

# **EVALUATING AUSTRALIA'S FIRST DRUG COURT: RESEARCH CHALLENGES**

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## **Abstract**

The development of illicit-drug policy has frequently been undertaken with little regard to research and evaluation. However, when the New South Wales Government committed to piloting the first Australian drug court in 1998, it took the unusual step of integrating evaluation into the planning stages of the project. As the evaluators of the project, the New South Wales Bureau of Crime Statistics were given the rare opportunity of engaging policy makers, the judiciary, government and non-government service-delivery agencies in the evaluation process. The evaluation that resulted was arguably one of the most rigorous drug court evaluation yet conducted, comprising four components: monitoring, cost-effectiveness, health and well-being, and a process evaluation. This presentation describes the evaluation processes undertaken and explores the methodological and operational challenges faced by the evaluators and how these challenges were managed.

## **Background**

Drug courts came onto the NSW political agenda in 1998, 10 years after they were introduced in the United States. Drug courts, it was argued, offered a new paradigm of criminal justice response offenders. They were designated specifically to deal with drug-dependent offenders, offering a program integrating drug-treatment services, intensive supervision including frequent urine testing, a system of graduated sanctions and rewards in response to compliance. The model rests on the belief that by reducing a person's drug-dependency through providing treatment, support and supervision, the Court addresses the underlying factors associated with offending, and will therefore reduce crime.

In the United States, support for the drug court concept was promoted with an almost evangelical zeal, with several hundred-drug courts in operation by the time the concept was first introduced in Australia. But, despite vocal support for drug courts there was a lack of sound empirical evidence of their effectiveness.

A rigorous evaluation of the Drug Court Trial would have significant implications not only for future policy development in NSW, but could contribute to drug court policy development nationally and internationally.

## **Drug Court Planning Phase**

In late 1998 the NSW Cabinet Office formed an inter-departmental Drug Court Working Party to design an Adult Drug Court. The Working Party was made of representatives from the NSW Attorney General's Department, Health, Legal Aid, Director of Public Prosecutions, Police, Probation & Parole. One factor that set this initiative apart from previous criminal justice programs in NSW was the inclusion of evaluators (the Bureau of Crime Statistics and Research) at the outset of the planning process.

The working party developed specifications for the pilot as follows:

- Single site pilot – Western Sydney
- Trial would last for two years
- Treatment programs would last on average 12-months
- 200 treatment places would be funded
- Target drug-dependent recidivist offenders who would otherwise be facing a gaol sentence

## **Evaluation Proposal**

While still in the Trial's planning stages the Bureau was asked proposed an evaluation for the initiative.

The evaluation initially consisted of three studies:

1. A study to assess the cost-effectiveness of the Drug Court reducing offending compared with the mainstream criminal justices system.
2. Investigate improvements to health, well-being while on the program
3. Monitoring key aspect of the Court's operation

A fourth study, a process evaluation, was not part of the original evaluation plan but added later.

## **Study Methodologies**

### ***Cost-effectiveness***

Involvement of the Bureau in planning stages of the Trial helped to identify the possibility of using experimental design in the cost-effectiveness evaluation.

Given the eligibility criteria for the Drug Court, it was projected that there would be more people eligible for the program than treatment places funded. This opened up the possibility of creating a control group of offenders who would be eligible for the Court but would miss out on treatment places and be processed through the mainstream criminal justices system. Having evaluation on the agenda from the outset of the Trial planning stage enabled the process of random allocation in to the treatment and control groups to be built into the Court's intake procedure.

Measures:

- Recidivism - existing data sources (police, courts, corrections) - treatment and control followed up for approximately one year
- Costs - not readily available data. This information was collected by consultants with the assistance of the associated agencies.

### ***Health, Well-being***

The second study primarily focused on examination of changes to health and well-being while on the program.

Measures of health and well-being were not readily accessible in existing data collections but had to be collected specifically for this study through a questionnaire. Given the reliance on self-report data, participation in this study was to be voluntary.

As the control group used for the cost-effectiveness study would be dealt with by the mainstream criminal justice system, not the Drug Court, it was not logistically possible to include them in this study. There were just not enough resources to track these people down for baseline and follow-up interviews. As a result study involved interviewing a cohort of drug court participants, at program entry, then at 4, 8, 12 months on the program.

In order to enable some comparative analysis the interview schedule included a standardised health instrument with normative data, to enable some comparisons with other populations.

A key measure of health and well-being was to be drug use on the program. This was to be assessed using two measures: urinalysis result collected by the Court and a self-report measure.

### ***Monitoring Study***

Bureau undertook to monitor key aspects of the Court's process and report on them at quarterly intervals. These factors were identified in consultation with the Drug Court Working Party and included, court workload, flow through the program, and compliance with program conditions. The data required for the monitoring reports were collected by the court and entered by registry staff into a database created for the dual purpose of monitoring and Court administration.

### ***Process Evaluation***

The final study, a qualitative process evaluation, was added later to compliment the three quantitative studies. The aim of the study was to document the operation of the Drug Court and identify key implementation issues and how they were managed.

Data: Interviews with Drug Court Team, Services Providers & Drug Court participants, observations, review of documentation

### **Challenges**

I now want to turning to some of the challenges of the research, firstly looking at issues to do with support for evaluation at an operational level, then focusing on implementation issues, followed by challenges related with reporting the outcomes.

Because evaluation relied heavily on data collected by the Court, one of the challenges for the evaluation was to engaging the Drug Court team and registry staff. There were various levels of interest and support for the evaluation, with a number of concerns being raised:

#### ***Demand on Resources***

The evaluation placed a substantial demand on the workload of Court staff and Team members that would not have otherwise been required. It meant extra data entry for registry staff, and it increased the workload of Team who had to assess all applicants knowing that there would not be enough treatment places for them all. Although the extra requirements resulting from the evaluation were anticipated in the planning stages it soon became apparent that the Registry and Team were under resourced leading to some resentment towards evaluation.

#### ***The Need for a Broader Approach***

There also appeared to be some distrust of researchers, and concern that a reliance on quantitative evaluation would ignore many of the valuable achievement of the program.

For example, a person lasting three months on the program may achieve considerable personal achievement reducing their drug use but counted as a 'failure' in the statistics.

The inclusion of a qualitative process evaluation helped to address this issue by providing a forum where different views could expressed and by identifying some of the achievement of the Court that were not captured elsewhere.

#### ***Random Allocation Process***

There was concern among some Team Members about randomly allocating limited treatment places. Given that the randomisation process was controlled by the Court through its intake procedures, and that random allocation was integral to the design of the cost-effectiveness study, we had to devise a process that would be accepted by the Court. The final design required random allocation to treatment to occur only on days where there were more people eligible to process to the detoxification and assessment stage of intake than there were beds available in the detoxification unit.

It was interesting for us to find out that after the evaluation period the Court decided to change to a first in first served system, waitlisting people until place was available. The result was long delays, up to several months between referral to the Court and getting a treatment place. In the interest in getting people into treatment immediately, the court has since reverted back to using the random allocation process, believing it to be the fairest way to select participants

### ***Health and Well-being study***

I want to now turn to some implementation issues, focusing on the Health and well-being study

#### ***Access to participants***

From the outset it was anticipated that this group of people would be difficult to access. Participation in the study was voluntary, sample were chaotic, subject to onerous and time-consuming Drug Court commitments once on the program.

It was only once the Drug Court Trail had opened for business it was possible to determine a feasible way to approach offenders and conduct baseline interviews. The Court required all people being assessed for the program to be held in custody for assessment and brought from custody to court for formal acceptance on the program. This provided us with a literally captive audience while they were being held in the court house cells waiting to appear in court. The unpleasant environment, overcrowded and uncomfortable cells, also made the prospect of spending an hour in a private interview room completing a survey something of a treat, with the result being a refusal rate of less than 5 per cent.

#### ***Follow-up interviews***

Follow-up interviews for people while on the program was more problematic.

Participants lived all across Western Sydney and proved difficult to contact by telephone, and were unreliable with appointments. The Drug Court procedures were helpful again in providing opportunities for follow-up, as the court required all participants to attend court for regular 'report-back' appearance, scheduled initially on a weekly, then fortnightly and then monthly basis.

But difficulties with follow-up remained. Scheduled court appearances frequently did not eventuate – appearance dates and times were changed but not recorded on the court list. Participants were often sick, late for court, and frequently absconded from the program. The 'report-back' appearances days were also used by Legal aid, Probation & Parole and treatment providers as opportunities to catch up with participants. So completing the follow-up survey was a low priority, and obtaining these interviews required considerable persistence.

#### ***Retention on program***

A major issue for the study was high rate of drop-out from the study and the program.

Only 55 per cent of the baseline sample was followed up at four months, primarily due to programs being terminated and participants absconding and abandoning their programs. As a result it became necessary to increase the baseline sample from 150 to 200, extending the time frame for the study.

Unfortunately only those people who remained on the program were followed up. Those who were not interviewed were either in custody following termination of their program or had abandoned their program and did not want to be found by the Drug Court. We didn't have sufficient contact details to track down people who had absconded from the program and were in the community (with a warrant out for their arrest), and insufficient resources to access those who had were in custody.

### ***Measure of drug use***

Drug use was a key measure of health and well-being, but getting a reliable measure of drug use on the program proved difficult.

Planned to use urinalysis results as an objective measure of use on the program. They were intended to be frequent, random, supervised.

From the outset there were substantial issues with urinalysis results. An industrial dispute meant that many tests simply were not conducted, and those that were conducted did not happen randomly meaning that, with a little planning, drug use could continue undetected.

Secondly, substitution of samples was another issue as tests were not being adequately supervised. The result was unreliable data during the evaluation period.

We also wanted a self-report measure to get an indicator of frequency of use. Despite assurances of independence of evaluators and confidentiality of responses we still had concerns regarding honesty of responses if asked directly about drug use. Drug use on the program resulted in a custodial sanction and we would be asking them to admit to drug use not detected by the court.

Used a proxy by asking about total spending. Given most were daily heroin users total spending was strongly associated with frequency of drug use. This was far from an ideal measure but could be used as an indicator that drug use had reduced over time, particularly from the period before the participants entered the program to the first four months on the program.

### **Reporting Results**

Having discussed some issues with conducting the evaluation, I want to turn to some challenges faced when reporting the findings.

#### ***Reporting pressures***

The first was managing reporting pressures. From the outset it was clear that results from the outcome evaluations would be a long time coming. Given the time needed for recruitment and follow-up in the cost-effectiveness and health and well-being studies results would not be available for approx 2 ½ years - a long time to wait for answers. In the interest of providing some timely results an interim report on the health and well-being study was produced along with the publication of a monitoring report for public release. This alleviated some pressures about producing final results, provided an opportunity to obtain feedback from stakeholders and helped address evaluation and the Court's operation issues in a timely fashion.

#### ***Outcome expectations***

Also had to deal with reporting findings that fell short of some stakeholders' expectations – always a risk with evaluation.

The cost-effectiveness study indicated that the Drug Court was marginally more cost-effective at reducing recidivism than the mainstream criminal justice system. While the cost-savings were less than some stakeholders may have anticipated, the evaluation identified areas where further efficiencies could be achieved. In addition, the evaluation indicated that the Drug Court was effective in achieving significant improvement in health for those remained on the program.

However, the number of graduates from the program was low (10 in the first 17 months), and the percentage of persons terminated from the program within 12 months of treatment was over 60%. This retention rate was lower than that reported for US drug courts, but these results were not unexpected when considered in an appropriate context. Unlike the US Drug Courts, which tended to focus on first-time offenders, the NSW Drug Court was focused at the most difficult end of the market –recidivist offenders with a long history of drug-dependence and relapse. Expectations of change for this group of offenders needed to be more modest.

While the Drug Court was successful in achieving its objectives, it was not as successful as some had anticipated, receiving a cool response from some stakeholders. For many in the policy area this was new ground: no other NSW criminal justice initiative had been exposed to such rigorous evaluation, leaving a void for making comparisons with other interventions. The evaluation also meant that the Drug Court was open to a greater degree of scrutiny by the public and the media than other criminal justice initiatives, creating opportunities for criticism. While some elements of the media used the conclusions of the evaluation to inform public debate on law and order, others dismissed them outright, preferring to assess the Trial on anecdotes they had been told.

I'll read one quote courtesy of Miranda Devine and the Sun Herald.

*'While statistics can be interpreted in all sorts of ways, according to frontline police who deal with it regularly, the Drug Court is full of loopholes that are abused by offenders'*

Miranda Devine Sun Herald 26/5/02

## **Concluding Remarks**

After focusing on difficulties I want to end by highlighting some of the rewarding aspects of being involved in this evaluation.

This evaluation was unusual in that it was well funded, integrated into the planning of the intervention itself, and that there was a commitment to the evaluation by policy makers throughout the trial period.

It was also encouraging to see the potential for evaluation to be realised in this initiative, given that the program was an Australian first and would make a contribution to the body of knowledge available on drug courts at a national and international level.

To my knowledge it was the most comprehensive evaluation of a criminal justice initiative in NSW, not only examining processes and recidivism, but also cost-effectiveness and the impact of the intervention on the well-being of offenders, setting a benchmark for future evaluation.

And finally, one of the benefits of evaluating a project that includes such a diverse range of stakeholders was the different perspectives it brought to the evaluation, and the relationships that were built between practitioners and researchers, creating opportunities for conducting further research in this area.