SENTENCING OPTIONS & TREATMENT OF DRUG USING OFFENDERS

Inter Jurisdictional Visit to New South Wales Corrections Department

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By

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The purpose of this study was three fold:

1. **To observe processes both in a court and institutional setting for the compulsory treatment of drug using offenders.** In the UK all drug treatment as a requirement of a community sentence can only be administered with the consent of the offender. Additionally there are no custodial institutions that are solely used for the rehabilitation of drug users and specialised drug courts are in 'pilot' stages whereas the Parramatta Drugs Court has been operational for 10 years.
2. **To observe and compare treatment and sentencing in the community, out of Sydney, in two offices that loosely correlated to two offices in Hampshire.** Away from the SW area of Sydney drug users are sentenced quite differently. I decided to observe practice issues in Wollongong and Bateman's Bay. Wollongong is a large industrial, coastal, city of approximately 300,000 population 70 miles south of Sydney with a vast multi cultural mix that bore similarities to Southampton. Bateman's Bay is a small, pretty seaside resort reminiscent of Lymington.
3. **To gather information about the epidemic of Methamphetamine use in NSW and methods of treatment.** This drug has been problematic in USA for over 15 years, it is currently considered to be used in epidemic proportions in Australia. Although it has a presence in the larger UK cities, drug users in UK currently still appear to prefer cocaine or 'crack' cocaine as a stimulant drug of choice. As UK trends tend to mirror the USA there are lessons to be learned about crime and treatment if we are to deal with this problem effectively.

Prior to travel I was in contact with NSW Department of Corrective Services and having outlined my study area I was greatly assisted by the NSW Corrections Academy with setting up visits to institutions and Probation Offices. Without the high level of co operation I received from the Department I would have been unable to complete my study.

My 8 week Churchill Fellowship together with 5 weeks annual leave meant I was able to be flexible with times and visits taking into account public holidays over Christmas, New Year and Australia Day public holidays.

Preparation in advance of travel.

Before gaining assistance from NSW Department of Corrective Services (DCS), it

was necessary for me to provide them with a detailed account of the aims of my study and how I hoped to achieve those aims. I also had to supply a statement in plain English and a consent form for offenders to understand and sign prior to engaging with my study. Having completed all of this preliminary work I was then in regular contact with the DCS Academy, firstly with Cheree Offner and latterly with Daniel Wong who provided invaluable support with NSW contacts for the arrangements I needed to make during my visit.

By the time I left England in early December 2008 I had a series of appointments with key DCS personnel and had a framework for my study. I spent the first two weeks staying at the Brush Farm Academy in Eastwood a suburb of Sydney, where training courses are held for Probation and Prison Service personnel for the State of New South Wales.

Due to the size of the State of New South Wales compared to the size of Probation Areas in U.K. there is nothing comparable in U.K. for specialised training for Criminal Justice Personnel. Hence there is likely to be a more uniform approach to training and less likelihood of areas having local arrangements where there is room for differing interpretations of trends and edicts from Government.

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South West Sydney Drugs Court -Presided over by Senior Judge Roger Dive

The *Drug Court Act 1998* together with supporting regulation, sets out the eligibility criteria for the programme. In essence drug using offenders in the catchment area of Western Sydney that appear before Local or District Courts that meet the criteria, and who want to enter the programme, must be referred to the Drug Court for consideration.

This particular Court has been in existence for 10 years, unfortunately it is the only one of its kind in the State, although other States have similar Courts.

Sometimes there are more applicants than there are places and at such times a random ballot takes place to determine who is offered a place for assessment.

The Process

Once selected, offenders are subject to a preliminary health screen by Justice Health and further enquiries are made to ensure eligibility. If the offender is considered to be potentially suitable detoxification has to be completed, during which time the offender's treatment needs are assessed and a detailed treatment plan is put forward.

In addition to these processes the offender is subject to scrutiny based on their motivation to properly engage with the programme. The Drug Court will also take into consideration their previous convictions and background, as some pre cons will exclude an offender from participation, e.g. serious violence, sexual assault or serious drug dealing.

If an offender is deemed unsuitable following this thorough assessment process, they are sent back to the referring court for sentence.

For the offender who is classed as suitable the following proceedings take place:- after detoxification and assessment, they appear before the Drug Court where they must enter guilty plea to the index charges.

There is only one sentence at this stage and that is a prison sentence that is suspended whilst the offender is engaging properly with the Programme. They are expected to sign an undertaking in Court to abide by their programme conditions and that marks the commencement of the Drug Court Programme.

Progression of the Programme
Every Drug Court Programme has four aspects that are fundamental to its success.

- Evidence based treatment of drug misuse
- Social support and the development of living skills
- Regular reports to the Drug Court regarding progress
- Regular, random testing for drug misuse.

The Programme has three phases and in each phase there are defined goals that must be achieved before moving on (graduating) to the next phase of the Programme. It is designed that all three phases will be completed in a twelve month period, unless terminated before then.

The Drugs Court sits daily and prior to the Court opening, there is a multi disciplinary meeting that is not only attended by the key workers of the participants but also the Prosecutor and Defence solicitors, and the Judge. Every case to be heard on that day is discussed and the results of all drug tests are announced. All agencies are able to input into the discussion about progress of the Offender, but it is the Judge that makes the final decisions.

When the Court opens for public business at 11a.m., the prior discussion allows for speedy progress through the business of the day. During the sessions that I observed it was normal for as many as 48 cases to be dealt with during the course of the day.

Phase One (Initiation)
During this period it is an expectation that drug use will decrease dramatically, criminal activity will cease and physical health will stabilise. Drug testing takes place three times weekly and the offender is required to appear before the Drug Court Judge on a weekly basis.

Phase Two (Consolidation)
At this point in the Programme there is an expectation that the participant will be drug free and crime free. During this phase they are encouraged to develop ‘life skills’ and become job ready. Testing is reduced to twice weekly and appearance before the Drug Court is on a fortnightly basis.

It is worth noting that participants have to commit not to allow employment to interfere with the programme during the first two phases.

Phase Three (Reintegration)
By this time in the programme, the offender is expected to gain employment (or at very least be ready to gain employment when the opportunity arises) and to be financially responsible. Drug testing remains at twice weekly with appearances at the Drug Court reduced to monthly.

Sanctions and Rewards
There a number of differences between the programmes and processes of the Sydney Drugs Court to those of a UK court which I will discuss later but perhaps the most obvious is in the area of sanctions for non compliance. In the U.K. if an offender breaches the order (Drug Rehabilitation Requirement - DRR) a breach court appearance is required to deal with the breach, Offender Managers are required to prepare paperwork outlining the circumstances of the breach and the Sentencer will either make the sentence more onerous by adding time or other activities to mark the breach or will revoke and re sentence for the index offence.

In the Sydney Drugs Court, breach of the order (in the defined UK sense of the word) is noticeable by its absence. Should the participant provide a positive drug test, fail to keep an appointment with anyone in the treatment plan or display behaviours generally associated with drug misuse e.g. lying through their back teeth (on one occasion a participant collected a double sanction, one for the positive test and a second because when asked prior to testing if they'd used drugs they stated "no") they will be given a sanction by the Drug Court Judge. Each sanction correlates to one day's imprisonment that is not activated until a total of 14 have been reached.

In real terms this means that someone who has lost focus and relapsed into drug misuse, often failing to keep appointments as their life begins to slide into chaos very quickly accumulates 14 sanctions and is sent to prison for 14 days. This brief custodial intervention allows for rapid detoxification and a sharp reminder to stay focused. Upon completion of their 14 days they are brought before the Drug Court and their responsibilities to the Programme are re enforced by the Judge.

Should a relapse turn out to be a lapse, and the participant has not reached 14 sanctions, then after a week of negative test results the Judge will reward them by deducting sanctions, thereby reducing the risk of immediate custody.

This extremely transparent process is understood by all participants, I saw 2 judges in action, and although their style was different, they did not deviate from this understanding that there are consequences of failing to engage. Importantly, that the consequences are the same for all participants and that no amount of sobbing in court 2 days before Christmas about "children being brought from Queensland for a visit" will have any effect upon the incarceration if 14 sanctions have been accumulated.

This process can be repeated on a number of occasions without the suspended sentence being activated wholly. However there are some occasions when the Court will consider that the Programme can be terminated. These are:-

1. The Court decides that a participant has substantially complied with the Programme
2. The Offender applies to have the programme terminated
3. The Court decides that the offender is unlikely to make any further progress, or that further participation raises the risk of re offending in the community to an unacceptable level.

At the point of re sentencing the Court must consider the index offence and the initial sentence, which cannot be increased. The Judge will take into consideration any time spent in custody via the sanctions process as well the offender's engagement with the Programme overall.

If a participant has substantially complied, the likelihood is that the suspended sentence will be replaced by a good behaviour bond (probation order). The participant will also receive a Certificate of Substantial achievement.

Where a participant has successfully completed the Programme, the Court awards a Certificate of Graduation in open court. This is presented by the Judge who leaves the dais to do this; the participant is roundly applauded by all professionals in the Court, as indeed they are on every occasion where a week passes with all negative drug tests.

My Observations

I would like to thank my colleague from the Department of Corrective Services Vallery Dembic for her invaluable assistance, aiding my understanding of the workings of the Drug Court. I would also add my gratitude to Senior Judge Roger Dive who not only allowed me to observe both the private and public workings of the Drug Court, but also invited me to attend the Conference that marked the 10^{th} anniversary of the Sydney Drug Court, held at Parramatta in February 2009.

I was greatly impressed by the workings of this Court. I observed two Judges in action and it was clear that both had a great understanding of drug users and their problems and issues. I did not witness a case where a participant did not fully understand what was occurring and the respect for the Judges was clearly evident. There was, I felt a sense of fairness in the courtroom, which often became a very emotional platform for the participants.

Obviously there were cases when 14 sanctions had been accumulated and a return to prison for detoxification and re-focus was necessary. Bearing in mind that I attended this court during the 2 weeks prior to Christmas 2008, this sometimes meant that planned reunions with children being cared for by grandparents several hundreds of miles away had to be cancelled at very short notice.

The 'tough love' philosophy works well when the court process is clear and transparent. Participants are fully aware that there are consequences for unacceptable behaviour and that the responsibility lies within themselves. No-one is treated differently.

Throughout my observations I also witnessed the pride of participants who were applauded in open court by all court disciplines when they succeeded in providing negative drug test results, or by accomplishing an important challenge in their

programme. Graduations, marked with certificates and presented by the Judge were recognised as a great accomplishment and were a source of well deserved pride.

As a drug worker for many years, I am aware that many people who choose the drugs pathway have a life history that is a catalogue of failures. Many offenders have never received praise from a Judge or indeed collected a certificate of achievement at any point throughout their years in education. As a result, this positive and tangible reinforcement by the Criminal Justice System is often a high point in their lives and acts as encouragement to continue with the sometimes difficult route ahead of them.

In all areas of public service, financial resources are often strained and sometimes scarce. It was clear to me that this method of treatment for drug using offenders works because as well as the dedication and commitment of all the staff involved, the "ship has not been spoiled for a ha'peth of tar".

I can cite many examples of this:

- Drug testing that is undertaken 3 times each week for many months **In the UK tests that should be random, often are not and offenders are able to take drugs around the predicted 1 or 2 tests each week and provide negative test results while still using.**
- The use of a Senior Judge to oversee all cases **In UK, lay magistrates are often the dispensers of law, these are unpaid volunteers whose understanding of the law relating to drug use, knowledge of addiction and the problems of users may not be fully understood. They give their time on a rota basis and may not be able to sit at every hearing for the same offender.**
- Weekly reviews of cases in the early months **In UK, from commencement of Drug Rehabilitation Requirements (DRR) the reviews are held on a monthly basis. Often in that period of time the slide into chaos is complete together with the re offending that accompanies it.**
- A panel of 3 legal aid, defence lawyers that work exclusively in this Court. **In UK vital time is wasted while offenders seek representation from lawyers who are not accomplished in the drugs specialism.**
- Enough time allowed each day to discuss the days' cases. **In UK the approach to case review is haphazard and certainly does not include the sentencer, defence and prosecuting lawyers. The magistrate is reliant upon written reports provided by The Probation Service and possibly the treatment provider. There is no cohesive multi agency approach in the courtroom.**

One of the important values of this Court was the ability to offer continuity both to participants and to the key workers involved. There was no time wasted having to bring key players up to speed on the case as all the key workers attended every week. It was, in my view, a fine example of the benefits of multi agency working for the benefit of offenders and the public by addressing in a very positive and structured manner one of the most damaging social problems of the last 50 years namely drug addiction.

I am aware that in the United Kingdom here have been 2 pilots of Dedicated Drugs Courts, in West London and in Leeds Magistrates Courts, this has recently been extended to Cardiff in Wales. Whilst this is clearly a move in the right direction and

great efforts are being made to properly train sentencers and gain consistency and continuity of sentencing panels, there are still huge areas of wasted time and resources.

For example the persistence of using the formality of breach proceedings, where the breach (failure to comply with the DRR)has to be proven or admitted and then the court is required to make the sentence 'more onerous'. This is often achieved by adding extra months to the DRR or a Specified Activity to look at the reasons for non compliance. The decision to breach is made by the supervising Probation Officer, this allows for vagaries and inconsistencies between offenders and the ways they are ultimately dealt with. Anecdotally, offenders often complain that different rules apply depending on the Probation Officer and which magistrate is presiding.

It is my view that the resources (that ultimately come down to money) that are wasted with this unnecessary paperwork and proceedings should be spent on extra testing and better resourced treatment e.g. rapid prescribing for substitute medication., then maybe more lives could be turned around.

The inability to send the offender into a custodial setting for a 2 week period which is long enough to complete detoxification without revoking the DRR means that treatment providers are constantly trying to battle with offenders who never have the opportunity to break the cycle. We send people to prison for minor offences and as such our prisons are overcrowded, this would be a proper use of a short period of custody and would have some positive and immediate results, without the interminable court proceedings, warrants being executed by the police etc . Swift responsive criminal justice that reinforces the consequences of non compliance in a manner that all offenders can understand.

In the UK we do not work to an abstinent based model of treatment in the Criminal Justice System, rather we look to reduce harm to drug users and by drug users to their communities.

Are we doing the right thing? Certainly it is fair to say that one model will not suit all, but I have to ask the question, are we being drastic enough? I fear the answer is no, and worse still that the reason behind this is due to financial over human cost.

THE LAST WORD

His Honour Judge Roger Dive states:

Participants on the Drug Court Program have often led appalling lives. Neglect and abuse may have commenced even before they were born to drug or alcohol addicted parents. Schooling has often been chaotic, wit one participant having attended 17 schools. Even language is a problem - for example refugees from Indo-China may not only have a poor grasp of English, but also a very poor grasp of their original language, having perhaps spent many formative years in transit camps in a third country. Communication can be very difficult, as even an interpreter from their country of origin struggles to explain the complexity of legal issues in any language.

The court and community-based teams who work with our participants are a committed and quite exceptional group of people. They have great communication skills, and a remarkable ability to find avenues that lead to recovery. Such avenues may be poorly signposted, but by discerning a treatable mental health issue, finding emergency housing or dental services, going to a case conference with the Department of Community Services, or sitting with a sad and lonely man late at night; these actions can mark the beginning of a remarkable recovery from drug use, and an integration (not just a re-integration) into our lawful community.

Two aspects of this program are truly remarkable: Firstly, to see how government and non -government agencies can work together in constructive and innovate ways. Secondly, to work in an environment where, despite the constant and necessary changeover of legal, counselling and caseworker personnel, there is a continuing culture of commitment and focus on real outcomes for both the community and a group of sometimes difficult, sometimes engaging, but definitely disadvantaged serious offenders.

It is a rare honour and a privilege indeed to work with the Drug Court teams in the registry, in the courtroom, and in the community.

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The Compulsory Drug Treatment Centre (CDTCC) at Parklea

Prison Director : Astrid Birgden

The legislation that underpins the CDTCC programme is unique in Australia. The programme provides drug treatment and rehabilitation, based on an abstinent model, to convicted male offenders who have repeatedly committed crime to support their drug dependence, often over many years.

Although now in its third year this programme is still regarded as a multi agency pilot project between the Department of Corrective Services (DCS), Justice Health and the NSW Drug Court.

The CDTCC opened on August 31st 2006, the legislation underpinning the pilot project had four statutory objectives:

- To provide a comprehensive programme of compulsory treatment and rehabilitation under judicial supervision.
- To treat drug dependency, eliminate drug use while in the programme and reduce likelihood of relapse on release
- To prevent and reduce crime in relation to drug dependency
- To promote reintegration into the community.

Eligibility and entry Process
Gaining access to this programme is a complex process. First a sentencing court refers the offender to the Drug Court to ascertain that he is "an eligible convicted offender"

Eligibility depends on the offender meeting five criteria. The offender must be:
- Sentenced to imprisonment with an unexpired non-parole period of eighteen months to 3 years.
- Convicted of at least 2 offences in the previous 5 years.
- Not convicted of specified offences such as drug trafficking, sexual assault, and murder.
- Reside in the broader Sydney region
- Be over 18 years of age.

The Drug Court will then determine whether the offender is eligible and suitable for a Compulsory Drug Treatment Order.

When a CDTO is made a multi agency team who will have already assessed suitability and readiness for treatment, will, together with the participant develop the Personal Plan which will need to be approved by the Drug Court Judge. The Personal Plan is both a treatment and a case management plan and seeks to:
- Identify dynamic risk factors related to re offending as well as well-being needs.
- Identify the conditions for drug treatment and rehabilitation.
- Specifies the details of the reward and sanction system for meeting/not meeting the conditions identified.

Sanctions and Rewards
Where a participant engages well with the Personal Plan a system of rewards is in operation. Depending on which stage the participant is currently attending the rewards (in Stage 1) could be a choice of a treat food item to (Stage 2) a weekend at home with family.

Failing to engage with the Personal Plan leaves the participant open to sanctions. This can include increased management, loss of community based privileges or family visits or in a worst case scenario regression to the previous Stage or a lengthier period of time in any Stage.

The Senior Judge at the Drug Court monitors the participant's progress throughout all three stages of the programme and determines release on parole (as the parole authority). In this instance the Drug Court functions as a re entry court, managing the transition back to the community through positive reinforcement, graduated sanctions and interagency co operation.

The three stages of the programme:

1. Secure detention for at least 6 months to address physical and mental health needs and to complete therapeutic programmes.
2. Semi-open detention for at least 6 months with access to the community for education, employment and social programmes.
3. Supervised community custody with conditions for the remaining part of the sentence before being eligible for parole.

The first two stages of the programme are based at the Compulsory Drug Treatment Correctional Centre. This is a 70 bed unit (stand alone) that includes a health clinic situated at Parklea (where there is a larger generic prison separate but at the same location). The ongoing judicial supervision is provided by the Drug Court throughout the sentence and the Judge determines whether offenders should progress to the next stage, regress to the previous stage or if the programme should be revoked. These decisions are based on the participant remaining drug free and engaging properly in the programme offered.

In Stage One the Drug Court approves the Personal Plan which details the drug treatment and rehabilitation plans. At the appropriate time the Judge makes the Community Supervision Order that will allow the progression to Stage Two. It is worthy of note that His Honour Judge Dive together with the Drug Court Registrar regularly attend the CDTCC in order to promote the interagency partnership links.

In Stage Two the Judge will receive weekly written updates regarding each individual participant, their progress and any problems encountered. In the last three months of Stage Two the participant attends the Drug Court on a fortnightly basis and his progress or otherwise is discussed with the Judge. Continued negative test results and positive engagement with programmes in the community and the Personal Plan will result in court applause.

Stage Three is marked by the participant no longer being accommodated at the CDTCC. The Judge meets the participant every fortnight at his court attendance. This continues throughout the remainder of the sentence and the level of supervision can be reduced if the participant is doing well.

There is a designated Legal Aid Lawyer who acts for these participants as well his other Drug Court Duties. Participants are allowed free phone calls to this lawyer who also visits the CDTCC each week to speak to participants if required and to liaise with staff about current issues.

My Observations

I spent a number of days at the CDTCC and my understanding of the work there was greatly assisted by all the staff, but in particular I would like to thank Astrid Birgden the CDTCC director and eminent psychologist, Angela McClements and Luke Brabant who allowed me to sit in and observe various 1:1 tasks they had to perform e.g. assessment pre entry to CDTCC and sanction/reward interviews with participants. The latter was particularly interesting as I was later able to attend the Drug Court when the behaviour causing the sanction was discussed with the Judge at review.

The CDTCC is a unique establishment where all inmates have offended often for many years due to drug dependency. While I was there I interviewed on a 1:1 basis 20% of the participants. I asked the same questions to all participants based on the pre prepared questionnaire submitted to NSW DCS prior to my visit taking place. All participants agreed to take part in the study and none were offered any reward to take part. The results were as follows:

- None of the participants were prescribed any substitute medication for drug misuse at the time of the interview, all were completely drug free.
- 70% felt that the professional support offered during this sentence made a significant positive impact on the likelihood of remaining drug free.
- 90% recognised that having positive family support throughout and following sentence was important to success.
- 30% felt it was necessary to have a drug free partner to maintain abstinence following sentence.
- 40% felt that to have a fresh start in a new area would be helpful.
- 70% believed that to maintain success they had to leave behind their old 'network'.
- 60% recognised that is was 'my time to stop', having had enough of the drug dependent lifestyle.
- 90% had significant physical health problems; I recorded 60% suffering from Hepatitis C.
- 80% felt that to have employment would deter them from relapse.
- 90% had started their drug use with cannabis.
- The age they first used drugs ranged from 10 to 16 years, with an average at 13 years.
- 50% recorded that members of their family also used drugs.
- 40% recorded that members of their family used alcohol problematically.

Prior to this sentence drug use detail was as follows:

- 90% had used heroin
- 40% had used illicit methadone
- 50% had used illicit subbutex (buprenorphine)
- 80% had used cocaine hydrochloride (powder)
- 20% had used crack cocaine
- 80% had a serious problem with methamphetamine (ice)
- 62.5% of the above had used ice intravenously
- 50% had used illicit benzodiazepines
- 70% had used MDMA (XTC)
- 90% had used amphetamines
- 100% had used cannabis
- 70% overall were intravenous drug users.

Funding and Offending Behaviour at time of arrest:

- 90% described their drug use as chaotic (10% as heavy)
- 100% funded their drug use from crime, which tended to be more serious than the acquisitive crime more normally associated with drug use in UK i.e. shoplifting.
- Weekly drug spends ranged from one instance of 500$AU to one instance of 21,000$AU.
- The average drug spend was 5,400$AU per week funded by criminal activity.
- Index offences included Ram Raiding shops 10%, Burglary (B & E) 20%, car theft 10%,Robbery 30%, Theft 30%.

Relapse triggers and detox regimes

100% of the participants had travelled the Prochaska/Di Climente cycle of change

many times in their drug taking history. As a result I asked the question about what had triggered the most recent relapse (some gave more than one answer for this) and following from that, what method had they used to return to sobriety (Detox). The answers were as follows :

- 30% enjoyed taking drugs
- 20% relapsed after meeting up with old mates still using
- 20% said they were stressed and unable to cope.
- 10% blamed getting drunk
- 10% blamed unemployment/boredom
- 10% bought drugs for mates in gaol and then used.
- 10% felt they deserved a treat' after being abstinent
- 10% used to improve sexual performance.

Detox methods were many and varied. Some were undertaken with clinical supervision but many were a DIY variety using a variety of over the counter medication and street substitutes, with some choosing to detox without any chemical assistance (turkey).

- 40% used methadone (some prescribed and some illicit)
- 20% used Panadol or a cocktail of Panadol and Valium.
- 10% used Suboxone (partial agonist)
- 30% withdrew from drugs turkey.

Prior to the most recent relapse and subsequent conviction, I asked what was the longest time they had ever been drug free in the community or in prison.

- 10% a few hours
- 10% 2 weeks
- 30% between 4 and 8 months
- 30% between 15 and 18 months
- 20% between 24 and 33 months.

The CDTCC was unlike any of the many prisons I have ever visited during my career. To begin with it is small and very structured with the emphasis on treatment rather than punishment. The people holding the power are psychologists rather than custody staff, although there is a mix of both at the centre. The director encourages the treatment perspective and invites custodial staff to wear mufti rather than uniforms.

Most programmes and 1:1 sessions were firmly based in cognitive behavioural therapy. The emphasis of sanctions as apposed to punishment as a direct result of unacceptable behaviour demonstrated a firm model for developing consequential thinking.

I felt that most of the staff pulled together as a team, working with the offenders to promote positive change, however I was also aware of an undercurrent of feeling from some more 'old school' custodial staff who I felt were resistant to the methods employed to achieve the aims of the project.

A far more overtly negative attitude was displayed by the custodial staff at the nearby Parklea Prison, who jeered and verbally abused the staff at CDTCC as they went into work. I also experienced at first hand their rudeness and unprofessional behaviour

when I was invited to take part in an assessment with a psychologist at Parklea, accompanied by a CDTCC custodial officer. The assessment was conducted in a small space with no door in the middle of a very busy and noisy prison area. That alone would make any psychological assessment difficult, however to add to the mix a member of Parklea staff standing at the door discussing social matters with his colleague from CDTCC was in my view wholly unacceptable and unprofessional.

Unfortunately I heard many tales about the prison service in Australia that confirmed my view. Every Prison Service will attract personnel who are drawn to the power and control aspects of that job, it is to be hoped that more forward thinking Governors will weed such disruptive elements out, for only when prisoners are treated with respect and have a pro social model to follow will they behave better. Certainly it is within my experience that Prison Officers in the UK are, by and large, of a very different ilk to those I met in Australia.

In contrast, the ethos of the CDTCC is based in encouraging the positive participation of the offender by ensuring he perceives that the system is dealing with him in a fair and constructive manner. He responds better to a pro social model demonstrating dignity respect and politeness, recognizing that his rights and values as a competent, equal citizen are acknowledged.

Many offenders that I interviewed have had a very poor experience of custody in the past and find the very different, transparent regime of the CDTCC rather a culture shock. However all were keen to state that they felt treated fairly and that their views were taken into account.

As stated earlier, the CDTCC is still in a pilot stage. Apart from the period of abstinence whilst on the programme that allows their bodies to recuperate from chaotic drug damage, and even if they eventually relapse when their time there has been completed; I am sure that all offenders passing through this unique prison will have learned far more about social skills and will have taken much more from this unusual place than a period of drug free living. I hope the pilot is successful when the final evaluation is complete and that the CDTCC lives to fight another day.

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Biyani

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Biyani Cottage at Paramatta, Sydney, is a small residential establishment used as an alternative to custody for female offenders that have dual diagnosis problems, i.e. drugs/alcohol and mental health problems.

The main focus of the Biyani programme is to provide accommodation and support to further stabilise mental health and drug and alcohol issues and to help women to gain access to long-term residential rehabilitation programmes or appropriate community rehabilitation resources.

Biyani is designed to house a maximum of 8 women when full. The accommodation is smart and modern in a bungalow design and the women share bathrooms, kitchen and lounge areas. Women usually stay for a twelve week period.

Potential programme participants are:
Women

- In custody on remand, who are identified at pre-sentence stage.
- In custody on remand identified by the Mental Health Screening Unit, Justice Health, or staff of the Department.
- In the community at pre-sentence stage.
- In the community on a court order or parole facing breach action and possible revocation.

An assessment for eligibility is conducted by Biyani. If eligible, a report will be submitted to the sentencing court or the State Parole Authority by Probation and Parole.

Eligibility criteria
Biyani residents will:

- Have a non-acute mental health disorder
- Have a history of substance dependency
- Be detoxified
- Be on an Order from a Sentencing Court or the State Parole Authority
- Be on a S11 Order (Crime [Sentencing Procedures] Act 1999) following a period in a correctional centre. This is a suspended sentence.
- Be willing to commit to rehabilitation or participate in other relevant Community programmes.

- Be able to provide informed consent when agreeing to the conditions of residing at Biyani.
- Have no further court pending

Women are not eligible for the programme if they:

- Have a history of violence, which would potentially place other residents or staff at risk.
- Are currently at risk of suicide
- Are actively self-harming.

Probation and Parole provide supervision and guidance to the women while they reside at Biyani.

Biyani Aims

- To divert dually diagnosed women from a custodial sentence
- To assist women to gain entry to therapeutic communities or establish links with community support services for independent community living.

Biyani Principles

- Programme operated in accordance with internationally recognised 'best practice' guidelines.
- Compassion and sensitivity to the needs of individual women.
- The least restrictive residential environment possible.
- Culturally sensitive programmes and services that are developed in response to individual needs and provided within a casework model.

Biyani will provide an environment where women can be stabilised and motivated to undertake change within a supportive environment. This will be done through individual case management and group activities.

Sanctions

A range of sanctions are available, in response to non-compliance. Initial non-compliance may incur only a caution. Non-compliance is categorised as either minor or major and the sanctions vary accordingly. Team members are required to give a sanction, as soon as possible, after becoming aware of the non-compliance.

As sanctions will not necessarily have the same impact on each resident, some judgement is required in choosing a sanction from the range available. For example, being denied personal phone calls for a day or so may not have any impact on a resident who never receives or makes personal calls. Or cancelling leisure money for a few days may not be desirable when a resident needs encouragement to use leisure time purposefully and has planned an activity which requires money. Also, the resident's mental health and intellectual ability must be taken into account when determining whether to caution or sanction.

Minor Non-Compliance

Minor non-compliance does not place the individual or others at risk but causes

disruption to the smooth running of the programme and demonstrates a lack of consideration to other residents, staff, visitors or members of the public. It includes:

- Not completing programme activities and tasks within the required timeframe
- Not completing agreed household or outdoor tasks to an adequate standard
- Not maintaining personal hygiene
- Not dressing appropriately when going out
- Being rude or disrespectful to other residents, staff, visitors or member of the public
- Not complying with agreed budget ,when spending money
- Not providing receipts for expenditure
- Not complying with individual weekly plan
- Not placing cigarette butts in ash-trays or bins.

Sanctions for minor Non-Compliance

- Additional housework tasks such as extra cleaning, tidying, washing or cooking
- Additional outdoor tasks such as weeding, raking, picking up cigarette butts, washing a vehicle, watering the garden, organising bins, sweeping paths and verandahs

Major Non-Compliance

This may place the individual concerned and others at risk

- Smoking indoors at Biyani
- Tampering with smoke detectors
- Bullying, harassing or threatening another resident, staff , visitor or member of the public
- Leaving the front entrances unlocked
- Going out without negotiating leave with staff
- Not returning to Biyani at agreed times
- Intentionally damaging property
- Obtaining prescribed, over-the counter medication or vitamins without staff being present
- Inviting unapproved visitors to Biyani
- Withdrawing money from the bank without staff knowledge
- Refusing to follow case plan requirements, such as not attending appointments with a mental health worker or applying for a rehabilitation programme.

Sanctions for major Non-Compliance

- Cancellation of visits (except children)
- Cancellation of day or overnight leave.
- Cancellation of budgeted expenditure on non-essential items such as clothing or make-up
- Cancellation of a planned outing

- Cancellation of personal phone calls for one or more days. This does not include calls to or from children, where the interests of the child are paramount.
- Placed back on accompanied leave or accompanies leave in local area for one or more weeks.

Repeated non-compliance may ultimately require a resident to leave Biyani.

There is a particularly good staff to offender ratio and many residents experience for the first time a way of life that does not depend on control by abuse. Biyani offers a caring environment where women are assisted to come to terms with losses in their lives caused by substance misuse and are enabled to deal with everyday problems e.g. debts, in order to re integrate into society with a chance of a fresh start.

The staff include qualified nurses and mental health professionals as many of the women that arrive at Biyani are in emotional turmoil, have experienced suicidal ideation and have self harmed in the past. Offenders are required to keep to behavioural boundaries that are set at intake.

For many women, the losses include their children and other family members worn out by their previous behaviours. Whilst at Biyani help is offered to rebuild some of these relationships and regain the support of family and friends. Residents are encouraged to consider residential rehabilitation for their substance misuse issues, further education and enhancement of their employability.

Biyani offers 24/7 control with care from dedicated staff who take a genuine interest in the women in their charge. I would like to give particular thanks to Debbie Coulter and her staff who offered their time and consideration during my two days at Biyani.

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Community Based Sentences

In order to complete this study, I chose two urban areas that loosely correlated to Lymington and Southampton in the UK Probation area of Hampshire.

Bateman's Bay
This is a very small office with only 2 PPOs (Probation & Parole Officers); both carry caseloads of about 50. The District Manager (Janet-Lee Hibbert) is also based at this venue and oversees all CSOs (currently 54 Community Service Orders) In addition there is a CS Supervisor (full/time) and a part time CS assistant as well as a full time administrator who is also required to double up with officers on home visits to ensure health & safety requirements are met.
Bateman's Bay is an area with a fairly high proportion of indigenous Aboriginal population. It is a small seaside resort with a population of 16,000**.**

Wollongong District Office
A large office occupying 2 floors in Central Wollongong. There are 18 PPOs in 3 units each with a team leader (Senior Practitioner). This office also has an Operational Manager (Tom Harsas) whose role is similar to that of a Senior Probation Officer (SPO) in UK. One unit also assumes responsibility for facilitating programmes, with some additional assistance from a couple of other unit staff. Community Service (UPW – Unpaid Work Requirement in UK) orders are held separately and have CS supervisors attached.

Wollongong is a multi-ethnic city, with many Chinese, Japanese, European, British & Lebanese members of the population as well as Aboriginal. The area covers several suburban communities up to 20 kms away, many of which have significant drug and alcohol related problems.

In both areas I also attended sittings of local courts and would like to thank the staff that made this possible.

Orders
In Australia the 'probation order' is called a Good Behaviour Bond and can be Section 9 (with or without supervision) or section 12 (with or without supervision) which is a suspended prison sentence. There are also other orders that deal with violence .The AVO which may or may not be supervised is an Apprehended Violence Order of which there are 2 types:

1. **Apprehended Domestic Violence Order (ADVO)**
2. **Apprehended Personal Violence Order (APVO)**

In both cases the victim of the violence can apply for this type of order to be made against the offender and can ask for the order to be extended at the time of expiry. Breach of such orders usually results in imprisonment or very heavy fines (up to 5,000$AU).

Magistrates make these orders often without a PSR (Pre Sentence Report), knowing little about the offender and the suitability of the offender to respond positively to interventions e.g. programmes

Where the court orders a PSR, P& P (Probation & Parole) are given a minimum of 6 weeks to prepare it and often 8 weeks. PPOs do NOT prepare PSRs when a current offender(i.e. already subject to an order) re offends, only a brief progress report. A PSR is only prepared when ordered by the Court as the court has to pay for them.

There is no specific requirement to a GBB that relates to Drugs or Alcohol, however, where abuse is suspected the sentence will order a fairly loose condition that the offender will comply as instructed by the PPO. The officer can (at any time) arrange for a compulsory drug test to be taken.

In general terms, the DRR (Drug Rehabilitation Requirement) attached to Community Orders and Suspended Sentence Orders in UK is a far more robust method of ensuring the impact of the intervention. However having said that, the results appear to be as successful in NSW. Nearly all the offenders I interviewed in the community were

drug free for the lifetime of their GBB (Good Behaviour Bond). In my view this could be as a result of 2 factors:-

1. **Breach of a GBB would invariably be punished by imprisonment. There is no problem of overcrowding as when a prison fills, the government build more!**
2. **In the community there was a clear favour towards use of stimulants which are less problematical as far as detox is concerned (unlike heroin).**

Assessment

NSW Department of Corrective Services does not subscribe to OASys (Offender Assessment System) but to the electronic version of LSI-R. Due to sentencing practise it is common for a court to instruct an offender to report to P & P within 7 days. It is also common for the Court to fail to notify the office within that time (or to let hem know that supervision is attached).

Normal procedure where there has been no PSR would be for P & P to offer an appointment within 2 weeks of the offender turning up for the first appointment. P & P then have 4-5 weeks to complete LSI-R and that document will prescribe the level of reporting according to the risk assessment.

By comparison in UK courts, an adjournment for a full PSR is a maximum of 15 working days or 10 if the offender is remanded in custody. Once sentenced a full OASys with risk of harm included has to be completed in 5 days if the offender is deemed dangerous or a prolific offender, or 15 days in all other cases. All cases are categorised into tiers according to seriousness of offending, previous offending history and harm and reporting according to tier is set against National Standards for all Probation Areas in the UK by Government (Ministry of Justice).

There is a high incidence of Domestic Abuse which is currently NOT targeted and treated sufficiently well.

In UK in many large urban areas, specialist Domestic Abuse Courts sit weekly with magistrates trained to deal with these cases. In such courts there are particular arrangements organised to protect victims of DV e.g. arriving and leaving by alternative doors to the offender, screens in court so that they do not feel intimidated and in some more serious cases video links to the victim in a different room in the court building. Additionally in all UK towns, at least monthly, a MARAC (Multi Agency Risk Assessment Conference) is held. This meeting is chaired by a Police Inspector and attended by managers of any agencies involved with protecting the victims of DV e.g. Probation, Housing, Children's Services, Educational Welfare, Women's Aid Refuges, Mental Health, any victim services, drugs/alcohol services etc. Each meeting discusses the call outs (police) since the last meeting in that area to DV related incidents and action plans are drawn up to protect mothers and children from DV perpetrators. I would add that male victims are also protected by this scheme. All such cases that result in court action and proceed to sentence are required to have a full PSR, rather than a Fast Delivery (FDR) or Oral report.

In both geographical areas alcohol is widely reported as a serious causal factor of crime. With very little exception, cannabis was the first illicit drug used by offenders in their early teens. Heroin is not as popular as in Sydney and, like the big city Crack

Cocaine was hardly used.

The drugs of choice were amphetamine based (stimulants) principally methamphetamine (in crystal form known as ICE) which was usually injected. Other drugs of choice were Amphetamine (Speed, often injected) and MDMA (ecstasy) taken in tablet form.

This high use of Amphetamine based drugs coupled with alcohol/cannabis has produced an extremely high incidence of adverse mental health issues such as Bi-polar affective disorder, depression & schizophrenia.

Of equal concern, the method of drug taking, being principally intravenous has resulted in an unacceptably high level of Hepatitis C sufferers. Statistics show that in regular prisons it is normal for this figure to be 60%. In special custodial establishments specific to drug users this figure can rise to 80% of the incarcerated population.

Offenders reported shared injecting equipment being used as many as 110 times within custodial establishments. In the community about 40% of the offenders interviewed disclosed Hep C even when they had not been imprisoned previously.

Drug 'spends' in the community ranged between 500$AU to 7000$AU per week prior to CJ (Criminal Justice) intervention. Most offenders in the community had sold all their possessions and resorted to IV use (to lessen cost) before resorting to criminal behaviour. Offending behaviour ranged from shoplifting to armed robbery to fund addictions to Ice, and most offenders had a propensity to Domestic Violence.

Many relationships were unsustainable while the offender used Ice and families became dysfunctional and torn apart as a result. Due to the very large geographic area of Australia, many abused women relocated hundreds of miles away taking the children, resulting in no contact with the father even after he had completed any sentence and 'cleaned up his act'.

Many of the offenders I spoke to cited this as the principle reason for ongoing depression. However whilst this would be a factor it was clear that entrenched use of amphetamine based substances over a long period of time has a lasting effect on the likelihood of depressive illness for a lengthy period even when drug free.

Treatment of Drug Using Offenders in the Community

Treatment and the quality of it depended upon the geographical location. In the less accessible area of Bateman's Bay there was little Probation impact upon the treatment of drug users.

Certainly the prescribing practises were very concerning e.g. prescribing methadone (40 mls per day) to a woman who had no history of opiate use "to calm her down" as she presented as "aggressive and violent" when it was clear even from her probation file that she had a history of ADHD. It was not surprising to find that she then developed a liking for opiates which she injected into her legs and feet and now suffers with cellulitis and a range of medical problems.

In the larger city of Wollongong, the treatment provider offered appointments at the Probation office for assessment prior to a care plan being drawn up. Offenders were encouraged to go into residential rehabilitation centres which were funded from their Medicare account.

Differences between the National Health Service (UK) and a quasi privatised health service Medicare (Australia) actually meant that residential rehab was available to all, whereas in UK resources for residential rehab are held by agencies who decide whether patients have ticked enough boxes, showed the required amount of motivation or indeed are 'worthy' of having that agency's money spent on them.

I visited the treatment providers at their base at Mount Kembla Hospital in Warrawong and was able to bring back some very good material that can be used in either a 1:1 or a group setting for dealing with amphetamine use, cannabis use and relapse prevention. I am hopeful that some of this will be useful to the drugs workers in Probation and the treatment providers in Hampshire with their work with offenders. In particular the material available for stimulant users is important as Australia has had to come to grips with an epidemic of methamphetamine use that currently has not been too problematical in the UK.I would like to thank the treatment provider staff who took the time and trouble to explain their work to me and donated the valuable publications that I was able to bring back to UK.

Treatment in a custodial setting

Unless in the CDTCC (specialised drug prison) treatment or/and detox in mainstream custodial institutions varied between passable to extremely poor in NSW. In some prisons inmates were offered methadone to assist with detox but in many prisons the detox regimen was via an assortment of drugs from valium to panadol and often was completed 'turkey'.

Drug users were regarded with distaste and scorn by prison staff, many of whom operated with a noticeable 'thug' mentality. Punishment rather than rehabilitation is still often the order of the day with many 'old style die hards' in the prison system.

I was informed by a prison governor that in mainstream prisons about 80% of inmates had a drug problem, it is therefore curious to me that there are not more institutions like the CDTCC that do operate on a rehabilitative model of care for prisoners that aims to rebuild self esteem and social responsibility alongside drug rehabilitation and treatment.

In all of the areas that I visited PPOs told me that is was 'common' for prison doctors to prescribe methadone to inmates who were perceived as difficult or aggressive, using the opiate as method of control with no regard for the opiate dependency that resulted. Once released, the inmate invariably turned to street opiates such as heroin and into further crime.

It is easy for me to be critical of this abuse of power and control but I recall in the UK a prison crackdown on the use of cannabis by urine analysis, which resulted in a widespread turn to heroin use in UK prisons because heroin left the body in 36 hours

compared to the 30 days of cannabis. These are clearly two cases where the end does NOT justify the means.

My Conclusions

In South Western Sydney where the Drugs Court operates and offenders have the opportunity (subject to suitability) to engage with either the Compulsory Drug Treatment Order or spend their time in custody at The Compulsory Drug Treatment Corrections Centre the methods used are, in my opinion a model that could be used with very positive effect in the UK. It is clearly well resourced and staffed with properly qualified and enthusiastic staff that actively go the extra mile to get good results.

However it must be noted that in order to gain the results a great deal of money is required to resource sufficiently e.g. drug testing 3 times weekly for many months. No corners are cut in either Parramatta or the CDTCC to gain the desired results, whether it is court time, treatment time or indeed short spells in drug free prison wings as a sanction to re focus and re detox. The process is tenacious and revocation and withdrawal from the program is rare.

Elsewhere, treatment and sentencing for drug using offenders seems to be a postcode lottery, many practitioners from both P & P and treatment complained that all resources 'went to Sydney'.

There is a lack of uniform treatment facilities across NSW which may in part be due to Medicare rather than NHS style of funding, although this can also be advantageous with more choice available without lengthy waiting for funding to be approved.

Sentencing in the community seems quite old fashioned with too many different types of orders and would in my opinion benefit from similar streamlining to the current system in UK of only 2 community orders (Community Orders and Suspended Sentence Orders) with various requirements attached that address criminogenic need.

Despite the moans and groans of UK Probation staff about OASys, it is far superior to the LSI-R used in NSW giving our practitioners the means of thorough assessment in all areas of criminogenic need, risk of harm and risk of re offending. OASys is large and unwieldy for low risk offenders but for medium and high risk cases I felt it was a superior tool.

Although my study concentrated on Drug Using Offenders, whilst visiting community Probation Offices I asked and was asked many questions about how they/we work with other types of offending behaviour, in particular High Risk Offending and Domestic Abuse. Colleagues in NSW were impressed with my feedback about MAPPA (Multi Agency Public Protection Arrangements) and MARAC (Multi Agency Risk Assessment Conference) as there are no similar processes in place in NSW. As such they were left feeling vulnerable when managing dangerous offenders without the backup that MAPPA and MARAC provides.

Bear in mind also that POs in NSW only complete a 6 month basic training programme at the Academy and as such may be less equipped than our graduated

officers who have completed a comprehensive 2 year degree level training course.

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Methamphetamine aka Crystal Meth, Ice.

The most concerning area of my study was the widespread use of methamphetamine (Ice, Crystal meth). This extremely potent stimulant outstrips the damage caused by Crack cocaine in just about every area. In particular I noted:-

- **Use of ICE causes a significant rise in the volume of crime that raises large amounts of cash e.g. ram raiding shops, drug dealing, car theft, ATM robbery, dwelling burglary, violent crime.**
- **The 'comedown' from ICE after 5-10 days of being unable to sleep, eat or function normally is particularly difficult for users to deal with and results in self medication of other illicit drugs to ease it e.g. heroin or benzodiazepines.**
- **Physically the body is depleted and teeth, hair and skin complaints are common.**
- **Mentally, users suffer with extreme depression, often manifesting as bi-polar affective disorder. Many users become schizophrenic and paranoid. The incidence of persistent mental health issues long after detoxification is very high, about 9/10 cases that I interviewed.**
- **Males tend to use ICE as it allows them to perform sexually for hours on end.**
- **Females tended to use ICE to assist rapid weight loss.**
- **Both of the above were common reasons for relapsing into occasional use following a period of detoxification.**
- **Problem use of ICE was in 'binging' for many days until the body could take no more.**
- **The cost to the health services is astronomical and often ongoing for many years.**
- **The commonest method of using is intravenous, thereby raising the risk of blood borne disease.**
- **In social terms the cost to families where a parent is a problem user is vast. Inability to protect and care for children, loss of home, health and self worth, all incalculable.**
- **A high incidence of domestic abuse during 'comedown' periods further exacerbates the breakdown of family units.**

Methamphetamine, although originating in the East took a firm hold in America many years ago, resulting in violent crime and breakdowns in health and family. The epidemic is firmly in place in Australia and in the UK we await with bated breath because history tells us that drug trends in USA invariably reach us with all the chaos attached.

The professionals I spoke to in NSW maintained that not enough public awareness about ICE and the disasters associated with it, has had a negative impact on the young drug using populace. Certainly in UK there is little in the media about this drug and the impact upon the individual, family and society generally.

Should we be learning from this? Should we be making plans for how to deal with this before it's too late (already this drug is used in London & and other major cities like Manchester)? At the moment we are not in an epidemic of ICE use, the thought of which is very concerning and quite alarming.

My Churchill Fellowship has allowed me to see at first hand the destructiveness of this substance. As a result I have brought back a number of programmes and materials that can be used effectively with stimulant users, that may be helpful for my Probation colleagues as well as the treatment providers with whom we work for our DRR offenders.

I would like to take this opportunity to thank the many members of staff of the NSW Department of Corrective Services who have helped me throughout my visit and provided me with useful material and programmes to assist my colleagues in UK. Their assistance has been invaluable, their humour and goodwill unsurpassed. I have many memories of Australian colleagues and Australian offenders that will stay with me always.

I would also like to express my gratitude to Hampshire Probation Trust, who supported me throughout this enterprise and allowed me to take take the necessary time away from my post.

I have worked in the Probation Service since 1975 in many different locations, and I have always felt that 'probation people' were the best workmates one could have. This, I can now say is an international truth as well as a national one. I would like to thank the Winston Churchill Memorial Trust for giving me this wonderful opportunity and I will do my best to ensure that my learning can be cascaded for the benefit of British people who are or have to live with drug users.

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