

Challenges Facing Australian Court Drug Diversion Initiatives

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Introduction

Substance abuse is a significant problem affecting individuals, families, communities and the agencies that serve them. While the causal links between substance abuse and crime require further investigation, it is clear that substance abuse is a major problem for many people coming into the justice system. According to an Australian Institute of Criminology study, 71% of detainees had sought to obtain drugs in the 30 days prior to their arrest.¹ Thirty seven percent of detainees considered that their offending was explained at least in part by their use of drugs. Detainees who were found to be dependent on drugs or who tested positive to heroin or methylamphetamine had the highest average number of arrests in the preceding 12 months.

Australian courts are using two alternatives to conventional sentencing options to deal with those with substance abuse problems: drug courts and diversion programs that, for convenience, I shall call “court diversion programs”. Court diversion programs generally involve adjourning cases involving less serious offenders with less entrenched substance abuse problems while the person undergoes treatment through a drug treatment agency. In many cases there is little or no involvement by the court in ongoing case management of the person.

Drug courts usually involve more serious offenders and a more intense program over a longer period than court diversion programs, with ongoing judicial case management, residential and/or community based treatment, urinalysis, the use of penalties (including incarceration), behavioural contracts and graduation ceremonies.

* Magistrate, Perth Drug Court. This is the keynote address presented to the Court Drug Diversion Initiatives Conference, Brisbane, 25-26 May 2006. My thanks to the following for their assistance: Andrew Cannon, Roger Dive, Margaret Harding, Michael Hill, Lynton Piggott, Anne Thacker, Stephanie Tonkin and Greg Wiman.

¹ Schulte C, Mouzos J and Makkai T, “Drug Use Monitoring in Australia: 2004 Annual Report on Drug Use Among Police Detainees” (Australian Institute of Criminology, 2005).

A growing body of evidence supports the efficacy of these interventions. Australian and international evaluations, with some exceptions, have found that drug courts promote decreased recidivism and improved well-being and that they are cost-effective.² There are also a growing number of supportive evaluations of court diversion programs.

The Emergence of Drug Courts and Court Diversion Programs

Court drug diversion programs have been part of the Australian justice landscape for over thirty years.³ Various options have been tried including adjournment of minor cases for participation in treatment programs through to residential treatment as a condition of a suspended imprisonment order for more serious offenders. Drug courts are a more recent phenomenon in Australia, with the first drug court being established at Parramatta in 1999 and with all other states apart from Tasmania soon establishing their own drug courts.

According to Freiberg, drug courts emerged to fill a gap in the court system whereby the needs of drug addicted offenders had not been met due to a lack of understanding as to the nature of addiction, inadequate treatment resources, a failure to recognise relapse as a part of the healing process, a lack of proper supervision and a failure to intervene early and quickly enough.⁴ Drug courts have also highlighted the inadequacy of traditional courtroom approaches to interacting with offenders with

² Berman G and Feinblatt J, *Good Courts* (The New Press, 2005); Lind B, Weatherburn D, Chen S, Shanahan M, Lancsar E, Haas M and Lourenco R, “New South Wales Drug Court Evaluation: Cost-Effectiveness” (NSW Bureau of Crime Statistics and Research and Centre for Health Economics Research Evaluation, 2002), <http://www.lawlink.nsw.gov.au/bocsar>; Freeman K, “New South Wales Drug Court Evaluation: Health, Wellbeing and Participant Satisfaction” (NSW Bureau of Crime Statistics and Research, 2002), <http://www.lawlink.nsw.gov.au/bocsar>; Payne J, “Final Report on the South Queensland Drug Court” (Australian Institute of Criminology, 2005), <http://www.aic.gov.au/publications/tbp/tbp017>; Makkai T and Veraar K, “Final Report on the South East Queensland Drug Court” (Australian Institute of Criminology, 2003), <http://www.aic.gov.au/publications/tbp/tbp006.html>; Alberta S, Panjari M, Ritter A and Swan A, “Health and Wellbeing Study – Victorian Drug Court Final Report” (Turning Point Alcohol and Drug Centre, 2004), www.justice.vic.gov.au; King J and Hales J, “Victorian Drug Court: Cost-Effectiveness Study: May 2002 to December 2004” (Department of Justice, Victoria, 2004); Corlett E, Skrzypiec G and Hunter N, “Offending Profiles of SA Drug Court Pilot Program ‘Completers’” (Office of Crime Statistics and Research, 2005), http://www.ocsar.sa.gov.au/docs/evaluation_reports/DrugCourt1.pdf.

³ Williams RJ “The Clinical-Correctional Interface in the Treatment of Drug Offenders: The Evidence from NSW Australia” (1982) 10 *Drug and Alcohol Dependence* 211. Freiberg A, “Australian Drug Courts” (2000) 24 *Crim LJ* 213

⁴ Freiberg n 3 at 219.

⁵ See: www.nadcp.org.

drug problems and the usefulness of judicial interaction based on therapeutic jurisprudence.⁶

At about the same time as drug courts emerged, there has been a renaissance in relation to court diversion programs. This has been funded through the Council of Australian Governments Illicit Drug Diversion Initiative. Court diversion programs have been introduced or expanded in various parts of Australia under various names such as CREDIT (Court Referral and Evaluation for Drug Intervention and Treatment), MERIT (Magistrates Early Referral into Treatment), CADAS (Court Alcohol and Drug Assessment Service), POP (Presentence Opportunity Program), and STIR (Supervised Treatment Intervention Regime) and CARDS (Court Assessment and Referral Drug Scheme). The Northern Territory is about to start an Alcohol Court based on the operation of CREDIT.⁷ Only Tasmania lacks some form of court drug diversion program.

The Need for Better Planning, Communication and Integration

The emergence of court diversion programs and drug courts has been incremental rather than due to an integrated strategy by the courts or government. Drug courts are state initiatives. But the expansion of court diversion programs has resulted from the cooperation between state and federal governments on the basis of federal funding and agreed limitations such as directing the programs to less serious non-violent offenders. Should the federal government adopt a recent recommendation by the Australian Law Reform Commission that drug courts be available as a sentencing option for some federal offenders, there may be greater federal interest in the funding and operation of drug courts.⁸

Though both alternatives for drug offenders generally seem to be working well, in all jurisdictions there is a need for an integrated strategy document clearly setting out the

⁶ Wexler DB and Winick BJ, *Law in a Therapeutic Key* (Carolina Academic Press, 1996); Winick BJ and Wexler DB, *Judging in a Therapeutic Key* (Carolina Academic Press, 2003); King MS, "Therapeutic Jurisprudence in Australia: New Directions in Courts, Legal Practice, Research and Legal Education" (2006) 15 JJA 129.

⁷ See "Breaking the Cycle Q & A", <http://www.nt.gov.au/justice/docs/legservs/antisocial/q&a-alch-%20court-act-05.pdf>, viewed 19 May 2006.

⁸ Australian Law Reform Commission, "Sentencing of Federal Offenders" (ALRC, 2005), recommendation 29-4.

role of drug courts and court diversion strategies, the relationship between the two and the court and treatment processes to be used in each case.⁹ The strategy should be presented in the context of an overall community response to substance abuse.

Although often multi-agency steering committees oversee drug courts and other therapeutic jurisprudence based court programs, it appears that court diversion initiatives apart from drug courts are being driven largely by government health agencies in some areas with justice related agencies minimising their participation in program design. This risks a lack of attention to the development of therapeutic court strategies to support and promote change, a failure to take into account court workloads and resource needs particularly of smaller courts such as regional courts in implementing the diversion program and a failure to provide adequate training to the judiciary, legal profession and justice system personnel.

While the use of therapeutic court strategies is highly developed in relation to drug courts –such as in the therapeutic interaction between the Bench and the participant, the lawyer and participant and the use of behavioural contracts – their use in relation to court diversion programs is largely dependent on the awareness, openness and training of the magistrate and lawyers concerned. An example of a court diversion program that uses more therapeutic strategies is the Brief Intervention Regime track of the Geraldton Alternative Sentencing Regime, which uses behavioural contracts, judicial review and a positive interaction between the magistrate and participant.

Drug courts and court diversion programs have sprung up around Australia with the states and territories operating programs largely independently of each other. There is much that is positive that is happening. Forums such as the New South Wales Drug Court conference in 2002, the Court Drug Diversion Initiatives Conference in Brisbane and the Third International Conference on Therapeutic Jurisprudence in Perth in 2006 facilitate the exchange of information and techniques to promote best practice across jurisdictions. But the exchange of information should be promoted on an ongoing basis. The United States, which has over 1800 drug courts, has the

⁹ This a criticism made of Victoria in an evaluation of its court intervention programs in relation to drug abuse: Alberti S, King J, Hales J and Swan A, “Court Diversion Program Evaluation Overview Report Final Report” (Turning Point Alcohol and Drug Centre and Health Outcomes International, 2004), 33.

National Association of Drug Court Professionals that advocates on behalf of drug courts and promotes education programs. There is a need for an organisation in Australia to undertake a similar function. The exchange of information should also extend internationally given that drug courts are an international development. For example, Australian drug courts have the opportunity of sharing their own experience with drug courts overseas and gaining from the experience of those courts through participation in the activities of the International Association of Drug Treatment Courts.¹⁰

The Rehabilitation Needs of Aboriginal People

An ongoing challenge for the criminal justice system, including court diversion programs and drug courts, is to meet the rehabilitation needs of Aboriginal people. Aboriginal people continue to be over-represented in the system. For some drug courts, such as the Perth Drug Court, Aboriginal participation rates are disappointingly low. The Geraldton Alternative Sentencing Regime, which takes a therapeutic, holistic and team based approach to rehabilitation using judicial case management, therapeutic court procedures and a wide range of rehabilitation programs, has a high participation rate by Aboriginal people – about 40%.

The reasons for the high participation rate in Geraldton include: the involvement of the Aboriginal Legal Service with the other agencies and the court in the design and management of the program and the demographics of the population appearing in the court. But the Geraldton Alternative Sentencing Regime also takes an open approach to offending related problems, not restricting admission to those with illicit drug problems, but including alcohol, solvent, gambling, less serious violence and other problems. An independent evaluation found it provides a healing experience for Aboriginal people.¹¹

The Perth Drug Court is exploring the viability of setting up a special Aboriginal participant list incorporating some of the procedures used in Aboriginal courts such as a less formal court setting and the participation of Aboriginal Elders in the

¹⁰ See: <http://www.iadtc.law.ecu.edu.au>.

¹¹ Cant R, Downie R and Henry D, “Report on the Evaluation of the Geraldton Alternative Sentencing Regime” (Social Systems and Evaluation, 2004).

proceedings. Such processes appear to promote decreased recidivism and improved participant wellbeing. In one case the Perth Drug Court Magistrate, participant, Court Assessment and Treatment Service officer, prosecutor and defence lawyer have sat in the body of the court in a semi-circle near the bar table to conduct reviews where the participant found the traditional court setting created great fear and anxiety for him. The participant found the new style of court sitting to be a far better experience.

A feature of Aboriginal courts has been the work of an Aboriginal Project Officer who works with participants to facilitate their negotiating the court process. Similarly, the New South Wales Drug Court has an Aboriginal and Torres Strait Islander designated position of a support worker. The present incumbent, an Aboriginal woman, assists all participants to adjust to the intense demands of drug court and liaises with Aboriginal community agencies in relation to the work of the court. The court has also varied its ballot system in favour of admitting Aboriginal participants.

The use of therapeutic features of both Aboriginal courts and drug courts may provide a more comprehensive approach to addressing the rehabilitation needs of Aboriginal offenders with entrenched offending related problems such as substance abuse.¹²

Are Court Programs Meeting Offenders' Rehabilitation Needs?

A question posed to me by South Australian Deputy Chief Magistrate Andrew Cannon was: are we designing court programs catering for the rehabilitation needs of individual offenders or are we designing programs and then expecting offenders to fit in? For example, drug courts and court diversion programs largely target illicit drug use but not alcohol or solvent abuse. Yet the latter is often a primary problem confronting Aboriginal offenders. Alcohol is also clearly linked to violent offending. While it may be argued that many such offenders will come into drug courts or court diversion programs as they may also have abused illicit drugs, it is downplaying the significance of the problem by only permitting entry through the back door. For those with solvent abuse problems, there may not be a back door. The Victorian Drug Court has made a good start by allowing those with only alcohol problems into their

¹² King MS, "Problem Solving Court Programs in Western Australia" Paper presented to the "Sentencing: Principles, Perspectives and Possibilities" Conference, Canberra, 10-12 February 2006, <http://law.anu.edu.au/nissl/King.pdf>, viewed 19 May 2006.

program.

A history of violence will also preclude many offenders from participating in a drug court or court diversion program because of exclusion criteria. Due to their serious offending, some violent offenders will be imprisoned immediately upon conviction. The character of others may be such as to place drug court team members at risk. But others may well be open to the therapeutic approach offered by a problem solving court. After all, if a history of violence prevented the successful completion of a problem solving court program, then family violence courts could not exist.

The experience of the Geraldton Alternative Sentencing Regime is that a broad range of offending related problems can be addressed through the therapeutic approach of a problem-solving court.¹³ This is also the experience in the United States where a variety of problem solving courts exist, including courts for driving whilst intoxicated offenders and hybrid courts addressing multiple problems at once. It may be better to assess admission using criteria such as whether imprisonment is inevitable, matters personal to offenders impacting upon their ability to complete the program such as their motivation, past response to community supervision and drug court participation, support structures, the nature of their problems and the availability of suitable treatment options.

Large population areas are likely to continue to justify the existence of specialist drug courts but there should also be a hybrid option available. The hybrid option that is exemplified in the Geraldton Alternative Sentencing Regime may be a better model for regional areas, smaller urban courts and jurisdictions with smaller populations such as the Australian Capital Territory, the Northern Territory and Tasmania.¹⁴

Ethical Issues

Ethical issues continue to challenge drug courts due to the coming together of two conflicting paradigms: the adversarial that sees disputes as best resolved through

¹³ King MS (2004) "Innovation in Court Practice: Using Therapeutic Jurisprudence in a Multi-Jurisdictional Regional Magistrates Court" 7 CIL 86; Cant et al, n 11.

¹⁴ King MS, "Applying Therapeutic Jurisprudence in Regional Areas: The Western Australian Experience" (2003) 10(2) E Law at <http://www.murdoch.edu.au/elaw/issues/v10n2/king102.html>, viewed 16 September 2005.

competing sides fighting it out before a neutral umpire and health that seeks to bring together, to collaborate and to heal. Dual roles whereby lawyers and community corrections officers support their clients and yet need to provide information potentially adverse to their clients' interests to the drug court team as a part of the case management processes are an example of an ethical issue. Such issues were raised at the New South Wales Drug Court Conference in 2002 and continue to be an ongoing challenge for professionals working in drug courts.¹⁵ The use of legislation and guidelines have not been able to satisfactorily resolve these issues and court professionals work their way through these issues on a case by case basis in the context of coping with significant case loads.

Resource Needs, Public Policy and Community Education

The question of resources immediately springs to mind when considering the situation of drug courts. They have been established as pilots throughout Australia but many have not moved on from that stage. It is time to consider their expansion to other areas. The New South Wales Drug Court operates only in one half of Sydney and has not expanded further. Victoria's drug court is at Dandenong and South Australia's court is in Adelaide. Queensland is the only state where there are multiple specialist drug courts but there is no drug court in Brisbane. However, Queensland's drug courts are about to move from the pilot stage to being permanent.

In the case of the Perth Drug Court, arguably it has moved backwards. Its coordinator position was abolished leaving the court without a full time person to coordinate planning for the court, promote necessary legislative changes, lobby for appropriate resources, promote community education, liaise with other agencies and ensure ongoing evaluation of the court. There is no longer a dedicated judicial support officer for the court. The Perth Drug Court has a greater demand for places than it can fill and has instituted a waiting list to deal with the situation. The Geraldton Alternative Sentencing Regime has failed to attract much-needed funding despite a positive evaluation with the government preferring to build a multi-million dollar juvenile

¹⁵ See <http://www.lawlink.nsw.gov.au/drugcrt%5Cdrcrt.nsf/pages/confw3>, viewed 17 May 2006.

remand facility in Geraldton, which has a very low rate of remand of juveniles in custody but is a marginal state seat.¹⁶

Obtaining further resources for court based offender rehabilitation programs is a challenge in an environment typified by calls for increasingly punitive responses to crime. Rehabilitation is portrayed as a “soft option”. State election campaigns, with some notable exceptions, include competing bids as to who will be “tougher” on crime, rather than who will be “smarter” on crime.¹⁷ The focus seems to be on increasing police numbers, imposing increased penalties and/or mandatory sentencing and building more prisons and detention facilities rather than policies based on a careful analysis of “what works” in addressing crime. The needs of victims are seen to be met by imposing significant punishment on offenders.

Yet if one looks at the rhetoric involved in so-called law and order campaigns, some of it can be applied, with appropriate changes, in relation to drug courts and court diversion programs. For example, these programs make offenders responsible and accountable for their actions – they are accountable to the court. If there is a breach of conditions the response of the court is far quicker than what is possible in relation to Intensive Supervision Orders and their equivalents. Further, drug courts and court diversion programs reduce the number of future victims of crime by promoting offender rehabilitation.

Much still remains to be done in promoting community awareness of the value of drug courts and court diversion programs and indeed of their very existence. In her book, *Catalyst*, Madonna King has shown how cases involving individual suffering and perceived injustice can be powerful motivators of community feeling and become the basis for initiating change in the justice system.¹⁸ One such case was the catalyst for the introduction of legislation providing for the indefinite imprisonment of serious repeat offenders in Western Australia in the early 1990s.

¹⁶ The situation concerning funding for the Perth and Geraldton projects may change depending on the attitude of the government to a Law Reform Commission of Western Australia report on problem solving courts and judicial case management. A submission concerning the Perth Drug Court is also under consideration by government.

¹⁷ Freiberg A, “The Four Pillars of Justice: A Review Essay” (2003) 36 A & NZ J of Criminology 223, 229.

¹⁸ King M, *Catalyst* (University of Queensland Press, 2005).

Drug courts and court diversion programs can also generate powerfully moving stories – stories of healing, overcoming adversity, reconciliation with family and friends and the gaining of a productive and happy life that contributes to community wellbeing. Bringing these stories of hope to the community should be an essential part of raising community awareness about the value of these programs.

In addition, involving victims and victims groups in drug court can help to alleviate community concerns. Thus, restorative justice programs can be used along with drug court processes and victim support agencies can be invited to be on steering committees overseeing drug court and court diversion program operations.

Research and Training

Evidence of the success of drug courts and court diversion programs in terms of their effect on offender recidivism also plays an important role in persuading the community and government that they are programs worthy of further funding and development. Here the role of continued evaluation and research is important. While recidivism is important in this context, how recidivism is defined is a critical issue. There are also broad effects of these programs on participants and their families that are worthy of study, embracing such areas as physical and psychological health, work, personal relationships and accommodation. There is also the impact of these programs on the work of government and community agencies that merits research. Adequate funding and data collection are essential for proper evaluations to be performed. A lack of funding and inadequate data facilities hampered the evaluation of the Geraldton Alternative Sentencing Regime.

Another area of research is determining what elements of drug courts are effective. Is it the rehabilitation programs, the close supervision by a community corrections officer, the positive interaction between Bench and participant or a synergy of several factors? If the interaction between participant and Bench is important, what is the best approach for a judicial officer to take in court? These are but some examples of areas that have only just begun to be explored.

Who, then, is to conduct this research? Clearly universities and institutions devoted to research in the justice system are appropriate organisations to be involved. However, there is also a need for a national body devoted to the work of therapeutic courts such as drug courts. Freiberg has suggested that a body such as New York's Center for Court Innovation be established in Australia.¹⁹ That centre does excellent work in promoting community awareness of problem solving courts, conducting research and in supporting the introduction of innovative court processes and programs.²⁰ Such a resource is needed in Australia. This centre could also assist in the process of assessing relevant findings from the behavioural sciences that could be adapted for use in justice system processes, including court processes, and could be involved in judicial and legal education. It could also facilitate the exchange of information between programs in different parts of Australia.

Presently, education and training for drug court judicial officers generally consists of information as to drug testing and treatment programs, watching a drug court in action and speaking with the professionals involved. The South Australian Magistrates Court is working with the University of Adelaide to develop a training module for magistrates presiding in its drug court. Therapeutic judging techniques and other therapeutic justice system processes are in an ongoing process of development with findings from the behavioural sciences being used to further this process. There is a need for the development of training programs in the theory and techniques of therapeutic jurisprudence including regular updates as to further developments for judicial officers and for drug court team members generally.

New Strategies

Drug courts are innovative. They apply non-traditional court procedures and closely collaborate with community agencies in an unprecedented manner. Drug courts should also be open to novel treatment methods. Increasingly the health system is using complementary approaches to health along with western medicine to promote

¹⁹ Freiberg A, "Innovations in the Court System" Paper presented to the conference "Crime in Australia: International Connections", Melbourne, 29-30 November, 2004,

<http://www.aic.gov.au/conferences/2004/freiberg.html>, viewed 19 May 2006; King, n 13.

²⁰ See: www.courtinnovation.org.

better health outcomes for patients.²¹ The use of these treatment approaches as a part of drug courts and court diversion programs is worthy of further investigation. However, their use should be soundly based on evidence as to their efficacy.

For several years, participants and community corrections and treatment officers of the Geraldton Alternative Sentencing Regime practised the stress reduction and self-development technique Transcendental Meditation® (TM). There is growing evidence linking stress to substance abuse.²² Meditation techniques differ widely in the purpose of their practice, the way they are practised, the depth and nature of subjective experience attained during their practice and in their effects on health, psychology and behaviour.²³ There is evidence that meditation techniques have differing effects on brain functioning.²⁴

The TM technique was used in the Geraldton Alternative Sentencing Regime due its simplicity of practice and research finding it reverses neuro-physiological abnormalities associated with stress and aggression and promotes decreased anxiety, substance abuse and offender recidivism and increased self-actualisation.²⁵ The

²¹ Cohen MM, Penman S, Pirotta M and Da Costa C, "The Integration of Complementary Therapies in Australian General Practice: Results of a National Survey" (2005) 11 *The Journal of Alternative and Complementary Medicine* 995.

²² The website of the US National Institute on Drug Abuse has a special page on this topic at: <http://www.nida.nih.gov/DrugPages/Stress.html>, viewed 28 April 2006.

²³ Shear J, *The Experience of Meditation: Experts Introduce the Major Traditions* (Paragon House, in press); Davidson R and G Schwartz (1976) "Psychobiology of Relaxation and Related States" in D Mostofsky (ed), *Behavior Modification and Control of Physiological Activity* Englewood Cliffs, Prentice-Hall; Lehrer, P, R Carr, D Sargunraj and R Woolfolk (1994) "Stress Management Techniques: Are They All Equivalent or Do They Have Specific Effects?" 19 *Biofeedback and Self-Regulation* 353; Orme-Johnson D and K Walton (1998) "All Approaches to Preventing or Reversing Effects of Stress are not the Same" 12 *American Journal of Health Promotion* 297; Fehr T, "The Role of Simplicity (Effortlessness) as a Prerequisite for the Experience of Pure Consciousness – the non-dual state of Oneness: "Turiya", "Samadhi" in Meditation" (2002) 1 *Journal for Meditation and Meditation Research* 49.

²⁴ Travis F, "Are all Meditations the Same? Comparison of Brain Patterns, Mental Benefits and Descriptions of Mindfulness Meditation, Tibetan Buddhism, and Transcendental Meditation" Paper presented to the conference "Toward a Science of Consciousness", Tucson, Arizona, 4-8 April 2006, abstract available at <http://www.consciousness.arizona.edu/abstracts.htm>, viewed 9 May 2006.

²⁵ Alexander, C, K Walton, D Orme-Johnson, R Goodman, N Pallone (eds) (2003) *Transcendental Meditation in Criminal Rehabilitation and Crime Prevention* New York: Haworth Press; Eppley, K, A Abrams and J Shear (1989) "Differential Effects of Relaxation Techniques on Trait Anxiety: A Meta-Analysis" 45 *Journal of Clinical Psychiatry* 957; Alexander, C, P Robinson, and M Rainforth (1994) "Treating and Preventing Alcohol, Nicotine, and Drug Abuse through Transcendental Meditation: A Review and Statistical Meta-Analysis" in D O'Connell and C Alexander (eds), *Self-Recovery* New York: Haworth Press; Alexander, C, M Rainforth and P Gelderloos (1991) "Transcendental Meditation, Self-Actualization and Psychological Health: A Conceptual Overview and Statistical Meta-Analysis" 6

Geraldton experience was that it was particularly helpful in decreasing stress levels and promoting wellbeing. I also note references in the literature that meditation was traditionally practised in Aboriginal culture.²⁶ Certainly the TM technique was of value to Aboriginal participants in the Geraldton project.²⁷ Its use in the justice system and in drug courts in particular should be explored further.

Drug court and court diversion programs make a significant contribution to addressing substance abuse problems. These programs are presented with particular challenges in terms of ethics, development, resources, community awareness and support, education and training, research and program delivery. The programs' principal asset is the drive, creativity and intelligence – including emotional intelligence – of the people involved. This valuable resource will ensure that these important initiatives will continue and that the challenges that lay ahead will be met.

Journal of Social Behavior and Personality 189; King MS (2000) "Deterrence, Rehabilitation and Human Nature: The Need for a Holistic Approach to Offenders" 24 Crim LJ 335.

²⁶ Elkin A, *Aboriginal Men of High Degree* (University of Queensland Press, 1977); Hume L, *Ancestral Power: The Dreaming, Consciousness and Aboriginal Australians* (Melbourne University Press, 2002).

²⁷ King, n 13; King MS and Ford S, "Exploring the Concept of Wellbeing in Therapeutic Jurisprudence: The Example of the Geraldton Alternative Sentencing Regime" Paper presented to the "At the Cutting Edge: Therapeutic Jurisprudence in Magistrates' Courts" conference, Perth, 6 May 2005.