation of the NSW Youth Drug Court (Eardley et al. 2004) aimed to identify the costs associated with the program during its first 18 months of operation and how that compared with similar juvenile justice programs. Costs were broken down on a three-monthly basis to identify set-up costs as distinct from ongoing expenses. Although analysis was limited because of incomplete data, the study estimated a per capita cost of between $359 and $452 per participant. This was somewhat lower than the estimated cost of keeping a young person in custody (approximately $500 per day).

The study also estimated program costs for those who completed the program and found that, because of the relatively high attrition rate (with only 29 of the 164 persons referred during the first 18 months graduating from the program) Drug Court costs for this group were higher than incarceration, with per capita daily costs estimated at between $539 and $760 for Drug Court graduates.

Victoria

As part of a broader evaluation of Victoria's Court Diversion Program, King and Hales (2004) compared the costs and effectiveness of the Drug Court pilot program with those incurred by the alternative of incarceration. They based their estimates on the actual operating costs of the Drug Court borne by the Victorian Government and compared these with the costs of incarceration, using cost per individual per day as the unit of measurement.

The effectiveness indicator used was recidivism as recorded by 59 Drug Court participants and a comparison group of 50 persons sentenced by the Magistrates Court to imprisonment between May 2002 and June 2003 on charges equivalent to those of the Drug Court participants (see earlier discussion).

Overall, four separate costs were calculated:

- the actual costs incurred by the 59 persons in the treatment group during the study period (such as the cost of the magistrate, pre-sentence hearings, legal aid, treatment costs, urinalysis etc)
- an estimate of costs that would have been incurred over a 12 month period if the Drug Court were operating at capacity and with establishment costs excluded (referred to as steady state costs). This included an estimate of the costs associated with each episode of care, based on an assumed turnover rate for participants of 81 percent and an expectation that of those entering the program, only 71 percent would progress to Phase 11 and of these, 95 percent would progress to Phase 111 and ultimately graduate
- an estimate of the costs that would have been incurred if the treatment group had served their sentence of incarceration rather than undertaking a drug treatment order
- the actual costs (both pre- and post-sentencing) incurred by the comparison group during the study period. Given that 75 percent spent at least some time in prison during this period, the main component here was the cost of incarceration.

The results for each of these four analyses are summarised in Table 19. Two calculations are presented for each group, necessitated by the fact that, in estimating the costs of imprisonment, no data were available on the actual time served by the individuals. The upper estimate depicted in Table 19 assumes that the individual spent the entire custodial sentence actually imprisoned, with no parole period. The lower estimate assumes that the individuals were released from prison halfway through the period for which they were eligible for parole. The combined prison plus parole costs were then calculated, with the latter component based on the costs associated with the Community Corrections officer's role.

Table 19: Estimated costs for Drug Court participants and a comparison group ($)				
	Treatment group – actual	Drug Court – steady state	Treatment group – custodial sentence	Comparison group
Total costs ($m)	4.25 – 4.49	3.09 – 3.32	2.05 – 2.93	1.73 – 2.48
Costs per participant-day	192.79 – 203.65	148.42 – 159.50	117.39 – 167.46	115.91 – 165.99

Source: King & Hales 2004: 38

As shown:

- The actual costs attributed to the 59 participants over the 554 day study period was $4.25 – $4.49m, giving an average cost of $193 – $204 per participant day. This was high, according to the report, because the Drug Court was in its start-up phase and was not operating at full capacity, with a participation rate during the study period of only 71 percent, meaning that costs were spread over fewer participant days.
- The steady state estimate was $3.09m – $3.32m or $148 – $160 per participant day.
- The costs that would have been incurred had the Drug Court treatment group served their original custodial sentence was estimated at $2.05m to $2.93m, a figure which, as the evaluators point out, was $1.56m less than the actual expenditure incurred by the treatment group during this period.
- During the study period, the 50 members of the comparison group collectively spent 14,956 days in prison at an estimated total cost of $1.73 – $2.48m, or $116 – $166 per participant day, which was lower than the steady state costs associated with the Drug Court.

On the basis of these calculations, the evaluators concluded that the Drug Court was somewhat more expensive than incarceration. However, this did not take account of any benefits accruing from the earlier finding that rates of offending per free day among the Drug Court participants were significantly lower than those of the comparison group while they remained on the program. If it is assumed that the observed differences in offending rates per free day were sustained after program completion and that the Drug Court was operating at or near capacity, the study calculated that placing an offender on the Drug Court program rather than incarcerating him/her would, at worst, cost an extra $732 to prevent one additional offence while at best, there would be a savings of $146 per additional offence prevented. While these estimates should be treated with caution, the evaluation concluded that the Drug Court had the potential to be more cost effective than the alternative of imprisonment.

Western Australia

While the Crime Research Centre's (2003) evaluation of the Western Australian Drug Court included an assessment of cost benefits, only the combined results for all three components of that court were detailed. This included not only the Drug Court Regime, which most closely approximates those drug courts operating in other states, but also the BIR and STIR, which more closely resemble intermediate court-based drug diversion programs. By combining all three into the one analysis, the costs are likely to be lower than would be the case if the focus had been restricted to the more resource-intensive Drug Court Regime. It should also be noted that, as per the recidivism component of this study, analysis covered not only adults but also a small number of juveniles dealt with by the Children's Court Drug Court.

The evaluation (Crime Research Centre 2003: 130–131) addressed five issues:

- the overall cost of the Drug Court during its first 22 months

- of operation of these overall costs, the extra costs incurred by the Department of Justice over what it would have cost to process Drug Court clients via the normal court system
- the overall cost for the 513 Drug Court participants included in the recidivism study (see earlier summary)
- an estimation of the costs for this recidivism group had they not participated in the Drug Court
- an estimation of the costs attributable to any changes in reoffending associated with Drug Court involvement.

Analysis indicated that the total cost of the Drug Court during its first 22 months of operation was approximately $14.9m (including approximately $2m in court costs, $1.2m in Court Assessment and Treatment Services costs, $2.8m in treatment costs and $8.9m in sentencing costs). However, the evaluators noted that the sentencing costs would have been incurred by the Department of Justice even if the Drug Court had not existed and the participants had been processed through the normal court system. If both the sentencing costs and the IDDI funding (which was not a cost to the Justice Department) were deducted from the Drug Court costs, then only about $3m of the original $14.9m could be considered additional to everyday business (Crime Research Centre 2003: 143).

In the second part of its analysis, the study estimated that the total Drug Court costs associated with the 513 participants in the recidivism study were $11.4m. This included approximately $1.4m in court costs, $0.9m Court Assessment and Treatment Services costs, $2.1m in other treatment costs and retainers, and $7m in sentencing costs.

However, to offset these amounts, the report identified two potential benefits:

- First, those accruing from lower criminal costs associated with any reductions in recidivism levels among program participants. However, because the analysis failed to find a significant reduction in reoffending among the 513 participants, 'no monetary amount was recorded as a benefit' (Crime Research Centre 2003: 50).
- Second, the cost savings accruing from the difference between the processing and sentencing costs actually incurred and those that would have been applied had the offenders been dealt with through the normal system (including benefits derived from a reduction in the number of drug dependent offenders being imprisoned). The analysis calculated that a cost of $14.4m would have been incurred had they undergone conventional sentencing. This was more than the $11.4m actually incurred, which led the evaluators to conclude that 'the drug court appears to be a cheaper option than traditional sentencing' (Crime Research Centre 2003: 155).

Due to the variability of the data used to estimate costs, the study undertook a sensitivity analysis, which involved varying both the estimated percentage of offenders who would have been imprisoned if not for the Drug Court and the estimated percentage of the retainer funding provided by the Australian Government that was actually allocated to treatment costs. The analysis indicated that the total costs directly incurred by the Drug Court for the recidivism group ranged between $10.4m and $12.4m depending on the percentage of the Australian Government treatment retainer that was apportioned to the Drug Court rather than to other drug-related initiatives, while the costs that would have been incurred if this group had undergone conventional processing was estimated at between $10.8m and $14.4m, depending on the estimated percentage that would have been imprisoned.

These results indicate that the costs of the Drug Court were roughly equivalent to that of normal courts. However, the evaluators noted that 'there are good reasons to suspect that the drug court provides more benefits' (Crime Research Centre 2003: vi) that were not factored into their analysis, including those accruing from higher levels of engagement in treatment, possible reductions in drug use and improved health and wellbeing.

The WA Attorney General's Department review of the Drug Court included a cost benefit analysis comparing Drug Court costs with those involved in managing offenders either in prison or on community-based orders. In calculating Drug Court costs from its inception until December 2004, two components were factored in: the costs associated with running the court itself (for example, the cost of the magistrate and Drug Court team) and the costs associated with the Court Assessment and Treatment Services. Other justice-related costs, such as those incurred by prosecutors and police were not included, on the grounds that these would be comparable across the participant, prisoner and community corrections groups. A comparative assessment of treatment costs incurred by external providers was also not included because of a lack of relevant data for either the prisoner or community-based corrections groups.

It should also be noted that the Drug Court costs incorporated all program components, not only those associated with the Drug Court Regime but also those incurred by the STIR and (in all likelihood) the BIR elements. The inclusion of these latter components, which offered less intensive and shorter program interventions targeted at minor drug and drug-related offenders, raises questions about the validity of comparing total Drug Court costs with those incurred by the relatively high tariff outcomes of imprisonment and community-based orders. Moreover, costs for the Drug Court Regime included those incurred by a small number of juvenile offenders dealt with by the Children's Court Drug Court.

The study reported that the Drug Court cost an estimated $4.05m over its first three years of operation, which equated to approximately $16,211 per accepted Drug Court participant (Western Australia. Department of the Attorney General, 2006: 32). This compared with an estimated cost of imprisonment in 2002–03 of $93,075 per offender per year and $7,310 per offender in community corrections. This meant that, while the Drug Court was more costly than a community-based order, it was far less expensive than a custodial order.

Based on the cost differences between the three options and assuming that approximately 70 percent of Drug Court offenders would have been sentenced to imprisonment while 30 percent would have received a community-based order, if not for their involvement with the Drug Court (as indicated by the earlier Crime Research Centre's 2003 evaluation), the study postulated savings of $67,345 per Drug Court client. However, in determining this figure, the 2006 study does not seem to have factored in any sentencing costs for Drug Court participants, even though some of them would presumably have received a community-based sanction.

The evaluation also attempted to derive an estimate of the savings that would accrue in the future from reduced recidivism levels among Drug Court participants. To do this, it used the recidivism rates from its earlier comparison between Drug Court clients and prisoner and community-based offender groups (which showed that fewer Drug Court participants reoffended and did so less frequently than the other two groups) and assumed that, for each fresh offending episode following involvement with the Drug Court, 70 percent of participants would have been imprisoned for one year while 30 percent would have received a 15 month community-based order. This resulted in a justice management cost per episode of reoffending of $36,097 for Drug Court participants, which was lower than the $43,100 calculated for the community-based offender group, and the $47,545 for the prisoner group.

The study also attempted to calculate inter-group differences in the types of new offences committed, using the first fresh offence charged against individuals included in the earlier recidivism analysis and estimated costs per offence type derived by Mayhew (2003). This resulted in an average cost of $264 for the first reoffending episode involving Drug Court participants. This was lower than the average cost of the first fresh offending episode of $1,115 for the community-based offender group and $9,136 for the prisoner group.

The evaluators therefore concluded that 'when the different rates of recidivism were considered and the cost of just one of these recidivism episodes (was) taken into account, the Drug Court became more cost effective than a community order or prison' (Western Australia. Department of the Attorney General 2006: 35).

Discussion and conclusion

In response to community concerns about the link between drugs and crime and a growing acknowledgement that conventional criminal justice responses to drug dependent offenders have proved to been relatively ineffective, all Australian states and territories have introduced a range of initiatives, since the late 1990s, aimed at diverting such offenders into education, assessment and treatment with a view to tackling the underlying issues of drug dependency. These initiatives sit at different points along the criminal justice continuum, from initial contact with police, through pre- and post-sentencing stages in court, to a specialised custodial facility.

At least some of the impetus for this subsequent program development can be attributed to two factors:

- the emergence and rapid expansion of therapeutically-based drug courts in the United States during the late 1980s
- the development by the Ministerial Council on Drug Strategy of a national framework for the IDDI, which not only encouraged a more coordinated response to program development across the states and territories, but also resulted in the injection of vital Australian Government funding that allowed each jurisdiction to establish new drug diversion initiatives and/or enhance existing ones.

As a result, police drug diversion programs now operate in all eight jurisdictions, while intermediate court-based drug diversions are present in all states except Tasmania, which is due to implement such a program in 2007. Five states have a drug court in place, with only the three smallest jurisdictions – the ACT, Tasmania and the NT – yet to move in this direction. Finally, in the most recent development, in 2006 New South Wales introduced a specialist Compulsory Drug Treatment Correctional Centre for long term drug-dependent offenders – an initiative which may, in time, be taken up by other states.

Given the amount of funding invested in these various programs and the importance to the wider Australian community of reducing drug-related offending, it is crucial to know whether these programs are achieving their objectives. The intention of this report has been to pull together the findings from those outcome-based evaluation reports currently available in the public arena which may shed some light on this question.

When compared with many other criminal justice program areas, the number of evaluations undertaken on drug diversion initiatives is quite substantial. In part, this can be attributed to the Australian Government's commitment (as stipulated in Principle 19 of the framework for the IDDI) to undertake evaluations designed 'to inform best practice and continuous improvement' in this area. As a result, not only has the Australian Government itself commissioned several national evaluations, but states have also been able to use Australian Government IDDI funding to commission their own evaluations. Even for those programs that do not fall under the IDDI umbrella (notably the various drug courts), state governments have committed their own funding for evaluations.

Nevertheless, outcome-based assessments are not yet available for all programs (although this situation may change in the near future as the range of studies that are either currently underway or are nearing completion become available). Moreover, of those evaluations that are currently accessible, the majority measure only one or two of the target program's objectives. To illustrate:

- Most of the studies of police drug diversions made some attempt to assess the program's impact on reoffending but only one, Queensland's Police Drug Diversion Program (Hales et al. 2003), presented empirical data on changes in participants' drug use and health and wellbeing. Similarly, only one evaluation, Baker and Goh's (2004) assessment of the NSW Cannabis Cautioning Scheme, considered that program's impact on police and court workloads and subsequently used these data to derive an estimate of cost savings.

- Of those studies centred on intermediate court-based programs, only the evaluation of the NSW MERIT scheme attempted to assess all five of the key objectives. It not only provided some empirical data on changes in drug use, health, wellbeing and recidivism, but also attempted to assess the program's impact on court outcomes and cost benefits. In contrast, the two studies of Victoria's CREDIT program focused only on recidivism and sentencing impacts.
- In relation to drug courts, the most comprehensive evaluation was that of the NSW adult court, providing rigorous assessment of that court's impact on drug use, participants' health and wellbeing, reoffending and cost benefits (see Freeman 2002; Lind et al. 2002). Evaluations of drug courts in other states all included some measurement of recidivism while the study of Victoria's Drug Court attempted to canvass program impacts on drug use, health and wellbeing. Cost benefit analyses are also available for the Victorian and Western Australian Drug Courts, but only one study – that of the WA Drug Court (Crime Research Centre 2003) – made some attempt to estimate the impact on the type of court outcomes received.

In addition to this somewhat patchy coverage, the studies also encountered a range of methodological problems that affected their ability to determine whether these programs actually work. In particular:

- The fact that most took place in the early stages of the programs' operations often resulted in small sample sizes and relatively short follow-up periods within which to assess impacts on drug use and reoffending, particularly after program completion.
- Use of an interrupted time series design to measure changes in behaviour over time was often hampered by low success rates in recruiting participants and high attrition rates during the course of interviews, with the probability of response bias due to the likelihood that only the most successful participants were retained in the study.
- Of those studies that used official crime statistics to assess changes in criminal behaviour, only one (Lind et al. 2002) – had access to a randomised control group against which shifts in reoffending among program participants could validly be compared.
- The methodologies used to underpin the cost benefit analyses were limited because of the absence of comprehensive cost data and the difficulty (if not impossibility) of deriving quantitative estimates for intangible benefits accruing from any potential reduction in drug use and offending.

However, it should be noted that these problems are not specific to evaluations of Australian drug diversion initiatives but affect many outcome-based studies of similar programs undertaken in the UK, the US and elsewhere. Moreover, the evaluators themselves generally acknowledged the methodological problems inherent in their studies and were careful to take these into account when drawing their conclusions.

With these issues in mind, the following section summarises the key findings of the evaluation reports.

Police drug diversions

Impact on drug use

Some indication of shifts in drug use after program involvement comes from the evaluation of Queensland's police diversion program (Hales et al. 2003). On a positive note, it reported a decrease over time in the percentage of males and females who admitted to regular use of cannabis, and a reduction in the proportion of male and female participants who were poly-drug users. On the downside, however, while the proportion of females reporting regular cannabis use declined, the frequency of cannabis use among females who continued to use this drug increased over time. Other results were neutral. For example, the proportion of males and females indicating regular use of alcohol remained stable while regular use of heroin and cocaine remained low across the survey period.

Impact on criminal behaviour

McLeod and Steward's (1999) early evaluation of Victoria's Drug Diversion Program indicated higher apprehension levels among juveniles for use/possess drug offences after intervention than before. One possible explanation is that offending generally increases with age. It may be that these juveniles were detected at the start of their offending careers and were therefore less willing to desist.

The evaluation of Queensland's Police Drug Diversion Program (Hales et al. 2003) produced more positive results, although this may be due to its reliance on self-report data rather than official crime statistics. Very few of the participants interviewed reported any involvement in criminal activity, with that proportion decreasing after diversion. Among those who did reoffend, there was an apparent decrease in the frequency of offending. A relatively brief analysis of court appearance data indicated a reduction in appearances for minor illicit drug possession offences after referral to police diversion, although interestingly, this same trend also applied to a group of adults who had never been referred to the program.

Impact on health and wellbeing

The evaluation of Queensland's Police Drug Diversion Program (Hales et al. 2003) identified some positive improvements in health and wellbeing following program referral. For example, a higher proportion of respondents reported being in full time employment, there were some slight (but non-significant) improvements in both physical and mental health and a slight reduction in risky behaviour associated with injecting drug use. Levels of social functioning, which were relatively good to begin with, remained stable.

Impact on court workloads

The evaluation of the NSW Cannabis Cautioning Scheme (Baker & Goh 2004) found that, in the three years following the commencement of this program, there were marked reductions in both the number of charges laid by police for minor cannabis offences and the number of cannabis cases processed by the courts compared with the three years before. South Australia's official crime data showed a similar trend after the introduction of PDDI, with the number of juvenile apprehensions and Magistrates Court cases involving simple possession charges decreasing substantially. These findings indicate that police diversions, at least as they operate in these two jurisdictions, are achieving their objective of reducing the number of use/possess drug matters being formally dealt by the criminal justice system.

Impact on costs

Based on the size of the reduction observed in both the number of police charges and the number of court cases involving simple cannabis possession matters, the evaluation of the NSW Police Cannabis Cautioning Scheme (Baker & Goh 2004) identified cost savings of over $1m during its first three years of operation. When these were balanced against the program's operational costs, the evaluation concluded that the scheme had 'at least paid for itself in its first three years' (Baker & Goh 2004: 37). Given that the operational costs included start up expenses, it was predicted that cost savings would accrue from the initiative in subsequent years.

Taken as a whole, these findings are generally positive, particularly those relating to the reduction in the number of illicit drug matters entering the formal criminal justice system following program inception. However, the findings in relation to juvenile reoffending levels after police diversion warrant further investigation.

Intermediate court-based diversion programs

Impact on drug use

Information about this objective is derived from two evaluations. The first, which focused on the NSW MERIT scheme (Passey 2003) produced some mixed results. On the positive side, it found a significant reduction over time in respondents' preference for heroin and amphetamines use, a significant reduction in self-reported drug use and a significant decline in poly-drug use. In contrast, it found a significant increase in respondents' preference for cannabis which, the evaluators postulated, could be due to their decision to substitute cannabis for heroin or to a continued use of cannabis in the absence of heroin.

The second study (Crime Research Centre 2007) identified a significant reduction in drug use among a small group of individuals referred to Western Australia's POP from the time of referral to program completion. This decrease applied across most drug categories, including a reduction in the numbers reporting daily use of alcohol, cannabis and amphetamines.

Impact on criminal behaviour

Of the five program objectives, this one has received the most attention from evaluators. The results from the MERIT evaluation were generally positive. When compared with non-completers, those who finished the program were significantly less likely to reoffend, took longer to reoffend and were less likely to be charged with a fresh drug/theft/robbery offence. Program completion remained a significant predictor of reoffending even when factors such as gender, age, Aboriginality, drug of choice and prior imprisonment were controlled for. The evaluators considered this noteworthy, given that this group had 'a long history of criminal activity' which in their view, made it 'unlikely that they would have spontaneously changed without the program' (Passey 2003: 34).

The findings from the two evaluations of Victoria's CREDIT program were more ambiguous but also less methodologically rigorous. In an early evaluation, Heale and Lang (1999) found that, after standardising for the time available to reoffend, about half of CREDIT participants had reoffended within 84 days of starting the program. This was only slightly (and not significantly) lower than the reoffending rate of non-participants. Moreover, they found little difference between the two groups in the types of offences committed post-referral. A second evaluation (King et al. 2004) reported that between 30 and 46 percent of participants reoffended within the first 12 months following program commencement. However, in the absence of any comparison group, no interpretation of this finding is possible.

The two Western Australian studies that attempted to assess reoffending levels among diversionary participants produced somewhat variable results. The first, which focused on individuals who commenced the BIR component of the Perth Drug Court (Crime Research Centre 2003) found that, although program completers were less likely to be re-arrested within two years of program referral than either non-completers or a matched group of offenders previously apprehended in Western Australia for a drug offence, neither of these differences was statistically significant. Moreover, among those BIR participants who completed the program there were no significant differences between their actual probability of re-arrest after program completion and their estimated probability of re-arrest based on their prior offending history. The evaluators therefore concluded that there was no evidence of a reduction in reoffending that could be attributed to participation on BIR.

A more recent study of Western Australia's POP, STIR and IDP produced more consistent results. Despite small sample sizes, it found that program completers across all three programs had lower re-arrest rates in the 12 months post-program than their predicted risk of re-arrest based on their pre-referral offending profiles. Pre- and post-offending differences were most pronounced for those who completed the IDP and was least pronounced for STIR completers. The study also found that

those who failed to complete the program had consistently higher re-arrest rates post-program referral than the completers, while their actual re-arrest levels were consistently higher than their predicted risk of reoffending.

Impact on health and wellbeing

The NSW MERIT evaluation (Passey 2003) found that, while program participants generally had very poor health and social functioning at the time of entry to the program, there were significant improvements over time on a number of general health dimensions, a significant decline in risk taking associated with injecting drug use, significant improvements in thee of the four psychological wellbeing dimensions measured and significant improvements in social functioning.

The evaluation of Western Australia's POP (Crime Research Centre 2007) also found statistically significant improvements in both mental and physical functioning of participants from initial referral to program completion.

Impact on court outcomes

The two studies which sought to investigate program impacts in this area produced similar results. The MERIT evaluation (Passey 2003) found that the actual sentences imposed on a small sample of completers were less severe than the sentences that magistrates considered would have been imposed if not for their involvement in the program. Similarly, the evaluation of Victoria's CREDIT program (Heale & Lang 1998) indicated that among a very small sample who successfully completed the program, three quarters received a more favourable sentence than would have otherwise applied, whereas very few of those who failed to complete the program did so.

Impact on cost savings

The MERIT evaluation produced three estimates of benefits. One was based entirely on the direct savings accruing from the reduced sentences given to program completers, while the other two included different estimates of savings resulting from reductions in reoffending and hospitalisations. These calculations produced a 'conservative estimate of an annual net benefit of… $16,622 per completer' (Passey 2003: xi).

The Crime Research Centre's recent evaluation of WA's three pre-court diversionary programs, POP, STIR and IDP, estimated that the total cost of all three programs for the 2005–06 financial year was just over $3.9m, which equated to an average cost of $3,190 per client. However, this varied from $9,048 per STIR client, $3,396 per IDP client and $2,416 per POP client. According to the evaluators, these costs would be at least partly offset by their finding that participants recorded a reduction in drug use, improvements in mental and physical health and a reduction in offending during their involvement with the programs. However, no attempt was made to quantify these benefits for inclusion in the cost/benefit analysis.

Drug courts

Drug courts have the best evaluation coverage (with outcome-based reports now publicly available on all five adult drug courts and on one of the few youth drug courts operating in Australia) of all the tiers of drug diversion, and are also more methodologically rigorous.

Impact on drug use

Using shifts in expenditure over time as a proxy measure of illegal drug use, the evaluation of the NSW Drug Court (Freeman 2002) found that self-reported median weekly spending by this group fell significantly over the twelve month period following program entry, while legal income levels remained constant. The study attributed this to reduced spending on (and by implication, reduced use of) illicit drugs. Analysis of the urinalysis results of a small sample of participants supported this conclusion. It showed that, although the majority of the sample reported daily use of heroin prior to entering the program, during their first four months of involvement over one-third did not return a positive urinalysis test.

Using self-report data, Alberti et al.'s (2004b) evaluation of Victoria's Drug Court also found a significant reduction in heroin use six months after program commencement, as well as a reduction in its frequency of use. In contrast, although the use of amphetamines and other opiates remained stable over time, the number of participants who reported cannabis use increased as did the frequency of such use. The evaluators attributed this finding to a tendency to substitute cannabis for more serious drugs and a perception that cannabis use was more socially acceptable and less harmful.

Impact on criminal behaviour

Of all the evaluations of Australian drug diversion programs that sought to assess program impacts on reoffending, the most methodologically rigorous was that of the NSW Drug Court (Lind et al. 2002). Its use of a randomised experimental design imparted a high degree of reliability to its findings. Overall, this study found relatively few differences in reoffending between the Drug Court treatment group and a randomised control group who were processed through the conventional court system. However, when the treatment group was divided into those still on the program and those who were terminated, the study found that group status (participant versus non-participant) as well as termination status (i.e. non-terminated versus terminated) had a significant effect on the time taken to commit the first theft and the first drug offence. For both types of offence, the terminated group took a shorter time to offend than the control subjects, who in turn reoffended more quickly than those still on the program. Both group and termination status also exerted a strong effect on the frequency of theft-related offending and drug offending, with the non-terminated group committing a smaller number of such offences than the other two groups. The study therefore concluded that, in terms of both the time to first offence and offending frequency, those Drug Court participants who remained on the program fared better than either the terminated group or the control group. In turn, those in the control group generally had lower levels of reoffending than the terminated group. Given the methodology used, these findings provide the most reliable indication so far available that the drug court – insofar as it operates in NSW – is achieving its objective of reducing drug-related offending among those who remain engaged with the program.

In relation to the first key finding of the NSW evaluation – namely, that there were no significant differences in reoffending between program participants (taken as a whole) and selected comparison groups – other evaluations have produced somewhat mixed results.

- Like the NSW study, Makkai and Veraar's (2003) evaluation of the South East Queensland Drug Court found no significant differences in the time to first offence between the treatment group and either a prisoner comparison group or a Drug Court refusal group, and this remained the case when at least some of the potential areas of difference between the three groups (such as age at the time of Drug Court referral/release from prison, gender, prior imprisonment and prior offence records) were taken into account.

- Similarly, Payne's (2005) evaluation of the North Queensland Drug Court found no significant differences between the treatment and a refusal group in the time taken to reoffend when all fresh charges were considered or when analysis was limited to fresh property offences only. In relation to the time to first drug offence, although significantly fewer in the treatment group were likely to be reconvicted in the early stages of their involvement with the program, in the long term these differences disappeared. Payne (2005: 87) therefore concluded that, while 'there appears to be a significant short term effect', this was relatively short lived.
- In contrast to these findings, the evaluation of Victoria's Drug Court (King et al. 2004) found that members of the treatment group offended at a significantly lower rate than a comparison group of individuals dealt with in the conventional Magistrates Court who were sentenced to imprisonment on equivalent charges, even though no differences were evident when analysis was restricted to drug offences only.
- Similarly, a second study of the Western Australian Drug Court (Western Australia. Attorney General's Department 2006) indicated that those accepted onto the program had lower rates of reoffending (defined as re-contact with corrections) after program completion than either of two comparison groups (released prisoners and persons who had completed a community-based order). This, according to the evaluators, provided 'strong evidence that involvement in a Drug Court program had a positive effect in reducing the level of re-offending among individuals charged with a drug related offence' (Western Australia. Attorney General's Department, 2006: 1).

The second key finding from the NSW evaluation, that there were significant differences in reoffending between those who remained on the program and those who were terminated, is consistent with the results of the majority of other evaluations, including those of the NSW Youth Drug Court, the Victorian Drug Court, the South East Queensland Drug Court and the North Queensland Drug Court (although in relation to the last of these, the differences did not persist in the long term). The exception was the Crime Research Centre's evaluation of the Perth Drug Court Regime which found that, even though individuals who completed the program had lower re-arrest rates and took longer to reoffend than either the terminated group or those who, although referred to the program, were never accepted, these differences were not statistically significant.

While the link between terminates and higher post-program offending is not unexpected, given that reoffending is a primary factor contributing to termination from the program, Makkai and Veraar (2003: 40) suggest that it may indicate that 'two distinct cohorts are being accepted into the drug court program', with both cohorts reoffending during their time on the program but with the terminates reoffending more quickly and more frequently, thereby resulting in their removal. Irrespective of the reason, these findings indicate that drug courts seem to be successful in reducing reoffending among those who manage to remain on, and graduate from, the program.

In addition to comparing reoffending rates among program participants with those of other, usually non-randomly matched groups of offenders, several studies have sought to compare the reoffending rates of participants before entering the Drug Court with those recorded by the same group after either program commencement or program completion. The results have been fairly consistent. Both the Victorian and South Australian studies (King & Hales 2004 and Corlett, Skrzypiec & Hunter 2005 respectively) indicated lower post-program offending rates among participants than before program entry. The South East Queensland Drug Court study (Makkai & Veraar 2003) went one step further by comparing not only the pre/post offending records of graduates but also those of its other comparison groups – namely, the terminates, refusals and a matched prisoner group. It found that, while all of these groups recorded a lower average rate of offending post-program commencement (post-imprisonment), the difference was more pronounced for graduates than for the other three groups. Again, this suggests that the program may reduce reoffending among those who complete it.

One final point that requires comment is the extent to which the use of different methodologies and counting rules may influence the findings. The two evaluations of Western Australia's Drug Court illustrate this. As already noted, while the first evaluation, undertaken by the Crime Research Centre, found no significant differences in reoffending between completers and other comparison groups, the more recent study by the Attorney General's Department identified significant variations. It is highly probable that these different results can, to a large extent, be attributed to the substantially different methodologies and counting rules used by each study, including different comparison groups, different definitions of reoffending and different techniques for deriving the time available to reoffend. The definition of what constituted the participant group also varied, with one study focusing on STIR and Drug Court Regime participants, while the other also included BIR participants. This illustrates the importance of understanding what each study purports to measure and how it measures it in order to assess the validity of its findings and the extent to which it can be compared with other evaluations.

Impact on health and wellbeing

The NSW (adult) Drug Court evaluation identified improvements over a 12 month period in health status and in social functioning. The evaluation of the Victorian Drug Court (Alberti et al. 2004b) also found slight but non-significant improvements in social functioning and in the Physical Component and Mental Component Summary scores as measured by the SF36 over time. In addition, full time employment rates among participants doubled, while (not unexpectedly) the proportion of participants in treatment programs also increased.

Findings in relation to the NSW Youth Drug Court were more mixed. On the negative side, it found an increase in the level of unemployment among program participants over time, a slight decrease in participants' physical and mental health status (although the study did note that at the time of program commencement, the majority of respondents indicated that their health was excellent, very good or good) and an increase in those who reported that physical and emotional health problems were interfering with their social activities. There was also an increase in the proportion who reported that all the people they had known in the past six months were drug users. On a more positive note, the study found a slight but non-significant improvement in mental health and a decrease in the proportion of participants who reported experiencing physical pain (although this was apparently not linked with drug use).

Impact on court outcomes

While none of the publicly available evaluation reports specifically aimed to assess the impact of drug courts on the type of outcomes received, the Crime Research Centre's (2003) evaluation of the Perth Drug Court did include this as part of its cost benefit analysis. Although based on a relatively limited sample, it found a marked difference between the indicated and actual sentences imposed on program completers, with only one of the 28 in this group who were facing a likely prison term prior to their Drug Court involvement actually receiving such a sentence. In contrast, there was very little variation between the indicated and actual sentences imposed on offenders who were terminated from the program. These results indicated that, at least among those who succeeded on the program, 'the drug court reduces the number of offenders with substance use problems and addictions being imprisoned in the short term' (Crime Research Centre 2003: 155).

Cost savings/benefits

Again, the most rigorous analysis of this outcome was Lind et al.'s (2002) evaluation of the New South Wales adult Drug Court because of its access to a randomised control group. The study found that, in terms of the costs actually incurred, the Drug Court was a more expensive option. However, when these

were balanced against the financial benefits accruing from reductions in reoffending, the Drug Court became as cost effective as conventional sanctions in reducing the time taken by participants to commit either a shop theft or a use/possess opiates offence. Moreover, when differences in the actual number of shop theft and use/possess opiate offences committed by the participant and control groups were factored in, the Drug Court was more cost effective. The study also noted the comparatively high cost incurred by those who failed to complete the program and concluded that the cost effectiveness of the Drug Court could be improved by ensuring the earlier identification of those participants who do not make sufficient progress in the early stages of the program.

The other cost benefit analyses of Drug Courts currently available were methodologically more limited than the NSW study and produced some mixed results.

- The study of the NSW Youth Drug Court estimated that the cost of keeping young person on the program was less than holding them in custody.
- In contrast, the evaluation of the Victorian Drug Court calculated that the steady state cost of the Drug Court (excluding establishment costs) was higher than the costs that would have been incurred had the Drug Court treatment group served their original custodial sentence. However, when differences in reoffending between a participant and comparison group were taken into account, the study concluded that the Drug Court, at worst, would cost an extra $732 and at best, would save $146 to prevent one additional offence, compared with the alternative of incarceration, suggesting that the Drug Court had the potential to be more cost effective than prison.
- The two cost effectiveness studies of the Perth Drug Court combined the results for the less intrusive (and potentially less expensive) BIR and STIR components with those of the Drug Court Regime. This approach is likely to produce lower cost estimates than if analysis had focused on the Drug Court Regime only. The first evaluation by the Crime Research Centre found that the actual sentencing costs incurred by a group of Drug Court completers was roughly equivalent to that which would have been incurred by this group had they been processed in the conventional manner, even without taking into account any benefits (such as potential improvements in health and well being) which might result from involvement with the program.

The Western Australian Attorney General's Department (2006) review of the WA Drug Court used a different methodology and its findings were more positive. In terms of actual costs incurred by the Justice Department, it found that the Drug Court was more expensive than a community-based order but far less costly than a custodial order. However, when the costs of the actual sentences imposed on Drug Court participants were compared with the costs of the sentences they would probably have received if not for their involvement with the program, estimated savings of approximately $67,000 per Drug Court client were calculated. When the lower reoffending rates of Drug Court participants were taken into account, the study estimated that each fresh offending episode cost the Drug Court just over $36,000 compared with $43,000 for the community-based group and $47,000 for the prison group, thus rendering the Drug Court more cost effective than the other options.

Summary

Taken as a whole, the evaluation results are generally positive. However, as stressed previously, given the methodological limitations of most of these evaluations, the findings are not conclusive. This is not to say that the programs are not achieving some positive outcomes; simply that factors other than program involvement may at least partially explain any observed improvements or benefits. In this context, the positive findings arising from the reoffending and cost effectiveness analyses on the NSW Drug Court are particularly encouraging because they are underpinned by a comparatively sound methodology. However, because the structure of this program is quite different from other drug courts (particularly its emphasis on

an in-custody detoxification period prior to program entry) these findings cannot necessarily be generalised to drug courts operating in other states.

The other point to note is that because most of these evaluations focused on the programs during their early establishment phases, they tell very little about how the programs are currently functioning. All programs evolve over time, as initial teething problems (often identified by the evaluations themselves) are rectified, as understanding of participant needs is more fully developed and as political imperatives change. This is most clearly illustrated by the situation in Western Australia, where the two evaluations so far conducted of that state's drug court pertain to how it operated up to the end of 2003, with no insights available on the effectiveness of the post-2003 structure. It is quite possible that, were all of these programs to be evaluated now, after the inevitable teething problems had been resolved, more positive results would be forthcoming.

Where to from here?

All the issues outlined above are relevant to determining where to go from here. What is needed is a series of more up-to-date evaluations, particularly in the area of police and intermediate court-based diversions, to provide a better insight into the programs as they are operating now. While evaluating programs in their early stages of development is critical to identify and respond to any implementation and process-related issues, follow-up studies conducted some years after program inception are more important when measuring program outcomes, because by that stage, the number of participants is much larger and sufficient time has elapsed to assess long term impacts on reoffending and drug use patterns.

There is also a need for further methodological refinements, although it is doubtful whether some of the more fundamental problems, such as the lack of access to a randomised experimental design, could be achieved by most studies. There are obvious ethical dilemmas associated with assigning individuals to a program or control group on the basis of random selection unless, as in NSW, the number of individuals assessed as eligible exceeds the number of placements available. This seems extremely unlikely, particularly in relation to police drug diversions which, at best, entail low key interventions that impose few constraints on client numbers.

Nevertheless, there are some areas where methodologies could be improved. In particular, given that most of the evaluations made reference to a lack of appropriate data (notably in relation to reoffending and financial information) better and more accessible data collection systems would be useful. Some standardisation of methodologies, particularly among evaluations focused on the same type of diversion program, would also be helpful. As noted earlier, among those evaluations that focused on drug courts, some opted to measure recidivism in terms of re-apprehensions, others used re-conviction in court, while yet another used re-contact with corrections. This inevitably renders any comparison between the findings invalid. Hence, in the absence of a randomised control group, some agreement is needed in relation to what comparison groups are appropriate for which programs and what minimum range of variables should be used for matching purposes.

Several other issues require mention.

- The first relates to the program objectives themselves. Not only do some of the programs seem to lack clear statements of objectives couched in terms of high level outcomes rather than lower level process-related objectives, but of those aims that are listed, more thought may need to be given to the feasibility of actually achieving them within the context of what the program has to offer. For example, given the generally one-off interventions offered by police diversion programs, it is not really feasible to expect them to have long term impacts on drug use, particularly, as seems to be the case, many are targeting individuals who have relatively long histories of drug use and offending. Given that diverting such individuals away from the formal justice system is more achievable, perhaps this should be regarded as the primary aim at this level of intervention.
- The second issue centres on the type of questions the evaluations themselves are asking. Until now, the focus has primarily been on trying to ascertain whether drug courts, for example, are reducing recidivism. Perhaps it would be more useful to identify those for whom the drug courts are working and under what circumstances or conversely, those for whom are they not working and why not. In relation to this latter question, one obvious area of investigation is the disproportionately low referral rates for Indigenous offenders and their comparatively low completion rates following referral, which has been identified by a number of studies. Given that one program is not going to assist all participants, a better understanding of those most likely to benefit from which programs is clearly needed. This accords with the realistic evaluation approach advocated by Pawson and Tilley (1997) which emphasises the unique idiosyncrasies of the particular program being scrutinised. It also links in with the recommendation of Freeman and Donnelly (2005) regarding the need for earlier identification of individuals who are likely to be terminated from the program so that more appropriate alternatives can be provided for them.
- A third issue is the need to identify any unintended consequences that may stem from the operation of these diversion programs. In relation to drug courts, for example, some concerns have been expressed that any preferential access to treatment placements accorded to drug court clients may disadvantage an agency's voluntary clients in situations where placements are limited. The potential for net-widening has also been raised. This applies at the level of police division, where behaviour which may previously have resulted in an informal caution may now be subject to formal prosecution if the individual fails to attend the stipulated drug assessment session. It is also a potential factor at the court level, where increased breach rates arising from the more stringent and longer term bail conditions associated with drug court involvement may result in more individuals being placed on remand. If such unintended consequences are identified, at the very least they need to be factored in to any cost benefit analysis.
- The final issue, and potentially the most important one, is the need for at least some evaluations to take a more holistic approach designed to assess the overall, or composite, effectiveness of the range of drug diversion programs now operating within each jurisdiction. As noted earlier, given that police drug diversions, intermediate court-based diversions and drug courts sit at different points along the criminal justice continuum, ostensibly targeting different types of drug-using offenders, providing different levels of intervention, and placing different emphases on diversion versus therapeutic jurisprudence, evaluations are needed that compare and contrast these three types of initiatives, to determine whether they complement or compete with each other for clients and resources, whether the continuum of responses is actually working in practice, whether any drug or drug-dependent offenders are slipping through the cracks and whether, in combination, the three are achieving mutually reinforcing outcomes . If the maxim that the whole is greater than the sum of its parts holds true, then we need to determine and measure the benefits (or otherwise) of the drug diversion programs taken as a whole. Such an overview would contribute significantly to our understanding of the efficacy of drug diversion in Australian criminal justice systems.

Web-based information about drug diversion programs

All URLs were correct in August 2007

Australian Capital Territory

Community health: diversion services
http://www.health.act.gov.au/c/health?a=da&did=10038160&pid=1058841259

New South Wales

Compulsory Drug Treatment Correctional Centre
http://www.druginfo.nsw.gov.au/law_&_justice/compulsory_drug_treatment/compulsory_drug_treatment_correctional_centre

Cannabis Cautioning Scheme
http://www.druginfo.nsw.gov.au/diversion/cannabis_cautioning_scheme

Drug Court of New South Wales
http://lawlink.nsw.gov.au/Lawlink/drug_court/ll_drugcourt.nsf/pages/adrgcrt_index

Magistrates Early Referral into Treatment (MERIT)
http://www.aic.gov.au/conferences/crimpre/flaherty.html

Youth Drug and Alcohol Court
http://lawlink.nsw.gov.au/lawlink/drug_court/ll_drugcourt.nsf/pages/ydrgcrt_index

Northern Territory

Drug Court wins major program award
http://www.nt.gov.au/dcm/ocm/media/index.cfm?fuseaction=viewRelease&id=198&d=5

NT Illicit Drug Pre-Court Diversion Program
http://www.nt.gov.au/pfes/PFES/index.cfm?fuseaction=page&p=133&m=25&sm=80&ssm=20

Queensland

Queensland Illicit Drug Diversion Initiative
http://www.health.qld.gov.au/atods/programs/drug_court.asp

Police Diversion Program for a Minor Drugs Offence (Cannabis)
http://www.police.qld.gov.au/Resources/Internet/services/documents/gen_brochure.pdf

Court diversion program for a minor drug offence
http://www.justice.qld.gov.au/courts/pdfs/courtDiversion.pdf

Drug Court program
http://www.health.qld.gov.au/atods/programs/drug_court.asp

Queensland Magistrates Early Referral into Treatment (QMERIT) Program: Practice Direction no. 4 of 2006
http://www.courts.qld.gov.au/practice/pracdir/mg06_04.pdf

South Australia

Magistrates Court Drug Court
www.courts.sa.gov.au/courts/drug_court/content.html

Courts Assessment and Referral Drug Scheme (CARDS)
www.courts.sa.gov.au/courts/magistrates/cards.html

Tasmania

Drug diversion
www.dhhs.tas.gov.au/services/view.php?id=936

Victoria

Cannabis cautioning program
http://www.health.vic.gov.au/drugservices/services/fs_cannabis.htm

Drug Court
http://www.magistratescourt.vic.gov.au/CA256CD30010D864/page/Specialist+Court+Jurisdictions-Drug+Court?OpenDocument&1=40-Specialist+Court+Jurisdictions~&2=40-Drug+Court~&3=~

Court referral and Evaluation for Drug intervention and Treatment (CREDIT)
http://www.health.vic.gov.au/drugservices/services/fs_credit.htm

Forensic treatment for offenders: diversion programs
http://www.health.vic.gov.au/drugservices/services/fs_index.htm

Western Australia

The drug diversion continuum
http://www.dao.health.wa.gov.au/AboutDAO/WADiversionProgram/tabid/219/Default.aspx

Review of the Cannabis Control Act 2003
http://www.dao.health.wa.gov.au/IntheMedia/ReviewofCannabisControlAct2003/tabid/218/Default.aspx

Bibliography

Alberti S et al. 2004a. *Court diversion program evaluation: overview report: final report.* Court diversion program evaluation vol. 1. Melbourne: Turning Point Alcohol and Drug Centre Inc in collaboration with Health Outcomes International

Alberti S et al. 2004b. *Health and well-being study: Victoria Drug Court: final report.* Court diversion program evaluation vol. 3. Melbourne: Turning Point Alcohol and Drug Centre Inc in collaboration with Health Outcomes International

Alcohol and Other Drugs Council of Australia 2003. *Strategies to minimise harm: diversion.* ADCA policy position no. 2.10. Canberra: ADCA.
http://www.adca.org.au/policy/index.htm

Alcohol and Other Drugs Council of Australia 1996. *Best practice in the diversion of alcohol and other drug offences: proceedings of the ADCA Diversion Forum.* Canberra: ADCA

Atherton TJ n.d. *Managing police discretion: incorporating the Western Australia Cannabis Cautioning Mandatory Education System (CCMES).* Perth: Western Australia Police Service

Australia. Department of Health and Ageing 2006. *Supplementary submission to the Parliamentary Joint Committee on the Australian Crime Commissions Inquiry into Amphetamines and Other Synthetic Drugs.* Canberra: DHA.
http://www.aph.gov.au/Senate/committee/acc_ctte/aosd/submissions/sub16A.pdf

Australian Institute of Criminology 2006a. *Australian responses to illicit drugs: drug courts.*
http://www.aic.gov.au/research/drugs/responses/drug_courts.html

Australian Institute of Criminology 2006b. Drug courts: reducing drug-related crime. *AICrime reduction matters* no. 24

Baker J & Goh D 2004. *The Cannabis Cautioning Scheme three years on: an implementation and outcome evaluation.* Sydney: BOCSAR.
http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/R54.pdf/$file/R54.pdf

Belenko S 2001. *Research on drug courts: a critical review 2001 update.* New York NY: National Centre on Addiction and Drug Abuse

Belenko S 1998. Research on drug courts: a critical review. *National Drug Court Institute review* 1: 1–42

Berman G & Feinblatt J 2001. Problem-solving courts: a brief primer. *Law and policy* 23: 125

Briscoe S & Coumarelos C 2000. *NSW Drug Court: monitoring report.* Crime and justice bulletin no. 52. Sydney: BOCSAR.
http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/cjb52.pdf/$file/cjb52.pdf

Bull M 2005. A comparative review of best practice guidelines for the diversion of drug related offenders. *International journal of drug policy* 16: 223–234

Bull M 2003. *Just treatment: a review of international programs for the diversion of drug related offenders from the criminal justice system.* Kelvin Grove: School of Justice Studies, Queensland University of Technology

Clancey G & Howard J 2006. Diversion and criminal justice drug treatment: mechanism of emancipation or social control. *Drug and alcohol review* 25(4): 377–385

Corlett E, Skrzypiec G & Hunter N 2005. *Offending profiles of SA Drug Court Pilot Program 'completers'.* Adelaide: Office of Crime Statistics and Research.
http://www.ocsar.sa.gov.au/docs/evaluation_reports/DrugCourt1.pdf

Crime Research Centre 2007. *WA diversion program: evaluation framework (POP/STIR/IDP): report to Drug and Alcohol Office.* Perth: Crime Research Centre, University of Western Australia

Crime Research Centre 2003. *Evaluation of the Perth Drug Court pilot project: final report.* Perth: Crime Research Centre, University of Western Australia

Eardley T et al. 2004. *Evaluation of the New South Wales Youth Drug Court pilot program: final report for the NSW Attorney General's Department.* Kensington: Social Policy Research Centre

Freeman K 2002. *New South Wales Drug Court evaluation: health, well-being and participant satisfaction.* Sydney: BOCSAR.
http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/L14.pdf/$file/L14.pdf

Freeman K & Donnelly N 2005. *Early-phase predictors of subsequent program compliance and offending among NSW Adult Drug Court participants.* Crime and justice bulletin no. 88. Sydney: BOCSAR.
http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/CJB88.pdf/$file/CJB88.pdf

Freiberg A 2005. Problem oriented courts: an update. *Journal of judicial administration* 14: 178–219

Freeman K, Karski RL & Doak P 2000. *NSW Drug Court evaluation: program and participant profiles.* Crime and justice bulletin no. 50. Sydney: BOCSAR.
http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/cjb50.pdf/$file/cjb50.pdf

Freiberg A 2003. Therapeutic jurisprudence in Australia: paradigm shift or pragmatic incrementalism? *Law in context* 20(2): 1–18

Freiberg A 2001. Problem oriented courts: innovative solutions to intractable problems? *Journal of judicial administration* 11: 8–27

Freiberg A 2000. Australian drug courts. *Criminal law journal* 24(4): 213–235

Hales J et al. 2003. *Evaluation of Queensland Illicit Drug Diversion Initiative (QIDDI) Police Diversion Program: final report.* Brisbane: Queensland Health.
http://www.health.qld.gov.au/atods/documents/22145.pdf

Harkin K & O'Brien B 2006. CARDS, CREDIT and MERIT: a comparison of court based diversion initiatives in three states. Paper to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006.
http://www.justice.qld.gov.au/conference/papers/5HarkinOBrien.pdf

Harrison A & McRostie H 2002. *Evaluation of the Drug Court Pilot Program: interim report.* Adelaide: Office of Crime Statistics and Research

Heale P & Lang E 1999. *Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT): final evaluation report.* Melbourne: Turning Point Alcohol and Drug Centre

Health Outcomes International et al. 2002. *Evaluation of Council of Australian Governments' initiatives on illicit drugs: final report to Department of Finance and Administration.* Adelaide: HOI

Irwin J 2006. Operational models update: drug diversion. Presentation to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006
http://www.justice.qld.gov.au/conference/papers/4JoanneIrwin.pdf

Jefferies S 2003. *Transforming the criminal courts: managerialism, consumerism, therapeutic jurisprudence and change: report to the Criminology Research Council.* Canberra: CRC. http://www.aic.gov.au/crc/reports/2002-jeffries.pdf

Johns R 2004. *Drug offences: an update on crime trends, diversionary programs and drug prisons.* Briefing paper no. 7/04. Sydney: NSW Parliamentary Library Research Service. http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/83855D0832A2BB88CA256EED0029B230/$File/drug+crimes+and+index.pdf

King J & Hales J 2004. *Victorian Drug Court: cost-effectiveness study: final report.* Melbourne: Department of Justice

King J et al. 2004. *Process evaluation and policy and legislation review: final report.* Melbourne: Department of Justice

King MS 2006. Challenges facing Australian court drug diversion initiatives. Keynote address to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006 http://www.justice.qld.gov.au/conference/papers/KeynoteKing.pdf

King MS 2003. Innovation in court practice: using therapeutic jurisprudence in a multi-jurisdictional regional magistrates' court. Paper presented to New challenges, fresh solutions: 21st annual conference of the Australian Institute of Judicial Administration Fremantle, Sept 2003

Kons S 2006. Court mandated drug diversion program. *Media release* 28 September

Lawrence R & Freeman K 2002. Design and implementation of Australia's first drug court. *Australian and New Zealand journal of criminology* 35(1): 63–78

Lind B et al. 2002. *New South Wales Drug Court evaluation: cost-effectiveness.* Sydney: BOCSAR. http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/L15.pdf/$file/L15.pdf

Makkai T & Veraar K 2003. *Final report on the South East Queensland Drug Court.* Technical and background paper no. 6. Canberra: Australian Institute of Criminology

Martinson R 1974. What works? Questions and answers about prison reform. *The public interest* 35: 22–54

Mayhew P 2003. Counting the costs of crime in Australia. *Trends & issues in crime and criminal justice* no. 247. http://www.aic.gov.au/publications/tandi/tandi247.html

McLeod J & Stewart G 1999. *Evaluation of the Drug Diversion Pilot Program.* Melbourne: McLeod Nelson and Associates

Ministerial Council on Drug Strategy 1999a. Illicit Drug Diversion Initiative: COAG framework. http://www.healthconnect.gov.au/internet/wcms/publishing.nsf/Content/health-pubhlth-strateg-drugs-illicit-diversion-coag.htm

Ministerial Council on Drug Strategy 1999b. Illicit Drug Diversion Initiative: national principles. http://www.healthconnect.gov.au/internet/wcms/publishing.nsf/Content/health-pubhlth-strateg-drugs-illicit-diversion-principles.htm

New South Wales. Government 2007. *Compulsory Drug Treatment Correctional Centre.* http://www.druginfo.nsw.gov.au/law_&_justice/compulsory_drug_treatment/compulsory_drug_treatment_correctional_centre

Passey M (ed) 2003. *Evaluation of the Lismore MERIT Pilot Program: final report.* Sydney Attorney General's Dept.
http://www.ncahs.nsw.gov.au/tmp/final_report_MERIT_evaluation.pdf

Pawson R & Tilley N 1997. *Realistic evaluation.* London: Sage

Payne J 2006. Specialty courts: current issues and future prospects. *Trends & issues in crime and criminal justice* no. 317.
http://www.aic.gov.au/publications/tandi2/tandi317.pdf

Payne J 2005a. *Final report on the North Queensland Drug Court.* Technical and background paper no. 17. Canberra: Australian Institute of Criminology.
http://www.aic.gov.au/publications/tbp/tbp017/

Payne J 2005b. *Specialty courts in Australia: Report to the Criminology Research Council.* Canberra: Australian Institute of Criminology.
http://www.aic.gov.au/crc/reports/2005-07-payne/2005-07-payne.pdf

Penter C, Walker N & Devenish-Meares M 1999. *Evaluation of the pilot of the WA Cannabis Cautioning and Mandatory Education System: final report.* Perth: WA Drug Abuse Strategy Office

Salter A 2006. WA Comprehensive Diversion Program. Presentation to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006
http://www.justice.qld.gov.au/conference/papers.htm

Seymour J 1988. *Dealing with juvenile offenders.* North Ryde: Law Book Co

Skrzypiec G 2006a. *The South Australian Drug Court: an analysis of participant retention rates.* Adelaide: Office of Crime Statistics and Research

Skrzypiec G 2006b. *The South Australian Drug Court: a profile of participants during its first thirty eight months of operation.* Adelaide: Office of Crime Statistics and Research

South Australia. Office of Crime Statistics and Research (OCSAR) 2004. *Crime and justice in South Australia: adult courts and corrections: a statistical report*. Adelaide: Attorney-General's Dept

South Australia. Office of Crime Statistics and Research (OCSAR) 2003. *Crime and justice in South Australia: juvenile justice: a statistical report.* Adelaide: Attorney-General's Dept

South Australia. Office of Crime Statistics and Research (OCSAR) 2002a. *Crime and justice in South Australia: adult courts and corrections: a statistical report.* Adelaide: Attorney-General's Dept

South Australia. Office of Crime Statistics and Research (OCSAR) 2002b. *Crime and justice in South Australia: juvenile justice: a statistical report.* Adelaide: Attorney-General's Dept

South Australia. Office of Crime Statistics & Research (OCSAR) & Justice Strategy Unit 2005. *Justice Portfolio Drug Strategy indicators: annual report.* Adelaide: Attorney-General's Dept

Stojcevski V 2006. Size does matter: establishing a drug court pilot in Tasmania. Presentation to Court Drug Diversion Initiatives Conference, Brisbane, 25th May 2006. http://www.justice.qld.gov.au/conference/papers/5VictorStojcevski.pdf

Taplin S 2002. *The New South Wales Drug Court evaluation: a process evaluation.* Sydney: BOCSAR.
http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/L13.pdf/$file/L13.pdf

Tasmania Law Reform Institute 2006. *The establishment of a drug court pilot in Tasmania.* Research paper no. 2. Hobart: TILES.
http://www.law.utas.edu.au/reform/Drug_Court_17nov06_A4_Final.pdf

Thacker A 2006. The Queensland Drug Court. Presentation to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006.
http://www.justice.qld.gov.au/conference/papers/6AnneThacker.pdf

Turning Point Alcohol and Drug Centre 2002.

- *Drug diversion: handbook for drug clinicians*
- *Drug diversion: handbook for lawyers*
- *Drug diversion: handbook for magistrates*
- *Drug diversion: handbook for police*

Canberra: Dept of Health and Ageing

Valuri G, Indermaur D & Ferrante AM 2002. *The criminal careers of drug offenders in Western Australia.* Perth: Crime Research Centre

Walker S, Francis R & Harding M 2006.Therapeutic perspectives: harm minimisation, therapeutic jurisprudence and punishment. Presentation to Court Drug Diversion Initiatives Conference, Brisbane, 25–26 May 2006
http://www.justice.qld.gov.au/conference/papers/2HardingWalkerFrancis.pdf

Western Australia. Department of the Attorney General 2006. *A review of the Perth Drug Court.* Perth: Government of Western Australia

Wexler DB 1991. An introduction to therapeutic jurisprudence, in Wexler DB & Winick BJ (eds), *Essays in therapeutic jurisprudence.* Durham NC: Carolina Academic Press: 17–38