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The NSW Rolling List Court Evaluation: Final Report

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Aim: *To assess whether the application of an alternative court model with fixed teams of lawyers operating on a rolling basis in the NSW District Criminal Court resulted in greater efficiency in the resolution of indictable criminal matters relative to the regular operation of the NSW District Court, and to identify the successful elements and mechanisms of the Rolling List Court (RLC) model.*

Method: *A randomised controlled trial was conducted in the NSW District Criminal Court (NSW DCC), where eligible matters were balloted with 50:50 odds to the RLC or the general list of the NSW DCC. The proportion of early guilty pleas relative to late guilty pleas, trials reaching a verdict and no-bills were compared between the courts, and survival analysis was used to analyse the time taken to reach a guilty plea and to finalise matters in both courts. Stakeholder interviews were conducted to identify the key mechanisms behind the RLC, as well as any other benefits or drawbacks of the model.*

Results: *More than half (58.0 %) of the matters balloted to the RLC resolved in a guilty plea before the trial date, compared to 22.0 per cent of the matters randomised to the general list of the NSW DCC. There were marked improvements in the average time taken to reach a guilty plea (t=-3.43; p-value<.001), to list matters for trial (t=-5.14; p-value<.001) and to finalise matters (t=-3.93; p-value<.001) in the RLC. Further evidence of faster resolution in the RLC was found through survival analyses of the time taken to reach a guilty plea (HR=1.73; 95% CI (1.08, 2.78); p-value=.023) and to finalise matters (HR=1.90; 95% CI (1.29, 2.79); p-value=.001). Stakeholders interviewed indicated that early briefing and negotiation was crucial to obtaining earlier guilty pleas, and further benefits to efficiency arose from the fixed-team composition of the court.*

Conclusion: *The RLC proved effective at obtaining early guilty pleas and reducing delay in the processing of indictable criminal matters. The findings suggest that efforts to introduce some elements of the RLC, such as early briefing of practitioners and pre-trial negotiations, could have benefits for the NSW DCC's efficiency.*

Keywords: *Court delay, NSW District Criminal Court, early guilty pleas*

INTRODUCTION

At present, more than half (51.6%) of the matters that are committed for trial to the New South Wales (NSW) District Criminal Court (DCC) resolve in guilty pleas (NSW Bureau of Crime Statistics and Research (BOCSAR), 2017). It is thought that many guilty pleas obtained after committal occur on or after the day of the trial, which creates waste for the court system in terms of the resources associated with setting up a trial (such as those involved in allocating a court date and empanelling a jury) and resources spent by prosecutors on preparing matters for trial (NSW Law Reform Commission, 2014). Therefore, encouraging pleas of guilty before trials begin could generate significant savings for the court system, especially in the NSW DCC where court delay is a serious problem (see Weatherburn & Fitzgerald (2015) for analysis of the recent growth in court delay in the NSW DCC, and Thorburn (2017) on potential solutions to court delay in the Sydney registry of the NSW DCC).

In a thorough analysis of the causes and effects of late guilty pleas, the NSW Law Reform Commission (2014, p. 9-10) identified ten factors that contribute to the problem. The factors are:

1. The prosecution serves parts of the brief of evidence late.
2. The defence expects further evidence will be disclosed closer to the trial.
3. The defence believes that it is common practice for the prosecution to overcharge early, and that the charges will be reduced as the proceedings advance.

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4. The prosecution accepts a plea to a lesser charge late in the proceedings.
5. Crown Prosecutors with the authority to negotiate are not briefed until late in the proceedings.
6. The defence perceives the court to be flexible in the way it applies a sentence discount for the utilitarian benefit of an early guilty plea that occurred later in the proceedings.
7. The defence is sceptical that sentencing discounts will be conferred to their client.
8. The defence believes that they will obtain better results in negotiations that occur just prior to trial.
9. Discontinuity of legal representation means that advice and negotiations are inconsistent.
10. The defendant holds back a plea because the defendant wants to postpone the inevitable penalty; denies the seriousness of his or her predicament until the first day of trial; and/or is hopeful that the case will fall over due to lack of witnesses or evidence.

The Commission went on to argue that these factors reinforce one another in complex ways:

> ….for example, late service of the brief drives defendants' expectations that the nature of the case will change. Late briefing of prosecutors leads to late reassessment of the charge, late negotiations, late change to the charge, and a greater likelihood that a sentencing discount will be available even to the courtroom door plea. The power and purpose of sentence discounts for the utilitarian value of a plea is thereby diluted…

adding that (p. 10) the present system of listing and hearing criminal trials in the District Court further exacerbates the problem:

> The court allocates a trial date within six months of indictment. On that date the court extensively over-lists to accommodate the large portion of matters that will be resolved on the day of trial. The court is then able to proceed with those trials that do go forward, though some of those may be required to wait until later in the week to proceed. This means that multiple cases must be prepared and ready to proceed. This must result in defence and prosecution waste. Witnesses are prepared who are never needed because the defendant pleads or the matter is not reached. Crown Prosecutors are reassigned, and have to prepare at the last minute for other cases. The reassignment can result in a different view of the case, and a changed attitude to the proper charge. Defendants are not encouraged to plead earlier, because they know they may face a late downgraded charge. And because the charge may change, they may argue this is their first opportunity to plead and they should have access to a better discount, notwithstanding the lateness of the plea. This also has a self-reinforcing aspect. The listing method relies on the likelihood of last minute pleas, and, as a result, encourages last minute pleas. While, from the court's perspective, it can be an efficient method to manage the caseload pressures, over-listing does nothing to encourage an early plea decision.

One of the initiatives developed to tackle this problem has been the establishment of what has become known as a 'Rolling List Court' (RLC). The usual trial processing arrangement involves no dedicated judge and only limited contact between prosecution and defence. The RLC involves a dedicated judge (Judge McClintock) and two prosecution and defence teams; each with a Crown Prosecutor, Public Defender, Legal Aid solicitor and DPP solicitor. While one team is in court running a trial or sentence hearing, the other team prepares future matters. When not required to hear matters in the RLC, Judge McClintock attends to work in the NSW District Criminal Court. Adjournments in the RLC nevertheless, always result in the matter being re-listed before Judge McClintock. The hope in establishing the RLC is that it would lead to more open communication between prosecution and defence, higher levels of informed pre-trial disclosure, earlier resolution of issues and less frequent adjournments.

RELATED LITERATURE

Although there is no precise equivalent of the RLC in other jurisdictions, evaluations of particular elements of the RLC (e.g. early resolution mechanisms) have been undertaken in other jurisdictions. An early example of this is the study of Pre-Trial Reviews (PTRs) conducted by Baldwin (1985).The aim of the PTRs was to allow lawyers to: identify specific matters that were in dispute; decide upon their witnesses and determine the course of the trial. Baldwin (1985) noted, however, that lawyers would also often discuss the potential for pre-trial settlement. Out of the 402 cases he observed in the period, 193 were resolved through guilty pleas or the prosecution dropping charges. Of these 193, 79 were determined by a guilty plea obtained during pre-trial reviews. The researcher also analysed recordings of pre-trial reviews and concluded that defence solicitors gained early insight into the prosecution's case, enabling them to negotiate a plea or the dropping of charges by the prosecutor which was helped by the informal nature of these reviews.

In a later evaluation of PTRs in the Leeds and Bradford Magistrates Courts, Brownlee, Mulcahy, and Walker (1994) compared outcomes for 272 matters in Leeds (42.6% of which had PTRs and 57.4% of which had no PTR) and 462 matters in Bradford (65.9% of which had PTRs and 34.1% of which had no PTR). The authors found that 18 per cent of the matters dealt with in Leeds and 16 per cent of the cases dealt with in Bradford were resolved at the PTR. They also found that much higher proportions of cases in PTR categories in each court (16.4% and 18.5%, respectively) were resolved 'with notice' (i.e. in time to re-organise the court calendar) than in the non-PTR categories (5.3% and 8.9% respectively). These benefits did not apparently come at the cost of an increase in the number of court appearances or trial duration. The average number of appearances and the average trial duration remained much the same in the PTR and non-PTR groups in both courts.

Kakalik et al. (1996) conducted one of the few quantitative evaluations of early resolution policies in the civil courts. The study was conducted as part of a larger evaluation of reforms introduced by the *Civil Justice Reform Act 1990* (U.S.). Pilot districts were mandated to adopt judicial case management, differential case management (i.e. different "tracks" of resolution based on case complexity), good-faith efforts to resolve discovery disputes before filing motions, and referral of appropriate cases to alternative dispute resolution programs. Pilot districts were also encouraged to adopt pre-trial conferencing with attorney representation. The reforms were piloted in 10 districts for which suitable control districts were identified, leading to a total study sample of 20 districts. The evaluation found that early judicial management reduced the median time taken to dispose of a matter from 495 to 379 days, but increased lawyer work-hours and costs for the accused as lawyers worked more hours to resolve matters earlier.

In 1997, New Zealand introduced its own form of PTR (known there as a 'status hearing') in the Auckland District Court. The status hearings are held six weeks after the first appearance of defendants who entered pleas of not guilty to assault, domestic violence, minor theft and drug offences and traffic offences. Besides providing an opportunity for prosecution and defence to discuss the matter, defence counsel could request a sentence indication at these hearings (an indication of the type of penalty they would receive if they pleaded guilty at that point). Searle, Slater, Knaggs, November, and Clark (2004) conducted a process evaluation of the reform. They found that 40 per cent of the matters heard in status hearings were resolved at their first listed hearing, and 86 per cent of hearings where the judge provided an indication of the type of sentence the defendant would receive if they pleaded, resolved in early guilty pleas. They found that nearly one in five cases had some or all of their charges withdrawn. The most common reason for the withdrawal of a charge was because the defendant had pleaded guilty to other charges. Overall, 60 per cent of cases were not resolved at the status hearing (this includes 10 per cent of cases where the defendant did not appear). Thirty per cent were adjourned to a defended hearing, 18 per cent were adjourned to another hearing (typically a status hearing) and 2 per cent were adjourned because the defendant elected trial by jury. Interestingly, 94 per cent of status hearings lasted 10 minutes or less.

Generally, evaluations of case processing reform are few and far between in Australia. Sage, Wright, and Morris (2002) conducted a process evaluation of the docket system introduced into the Australian Federal Court in 1997. This system was intended to improve efficiency by giving judges a sense of ownership over matters and incentivising them to push matters towards an early resolution. Semi-structured interviews undertaken with 40 judges, 45 court staff and 93 practitioners found that the system was perceived to be effective at bringing about quicker resolution of matters and provided judges with greater flexibility over their workloads. However, some judges claimed that their workloads had increased as a result of the additional administrative burden. Some defence lawyers also claimed that disparities in judges' abilities to manage their individual lists disadvantaged their clients who were on the list of an inefficient or less productive judge.

Higgins (2007) evaluated a case management approach adopted by the Australian Family Court. The approach, known as "Magellan", is an approach anchored by a Stakeholder Committee (chaired by the judge) which is designed to ensure expeditious handling of child physical or sexual abuse allegations in the context of parenting disputes. As soon as practicable after the Court becomes aware of the allegations, the Court appoints an Independent Children's Lawyer and considers what (if any) Procedural or Interim Orders should be made to protect the child or any of the parties to the proceeding. It also seeks to obtain appropriate evidence about the allegation as expeditiously as possible and requests the intervention of an officer of the relevant state/territory child protection authority. Throughout the process, the Court deals with issues relating to the allegation as expeditiously as possible.

Higgins compared 80 Magellan cases that had progressed through a Magellan list to 80 Magellan-like cases drawn from registries prior to Magellan being implemented there. Results showed that the Magellan cases had an average of 6.2 court events, compared to 10.9 for Magellan-like cases. They were also dealt with by 3.4 different judicial officers on average, compared to 5.7 for Magellan-like cases. In addition, the total average time from application to finalisation for Magellan cases was shorter than that for non-Magellan cases by an average of 4.6 months. Stakeholders reported that the case management model had generally been effective at resolving matters sooner and reducing adjournments through increasing rates of early settlement, but also noted the significant amount of resourcing required to maintain good levels of cooperation early in the process and to process matters thoroughly.

These evaluations suggest that similar elements to those of the RLC implemented elsewhere have been successful at improving criminal and civil courts' capacity to efficiently dispose of matters. However, most of the evaluations conducted so far are methodologically weak. In some cases there is no comparison group. In others there is a comparison group, however no effort is made to ensure (or show) that the treatment and comparison groups are identical in respect of factors (other than treatment) that might influence differences in case outcomes. In yet other cases the evaluation has consisted of nothing more than practitioner perceptions of outcomes; there are no quantitative measures such as time to disposal or the proportions of matters which resolved quickly, which may not accurately portray the efficiency gains from these measures.

THE CURRENT STUDY

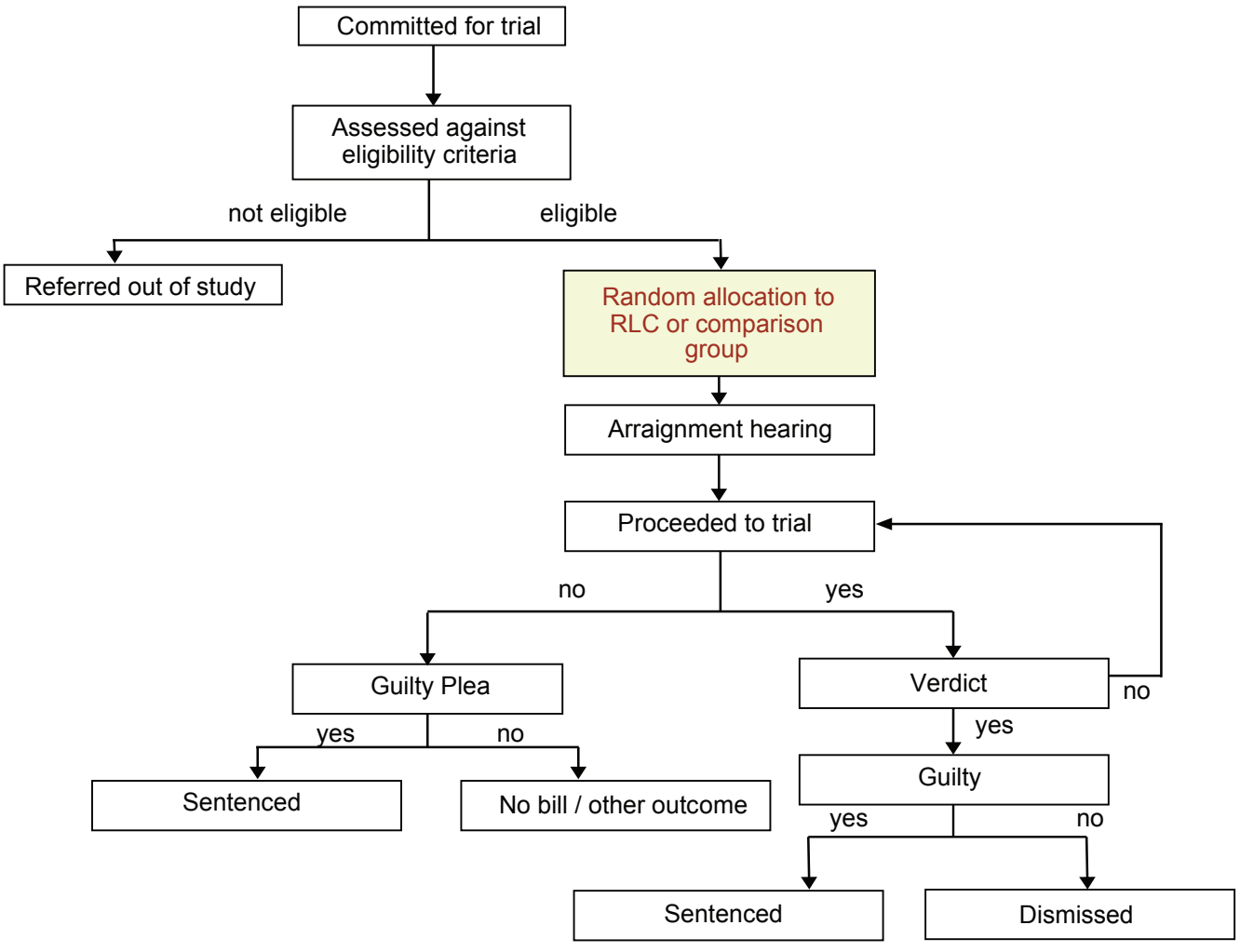
This evaluation improves on past studies of court reform by combining the use of an randomised control trial (RCT) for measuring the effect of the RLC on observable measures of court efficiency and stakeholder interviews to understand qualitative aspects of the court's operation and potential issues in expanding the model. As noted earlier, past work has either quantitatively measured outcomes without comparison to suitable control groups, or only used qualitative techniques which have limited the assessment of outcomes to those perceived by practitioners rather than measures of court efficiency. Therefore, this evaluation provides a more comprehensive understanding of the effectiveness and consequences of this trial for policy than past research.

The first year of the RLC's operation was set up as a RCT, an approach considered the 'gold standard' in program evaluation as it ensures balance between treatment and control groups on observable and unobservable characteristics (when implemented successfully), enabling the straightforward analysis of outcomes between groups without the need for additional statistical techniques to control for potentially confounding factors.

The RCT started from 17 March 2015 and was set up as follows. An RLC Legal Aid committal solicitor would assess each matter against each of the following seven criteria:

1. Accused was represented by in-house Legal Aid NSW solicitors;
2. All charges were prosecuted by the DPP (NSW);
3. There were no co-accused (unless the co-accused were in another jurisdiction or their charges had been finalised);
4. There were no issues of the defendant's fitness to stand trial;
5. The estimated trial length was two weeks or less;
6. A trial date was not yet set;
7. The committal for trial was less than 8 weeks prior to referral.

Figure 1. Randomisation process of matters to RLC or control courts in NSW DCC



If assessed as eligible (meeting all of the seven criteria listed above) details of the matter would be entered by the RLC legal aid solicitor into a purpose-built on-line ballot system. Upon entry of the details of the matter (none of which affected probability of randomisation), the system would assign it to either the RLC or to be placed back into the general court list and dealt with in the usual way (the control courts) with equal probability. The solicitor was then informed of the outcome. Matters allocated to the RLC were then distributed equally to one of the two RLC teams and case managed under the new model.

Matters balloted to the RLC were split equally between the two teams, which took turns preparing matters for trial and appearing in front of Judge McClintock. Figure 1 shows a broad overview of the pathway that criminal matters follow through the District Criminal Court system and the point at which random allocation to the RLC trial occurred.

This report adds to the interim findings of Poynton, Paterson, and Weatherburn (2016), and presents the outcomes of the operation of the RLC for the following aims:

1. An increase in the proportion of cases committed for trial that are finalised on a plea of guilty;
2. More early guilty pleas, defined as pleas of guilty before the trial date;[1]
3. Shorter trials;
4. Reduced time between committal for trial and trial start date.

In addition to quantitative analyses of these outcomes, this report presents findings from stakeholder interviews, which aims to identify the mechanisms behind the RLC's operation and the other benefits and drawbacks of the model.

METHOD

DATA

The data used for this research pertains to the 109 matters which were balloted between 17 March 2015 and 27 April 2016,[2] 50 of which were balloted to the RLC. There were three matters referred out of the RLC because the accused did not continue to be represented by defence lawyers in the RLC. As this study employs an intention-to-treat approach,[3] these matters are considered part of the RLC group despite being finalised in the general list of the NSW DCC. This approach avoids bias arising from any systematic non-compliance, for example in the case that matters referred out of the RLC shared particular characteristics which affected their outcomes.[4]

The following data were then collected for each of the matters: the date of committal to the NSW DCC, the date of any guilty plea entered, the date of any no-bill, the dates of any trials set for the matter (including vacated dates), the first and last dates of any trial which proceeded to a verdict, and the date where any sentence was handed down. These data were then checked with relevant records in the JusticeLink system to ensure accuracy.

OUTCOME VARIABLES

For this study, we are primarily interested in comparing the distribution of outcomes of the matters balloted to the RLC and control courts, specifically whether more early guilty pleas were obtained in the RLC. Therefore the outcome of each matter in the study sample was classified into one of three outcomes[5]:

- **Guilty plea**, which was further defined as an **early guilty plea** (any plea of guilty which is entered before the first trial date of a matter, the key variable of interest) or a **late guilty plea** (any plea of guilty entered on or after the first day of the trial);
- **Trial with verdict**, where matters proceed to a trial which resolves in either a verdict of guilty or not guilty. For simplicity, judge-only trials (which were rare) were included in this category;
- **No-bill**, where there were no further proceedings by the prosecution.

We are also interested in several measures of court efficiency:

- **The time from committal to finalisation**, the number of days between the committal date and the finalisation date of a matter, defined as the sentence date for matters where a plea of guilty was entered or those which proceeded to trial with a guilty verdict, the date where directions for no further proceedings was given by the DPP for matters which were no-billed, or the date of the verdict for matters which proceeded to trial and resolved in acquittal;
- **The time from committal to guilty plea,** the number of days between the committal date and the date a guilty plea was entered, for those matters which resolved in a plea of guilty;
- **The time from committal to first trial date,** the number of days between the committal date and the first trial date set for matters which a trial date was set (i.e. those which did not resolve before a trial date could be set), regardless of whether the trial proceeded on that date or not;
- **The length of trial,** the number of days from the commencement of a trial to its completion, specifically the date the final verdict (either guilty or not guilty) was delivered.[6]

These measures capture various aspects of court efficiency. The time from committal to finalisation measures the efficiency of the court at disposing of matters, and can be correlated with the number of matters that resolve in an early guilty plea or a no-bill, as these are finalised earlier. It also captures any delay occurring due to adjournments or the vacating of trial dates. The time from committal to a guilty plea is an alternative measure of the effectiveness of the RLC and control courts at reaching guilty pleas.

The time from committal to first trial date could also be described as a measure of listing delay (Weatherburn, 1996), as it measures how quickly a matter can be allocated a trial date after coming into the court. This does not capture delay caused by

further adjournments. The length of the trial in days measures the court's efficiency at hearing matters and running trials. This measure, however, only applies to those matters where a trial is completed and does not take into account any differences in how the courts schedule time for trials (i.e. whether they are run continuously or with short breaks).[7]

SAMPLE CHARACTERISTICS

The 109 matters in this study were linked to the BOCSAR Re-offending Database (ROD) to obtain data on the characteristics of the defendants and matters in the RLC and control courts. Out of the 109 matters, 106 were successfully linked to ROD. ROD records all finalised NSW criminal court appearances and all movements in and out of NSW custody for a given individual from January 1994 to the present and includes variables on individuals' demographics, the characteristics of their index appearance and their prior criminal history.

The characteristics of the 106 matters balloted to the RLC and control courts which were successfully linked to ROD are reported in Table 1. There were slightly more female and Indigenous accused in the RLC compared to the control courts. The only significant difference was that the accused balloted to the RLC tended to have more prior court appearances then those balloted to the control courts. Overall however, all the other differences in the observed characteristics of matters balloted to the RLC and control courts were not statistically significant, which indicates that the randomisation process achieved its purpose of obtaining an unbiased sample.

STATISTICAL ANALYSIS

The outcomes were analysed as follows. For the treatment and control group, the proportion of cases finalised either by early guilty plea, late guilty plea (plea on or after the first trial date started), a trial with a verdict, or through a no-bill from the DPP was calculated. The averages of the four time variables of interest (time from committal to finalisation, time from committal to guilty plea, time from committal to first trial and length of trial) were also calculated. Chi-squared and t-tests were used to test whether the difference between groups was statistically significant.

Survival analysis was also used to examine the time taken to reach a guilty plea and the time taken to finalise matters in both the RLC and control groups. For each event of interest (guilty plea and finalisation), Kaplan-Meier (1958) analysis was used to estimate the time taken for matters to reach the event following committal. When a matter was resolved by another means (verdict or no-bill), they were considered censored at that point as they could no longer be finalised by a guilty plea. Hazard ratios were calculated to obtain an estimate of any improvement or reduction in the time taken to reach guilty pleas and to finalise matters in the RLC relative to the general list.

PROCESS EVALUATION

One of the drawbacks of an RCT is that it does not provide information on why an intervention works (or fails to work); only whether it works or not. Further analysis of the mechanisms by which interventions work can strengthen the quality of evidence obtained through RCTs and inform further application of successful interventions (Clarke, Gillies, Illari, Russo, & Williamson, 2014). Short of conducting multiple experiments in which each possible mechanism is varied and the results analysed, there is no rigorous way of identifying what mechanisms are responsible for the outcomes produced by the RLC. It is, however, possible to gain some insight into the mechanism through which behavioural change occurs, however, by interviewing those responsible for implementing behavioural change and/or those whose behaviour is the subject of the intervention.

Consequently, in addition to the statistical analysis of the outcomes of the RLC, stakeholder interviews were conducted to understand the mechanisms behind the RLC's operation and its broader applicability to the NSW DCC. Interviews were conducted from May to July 2017 with 15 practitioners who were involved either in the set-up or operation of the RLC, with rough parity maintained between prosecution and defence. This report refers to those lawyers who appeared in the court (as opposed to those who only oversaw their agencies' processes) as those who practiced in the RLC. Those who did not appear in the RLC but oversaw their agencies' involvement are referred to as agency staff.

As the RLC operated for only a short time and only a limited number of personnel were involved throughout its life, it was not possible to randomly sample practitioners. Instead practitioners were chosen to maintain balance between solicitors and counsel who were on the teams at some point in the Court's life as well as those who managed their agencies' involvement in the RLC. An interview was also conducted with a representative from the private profession but this interview only covered matters relevant to expansion of the RLC.

Stakeholders received invitations from BOCSAR informing them of the purpose of the interviews. Participants were assured of the confidentiality of their responses. Interviews were conducted either face-to-face or over the phone, with interviews averaging 45 minutes in duration. The interview questions were formulated around the following areas:

- The operation of the court and changes throughout the trial;
- Its benefits and drawbacks; and
- Improvements that could be made to the operation of the RLC.

The full interview guide is presented in the Appendix. Interviewees may have been asked to follow-up or clarify some of their responses in addition to the questions in the guide, and

Table 1. Descriptive statistics of matters balloted to Rolling List Court and control courts

	Rolling List Court (n=49)	Control courts (n=57)	
Continuous variables	**Mean (Standard deviation)**	**Mean (Standard deviation)**	**t-test *p*-value**
Age (in years)	35.6 (10.5)	34.7 (12.5)	.71
Mean severity index of principal offence	33.1 (19.7)	37.0 (26.5)	.40
Number of concurrent offences	1.6 (1.8)	1.5 (1.3)	.75
Number of finalised court appearances with a proven offence as a juvenile or adult prior to the index contact	8.5 (6.7)	5.9 (5.8)	.03
Categorical variables	**n (%)**	**n (%)**	**Chi-squared test *p*-value**
Gender of defendant			.22
Female	7 (14%)	4 (7%)	
Male	42 (86%)	53 (93%)	
Indigenous status of defendant			.36
Indigenous	8 (16%)	7 (12%)	
Non-Indigenous	41 (84%)	48 (84%)	
Unknown	0 (0%)	2 (4%)	
SEIFA Quartile of defendant's residence			.10
1 (most disadvantaged)	14 (31%)	17 (37%)	
2	5 (11%)	13 (28%)	
3	14 (31%)	8 (17%)	
4 (least disadvantaged)	12 (27%)	8 (17%)	
Remoteness of defendant's residence			.36
Inner regional	3 (7%)	1 (2%)	
Major cities	42 (93%)	45 (96%)	
Outer regional	0 (0%)	1 (2%)	
Bail status of defendant at finalisation			.54
Bail dispensed with	1 (2%)	2 (4%)	
Bail refused	12 (24%)	8 (14%)	
In custody for a previous offence	10 (20%)	15 (26%)	
On bail	26 (53%)	32 (56%)	
Index offence characteristics			
Acts intended to cause injury vs. other	16 (32%)	15 (25%)	.45
Assault vs. other	15 (30%)	14 (24%)	.46
Serious assault vs. other	15 (30%)	12 (20%)	.24
Sexual assault or related vs. other	6 (12%)	7 (12%)	.98
Robbery or related offences vs. other	9 (18%)	11 (19%)	.93
Break and enter vs. other	12 (24%)	10 (17%)	.36
Drug vs. other	11 (22%)	16 (27%)	.54
Strictly indictable vs. other	25 (50%)	33 (56%)	.54
Indictable vs. other	42 (84%)	46 (78%)	.43
Committal Court of matter			.92
Burwood Local Court	3 (6%)	3 (5%)	
Campbelltown Local Court	7 (14%)	7 (12%)	
Sydney Central Local Court	14 (29%)	12 (21%)	
Sydney Downing Centre Local Court	14 (29%)	19 (33%)	
Parramatta Local Court	6 (12%)	10 (18%)	
Penrith Local Court	5 (10%)	6 (11%)	

may have not been asked a question if they had addressed it in a response to an earlier question. Interviews were recorded and transcribed, except for one case where the interviewee preferred not to be recorded, in which case the interviewer took hand-written notes. Interview responses were then organised and analysed by topic. Organising all participants' responses by topic enabled common themes to be drawn out and an assessment of the extent of agreement or disagreement on issues. The results of these analyses are presented in this report along with the quantitative results.

RESULTS

DESCRIPTIVE ANALYSIS

Guilty pleas and early guilty pleas

Figure 2 shows the proportions of matters balloted to the RLC and control courts which resolved in a guilty plea, a trial with verdict and a no-bill (no further proceedings from DPP). A higher proportion of matters in the RLC eventuated in guilty pleas (74.0%) than in the control courts (57.6%). However, a chi-squared test indicated that the difference in the proportion of guilty pleas occurring in the RLC and control courts was not statistically significant (χ^2 =3.19; d.f. =1; *p*-value =.074).

Figure 2. Percentage of randomised matters resolved by guilty plea, trial with verdict or no-bill in the Rolling List Court and control courts

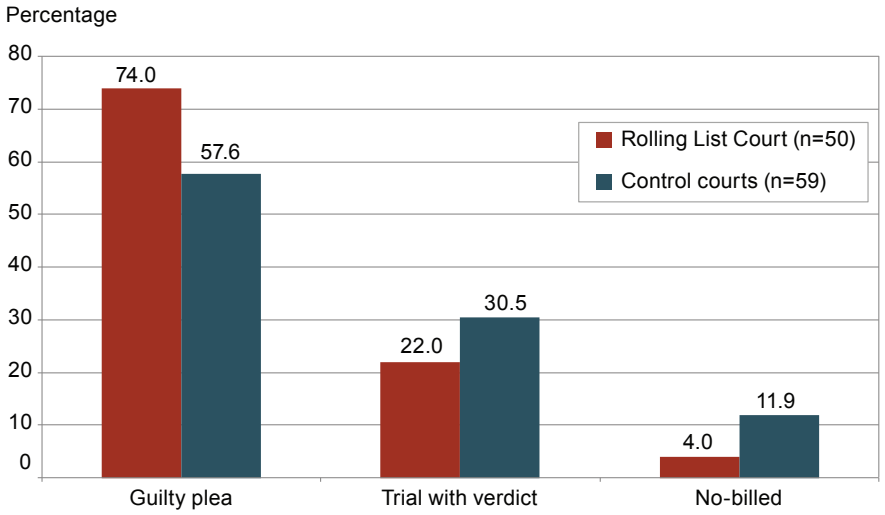
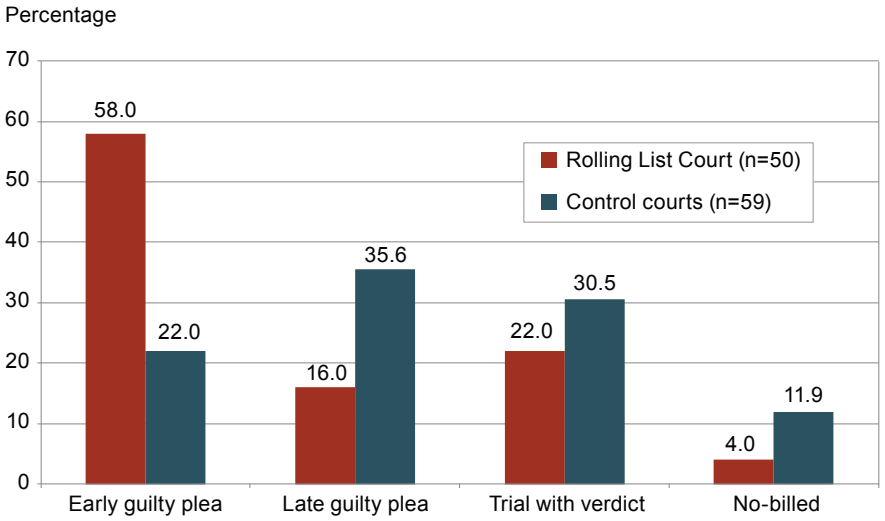


Figure 3 presents the proportions of matters resolved by each means when guilty pleas are divided into early and late guilty pleas. More than half (58.0%) of the matters balloted to the RLC in the trial period were resolved via an early guilty plea, compared to less than a quarter (22.0%) in the control courts. This difference was statistically significant (χ^2 =14.78; d.f.=1; *p*-value <.001). Additionally, 35.6 per cent of matters in the control courts resolved in a late guilty plea, compared to 16.0 per cent in the RLC. The differences between the groups in the proportions of matters that went to a trial with verdict (χ^2 = 1.00; d.f.=1; *p*-value =.316) and the number of matters that were no-billed (χ^2 = 2.21; d.f. = 1; *p*-value = .137) were not statistically significant. These results suggest that a similar proportion of matters resolved in guilty pleas in both courts, but that these occurred earlier in the RLC than in the control courts.

Figure 3. Percentage of randomised matters resolved by early guilty plea, late guilty plea, trial with verdict or no-bill in the Rolling List Court and control courts



Time to finalisation, time to guilty plea, time to first trial and length of trial

Figure 4 shows the average length of each of the time variables of interest in the RLC and control courts. The average time from committal to finalisation was 262 days, more than 100 days fewer than the 364 days taken on average for a balloted matter to be finalised in the control court, a statistically significant reduction in case processing time (t-statistic = -3.93; *p*-value <. 001). The average time taken to enter a guilty plea was significantly lower in the RLC (151 days) compared to the

Figure 4. Average time from committal to finalisation, committal to guilty plea, committal to first trial date and trial length in the Rolling List Court and control courts

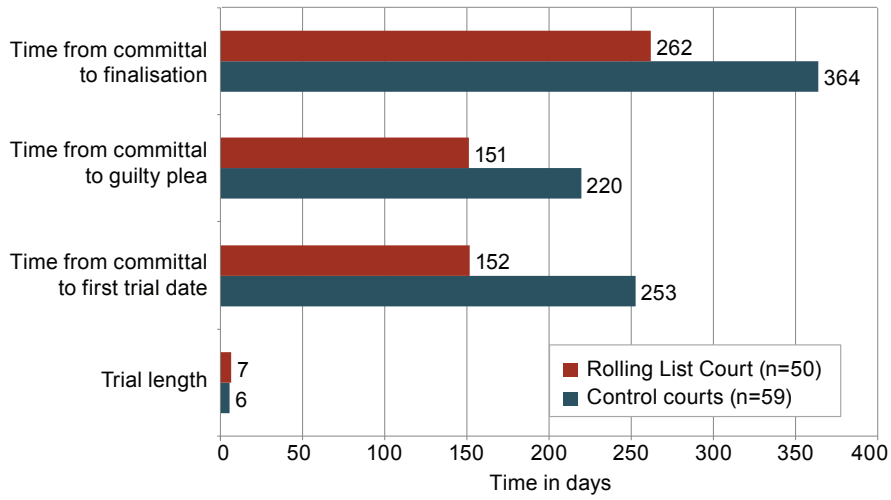
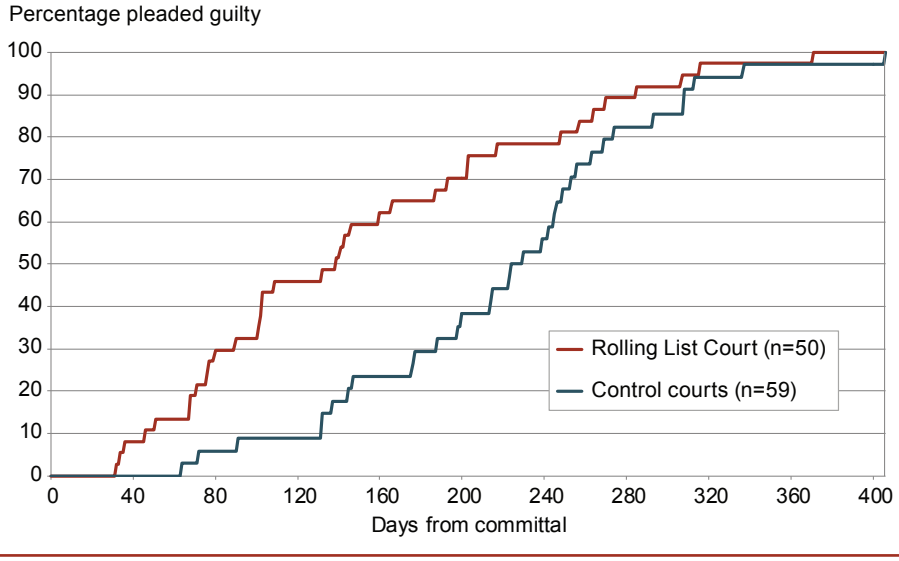


Table 2. Kaplan-Meier estimates of time to guilty plea in the Rolling List Court and control courts

Measure	Control courts (n=59)	Rolling List Court (n=50)
Est. % guilty pleas at 6 months following committal	29.4	64.9
(95% CI)	(17.0, 47.8)	(49.7, 79.6)
Median time to guilty plea (days)	224	139
(95% CI)	(188, 249)	(101,187)
Hazard ratio	1	1.73
(95% CI)		(1.08, 2.78)
p-value		.023

Figure 5. Cumulative percentage of guilty pleas in the Rolling List Court and control courts, by days from committal



control courts (220 days) (t-statistic = -3.43; *p*-value = .001). The time from committal to the first trial date listed was approximately 100 days shorter in the RLC (152 days) relative to the control courts (253 days) and was also statistically significant (t-statistic = -5.41; *p*-value <.001), an unsurprising result given the extent of the backlog in the NSW DCC.[8] These results are especially impressive taken together, as early guilty pleas were still able to be obtained before the trial date despite shorter listing delay than in the NSW DCC. Average trial length was longer in the RLC compared to the control courts, but the difference was not statistically significant (t-statistic= 0.69; *p*-value=.493).

SURVIVAL ANALYSIS

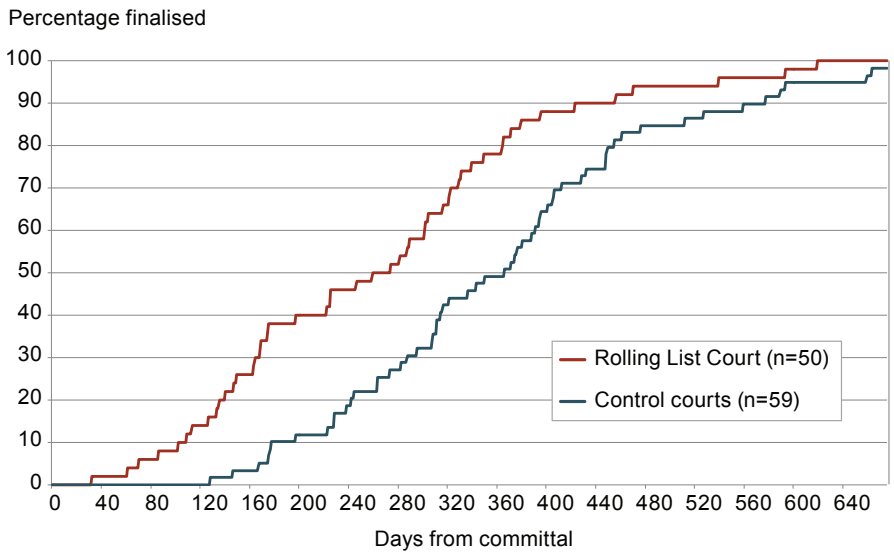
Time to guilty plea

Kaplan-Meier analysis was used to estimate the time taken in the RLC and control courts for accused to plead guilty (Table 2). As previously mentioned, matters which resolved by other means (verdict or no-bill) were censored at the point of resolution, as a guilty plea could no longer be observed. At 6 months following committal, an estimated 64.9 per cent of outstanding matters (those not yet resolved by other means) resolved in guilty pleas compared to 29.4 per cent in the control courts. Furthermore, the median time taken to reach a guilty plea was 139 days from committal, compared to 224 days from committal in the control courts. These differences were significant, as illustrated by the estimated hazard ratio of 1.73 (95% CI (1.08, 2.78), *p*-value = .023). The difference in the rates at which guilty pleas occurred in each group is also illustrated in Figure 5; which shows the cumulative percentage of guilty pleas (among cases not yet finalised by other means) by time since committal and court (RLC v control courts). The figure corroborates the findings of the descriptive analyses in showing that

Table 3. Kaplan-Meier estimates of time to finalisation in the Rolling List Court and control courts

Measure	Control courts (n=59)	Rolling List Court (n=50)
Est. % finalised at 12 months following committal	49.2	82.0
(95% CI)	(37.8, 62.47)	(70.3, 91.1)
Median time to finalisation (days)	366	259
(95% CI)	(311, 394)	(174, 304)
Hazard ratio	1	1.90
(95% CI)		(1.29, 2.79)
p-value		.001

Figure 6. Cumulative percentage of cases finalised in the Rolling List Court and control courts, by days from committal



guilty pleas occurred much earlier in the RLC compared to the control courts.

Time to finalisation

The Kaplan-Meier analysis was repeated for the other time variable of interest, the time taken for a matter to be finalized following committal in the RLC and control courts. Table 3 shows the estimated proportions of matters which were finalised at 12 months and the median time taken to finalise matters in the RLC and control courts. At 12 months, more than four in five matters (82.0%) were finalised in the RLC compared to approximately half (49.2%) of all matters in the control courts. The median time to finalisation in the RLC was 259 days compared to 366 days in the control courts. The estimated hazard ratio of 1.90 (95% CI (1.29, 2.79), *p*-value = .001) indicates that on average, matters resolved 90 per cent faster in the RLC compared to the control courts. The faster disposal rate in the RLC is plainly apparent in Figure 6.

QUALITATIVE FINDINGS

Mechanisms

The statistical analyses establish that the RLC was much more effective in obtaining early guilty pleas and reducing listing and processing delay for eligible indictable matters than the general list of the NSW DCC, but do not identify *why* this was the case. As noted earlier, interviews were conducted with key stakeholders to garner some insight into the mechanisms which produced these efficiencies in the RLC relative to the control courts. In view of recent interest in obtaining earlier appropriate guilty pleas as a solution to the NSW DCC backlog, perhaps the most important mechanism to identify is how the RLC obtained a greater number of early guilty pleas than in the control courts.

There was broad agreement from prosecution and defence lawyers interviewed that early guilty pleas occurred more often in the RLC because senior prosecutors who would take matters to trial were briefed early on, and therefore available to negotiate much earlier with their opposing counsel than they would be in the general list.

Defence practitioners in the court said that this gave them confidence that the charges, evidence and plea deals negotiated were unlikely to change between then and the trial date, as both sides were appropriately briefed and authorised, and had carriage of the matter until its resolution. Thus, incentives to delay in pleading guilty were removed as no better deals could be obtained by holding out until the day of the trial. A defence lawyer described how they would explain any deals coming out of negotiations in the RLC to their clients:

> The advantage is with the client we can say this is the best deal that you're ever going to get. Nothing's going to change between now and then. Take it or leave it … It's the same as what you're going to get in two months' time or six months' time when it's put down for trial. You can hold out until then if you want, but you're just wasting everybody's time and missing out on discount.

This quote suggests the RLC created greater certainty early on around the charges and deals available to clients, enabling sentencing discounts to work in the intended way; as an incentive to plead early. Defence practitioners also mentioned that having knowledge of the sentencing judge beforehand enabled them to provide better advice to their clients on the

range of likely penalties their clients would get from pleading guilty compared to the general list (where the trial/sentencing judge would be unknown), which was helpful in bringing about more guilty pleas.

Practitioners who appeared in the RLC also reported high levels of trust between the practitioners in the court, which they said contributed to the early resolution of matters. This trust was said to arise from several sources, including: (1) repeated interaction which encouraged cooperation rather than opportunistic behaviour; (2) familiarity with each team's working style; and (3) the goodwill that came from the involvement of experienced public sector lawyers (who were not perceived to have any incentive to delay matters unnecessarily). Practicing lawyers stated that this had the effect of increasing disclosure and cooperation without the need for court orders or adjournments sometimes needed in normal NSW DCC proceedings. One lawyer interviewed described their experience with disclosure in the RLC as follows:

> We have much less paperwork that we have to deal with in advance with pre-trial disclosure and things like that because that's just part of what we do. We disclose to each other the issues in advance without any requirement of a court order, because you're dealing with the same person. So I never turn up to court and I'm surprised by something. I'm never concerned that I'm going to get a sneak attack, or that they're going to take advantage of not telling us something that they're not required to.

Some prosecution practitioners interviewed highlighted the importance of early disclosure towards resolving matters, saying that negotiations hinged on reaching agreement based on disclosures and compromise, rather than by aggressive efforts to get better deals by withholding information or behaving in an adversarial fashion. Both prosecution and defence lawyers also said that the extent of disclosure was useful even in matters where negotiation did not result in a plea because it allowed them to narrow the trial issues and reach an agreed set of facts for the trial with their counterparts. A participating solicitor described this process as follows:

> It just makes a huge difference to how the proceedings run at trial. They're much smoother having had counsel briefed so early that issues are narrowed. A matter that might take three weeks in the general list, would have taken four days in the Rolling List because counsel would speak to each other and narrow the issues. We would agree certain facts. I don't think I did a trial where we didn't have an agreed set of facts that we tendered and that meant that we didn't have to call all these other witnesses.

Lawyers appearing in the RLC also said they found that the fixed-team setup created efficiencies for early negotiation as they were out of court when their opponents were, making it easier to schedule negotiations and discuss multiple matters at a time. The lawyers spoken to contrast this arrangement to the general list, where they would experience more difficulty in scheduling and undertaking negotiations with all the different opposing lawyers for the matters in their practice. One interviewee said:

> Because you were dealing with the same people for a 12 month period, you could give them a call or email them and speak to them about multiple matters, kind of all in one go. So there was a real efficiency. Also, in just the fact that it saved a lot of time, because you had this good working relationship. That person was normally available when you were available, i.e. in the two weeks you weren't doing another trial, or it wasn't your two weeks in court. So it wasn't the case of, oh I'll get back to you when my current trial's finished and we can speak about that next trial, which is often the case in the District Court.

Lawyers who appeared in the court also said they found that fixed teams helped in scheduling court time. Where, for example, the prosecution or defence needed an adjournment or counsel encountered a late guilty plea, court time could be filled with hearings for other matters in the trial teams' practices. An interviewee described this flexibility:

> If for any reason there's an issue that arises close to trial that is unforeseen by either the Crown or the defence, there is that flexibility in terms of listing. So if for any reason a trial became derailed in the general list, you might be getting a date in March or April next year if it had to be vacated. Now we have the flexibility to look at the diary and see where we might be able to fit it in because everybody has the same availability including His Honour. You might be able to do some arguments on a day here and there fit in so you're ready to have those issues resolved before the trial is listed to start.

Another critical mechanism that most interviewees mentioned was the flow-on effect that early guilty pleas had on the time taken to finalise other matters in the court. As Judge McClintock only listed matters for trial when parties were satisfied with the outcome of negotiations, there were very few matters which were listed for trial and resolved in a guilty plea. Essentially, the court diary was not occupied by matters which would not proceed to trial, as is the case in the general list of the DCC. Interviewees said that this freed up more dates in the court diary for other matters, leading to the shorter listing delay in the RLC relative to the general list of the NSW DCC. Some of the lawyers practicing in the court also praised Judge McClintock's diary and management style, saying that the scheduling of mentions on Monday and sentences on Friday helped manage the flow of matters in and out of the court, contributing to faster case processing.

Other benefits and drawbacks

Interviewees were able to identify a number of benefits to the RLC in addition to the above-mentioned measures of efficiency. Almost all of those interviewed (including agency staff) noted that faster case processing led to a shorter period of distress or uncertainty for victims, the accused (especially those who were refused bail or found not guilty) and witnesses. Lawyers working in the RLC also said they were able to manage their workload better as they spent less time preparing for trials which did not eventuate because of late guilty pleas. This, they said, allowed them to spend more time resolving matters earlier through

negotiation and preparing more thoroughly for their matters that did proceed to trial.

Interestingly, the relatively intense nature of the workload in the RLC was also one of the major drawbacks cited by interviewees. Agency representatives interviewed suggested that participating lawyers had more matters in their practices than those appearing in the general list of the NSW DCC, creating disparities within their agencies, in one case having flow-on effects for remuneration. Those from the agencies also said that this shifted the overall balance of resources they devoted to matters in the NSW DCC relative to other courts. An agency representative described this shift in the following quote:

> Yeah, and look, those lawyers at that level are often doing Supreme Court trials, and I guess that's really where we felt it - the diverting of senior lawyers meant less ability to pick up complex Supreme Court work, which, I think, we ought to focus on, so that has been a bit of a sacrifice.

The intensity of the RLC meant that lawyers were mostly rotated out of the court after a year of involvement. Early on, rotations of defence solicitors occurred more frequently, which was inconvenient for the defence barristers as it disrupted the teams' compositions. However, agency staff thought that some degree of temporary disruption to the personnel was inevitable as a consequence of lawyers taking leave and any other circumstances. An agency representative elaborated on the issue of consistency of personnel:

> The major issue was consistency of staff. For various reasons, the staff from [our agency] had to change or - people take leave - that's just the reality - so people had to be placed into Rolling List Court sometimes at short notice, and had to take carriage of matters when they weren't actually Rolling List Court lawyers, but were helping out.

The other workload-related dissatisfaction reported by a few lawyers appearing in the RLC was the inconsistent rate at which matters entered the court. There were some periods where practitioners had little to do and others where they would be overburdened, with defence sometimes requiring the assistance of solicitors not involved in the RLC. There were several suggestions from interviewees on resolving the issue of inconsistent workflow. One prosecutor interviewed suggested agreeing on some method of prioritising matters when the flow of matters was too high (which tended to occur informally at the team level anyway). Another suggestion that was proposed by multiple interviewees was the addition of a floating solicitor on the defence side, and possible administrative, paralegal or student volunteer support for both sides.

According to the presiding judge (Judge McClintock), the RLC also increased his workload when compared to the general list of the NSW DCC because, in addition to spending more time administering the court's diary, he also spent more time preparing sentence decisions due to the faster rate of finalisation of matters in the RLC. Most of the stakeholders interviewed (including Judge McClintock), however, said they found the increased workload in the RLC rewarding compared to working in the general list of the NSW DCC. Their view was that they were resolving matters more efficiently and wasting less time preparing for matters that did not run or contesting issues in court that could have been resolved earlier with early negotiation and appropriate disclosure. Most summarized the difference between working in the RLC and in the general list as having more matters in their practice that were managed more efficiently. Some quotes from interviewees are presented on this:

> The workload was probably higher, so I had more matters in my practice. I had a lot more matters, and they were turned over - the turnover was quicker.

> I get through a lot more work now than I did before. I would say a lot more productive. In the normal list, you get a few weeks to prepare a long trial and very often they don't start at all and if they do, it's not on time. It's so inefficient. I feel a lot more efficient doing this.

Interviewees said they found that the team configuration of the RLC and the involvement of experienced, skilled and reasonable public sector lawyers created a pleasant, collegiate and professional working atmosphere. Solicitors reported that they enjoyed being mentored by senior barristers in the RLC and receiving opportunities to run sentence hearings or carry out negotiations on simple matters.

Some interviewees identified drawbacks of the team approach. Most of those interviewed said that the benefits of the RLC's team-based approach would be reduced if practitioners did not co-operate with each other or behaved in an adversarial fashion. A drawback some of the practicing lawyers interviewed mentioned was the risk of becoming too close to their opposition after working closely over time, potentially affecting their impartiality and ability to represent their clients. However, the lawyers interviewed who had spent the most time in the court said that they did not feel any reduction in their impartiality from working in the RLC. Most lawyers interviewed echoed this sentiment, describing the working environment in the RLC as cooperative but professional.

One issue brought up by some interviewees was that the RLC was perceived to create a separate stream of justice. One lawyer reported that they had heard these concerns from private practitioners, but hoped that the overall efficiency benefits of the court would dispel some of the negative perceptions around it. Several lawyers were aware of concerns raised by the Law Society and other professional associations about the impact of the RLC on the private profession. Another lawyer was concerned that a perception was developing that the RLC improved defendants' outcomes as well as the speed of case processing. Several interviewees also acknowledged that the RLC dealt with cases that might otherwise have gone to private practitioners, including those funded by Legal Aid, negatively impacting the private profession that way.

This issue was discussed in more detail with the representative from the private bar interviewed, who said that the operation of the court meant that eligible, legally-aided defendants enjoyed expedited resolution of their matters and a pleasant judge for sentencing, compared to other defendants. The interviewee further elaborated on the issues arising from these perceptions:

> I don't see how you ever get around the perception that there are things being done that people are being excluded from. You exclude the entire private profession. You exclude every accused who is not at the Downing Centre and not on Legal Aid, you are inevitably going to get a perception. If it turns out that these clients are getting expedited proceedings and particularly if the results are favourable when compared with people in a similar situation, that is only going to grow.

Some agency staff and lawyers dismissed this concern, arguing that the inclusion of private practitioners would only reduce the efficiency and effectiveness of the court. Representatives of the agencies involved pointed to the existence of other well-accepted specialist courts in NSW (for example the NSW Drug Court), which could also be said to generate inequities. Most of those interviewed acknowledged the problem but said that the appearance of inequity was an unavoidable problem that would be best managed by reducing court delay in the general list of the NSW DCC.

DISCUSSION

This study aimed to evaluate the effectiveness of the RLC on court efficiency, as measured by early guilty pleas and a reduced time to matter resolution, as well as identify the mechanisms by which any efficiencies or otherwise were achieved. The use of an RCT enabled direct comparison of observed rates of outcomes measures between eligible matters which were randomised to the Rolling List Court or the general list of the NSW DCC.

The RLC was found to be considerably more efficient at resolving criminal matters in the NSW DCC than the general process by a number of measures. Although the RLC did not obtain a significantly higher proportion of guilty pleas than in the control courts, more of the guilty pleas obtained in the RLC occurred before the first trial date. These had flow-on effects on general measures of court efficiency: the time taken to a guilty plea was shorter, matters were finalised more quickly, and listing delay was shorter than the general list of the NSW DCC. These results were confirmed through survival analyses which showed that the time taken to reach a guilty plea and to finalise a matter was substantially shorter in the RLC compared to the general list of the DCC.

Stakeholder interviews were conducted to understand which elements of the court contributed to the increased efficiency relative to the NSW DCC. The RLC was designed to deal with many of the structural problems which plague the NSW DCC using fixed teams of practitioners and early briefing which enabled early negotiations between appropriately prepared, authorised and capable legal counsel who had ownership of the matter to the end of its life. The mechanism identified by most interviewees was that guilty pleas were obtained earlier because counsel and clients could negotiate and make decisions before the trial with the certainty that nothing would change closer to the trial date. Defence practitioners said that this was aided by having certainty of which judge would preside over sentencing. Practicing lawyers on both sides found the build-up of trust within teams important for bringing about disclosure and the subsequent resolution of matters. Some interviewees who appeared in the court identified further efficiencies in the ability to list matters flexibly, arising from the shared caseload among practitioners, which also aided in the scheduling of negotiations and discussing multiple matters at a time.

Among the limitations of this study is the low sample size, which reduced the statistical power of tests, and certainty around the specific estimates of the treatment effect of the RLC, as evidenced by the wide confidence intervals around the various measures estimated in this report. Additionally, only measures of trial court efficiency were analysed. Interviews suggested that, generally, lawyers in the RLC had a higher workload than they would in the general list, but no efforts were made to quantify whether lawyers in the RLC spent more work-hours per matter, as done in a previous evaluation of court reforms in the US (Kakalik et al.,1996), which would have practical consequences on billing hours for private lawyers and resources spent by public legal agencies. Justice issues such as the "appropriateness" of the pleas obtained in the RLC and control courts were also outside the scope of this study, although these have tended to be examined in studies which focus on guilty pleas.

The great efficiency shown by the RLC compared to regular operation of the NSW DCC supports its further application in some capacity. Interviewees indicated that it is unlikely that the RLC model can be replicated in its entirety across the NSW DCC system, as it can only be operated in particular contexts where the volume of publicly-funded matters is sufficient to dedicate available personnel to it on a full-time basis, and its fixed-team structure is impractical for private practitioners. Nonetheless, there was broad support among those interviewed in this study for the broader application of some of the beneficial elements of the RLC's design, including the early briefing of senior prosecutors to obtain an early determination of appropriate charges and pre-trial negotiation between prosecution and defence to narrow issues down, both which have been proposed in the Early Guilty Plea reforms put forth by the NSW Department of Justice (2017).

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NOTES

1. The NSW Law Reform Commission (2014) report defines early guilty pleas as guilty pleas entered before the matter is sent for trial in the higher court, as does research undertaken by Ringland and Snowball (2014) into factors affecting guilty pleas in the NSW DCC. For this report, early guilty pleas are defined as guilty pleas entered before the first day of the trial in the NSW DCC, as all the matters were committed for trial, i.e. a plea of not guilty was entered in the Local Court.
2. 110 cases were initially balloted, however one of these was a matter which was mistakenly balloted twice, once to the control courts and once to the Rolling List Court, and was dealt with in the control courts. Excess court capacity led to the ballot being suspended for a 6-week period from 15 June 2015 to 23 July 2015, during which all eligible cases were referred to the RLC. As there was no comparative data (i.e. cases balloted to the general list) for this period, the 29 cases balloted during this period are not included in this report.
3. An intention-to-treat design, where subjects are analysed by the treatment they were randomised to receive, ensures that balance on observable and unobservable characteristics is maintained, and avoids any bias from systematic non-compliance (i.e. particular trial subjects receiving the treatment they were not randomised to for particular reasons). See Gupta (2011) for further explanation of the concept of intention-to-treat.
4. See Poynton, Paterson and Weatherburn (2016) for more information on the trial protocol.
5. There are potentially other ways by which matters could resolve, such as through the death of the accused, however, all the matters in this pilot were resolved through a guilty plea, a trial with a verdict or a no-bill.
6. Fridays were excluded from this calculation for matters in the RLC as most Fridays in the RLC were spent on sentencing, therefore trials were not run.
7. For further discussion of performance measures in trial courts, see Weatherburn (1996).
8. A comparison to pre-backlog (2012) figures for delay might be more appropriate. One potential measure which this could be compared to is the average number of days from committal to outcome for those matters which resulted in a verdict of not guilty, as there would be no further delay to sentencing. In 2012, this was 226 days (NSW Bureau of Crime Statistics and Research, 2016), which is only marginally less than the 252 days in the control courts in this study.

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APPENDIX: INTERVIEW GUIDE

Before we begin, I'd like to clarify that this evaluation is based on the operation of the Rolling List Court between March 2015 and April 2016, corresponding to the first 14 months of the court's operation. This interview will focus on the key elements of the Court, their advantages and disadvantages, the eligibility criteria for cases tried through the RLC, how different agencies work together in the RLC and the effect of RLC on your agency's workload. If you could please reflect on that period when answering the questions, it would be much appreciated. Some of these questions might not apply to you.

I'm going to ask you a few over-arching questions and then ask you questions about specific aspects of the Rolling List Court.

OVERALL

1. What are the key elements of the Rolling List Court from your perspective?
2. What are the *positive* features of the Rolling List Court? [e.g. for your clients, the court system, inter-agency relationships, etc., compared with the conventional trial management process?
3. What are the *negative* features of the Rolling List Court compared with the conventional trial management process?
4. What *improvements* can be made to the operation of the Rolling List Court?
5. Overall, how do you think the Rolling List Court compares with the conventional trial management process?
6. Do you think the Rolling List Court could be introduced into other court locations? If not why not?
7. Could some of the successful elements you identified be integrated into the trial process without having a Rolling List Court?

ELIGIBILITY CRITERIA

To be eligible for the Rolling List Court during its first 14 months of operation, matters needed to meet a number of criteria.

For this evaluation, we will be considering the eligibility criteria used during the trial, which is that the accused is represented by in-house Legal Aid NSW committal solicitors; all charges are prosecuted by DPP; there are no co-accused; there are no issues of the defendant's fitness to stand trial; the estimated trial length is 2 weeks or less; a trial date has not yet been set and the committal for trial was < 8 weeks prior to the referral.

8. Do you think that these early eligibility criteria for the Rolling List Court were appropriate?

   If yes:

   a. What changes do you suggest?
   b. Why do you think these changes are necessary?

9. Have you received feedback on any of these eligibility criteria?

   If yes:

   a. What type of feedback?
   b. From whom?

10. For what type of matters does the Rolling List Court work best? Why?

11. For what type of matters does the Rolling List Court not work well? Why?

The next few questions are about working relationships.

WORKING RELATIONSHIPS

12. Overall, how well are the different agencies working in implementing the Rolling List Court?

    a. [If obstacles are reported]: How can these obstacles be overcome?

13. Should any other agencies be involved in the Rolling List Court?
    If yes:

    a. Which agencies?
    b. Why?

14. Are there written protocols or agreements between the various agencies involved in the Rolling List Court?

    a. Are these protocols or agreements adequate?
    b. (if absent) Are any written protocols or agreements needed?

CHANGES OVER TIME

15. Were there any changes in the operation of Rolling List Court during the first 14 months of operation (up until April 2016)?

    If yes:

    a. What were those changes?
    b. When did each change take effect?
    c. Why was each change introduced?
    d. How well did each change address the identified concern?
    e. Could the concerns have been dealt with differently? How?

16. Have there been any more recent changes in how the Rolling List Court operates (up until present)?

    If yes;

    a. What were those changes?
    b. When did each change take effect?
    c. Why was each change introduced?
    d. How well did each change address the identified concern?
    e. Could the concerns have been dealt with differently? How?

WORKLOAD, RESOURCES AND SUPPORT

17. What impact has the Rolling List Court had on your agency/practice, in terms of, for example, workload or the way you and your staff/colleagues work?

18. What changes did your agency have to make in order to accommodate this impact?

19. What support or resources does your agency receive to be involved in the Rolling List Court?

    a. Which agency provides this support?

20. What additional support or resources would be useful to your agency?

UNINTENDED CONSEQUENCES

21. Has the Rolling List Court had any unintended consequences, either positive or negative?

    If yes:

    a. What are they?
    b. How can they be dealt with?

22. Do you have any other comments on the Rolling List Court?

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