

DRUG COURT OF NSW

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Since its inception on 8 February 1999, the Drug Court of NSW has been operational, providing an intensively supervised treatment program to assist drug dependent offenders to overcome their drug addiction and criminal behaviour. As at 31 July 2001, 980 referrals have been made to the Drug Court of NSW, with 508 being placed on a Drug Court Order. Of those who have been terminated, 32 (10%) have graduated successfully from the program, whilst 278 (80%) have been terminated due to 'no useful purpose' and 32 (10%) have 'self-terminated'. There are currently around 170 participants on the program, the majority being male, under the age of 30 years and in Phase 1. The Bureau of Crime Statistics and Research (BOCSAR) produced its final routine monitoring report in December 2000, and its interim report on health and wellbeing of participants published in February 2001. An overview of the program will be presented, including eligibility criteria as outlined in the Drug Court Act 1998. In addition, profiles of 'successful' and 'not so successful' participants on the program will be included. This is an innovative program for the Probation and Parole Service and one that enables us to work as part of a multi-disciplinary team.

Introduction

The Drug Court of NSW opened its doors on 8 February 1999, providing an intensively supervised treatment program to assist drug dependent offenders to overcome their drug addiction and criminal behaviour. The Court, located in the Parramatta Court complex, is presided over by a District Court Judge and has both Local and District Court jurisdiction. The legislation is embodied in the Drug Court Act 1998 (8 December 1998), the Drug Court Regulation 1999 (5 February 1999), the Drug Court Amendment Act 1999 (1 November 1999) and the Drug Court Amendment Regulation 2000 (1 December 2000).

As at 31 July 2001, a total of 980 referrals had been made, with 508 having been placed on the program. Of those whose program has been terminated to this date, 32 (10%) participants have graduated successfully from the program, whilst 278 (80%) have been terminated due to 'no useful purpose' and 32 (10%) have 'self-terminated'. At the time of writing, there are currently around 170 participants on the program.

This paper will provide an overview of the program, the role of the Probation and Parole Service in the program, brief results from two reports by BOCSAR, and profiles of 'successful' and 'not so successful' participants.

Aims of the Drug Court

The object of the Court is to reduce the level of criminal activity that results from drug dependency. This is achieved by establishing a scheme whereby drug dependent persons, charged with a criminal offence or offences, can be diverted into programs designed to eliminate, or at least reduce, their dependency on drugs. The program involves:

- intensive judicial supervision;
- treatment for drug addiction;
- intensive supervision and case management by the Probation and Parole Service;
- provision of a range of support services for education, vocational and health issues;
- supervised urine testing for drug use; and
- the use of sanctions to compel compliance to the program.

Program Eligibility

As outlined in the Drug Court Act 1998 and the Drug Court Regulation 1999, a person is eligible if they meet the following criteria:

- is highly likely to receive a sentence of full-time imprisonment;
- the person has indicated that he/she intends to plead guilty to the offences;
- the person appears to be dependent on the use of prohibited drugs;
- they reside within the local Government areas of Auburn, Bankstown, Baulkham Hills, Blacktown, Campbelltown, Fairfield, Hawkesbury, Holroyd, Liverpool, Parramatta or Penrith;
- be referred by a District or Local Court in the catchment area;
- be 18 years of age or over;
- be willing to participate;
- must not be suffering from a mental condition that would interfere with the person actively participating in the program;
- must not be charged with a criminal offence of violent conduct, sexual assault or a large commercial supply of prohibited drugs.

Program Progression

Following a person's first appearance at the Drug Court of NSW, where eligibility is determined as outlined above, the person must then complete a detoxification assessment stage. During this stage, an assessment is made of the treatment needs and a 'highly suitable' treatment plan is developed. If the treatment plan involves residing in the community, Probation and Parole officers conduct an intensive home assessment to ensure that the environment is conducive to the offender's participation on the program. This assessment is conducted in line with the Drug Court of NSW's policy entitled '*Private Residential Accommodation*' (Reviewed March 2001).

Following detoxification, the offender again appears before the Drug Court of NSW, pleads guilty and receives an initial sentence of imprisonment that is suspended. All participants sign an Undertaking, which outlines their program conditions. Treatment options include: abstinence, methadone, naltrexone or buprenorphine, to be undertaken either in the community or on a residential basis.

The Drug Court Program currently takes **at least** 12 months to complete. There are three

distinct phases. Phase 1 is the 'initiation and stabilisation phase'; Phase 2 is the 'consolidation' phase; and Phase 3 is the 'reintegration' phase. It was anticipated that Phase 1 and 2 would be for 12 weeks duration and Phase 3 for 26 weeks' duration. In practice, this would be the exception, rather than the rule, with the majority of participants being in Phase 1. Case managers and treatment providers are able to recommend progression to the next Phase, but the final decision is ratified by the Drug Court Team. Participants can also be demoted back a Phase for failure to comply with the program.

Program Obligations

Participants are required to submit to weekly urinalysis: three times a week in Phase I; and twice a week in Phase II and III. Six weeks prior to graduation, participants must then provide three urines a week. Urines are fully supervised and provided by the person at the Drug Court Registry, at various locations in the catchment area via the 'urine bus', and/or at the methadone clinic (if on methadone). Participants who are working are also able to supply urines 'after hours' at the Drug Court Registry by appointment. Case Managers (Probation and Parole Officers) may also request random urines to be provided.

There are three Area Health Services (AHS) involved in the Drug Court, namely Wentworth, Western Sydney and South Western Sydney AHS, who provide counselling and support to participants, and ongoing treatment in the community, including methadone maintenance. Western Sydney and South Western Sydney AHS also conduct a Day Program of 12 sessions, which participants complete in Phase I. Psychiatric assessment and treatment is also available whilst in custody, or by appointment at the Drug Court Registry.

Case Managers provide intensive supervision in the community. This involves a minimum of one home visit a week in Phase I, and once a fortnight in Phase II and III. Contact either by phone or in person is also required with any significant others involved in the participant's life. Case Managers provide reports to the Court at each report back (as per the Phase) which details the participant's compliance with his/her program requirements.

Following the Day Program conducted by the Area Health Service, case managers refer participants to the Pathways to Employment, Education, and Training Program. This program is a nine week, three module program, that investigates further training options and assists participants to gain skills to rejoin the workforce. This course is conducted by a TAFE facilitator and a Probation and Parole staff member. In addition, participants are now being referred to the Community Support Program which aims to further address barriers to employment.

Participants initially report to the Court on a weekly basis as they are in Phase I of the program. Progression to Phase II allows for fortnightly reporting and Phase III for monthly reporting. Each participant is called to the microphone and the Judge discusses the person's progress since the last report back. Custodial sanctions are imposed for any non-compliance of the program. Such non-compliance could include: failure to provide urine; drug use (either detected in urine or admitted); failure to comply with curfew, counselling, programs, supervision; failure to attend for methadone, naltrexone or buprenorphine. Sanctions are

currently suspended until the person has accumulated seven days, at which point the sanctions are served in custody in a Drug Court area of the gaol. Participants may have their sanctions reduced by the Court if they have had no program breaches for two report back periods.

In addition to regular court reports, Case Managers are also required to prepare Useful Purpose Argument (UPA) Reports and Pre-sentence Reports. UPA Reports are requested by the Court when a participant may be failing to make adequate progress or has committed further offences whilst on the program. The question 'is there a useful purpose in this person remaining on the program' is addressed. Pre-sentence Reports are requested at graduation and sometimes at termination.

The Court

The Court sits full time each Monday to Thursday. Fridays are reserved for policy meetings, team meetings, and to enable team members to attend to work which cannot be undertaken on sitting days.

The Drug Court Team consists of the Senior Judge, Gay Murrell, S.C., Judge Neil Milson, one Associate to the Senior Judge, Registrar, two Solicitors from ODPP, Inspector from NSW Police Service, three Solicitors from Legal Aid Commission, Corrections Health Service Nurse Manager and Co-ordinator from the Probation and Parole Service.

Drug Court team meetings are held prior to every report back sitting of the Court (i.e. Tuesday, Wednesday and Thursday) and are chaired by the presiding Judge for that day. Reports in relation to case management (Probation and Parole) and treatment (Area Health Service; non-Government treatment providers) for each participant are discussed. Each team member provides input into the imposition of sanctions and progression on program.

The Court is serviced by the Drug Court Registry, headed up by the Registrar, who co-ordinates all the administrative requirements of the Court. Referrals from other Courts are made directly to the Registrar, who randomly selects four persons per week.

Monitoring Report, BOCSAR, December 2000

This report examined the first 17 months of the Drug Court's operations, for the period ending June 2000. Of the 313 persons who had commenced the program, 10 had graduated and 133 had been terminated. Of the remaining 170, 28 had progressed to Phase III and 54 to Phase II. Of the 133 participants terminated, 121 had not progressed past Phase I.

With regard to treatment options in relation to the 170 persons remaining on program, 45.9 per cent were on methadone, 44.1 per cent were on abstinence, and 10.0 per cent were on naltrexone. Seventy-one per cent were residing in the community. The majority (81.8) were male and under the age of 30 years (68.4).

Interim Report on Health and Well-being, February 2001

This study was carried out on a final sample of 202 people, who participated in an initial interview (baseline). However, of this initial sample, only 112 people were interviewed four months' later. The remaining 90 people were unable to be interviewed due to termination (58), warrant (21), death (1), refusal (1) and other (e.g. custody) (9).

Baseline measures indicated that participants were in significantly poorer health than the general Australian population. However, they were in better health than a group of heroin users voluntarily entering a methadone maintenance program.

The study also indicated that, within the first four months of being on the program, participants' well-being had considerably improved across all measures, in particular those measures relating to physical health. However, they remained impaired on some measures relating to emotional well-being. Participants identified treatment aspects as the most valuable part of the program. A limitation of the study, however, was that only those persons who were participating in the program at four months were followed up.

Profiles

According to Section 11 of the Drug Court Act 1998, there are three ways a person's Drug Court program may be terminated:

- if the offender successfully completes the program;
- If the offender requests the Drug Court to terminate the program;
- If the Drug Court decides to terminate the program as referred to in S10(1)(b) (i.e. where there is 'no useful purpose to be served in further participation of the program').

The object of the legislation is to 'reduce the level of criminal activity that results from drug dependency'. Therefore, 'graduation' per se may not be the only measure of success on a Drug Court program, as even 'terminated' clients may report making significant gains from their participation on the program. One of the following profiles illustrates this point.

Stacey: A 40 year old single woman with a history of polydrug use, who had been addicted to heroin from the age of 17 years. Following her initial sentence, she went to reside with her mother, grandmother and three children, aged 7, 11 and 12 years, who were in her mother's care. Liaison was regularly maintained with the Treatment Provider, who was responsible for her methadone maintenance and ongoing counselling. Intensive supervision involved ensuring adherence to the Drug Court Program and providing regular progress reports to the Court. Due to a lack of confidence with a range of authority figures, this participant required time to enable a strong sense of trust to be developed.

In addition to the intensive supervision, Probation and Parole facilitated sessions with the family to try and resolve longstanding issues. Her father had died when she was in high school. In addition, she had always felt in competition with her older sister, who was a part-

carer of her children up until the sister's untimely death, a death which the participant thought should have been her. In addition, having no trust in other authorities due to her previous lifestyle, she required extensive support to facilitate an Apprehended Domestic Violence Order on an ex-partner who continued to harass her. Later in the program, attempts were made to facilitate her moving into independent accommodation but the participant was reluctant to leave home. She graduated from the program in just over 12 months and, at that time, had been completely drug free for about nine months.

Robert: A 30 year old single man, who had lived an itinerant lifestyle from the age of 13 years, spending time on the streets or in custody. He had a long history of drug use, initially commencing with cannabis, which then eventually progressed to daily use of heroin. Prior to his initial sentence at Drug Court, he had spent long periods of time in custody and when released would continue on the cycle of drug addiction and criminal behaviour. Initially he was placed on an residential abstinence based program through We Help Ourselves (WHOs), but was subsequently discharged due to a disagreement with a fellow resident. Following a treatment review he was placed on methadone and Probation and Parole negotiated his return home with his parents, a situation that created ongoing challenges for his stability in the community.

His parents did not approve of methadone and had quite unrealistic expectations in regard to his living a 'normal life'. Case conferences were arranged with the parents separately and with the participant to try and resolve some of the difficulties. Regular liaison with the Treatment Provider and the Court, through progress reports, ensured a wholistic approach to treatment and assisted the participant to maintain his commitment to the Drug Court Program. Apart from ensuring adherence to programs, Probation and Parole facilitated further training through TAFE, which eventually led to his gaining entry into a Bricklaying Apprenticeship. He also gained employment as a labourer for a bricklaying company. He eventually moved out of home and maintained independent accommodation with his partner and young daughter. Whilst he did not graduate from the Program, he managed to achieve the goals of the legislation, in that he had not committed any further offences and had substantially reduced his drug use.

The following documents have been used in the production of this report:

The Drug Court Act 1998

The Drug Court Regulation 1999

Drug Court of NSW Review Committee, December 2000

Drug Court of NSW: Monitoring Report, December 2000

New South Wales Drug Court Evaluation: Interim report on health and well-being of participants, February 2001

Drug Court Policy '*Private Residential Accommodation*', March 2001

Process Evaluation of the NSW Drug Court - a Qualitative Study. 28 June 2001

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