

Reflections on 2010

The Drug Court had a very successful year, with a record-equalling 42 participants graduating, and thereby precisely repeating the success of 2009. Similarly, the percentage of participants who were not required to return to gaol at the end of their program was again 57%, or 90 of the 158 participants who completed a program this year.

Drug Court expansion

On 17 June 2010 the Attorney General, the Hon. John Hatzistergos, MLC, announced the expansion of the Drug Court to provide a Drug Court program in the Hunter Region. \$3.7m has been allocated by the Government to the project for the first year of operations, and court room accommodation will be provided at Toronto, until the new multi-jurisdiction Court House is built in Newcastle.

The Drug Court welcomes Judge Paul Cloran to the Court. Judge Cloran has a wealth of experience as a former magistrate and then Deputy Chief Magistrate. His appointment will give this Court the flexibility to provide the additional sittings at Toronto.

An enormous amount of work has been done within all agencies to plan and prepare for the opening of the Hunter Drug Court in March 2011, including the creation of registry and collaborative team accommodation, recruitment and training of the new Drug Court team.

Ongoing research

The NSW Bureau of Crime Statistics and Research has comprehensively evaluated the Drug Court program in both 2002 and 2008. Those positive evaluations, together with a Cost Effectiveness evaluation by the Centre for Health Economics Research and Evaluation (also conducted in 2008), led the Government to announce an investigation into the expansion of the Drug Court program.

Given the strong evidence coming from both international and Australian research, which shows that drug courts are both cost effective and reduce recidivism, the focus has now turned to identifying what aspects of drug court programs are most effective, and to seek an understanding as to why they are successful. The Drug Court of NSW has now developed a research partnership with the Bureau of Crimes Statistics and Research,

so as to seek additional insights and guidance in the work undertaken at the court.

It has long been known that the judicial supervision of participants on a Drug Court program is an essential element of the program. It has emerged in overseas research that increased judicial supervision may be one way to improve outcomes. With this in mind, an exciting trial is underway whereby all new participants from March 2010 to March 2011 will be randomly allocated into two groups. One group is receiving “intensive judicial supervision”, whereby they will meet with the judge and the Drug Court team twice a week during a (longer) four month Phase 1 of the program. The second group will receive supervision as usual, and will meet with the judge and team once per week during a standard three month Phase 1.

The researchers have reported that adherence to the program design has been outstanding, and the outcome of the research will be of great interest to drug courts around the world.

Agreements with Program Partners

The Drug Court provides an interesting model of Government, and indeed non-Government, agencies working together to deliver a joint program. The role of the different agencies needs definition so as to ensure there is no overlap in the provision of assistance or services, and to ensure there is a mutual understanding of what is required of each organisation.

On 25 June 2010 the Commissioner for Corrective Services NSW, Mr Ron Woodham, and I signed a new Memorandum of Understanding between our two organisations. The Memorandum sets out the roles of each organisation, the contributions the Community Compliance Group will make to the preparation of treatment and case management plans, and the minimum standards as to contacts with participants during the three phases of a participant’s Drug Court Program.

The planning and development of an Accord with the Department of Housing (who is not a formal program partner) is also in the final stages. The Housing Accord will provide an enhanced avenue towards stable housing for those participants on the Drug Court Program who have critical housing needs.

Pre-ballot screening – a successful innovation

Last year the Court reported a major administrative initiative – the removal from the ballot of those who were clearly ineligible or inappropriate for entry into a Drug Court Program. Drug Court policy 12 “*Selection of Participants*” was amended to incorporate the changes.

This initiative saved considerable resources in 2010, and it also meant an enhanced opportunity to be admitted to the program for those who were suitable for the program. In 2010, of the 225 persons placed in the ballot, nearly all, or 223, were accepted after the ballot. Further to that, only 17 who were accepted after the ballot were unable, for a variety of reasons, to be placed onto a Drug Court program. As recently as 2008, over 50 were not accepted after the ballot, and 104 of those accepted were not placed onto a Drug Court program.

Whilst the pre-ballot screening system increases the work load of our Police, DPP and Legal Aid partners in the pre-program stage, the savings across the whole program for all partners is considerable.

The Compulsory Drug Treatment Correctional Centre

The Drug Court has an ongoing role in the judicial supervision of participants undertaking a Compulsory Drug Treatment Order at the special Compulsory Drug Treatment Correctional Centre (CDTCC) at Parklea.

The CDTCC program has matured and developed since being launched in 2006, and the role of the Drug Court has expanded as the number of participants on the senior phases of that program increases. A decision has been taken to bring CDTCC participants on Stages 2 and 3 of that program to report to the judge of the Drug Court either fortnightly or monthly, depending upon their stability and employment commitments. A regular time each fortnight is now allocated to that commitment.

The Drug Court has also been invited to contribute to the statutory review of the Compulsory Drug Treatment program legislation, and has provided a comprehensive response.

This Court has also published Drug Court Policy 14 “*Parole for Participants of the Compulsory Drug Treatment Correctional Centre*”. The Drug Court is the parole authority for participants of that program, and exercises the ordinary law in relation to the granting of parole. The

consideration of parole is complicated by the opportunities participants already have to be lawfully in the community under stages 2 and 3 of that program. Quite often, participants are not seeking parole, and wish to continue under their Compulsory Drug Treatment Order.

So as to provide guidance and certainty around parole issues, the published policy sets out the expectations of the Drug Court as to the completion of the CDTO, and what is expected to have been achieved before parole would, in the ordinary course of events, be granted. For example, providing the sentence is of sufficient length, a participant would be expected to have advanced to Stage 3 of the program, and completed six continuous successful months in the community on Stage 3, before parole could be expected to be granted.

Radio Documentary – Drug Court

Agreement has been reached with ABC Radio National for a senior journalist to make a radio documentary on the Drug Court. All partner agencies were consulted, and the State of NSW has entered into an agreement with the ABC to govern the scope and access of the journalist to the Drug Court, its partners and participants. The journalist will record some proceedings and also interview a small group of willing participants over 12 months or more. The program is expected to go to air in late 2011.

J R Dive
Senior Judge

Visitors:

Sudanese Court Support – March 2010

Department of Community Services – May 2010

Delegates from Thailand visiting Australia regarding Drug Use and Harm Reduction – June 2010

Ms Val Sim, Commissioner, Law Commission of New Zealand - June 2010

Indonesian delegation – June 2010 and August 2010

Chief Justice of Sri Lanka – June 2010

Mr Woodham, Commissioner, Department of Corrective Services – June 2010

Delegation from Uganda – June 2010

The Hon, Harold Sperling QC chairperson of the Crime and Justice Reform Committee, and Professor Eileen Baldry, University of NSW – August 2010

Mr Philippi, Inspector, NSW Police – August 2010

Mr Cosman, State Parole Authority – August 2010

Magistrate Keough, Brisbane Magistrates Court – September 2010

Commissioner Kintu, Ministry of Internal Affairs, The Republic of Uganda – September 2010

Mr Moosa Azim, Department of Penitentiary and Rehabilitation Services, Republic of Maldives – September 2010

New Zealand Ministry of Justice – September 2010

Judges Aitken and Tremewan, District Court New Zealand – October 2010

Mr Peter Achterstraat, Auditor General of NSW – December 2010

Community and Judicial Education

Senior Judge Dive addressed the following conferences or events:

Non-Adversarial Justice – Implications for the Legal System – AIJA conference May 2010

Local Court of NSW Annual Conference - June 2010

“Criminal justice responses to drug use and offending” Seminar – St Vincent’s Hospital, Darlinghurst, May 2010

Department of Corrective Services – Community Compliance Officer Training – February 2010

Guthrie House – November 2010

Naidoc Day at Compulsory Drug Treatment Correctional Centre – July 2010

Program activity by year for the past seven years (2004 to 2010)

Year	Program entrants	Sentenced program completers	Non Custody (Graduates)*	Custody	% Non Custody
2004	142	133	62 (20)	71	47%
2005	165	150	74 (36)	76	49%
2006	164	155	62 (33)	93	40%
2007	169	176	78 (28)	98	44%
2008	132	151	65 (29)	86	43%
2009	158	146	83 (42)	63	57%
2010	140	158	90 (42)	68	57%

NB: The number of those classed as program graduates shown in brackets.

Statistical overview

2010 activity

Program entry	Persons
Placed in ballot	225
Accepted after ballot	223
Not entered into Program	17
Awaiting Initial Drug Court Sentence	14

Program progression	Participants
Participants who entered Phase 1 in 2010	140
Participants who progressed to Phase 2 in 2010	88
Participants who progressed to Phase 3 in 2010	68
Phase 1 participants as at 31/12/10	60
Phase 2 participants as at 31/12/10	45
Phase 3 participants as at 31/12/10	38
Participants on program as at 31/12/10	143

Court Determinations	Participants
Terminated after "potential to progress" hearing	32
Terminated after "risk to community" hearing	30
Retained after "Potential to progress" or "risk" hearing	18

Programs Completed	Participants
Graduated	42
Substantial Compliance	8
Non Custody	40
Total Non custody	90
Custody	68
Total completions	158