



The NSW Drug Court: A re-evaluation of its effectiveness

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Since its establishment in 1999, the NSW Drug Court has undergone significant change. Amongst other things, sanctions for non-compliance with program conditions have been made more flexible, participants are now given formal warnings if they fail to progress, police have a greater role in screening for eligibility and the threshold for program termination has been reduced. This report details the results of a study designed to compare reconviction rates amongst participants in the Drug Court program with reconviction rates amongst a (statistically matched) comparison group deemed eligible for the Drug Court Program but excluded either because they reside out of area or because they had been convicted of a violent offence. The results of the study confirm earlier research in showing that, controlling for other factors, participants in the NSW Drug Court were less likely to be reconvicted than offenders given conventional sanctions (mostly imprisonment). Compared with those in the Comparison Group, Drug Court participants in the present study were 17 per cent less likely to be reconvicted for any offence, 30 per cent less likely to be reconvicted for a violent offence and 38 per cent less likely to be reconvicted for a drug offence at any point during the follow-up period.

KEYWORDS: Drug Court, recidivism, drug treatment, violence, coerced treatment

INTRODUCTION

Drug courts have become a popular approach to reducing re-offending amongst those whose crime is drug related. The basic idea behind the Drug Court is to tackle the underlying cause of involvement in crime (drug dependence or abuse) by placing drug dependent offenders on a program of coerced treatment. In addition to being required to undergo drug treatment, participants in Drug Court programs are closely monitored to ensure they are complying with program conditions and not using illicit drugs. Progress on the program is often rewarded in some way (e.g. with cinema tickets). Non-compliance with program conditions usually results in some form of punishment (e.g. more restrictive program conditions) or removal from the program and imprisonment. In addition to their treatment, offenders on

Drug Court programs are usually given social support (e.g. assistance looking for work) designed to encourage the adoption of a more law-abiding way of life.

Evidence on the effectiveness of Drug Courts in reducing recidivism is generally favourable. The United States Government Accountability Office (GAO) in its 2005 review of Drug Courts in the United States reported that most showed evidence of significant reductions in re-offending. In their meta-analysis of published evaluations of Drug Courts, Latimer, Morton-Bourgon & Chretien (2006) reported an average 14 per cent reduction in recidivism. Wilson, Mitchell and Mackenzie (2006) were somewhat more cautious in their review, pointing out that only five of the 55 drug court comparisons they examined involved randomised trials and that roughly half of the quasi-experimental studies

made no attempt to control for pre-existing differences between drug court and comparison groups. The two most rigorous studies they examined, however, both found evidence favouring the drug court. Wilson et al. (2006) therefore concluded that drug offenders participating in drug courts are less likely to re-offend than similar offenders sent to traditional correctional options, such as probation.

The NSW Drug Court commenced in February 1999. As with other drug courts, the key components of the NSW Drug Court are close judicial supervision of offenders, mandatory drug treatment, random urine screens, and a system of rewards and sanctions designed to ensure compliance with the program. Unlike many drug court programs in the United States, participants in the NSW Drug Court program are less likely

to be first offenders, more likely to be facing prison and more able to access pharmacotherapies, such as methadone maintenance treatment. In 2002, the NSW Bureau of Crime Statistics and Research and the Centre for Health Economics Research and Evaluation completed a randomised trial evaluation of the cost-effectiveness of the NSW Drug Court program (Lind et al. 2002). The evaluation found that the Drug Court was more cost-effective than conventional court sanctions (mostly imprisonment) in reducing the risk of re-offending. The differences between Treatment and Control Groups, however, were not very large. The mean time to the first reconviction for the Drug Court Group was marginally longer than that for the Control Group (325 days compared with 279 days). However no difference was found between the two groups in the number of subsequent convictions. Much more favourable results were obtained when those who completed the Drug Court program were compared to the Control Group. The range of controls for other factors in this second set of analyses, however, was fairly limited.

Lind et al. (2002) recommended a number of ways in which the cost-effectiveness of the NSW Drug Court program might be increased. These included: reducing the frequency with which prison is used as a sanction for non-compliance with the program, more realistic graduation criteria and improved interagency cooperation in the selection and delivery of treatment and support services. The NSW Parliament and the NSW Drug Court have since made a number of improvements to the way the Drug Court program operates. The threshold for program termination has been altered so as to make it easier to remove participants who are not making progress on the program. The Drug Court has substantially overhauled the way it deals with breaches of program conditions. Participants judged to be at risk of rejection from the Drug Court program are now given early warning of this and provided with additional supervision and support. A full account of the changes made to Drug Court policy and procedure is provided

below. The purpose of this report is to present the results of a re-evaluation of the program, designed to measure the current effectiveness of the NSW Drug Court in reducing recidivism compared with conventional sanctions. A later report will examine the issue of cost.

THE NSW DRUG COURT PROGRAM

Freeman, Karski and Doak (2000) and Briscoe and Coumarelos (2000) give a detailed account of the Drug Court program's initial features, procedures and policy. The brief outline below is an edited and updated version of the account given by these authors.

Under the original Drug Court Act 1998, a person was deemed to be eligible for the program if:

1. They had been charged with an offence that could be dealt with summarily and did not involve serious offences such as drug supply, violence or sexual assault; and
2. It was highly likely that the person would, if convicted, be sentenced to imprisonment; and
3. The person pleaded guilty or indicated an intention to plead guilty; and
4. The person appeared to be dependent on the use of prohibited drugs; and
5. The person satisfied other criteria prescribed by the regulations.

The other eligibility criteria set out in the regulations included the requirement that:

1. The offender's usual place of residence falls within prescribed Local Government Areas in western and south-western Sydney;
2. The offender does not have a mental health condition that could prevent active participation in the program.

Offenders referred to the Drug Court were required to complete a preliminary health assessment to determine their eligibility for the program. During this time, further investigations were made to determine the offender's eligibility. Police, for example, were required to ascertain whether potential participants had outstanding charges or warrants

(for their arrest). Offenders still considered eligible after this preliminary screening were required to complete a detoxification assessment stage before acceptance onto the program. During the detoxification stage, an assessment was made of the individual's treatment needs and a treatment plan was formulated. After detoxification, the offender appeared before the Drug Court, where he or she entered or confirmed a guilty plea and was given an initial sentence of imprisonment. That sentence was then suspended upon the offender agreeing to abide by his or her program conditions. On termination (or graduation), the initial sentence was reviewed and a final sentence imposed by the Drug Court. The final sentence could not be greater than the initial sentence but could be substantially lower, depending upon a participant's progress on the program.

Each participant's program involved three phases. The first two were at least three months each, while the third phase lasted at least six months. Phase 1 was the 'stabilisation' phase, where participants were expected to cease drug use, stabilise their physical health and cease criminal activity. Phase 2 was a 'consolidation' phase where participants were expected to remain drug free and crime free and to develop life and job skills. Phase 3 was the 'reintegration' phase. In this phase participants were expected to gain or be ready to gain employment and to be fiscally responsible. When the Drug Court began operations, participants in Phase 1 were required to undergo twice-weekly urine testing and to report back to the Drug Court once a week. In Phase 2, the urine tests continued twice weekly but report-backs were reduced to once a fortnight. During Phase 3, urine tests were reduced to once a fortnight and report backs were reduced to once a month. Participants who failed to make adequate progress could be terminated from the Drug Court program but only when the Drug Court saw 'no useful purpose' in keeping them on the program (NSW Drug Court Act 1998, s10 (1)(b)). Participants not complying with program conditions were imprisoned for short periods.

THE FIRST EVALUATION

The first evaluation of the NSW Drug Court program capitalised on the fact that, whenever there was a surplus of eligible offenders relative to places on detoxification, entry into detoxification (and therefore the program) was determined by random ballot. The evaluation compared the timing and number of reconvictions amongst a sample of 309 offenders placed on the program (Treatment Group) to the time to first reconviction and number of reconvictions among 191 offenders deemed eligible for the program but who missed out on the ballot (Control Group). These offenders, it should be noted, were dealt with in a conventional court setting and most of them were imprisoned. Two sets of analyses were conducted. The first (intention-to-treat) analysis compared the Control and Treatment Groups. The Treatment Group for these analyses included those who did not complete the program or were removed from it. The second analysis compared three groups: the Control Group, the Treatment Group and a modified Treatment Group (Treatment Completion Group) that excluded those who did not complete the program and those who were removed from it. Time to re-offend¹ and frequency of offending were examined for a range of theft, fraud and drug offences. The analysis included controls for age, gender, prior imprisonment and number of prior convictions.

The results of the evaluation showed that the Drug Court program was more effective than conventional sanctions in reducing the risk of further offending. The effects, however, were fairly modest. When Treatment and Control Groups were compared, Treatment Group participants took slightly longer to be convicted of another offence than their Control Group counterparts. In most categories of offence they were also convicted of fewer further offences. The difference in time to reconviction, however, was relatively small (279 days, compared with 325 days). The only difference in offending frequency that reached statistical significance, moreover,

was that involving drug offences. The second (three group) analysis found that the Treatment Completion Group significantly outperformed the Treatment Group and the Control Group for a range of theft and drug offences. Significant differences favouring the Treatment Group were also found for analyses involving the number of reconvictions in a range of theft and drug offence categories. These results held up in the presence of controls for age, gender, prior imprisonment and Indigenous status. The better performance of the Treatment Group, however, might have been due to other unmeasured differences between Treatment and Control Groups (Lind et al. 2002).

CHANGES TO DRUG COURT POLICY AND PROCEDURE SINCE THE FIRST EVALUATION²

The basic structure of the Drug Court program has been preserved but a number of important changes have been made to Drug Court procedures and policy since the first evaluation. The case law that has grown up around the Drug Court Act has also changed the basis on which offenders can be excluded from the Drug Court program. What follows is a brief summary of the main changes.

Greater police input into eligibility screening

Greater use is now made of police intelligence in judging whether someone should be allowed on to the program. This intelligence includes information on whether the person has ever been the subject of an apprehended violence order or whether they have ever been forcibly taken to a psychiatric hospital. This information is also now used in setting program conditions.

A more flexible sanctioning system

The Drug Court has changed the sanctioning system for non-compliance with the program. The present system permits participants to accumulate up to 14 days in prison prior to being actually placed in prison. Participants can reduce

the prison time they have accumulated through good behaviour.

A lower legislative threshold for program termination

The threshold for program termination has been changed. The Drug Court may now terminate a program participant if it is satisfied, on the balance of probabilities, that the offender is unlikely to make any further progress in the program or that the offender's further participation in the program poses an unacceptable risk to the community that the offender may re-offend.

Closer monitoring of participants

The change to the threshold for program termination has resulted in closer monitoring of Drug Court participants. When the Drug Court team forms the view that a participant is at risk of failing the 'potential to progress' test referred to above, a formal hearing is scheduled to discuss the matter with them. Participants are warned that they may be removed from the program and, if necessary, provided with additional support and assistance to encourage greater compliance with program conditions.

More intensive urine testing

At the time of the original evaluation, public concerns were raised about the integrity of the urine testing process. This testing process is now under the control of the Drug Court. Urine testing used to be carried out twice a week in Phase 1, twice weekly in Phase 2 and once fortnightly in Phase 3. The current regime is three times a week in Phase 1 and twice a week in Phases 2 and 3.

Possible changes to the eligibility criteria dealing with violent offenders

Section 5(2)(b) of the Drug Court Act provides that a person is not an eligible person for a Drug Court program if they have been charged with an offence involving violent conduct or sexual assault. When it began operations, the Drug Court excluded anyone charged with a violent offence. The Drug Court now

sometimes deals with less serious violent offenders in ways (e.g. imposing a short prison sentence or supervised bond) that do not prevent the offender entering the Drug Court program.

THE CURRENT STUDY

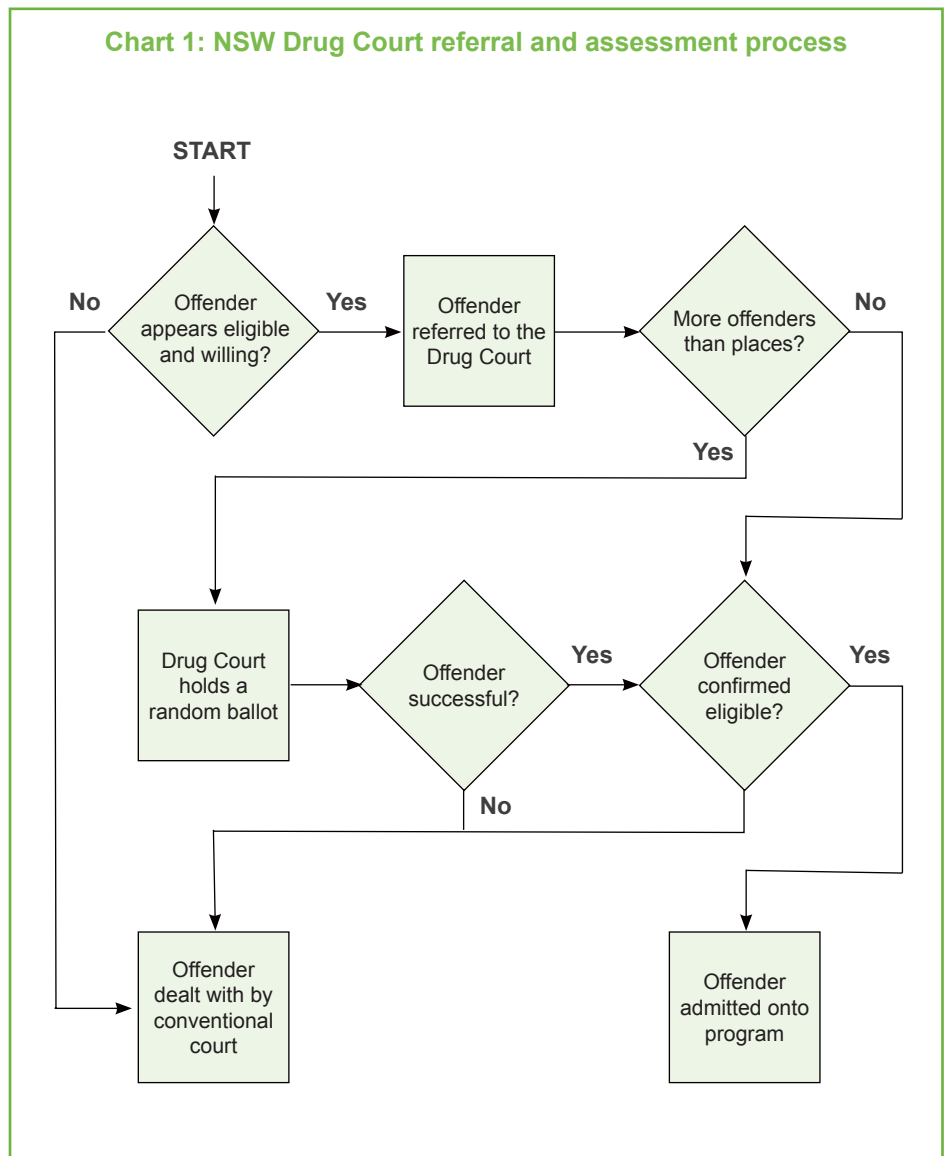
DESIGN

As noted earlier, during the original evaluation, entry onto the program was by way of random ballot. This procedure had the great advantage of ensuring that program participation was the only difference between those balloted onto the program and those balloted off. Differences in reconviction rates between the two groups could therefore be unequivocally ascribed to differences in the way they had been treated. The Drug Court has (for reasons of fairness) kept the random ballot but changed its position in the sequence of procedures leading to selection for the Drug Court. During the first evaluation, eligibility assessment took place before participants were randomly allocated to treatment or control groups. Certain procedures in the eligibility assessment process now take place after the random ballot. A full statement of the Drug Court's selection process appears in the Appendix but the key features of the process are shown in Chart 1.

If a referring court considers an offender to be prima facie eligible and willing to participate in the Drug Court program, it must refer the offender to the Drug Court for assessment. If there are sufficient places for those referred, the Drug Court assesses those referred to see if they are eligible and accepts those who are eligible onto the program. Those considered not eligible are dealt with in a normal court. If in any given week there are more referrals than places on the program, the Drug Court conducts a ballot among those referred to fill the available places. Following the ballot it removes anyone deemed ineligible under the Drug Court Act and regulations. The remainder are accepted onto the program.

In practice those excluded have nearly always been either convicted of a violent

Chart 1: NSW Drug Court referral and assessment process



offence or found to reside 'out of area'. It should be noted, however, that these are not automatic exclusion criteria. A number of individuals convicted of a violent offence, or who technically reside out of area, are admitted onto the Drug Court program. This is important for our evaluation because it means we can match individuals on the Drug Court program with individuals in the comparison group even on the criteria that are used to select offenders for the Drug Court program. The fact that the random ballot occurs prior to the removal of individuals deemed ineligible nevertheless means that the allocation to 'treatment' and 'comparison' groups is no longer random. A randomised trial of the Drug Court is therefore no

longer possible. As a consequence, it is necessary to resort to statistical methods to match participants on the Drug Court program with those in the comparison group. Ideally, we would have preferred to use those who did not make it through the ballot as a comparison group. Unfortunately, information on the nature of the index offence and the outcome of their court matter was not available for this group.

Two sets of analyses were carried out to assess the impact of the Drug Court program on recidivism. The first (intention-to-treat) involved a comparison between offenders placed on the Drug Court program (the Drug Court Group) and a comparison sample of offenders (the

Comparison Group) who were balloted onto the program but removed from it, either because they were convicted of a violent offence or because they were deemed to reside 'out of area'. In this part of the study, everyone accepted onto the Drug Court program was kept in the analysis even if he or she subsequently judged to have failed the Drug Court program requirements and/or removed from the program. In the second (as-treated) set of analyses, members of the Comparison Group were compared with members of the Drug Court Group who had successfully completed their program. Program 'completers' for the purposes of this analysis were defined as participants in the Drug Court program who at the end of their participation on the program received a non-custodial sentence. Information on the final sentence imposed was obtained from the Drug Court database.

In program evaluation, comparisons of program completers with other groups are normally thought highly vulnerable to selection bias (i.e. differences in outcomes may stem from pre-existing differences between groups, rather than being an effect of the program). It should be noted, therefore, that the comparison of program 'completers' with the Comparison Group in the current study was carried out while controlling for a wide range of other factors.

DEPENDENT VARIABLE

As in the first Drug Court evaluation, the primary measure of success in the current study was time to re-offend, defined as the time between the index court appearance (see Sample Selection below) and conviction for a further offence (if there was one). Time to re-offend is as a useful measure of recidivism for two reasons. Firstly, it serves as a useful proxy for frequency of offending, with higher offending frequencies being associated with shorter intervals between offences. Secondly, measuring the time to reconviction arguably makes more use of the available data than fixing an identical follow up period for all offenders and then counting the number who are reconvicted

during that period. In the latter case we are forced to ignore any information about offending that exceeds the shortest observation period available.

A new offence was considered to have occurred where an offender had been convicted of an offence that occurred after the index date. The number of days to re-offend was calculated as the number of free days (i.e. time spent out of custody) between the index date and the date of the new offence. Offences that occurred while in custody (e.g. assaults on another prisoner) were therefore not counted as re-offending. The court appearance and conviction date could have occurred some time after the date of the offence but unproven offences were not counted as re-offending.

INDEPENDENT VARIABLES

Our key independent variable is whether or not the offender participated in the Drug Court program. We measured this in the intention-to-treat analyses by including an indicator variable in our analyses called DRUGCOURT which takes the value '1' when an offender has been placed on the Drug Court program and takes the value '0' when he or she has been placed in the comparison group. We adopted a similar strategy in the as-treated analyses but, for clarity, the variable measuring the effect of the Drug Court is labelled COMPLETED. Because we were seeking to compare (statistically) matched samples of Drug Court and Comparison Group participants it was necessary to control for any differences between them that might influence their time to re-offend. It will be recalled that persons deemed eligible for the Drug Court program can be excluded after the ballot if they have committed a 'violent' offence or if they are deemed to reside 'out of area'. These exclusion criteria, as already noted, have been interpreted flexibly by the Drug Court; with the result that there are persons in the Drug Court Group convicted of violent offences and others who, technically at least, reside 'out of area'. Two of the variables we needed to control for, therefore, were offence type and area of residence.

Past research has shown that a range of other criminal justice and demographic variables tend to be associated with both the choice of sentencing disposition and the risk of re-offending. These include age, gender, race, number of concurrent offences and number of prior offences (Payne 2007; Snowball & Weatherburn 2006; Spohn & Holleran 2002; Weatherburn & Trimboli 2008). These variables also needed to be controlled for in any analysis of the impact of participation on the Drug Court program on recidivism. The following independent variables were therefore included as controls in the analysis:

- INDEX OFF: Most serious offence for which the person was convicted on the index occasion (1=violence, 2=theft, 3=drug, 4=other)³;
- CONCUR: Number of concurrent offences dealt with at the index court appearance (0-2, 3-5, 6-10, 11+);
- ATSI: Whether the person self-identified as Aboriginal or Torres Strait Islander at the index court appearance (0=no, 1=yes)⁴;
- CATCH: Local Government Area of residence at the index court appearance (0=outside catchment area, 1=in catchment area);
- AGE: Age at their index court date;
- SEX: Gender of the participant (0=female, 1=male);
- PRIORCON: Number of prior conviction episodes between 1994 and the ballot nomination date (0-4, 5-9, 10-14, 15+); and
- PRIOR VIOL: Number of prior conviction episodes where one or more offences were for 'offences against the person' in the five years prior to the ballot nomination (0, 1, 2+). A prior offence was classified as against the person if it fell under the ASOC categories of homicide and related offences, acts intended to cause injury, sexual assault and related offences, dangerous or negligent acts endangering persons, abduction and related offences, or robbery, extortion and related offences.

The variables just listed do not exhaust the range of factors that have been found to be predictors of re-offending. Other strong predictors of recidivism include having an antisocial personality disorder and association with delinquent peers (Gendreau, Little & Goggin 1996). Because we do not control for every factor related to recidivism, we cannot be sure that the groups we compare have been matched in all relevant respects. Past research, however, has shown that most factors do little to improve our ability to predict reconviction once controls have been introduced for factors such as prior criminal record, number of concurrent offences, age, gender, race, and offence type (Weatherburn, Cush & Saunders 2007). This is probably because many of the factors that influence recidivism also influence the types of offences a person commits, the frequency with which they offend and the length of their prior criminal record. Controlling for these factors, in effect, controls for many other omitted variables.

SAMPLE SELECTION

The sample consisted of all those offenders who made it through the ballot process and into the eligibility assessment phase between February 2003 and April 2007. Information identifying these offenders (name, date of birth, unique police identification number) was extracted from the NSW Drug Court database. Those who were deemed eligible and were subsequently accepted onto the program were included in the Drug Court Group (n=645).⁵ Those who were deemed ineligible (by reason of their offence or their address) were included in the Comparison Group (n=329). Information on the offence(s) for which the offender had been referred to the Drug Court was extracted from the Drug Court database. The offenders were then matched to the Bureau's Re-offending Database (ROD)⁶ to derive information bearing on the offenders' criminal histories and offending patterns following their index court contact.

For each Drug Court and Comparison Group member, it was necessary to identify an index (or reference) date to

observe patterns of prior and subsequent offending. For the Drug Court Group, the index date was derived from the Drug Court database and defined as the date they commenced the Drug Court program. Any conviction recorded on ROD prior to this date was counted as a prior conviction and any offence recorded after this date was counted as a new offence. Because the Comparison Group did not commence the program and because we only had limited information relating to their index court appearance, an index date had to be derived for this group. The only reference date available for the Comparison Group participants was the date they made it through the ballot nomination. To estimate the date they would have started on the program had they been accepted onto it, we calculated the average time between nomination for the Drug Court and commencement of the program for those who did get onto the program. We then added this number of days onto the nomination date for each Comparison Group participant and counted this derived date as the index appearance date.

ANALYSIS TECHNIQUE

To make valid comparisons between the Drug Court and Comparison Group we needed a method for analysing the time to reconviction that permitted us to control for any extraneous differences between the two groups that might have affected their time to re-offend. The method used in the current study is Cox proportional hazards regression. Cox regression allows us to compare the proportions of offenders in the Drug Court and Comparison Groups who re-offend at various points in time following their index court appearance, while simultaneously controlling for any differences between the two groups in terms of factors such as age, gender and prior criminal record.⁷ All Cox regression analyses examined four separate outcomes:

- ANY: Time to the first reconviction for an offence of any kind (excluding minor regulatory offences);
- PERSON: Time to the first reconviction for an offence against

the person. Offences against the person were defined as offences under the Australian Standard Offence Classifications (ASOC) categories of homicide and related offences, acts intended to cause injury, sexual assault and related offences, dangerous or negligent acts endangering persons, abduction and related offences, or robbery, extortion and related offences;

- PROPERTY: Time to the first reconviction for a property offence. Property offences were defined as any offences under the ASOC categories of unlawful entry with intent/burglary, break and enter, theft and other related offences, or deception and related offences; and
- DRUG: Time to the first reconviction for an illicit drug offence. Drug offences were defined as any offence under the ASOC category of illicit drug offences (including both use/possess and dealing/trafficking offences).

RESULTS

In this section we present the results of two sets of analyses. The first is the intention-to-treat analysis, that is, the comparison between the Comparison Group and the Drug Court Group where the Drug Court Group comprises all persons placed on the Drug Court program, regardless of whether they succeeded on the program or were removed from it. The second is the as-treated analysis, that is, the comparison between the Comparison Group and the Drug Court Group, where the Drug Court includes only those who completed the Drug Court program.

INTENTION-TO-TREAT ANALYSIS

Offender characteristics

Descriptive characteristics of the Drug Court and Comparison Groups are shown in Table 1. The first column shows each of our independent and dependent variables and the categories into which they have been broken down. The variable AGE, for example, is broken down into four age

categories (18-21, 22-26, 27-30, 31+). The second column shows the number of individuals in the Drug Court Group in each category of each variable. There were, for example, 69 offenders in the Drug Court Group in the age group 18-21. The third column shows the percentage of the Drug Court Group in that category. For 18-21 year olds in the Drug Court Group, the relevant percentage is 10.7. The fourth and fifth columns provide comparable information for the Comparison Group. The final column (labelled 'Sig?') provides an indication of whether the Drug Court and Comparison Groups were significantly different from one another on the variable in question.⁸ There was, for example, no significant difference between the Drug Court Group and the Comparison Group in the distribution of their ages.

Looking at the table as a whole, the following conclusions can be drawn. As noted, there was no statistically significant difference between Drug Court and Comparison participants in terms of age. Nor was there any difference between the groups in sex, the proportion identifying as Indigenous and their total number of prior convictions. As expected, the Drug Court Group were significantly more likely to be residing within the catchment area at their index court appearance, less likely to have prior convictions for offences against the person and were less likely to be appearing for a violent offence at their index court appearance. Participants in the Drug Court Group also had a significantly greater number of concurrent offences dealt with at their index court appearance. There was no significant difference between the proportion of Drug Court and Comparison Groups who had a conviction for any offence during follow-up. The Drug Court Group, however, were significantly less likely to have a subsequent conviction for an offence against the person or a drug offence but significantly more likely to have a subsequent conviction for a property offence. The question we turn to now is whether the Drug Court Group outperforms the Comparison Group when we control for differences between the groups.

Table 1. Sample characteristics and reconviction rates for Drug Court and Comparison Groups (intention-to-treat analysis)

Characteristic	Drug Court (n=645)		Comparison Group (n=329)		Sig?
	N	%	N	%	
AGE					No
18-21	69	10.7	44	13.4	
22-26	182	28.2	78	23.7	
27-30	130	20.2	74	22.5	
31+	264	40.9	133	40.4	
SEX					No
Female	120	18.6	48	14.6	
Male	525	81.4	281	85.4	
ATSI					No
No	560	86.8	272	82.7	
Yes	85	13.2	57	17.3	
CATCH					Yes
No	82	12.7	68	20.7	
Yes	563	87.3	261	79.3	
CONCUR					Yes
0-2	99	15.4	122	37.1	
3-5	152	23.6	91	27.7	
6-10	191	29.6	67	20.4	
11+	203	31.5	49	14.9	
INDEX OFF					Yes
Violence	78	12.1	64	19.5	
Theft	398	61.7	192	58.4	
Drug	86	13.3	39	11.9	
Other	83	12.9	34	10.3	
PRIORCON					No
0-4	114	17.7	62	18.8	
5-9	234	36.3	111	33.7	
10-14	200	31.0	89	27.1	
15+	97	15.0	67	20.4	
PRIOR VIOL					Yes
0	384	59.5	121	36.8	
1	167	25.9	100	30.4	
2+	94	14.6	108	32.8	
ANY					No
No	206	31.9	121	36.8	
Yes	439	68.1	208	63.2	
PERSON					Yes
No	541	83.9	254	77.2	
Yes	104	16.1	75	22.8	
PROPERTY					Yes
No	319	49.5	186	56.5	
Yes	326	50.5	143	43.5	
DRUG					Yes
No	537	83.3	255	77.5	
Yes	108	16.7	74	22.5	

Table 2 summarises the results of the Cox regression analysis conducted to answer the question. Four models have been constructed; one each for (1) the time to any new offence (2) time to any new offence against the person (3) time to any new property offence and (4) time to any new drug offence. The left hand column of Table 2 shows the independent variables tested for inclusion in each model. These variables were only retained in the final models if they were significantly related to recidivism risk or if there was any evidence that they were confounding the relationship between Drug Court treatment and risk of re-offending.

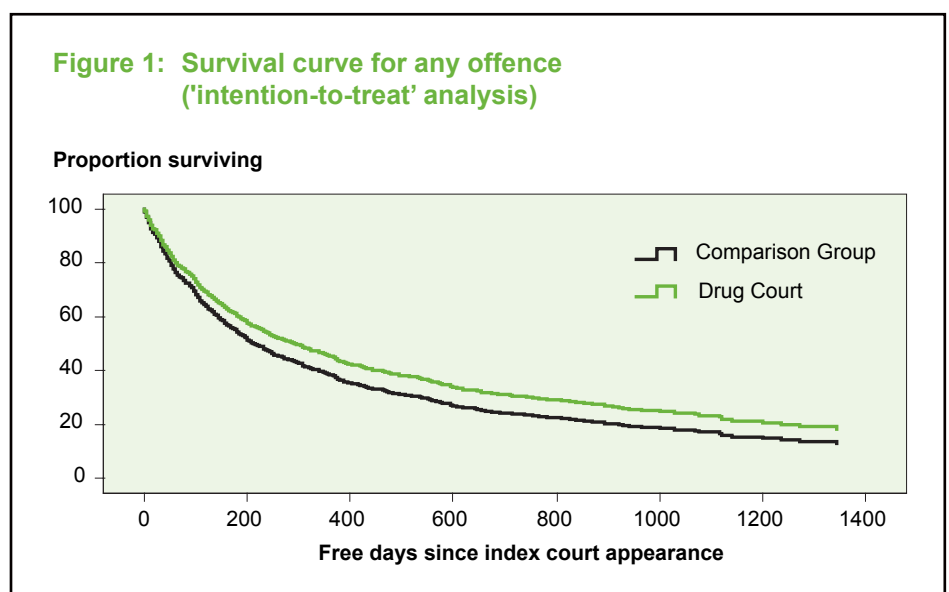
The column labelled 'HR' shows the hazard ratio for each variable. The hazard ratio is a measure of the likelihood of an offender with the given characteristic being reconvicted at any point in the follow-up period, compared with an offender without that characteristic. Hazard ratios close to 1.00 indicate that the variable concerned exerts little or no effect on the risk of reconviction. Hazard ratios less than 1.00 indicate that an offender with the characteristic is less likely to be reconvicted than someone without the characteristic. Hazard ratios greater than 1.00 indicate that an offender with the characteristic is more likely to be reconvicted. Like most variables, hazard ratios are subject to chance variation. The column labelled 'Sig?' provides information on whether the Hazard Ratio associated with a variable is statistically significant.

To illustrate the point, consider, for example, the first row of Table 2, labelled DRUGCOURT. The hazard ratio of 0.83 for this variable in the column labelled 'Any', indicates that members of the Drug Court Group were 83 per cent as likely as members of the Comparison Group to be reconvicted of any offence at any given point in the follow-up period. A more natural way of putting this point would be to say the Drug Court Group was (100-83 =) 17 per cent less likely than the Comparison Group to be reconvicted of any further offence at any point in the follow-up period. Looking

Table 2. Cox proportional hazards model results (intention-to-treat analysis)

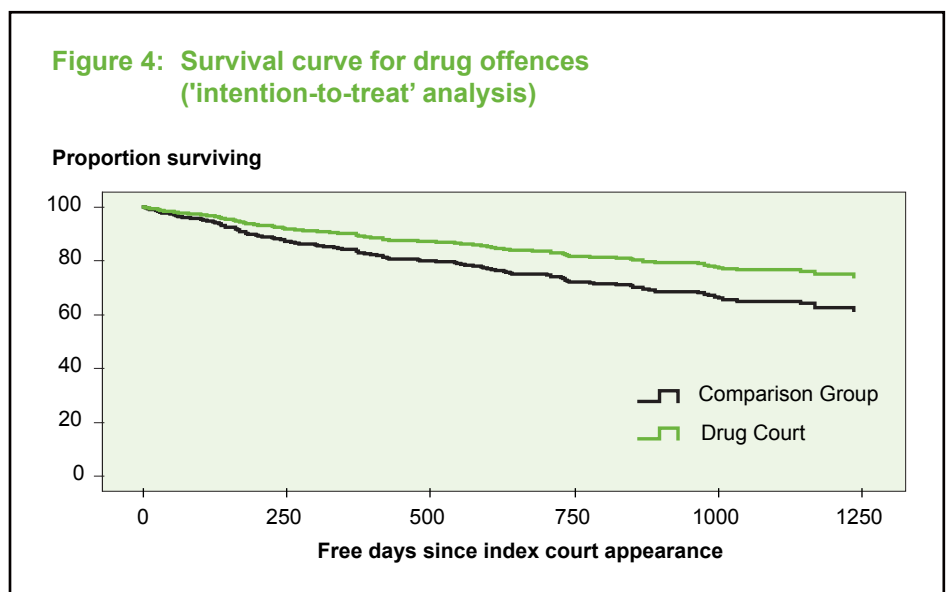
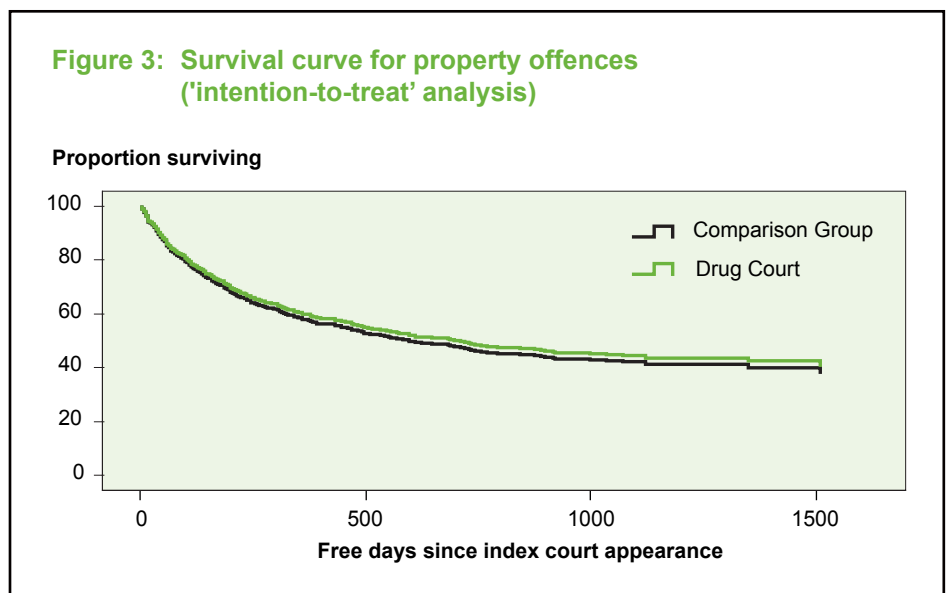
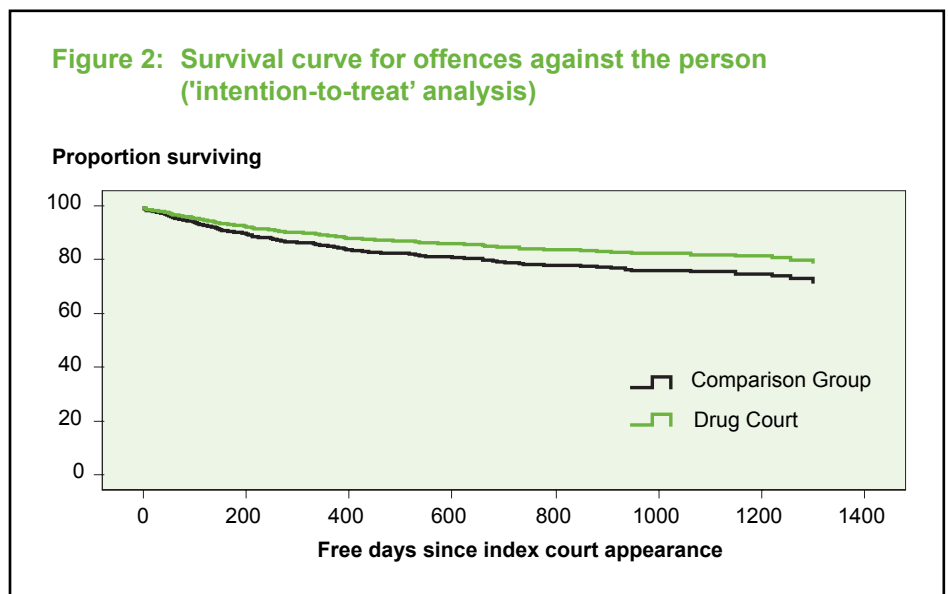
	Any		Person		Property		Drug	
	HR	Sig?	HR	Sig?	HR	Sig?	HR	Sig?
DRUGCOURT	0.83	Yes	0.70	Yes	0.95	No	0.62	Yes
PRIORVIO								
0	-	-	-	-	-	-	-	-
1	0.98	No	1.12	No	1.08	No	0.99	No
2+	1.38	Yes	2.32	Yes	1.44	Yes	1.07	No
CONCUR								
0-2	-	-	-	-	-	-	-	-
3-5	1.21	No	0.71	No	1.23	No	0.86	No
6-10	1.71	Yes	1.12	No	1.82	Yes	1.22	No
11+	2.04	Yes	1.55	No	2.09	Yes	1.06	No
AGE								
18-21	1.10	No						
22-26	1.17	No						
27-30	0.76	Yes						
31+	-	-						
ATSI			1.51	Yes				
MALE			2.23	Yes	0.75	Yes		
PRIORCON								
0-4	-	-	-	-	-	-	-	-
5-9	1.48	Yes	1.75	Yes	1.30	No	1.10	No
10-14	1.49	Yes	2.08	Yes	1.30	No	1.52	No
15+	2.26	Yes	2.82	Yes	1.87	Yes	2.75	Yes
INDEX OFF								
Violence			2.18	Yes	0.99	No		
Theft			0.96	No	1.10	No		
Drug			0.62	No	0.66	Yes		
Other			-	-	-	-		

Figure 1: Survival curve for any offence ('intention-to-treat' analysis)



further along this row, we see that the entry in the column labelled 'Sig?') has a 'yes' in it. This means that this hazard ratio is statistically significant. The lower reconviction rate for the Drug Court Group, in other words, is very unlikely to be a chance result. Some variables have several categories. When this happens the comparison is always with the category that has no hazard ratio. Thus the hazard ratio of 1.48 associated with those having 5-9 prior convictions, for example, means that, compared with those who had between 0 and 4 prior convictions, those who had 5-9 prior convictions were 48 per cent more likely to be reconvicted of some (any) offence during the follow-up period.

Looking at the hazard ratios and associated significance columns for each of the four outcome categories in Table 2, a number of results become clear. Firstly, as a general rule, offenders are significantly more likely to re-offend if they had larger numbers of prior convictions, larger numbers of concurrent offences or larger numbers of prior convictions for violent offences. Secondly, where ATSI status was significant, Aboriginal and Torres Strait Islanders are more likely to re-offend than those who are not of Aboriginal or Torres Strait Islander descent. Thirdly, males were more likely than females to be reconvicted of an offence against the person but less likely than females to be convicted of a property offence. Fourthly, and most importantly, in three out of the four models, members of the Drug Court Group were less likely to be reconvicted of an offence during the follow up period than members of the Comparison Group. We have already observed that they were 17 per cent less likely than the Comparison Group to be reconvicted of any offence. It can be seen that they were also 30 per cent less likely to be convicted of an offence involving violence and 38 per cent less likely to be reconvicted of a drug offence. No significant difference was found, however, between Drug Court and Comparison Groups in the likelihood of being reconvicted during the follow-up period for a property offence.



Another way to present the results in Table 2 is to use the Cox regression model to construct a graph showing time since the index court appearance along the horizontal axis and the proportion of offenders in each group that have not yet been reconvicted on the vertical axis. A graph of this kind is called a 'survival curve'. If participants in the Drug Court Group were less likely to be reconvicted than participants in the Comparison Group at any point in the follow up period, we would expect the survival curve for the Drug Court Group to decline more slowly than that for the Comparison Group.

Figures 1 to 4 present the survival curves for each of the outcomes shown in Table 2. The horizontal axis in each graph shows the number of free days since the index court appearance. The vertical axis shows the percentage of participants 'surviving', that is, who have not yet been reconvicted of a further offence. In each case, except for reconviction for a property offence, the survival curve declined significantly more slowly for the Drug Court Group than the Comparison Group. In the case of reconviction for a property offence there was a slight difference favouring the Drug Court Group but it was not statistically significant.

AS-TREATED ANALYSIS

Offender characteristics

We turn now to the as-treated analyses. Table 3 shows descriptive characteristics for three groups: those who completed the Drug Court program (Drug Court Completed Group), those who were removed from the Drug Court Program (Drug Court Terminated Group) and those who were placed in the Comparison Group.

Fifty-six per cent of those placed on the Drug Court program did not complete the program. There were approximately equal proportions of women and men and Indigenous and non-Indigenous people in each of the three groups. The proportion of those in the Drug Court Completed Group who were aged 18-21 was somewhat smaller than the corresponding proportions in the Drug Court Terminated

Table 3. Sample characteristics and reconviction rates for Drug Court and Comparison Groups (as-treated analysis) ^a

Characteristic	Drug Court Completed Group (n=241)		Drug Court Terminated Group (n=359)		Comparison Group (n=329)		Sig?
	N	%	N	%	N	%	
AGE							No
18-21	15	6.2	49	13.7	44	13.4	
22-26	70	29.1	102	28.4	78	23.7	
27-30	54	22.4	65	18.1	74	22.5	
31+	102	42.3	143	39.8	133	40.4	
SEX							No
Female	42	17.4	71	19.8	48	14.6	
Male	199	82.6	288	80.2	281	85.4	
ATSI							No
No	215	89.2	307	85.5	272	82.7	
Yes	26	10.8	52	14.5	57	17.3	
CONCUR							Yes
0-2	55	22.8	41	11.4	122	37.1	
3-5	58	24.1	80	22.3	91	27.7	
6-10	62	25.7	111	30.9	67	20.4	
11+	66	27.4	127	35.4	49	14.9	
INDEX OFF							Yes
Violence	16	6.6	56	15.6	64	19.5	
Theft	154	63.9	214	59.6	192	58.4	
Drug	43	17.8	40	11.1	39	11.9	
Other	28	11.6	49	13.7	34	10.3	
PRIORCON							Yes
0-4	55	22.8	52	14.5	62	18.8	
5-9	88	36.5	134	37.3	111	33.7	
10-14	73	30.3	109	30.4	89	27.1	
15+	25	10.4	64	17.8	67	20.4	
PRIORVIO							Yes
0	165	68.5	197	54.9	121	36.8	
1	49	20.3	104	29.0	100	30.4	
2+	27	11.2	58	16.2	108	32.8	
CATCHMENT							Yes
No	32	13.3	47	13.1	68	20.7	
Yes	209	86.7	312	86.9	261	79.3	
ANY							Yes
No	95	39.4	71	19.8	121	36.8	
Yes	146	60.6	288	80.2	208	63.2	
PERSON							Yes
No	220	91.3	276	76.9	254	77.2	
Yes	21	8.7	83	23.1	75	22.8	
PROPERTY							Yes
No	146	60.6	129	35.9	186	56.5	
Yes	95	39.4	230	64.1	143	43.5	
DRUG							No
No	206	85.5	286	79.7	255	77.5	
Yes	35	14.5	73	20.3	74	22.5	

^a Excludes 45 people who were still on the program at the time of data extraction

and Comparison Groups but the differences in age profiles across the three groups was not quite statistically significant. There were, however, a number of significant differences between the Drug Court Completed Group, the Drug Court Terminated Group and the Comparison Group. Participants who completed the program were:

- Less likely than the Drug Court Terminated Group but more likely than the Comparison Group to have multiple concurrent offences.
- Less likely than either the Drug Court Terminated Group or the Comparison Group to have a violent index offence.
- Less likely than either the Drug Court Terminated Group or the Comparison Group to have multiple prior convictions.
- More likely than the Drug Court Terminated or Comparison Group to have no prior conviction for a violent offence.
- More likely than the Comparison Group to reside in the Catchment Area.
- Less likely than the Drug Court Terminated or Comparison Group to be reconvicted of an offence against the person .

These differences need to be controlled for in comparing the performance of the Drug Court Completed Group with the Comparison Group. Table 4 shows the results of the Cox regression analysis designed to address this issue.

The variable 'COMPLETED' in the first row of this Table measures the impact of completing the Drug Court program. The other variables are the same as those shown in Table 2.

It will be recalled that in the intention-to-treat analysis, only three out of the four outcomes showed a significant result in favour of the Drug Court. In the as-treated analysis, by contrast, the results favour the Drug Court Completed Group for all four outcomes (time to reconviction for any offence, time to reconviction for an offence against the person, time to reconviction for a property offence and

time to reconviction for an illicit drug offence). A comparison of the relevant hazard ratios in Tables 2 and 4, moreover, shows that the differences in risk of reconviction between treatment and comparison groups are much larger in the as-treated analysis (see first line of Table 4) than in the intention-to-treat analysis (see first line of Table 2). Controlling for other factors, members of the Drug Court Completion Group were:

- 37 per cent less likely than Comparison Group participants to be reconvicted of any offence at any point during the follow-up

period (compared with a 17 per cent advantage for the Drug Court Group in the intention-to-treat analysis);

- 65 per cent less likely than Comparison Group participants to be reconvicted of an offence against the person (compared with a 30 per cent advantage for the Drug Court Group in the intention-to-treat analysis);
- 35 per cent less likely than Comparison Group participants to be reconvicted of a property offence (compared with no significant effect for the Drug Court in the intention-to-treat analysis); and

Figure 5: Survival curve for any offence ('as-treated' analysis)

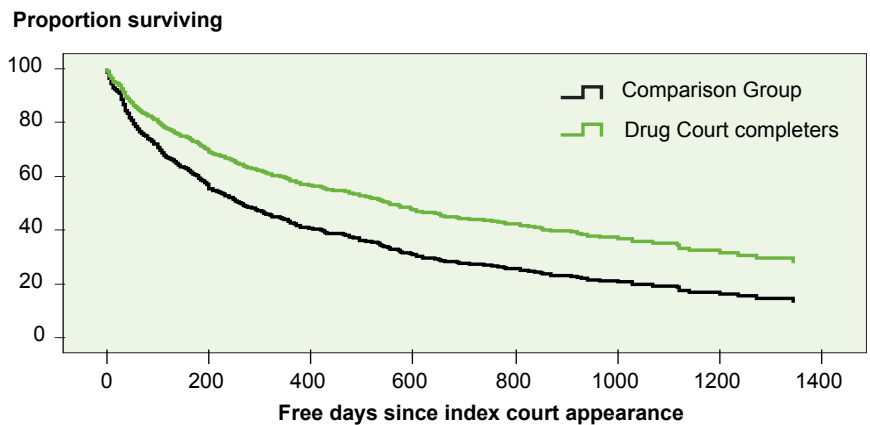


Figure 6: Survival curve for offences against the person ('as-treated' analysis)

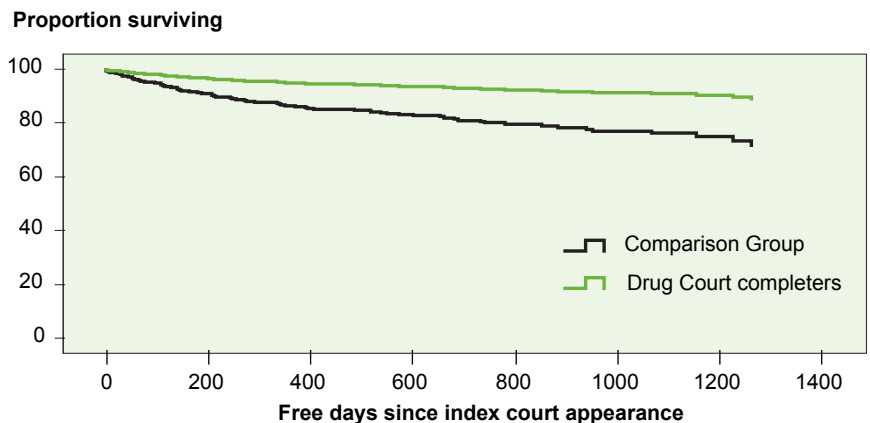


Figure 7: Survival curve for property offences ('as-treated' analysis)

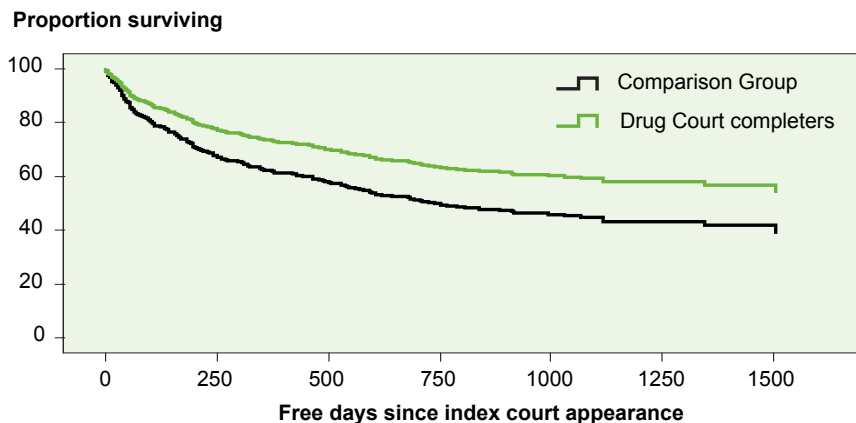
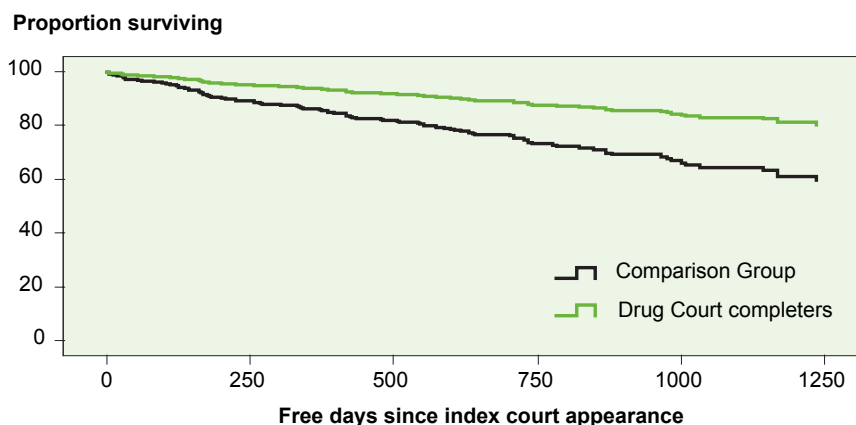


Figure 8: Survival curve for drug offences ('as-treated' analysis)



- 58 per cent less likely than Comparison Group participants to be reconvicted of a drug offence (compared with a 37 per cent advantage for the Drug Court Group in the intention-to-treat analysis).

Figures 5 to 8 show the survival curves associated with the models in Table 3. There is a clear separation of the survival curves for all four outcomes (time to reconviction for any offence, time to reconviction for an offence against the person, time to reconviction for a property offence or time to reconviction for a drug offence). In each case the Drug Court Completion Group survival curve declines more slowly.

DISCUSSION

The aim of this study was to re-evaluate the effectiveness of the NSW Drug Court in reducing recidivism compared with conventional sanctions. The strongest evidence for the effectiveness of the NSW Drug Court comes from our intention-to-treat analyses. Comparison Group members in these analyses were all deemed eligible for the Drug Court program (i.e. they all pleaded guilty to a crime assessed by the Drug Court to be drug related.) They were excluded from the program only because they lived out of area and/or had a conviction for a violent offence. Convictions for

prior violence were controlled for in the statistical analysis and residential address was unrelated to risk of re-offending. Other factors that might influence an offender's risk of re-offending that were controlled for in the current analysis were: age, gender, Indigenous status, principal offence, number of concurrent offences and total number of prior convictions. After controlling for these factors, the Drug Court Group outperformed the Comparison Group in three of the four measured outcomes. The only outcome not to show a positive result was reconviction for a property crime. The difference in reconviction rate for this outcome slightly favoured the Drug Court Group but was not statistically significant.

The as-treated analyses also produced favourable results for the Drug Court, this time across all four outcomes. Comparisons involving treatment completers are often heavily discounted on the grounds that they may reflect nothing more than selection bias (i.e. offenders less prone to re-offending are more likely to complete a rehabilitation program). Such concerns are understandable in studies that compare the performance of program completers against program non-completers without adjusting for differences between them (e.g. Passey et al. 2007; Payne 2008). In the present study, however, we compared program completers with the members of the comparison group, not with those who failed to complete the Drug Court program. More importantly, in comparing the Drug Court Completion Group with the Comparison Group we controlled for a number of important sources of selection bias, including age, gender, race (ATSI status), prior convictions, concurrent offences, prior violence and principal offence type. This does not mean that we have eliminated the possibility of selection bias but it does mean we have substantially reduced the scope for it to influence our results.

These results provide further evidence that the Drug Court program is more effective than conventional sanctions in reducing the risk of recidivism among offenders whose crime is drug-related.

Table 4. Cox proportional hazards model results (as-treated analysis)

	<i>Any</i>		<i>Person</i>		<i>Property</i>		<i>Drug</i>	
	<i>HR</i>	<i>Sig?</i>	<i>HR</i>	<i>Sig?</i>	<i>HR</i>	<i>Sig?</i>	<i>HR</i>	<i>Sig?</i>
COMPLETED	0.63	Yes	0.35	Yes	0.65	Yes	0.42	Yes
PRIORVIO								
0	-	-	-	-	-	-	-	-
1	1.08	No	1.21	No	1.15	No	1.02	No
2+	1.80	Yes	2.65	Yes	1.61	Yes	1.19	No
CONCUR								
0-2	-	-	-	-	-	-	-	-
3-5	1.06	No	0.62	No	1.02	No	0.69	No
6-10	1.36	Yes	1.07	No	1.55	Yes	1.15	No
11+	1.56	Yes	1.18	No	1.46	No	0.77	No
AGE								
18-21					1.08	No		
22-26					0.94	No		
27-30					0.82	No		
31+					-	-		
ATSI			1.60	No				
MALE	0.74	Yes	3.01	Yes	0.71	Yes		
PRIORCON								
0-4	-	-	-	-	-	-	-	-
5-9	1.35	No	2.04	No	1.31	No	1.02	No
10-14	1.43	Yes	1.93	No	1.41	No	1.58	No
15+	2.17	No	3.64	Yes	2.30	Yes	2.72	Yes
INDEX OFF								
Violence			1.60	No	0.86	No		
Theft			1.10	No	1.40	No		
Drug			0.75	No	0.79	No		
Other			-	-	-	-		

There are, nonetheless, a number of important caveats surrounding this conclusion and we pause to emphasize these. Our inability to conduct a randomised trial evaluation means we cannot be absolutely sure that the NSW Drug Court program is more effective than conventional sanctions in reducing recidivism among offenders whose crime is drug-related. We have gone to considerable lengths to reduce the risk of selection bias but we have not eliminated that risk entirely. There may have been other unmeasured factors that influenced both selection into Drug

Court and the risk of further offending. It is possible, for example, that the Drug Court team consciously or unconsciously considered factors such as community ties or association with delinquent peers in deciding whether to accept or reject a person otherwise deemed eligible for the Drug Court program. Our controls may not have eliminated the influence of these factors. The only way to rule out the possibility of selection bias would have been to conduct another large scale randomised trial, as was conducted in the first evaluation of the NSW Drug Court. On this occasion, that was not possible.

There is only one Drug Court in NSW and it can only deal with a fraction of all offenders whose crime is drug-related. The apparent success of the Drug Court suggests that consideration should be given to expanding its reach. There is undoubtedly scope for another urban Drug Court but one of the difficulties in expanding the reach of the NSW Drug Court (or any other Australian Drug Court) outside urban areas is that the resources required for it to operate effectively are very unevenly distributed. Recent research by the NSW Bureau of Crime Statistics and Research has shown that resources for offender rehabilitation are generally scarcer in rural areas than in urban areas (Weatherburn & Trimboli 2008). This raises an important issue: is it possible to alter the Drug Court formula in ways that make it adaptable to rural locations without jeopardising its apparent effectiveness in reducing reoffending?

There are a variety of ways in which supervision and treatment might be provided to drug dependent offenders without requiring judicial supervision, random urine screens, regular report-backs and an elaborate system of rewards and sanctions. It may be that some of these elements are critical to program effectiveness for some types of offender but others are incidental. Marlowe et al. (2006), for example, recently found evidence that judicial supervision in US Drug Court programs is an important component in Drug Court programs dealing with high-risk offenders but is not essential in dealing with low risk offenders. Judicial supervision is one of the more expensive components of the NSW Drug Court program (Lind et al. 2002) and it is possible that the effectiveness of the Drug Courts could be maintained in an arrangement that does not require judicial supervision of offenders.

There are two important points to bear in mind, however, in any consideration of how the Drug Court model might be changed. The first is that NSW Drug Court participants are high-risk offenders; otherwise they would not be facing the prospect of imprisonment. The available

evidence suggests that the outcomes for high-risk offenders are better when they are placed under the supervision of a judicial officer. The second is that the judges in Drug Court programs not only supervise offenders; they also ensure that Government agencies deliver the services for individual offenders they have undertaken to provide. Public servants from line agencies associated with the Drug Court program may not have the authority needed to perform this function well. These observations are not meant to discourage policy innovation. They are simply intended to underscore the need for caution in modifying the Drug Court program. As long as any new program is evaluated, there is nothing to be lost and much to be gained by looking for more cost-effective ways of reducing recidivism among drug dependent offenders.

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NOTES

1. The original evaluation examined both 'free time' (time to re-offend, excluding any time spent in custody) and 'elapsed time' (time to re-offend including any time spent in custody). In this report we summarise only the free time results.
2. The NSW Drug Court provided information on these changes.
3. Each offender's most serious offence was determined by matching the ASOC category of each offence dealt with

at the index appearance against the seriousness index developed by the University of Western Australia (Crime Research Centre 2006). The most serious offence according to that index was then assigned as the most serious index offence.

4. If Indigenous status was unknown on the Drug Court database, this variable was substituted with the Indigenous status derived from the Bureau's Re-offending Database (ROD). A person was counted as Indigenous on ROD if they identified as such at any recorded court appearance from 1994 onward.
5. Three participants were known to have died while on the program. These participants were retained in the sample because we did not know how long they had been on the program before they died and also because we had no information on mortality rates among the Comparison Group. Some participants may also have been lost to follow-up because they moved interstate or overseas. We could not account for this loss to follow-up in the current analysis and these participants were counted as non-offenders.
6. ROD contains a record of every court appearance by the same offender from 1994 onwards (see Hua & Fitzgerald 2006 for more information).
7. All Cox regression models were constructed in two steps. First, Kaplan-Meier survival curves were fitted to the data to determine whether there was any difference in time to re-offend between Drug Court and Comparison Groups at a bi-variate level. Log-rank tests were carried out to determine whether any observed differences were statistically significant. Multivariate Cox proportional hazards regression models were then fitted to control for factors (other than treatment) that might have influenced the time to re-offend between the two groups. A forwards selection modelling strategy was adopted, whereby each potential confounder was entered into the model one at a time. Control variables were retained in the final models if they

were significantly associated with the outcome of interest or if their removal meaningfully altered the coefficient on the DRUGCOURT variable.

8. Throughout this report, a significance level of 0.05 is used. This means that in order for a difference to be described as significant there had to be less than a five per cent chance that it could have come about by chance.

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APPENDIX: DRUG COURT REFERRAL AND SELECTION POLICY

1. REFERRAL OF APPLICANTS

- 1.1 To be eligible to enter a Drug Court program a person must meet the criteria set out in Section 5 of the Drug Court Act 1998, and clause 5 of the Drug Court Regulation 2005.
- 1.2 If a person appearing before a referring Court appears eligible and willing to take part in a Drug Court program, that Court must refer the person to the Drug Court Section 6 Drug Court Act 1998.
- 1.3 If a sentencing Judge or Magistrate directs that a person be referred to the Drug Court, the Court Officer at the referring court advises the Drug Court registry by telephone of the name and case details of the applicant.
- 1.4 As the program resources are limited, a ballot may need to be held to determine which referred offenders can be considered for a Drug Court program Section 7A(2)(d) provides that there must be "facilities to supervise and control the person's participation in such a program" available before a person can be sentenced under the Act.

2. THE MANNER OF SELECTION

- 2.1 Once each week the Registrar, in consultation with the Drug Court team, will determine the number of program places available for females and for males.
- 2.2 If there are sufficient places available, all applicants will be accepted.
- 2.3 If there are more referred applicants than available places, the names of apparently eligible applicants for entry will be placed in a ballot.
- 2.4 The Registrar will not include in the ballot the name of any applicant who has been referred to the Drug Court by a Court that is not a referring Court as defined in the Regulation.

- 2.5 The Registrar will not include in the ballot the name of an applicant who appears to have had their case or cases adjourned to a referring Court for the sole purpose of gaining access to a Drug Court program. This clause does not prevent a participant being included in the ballot who has been granted an appropriate adjournment to a referring court (for example, to allow the adjourned matters to link up with other matters properly at a referring court).
- 2.6 If it is apparent to the solicitor for the ODPP [Office of the Director of Public Prosecutions] or the Police Prosecutor that a referred person is not an eligible offender, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the Local Area Command of that fact as soon as possible, preferably by email.
- 2.7 The Registrar will submit that information, together with any available documents, to the Judge in chambers. The Judge will then determine whether or not the referred person should be included in any ballot conducted.
- 2.8 The Judge may also decide that the referred person's application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding eligibility to be obtained.
- 2.9 If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.
- 2.10 A computer generated random selection will be made from the pool of eligible applicants to meet the number of available places.
- 2.11 If there are sufficient places available for all applicants of a particular gender, applicants of that gender may be accepted without being placed in a ballot, even though a ballot may be necessary for applicants of the other gender.

3. ABORIGINAL OR TORRES STRAIT ISLANDER REFERRALS

- 3.1 The Drug Court acknowledges the overrepresentation of Aboriginal persons in the criminal justice system, and the proven need to improve access to such programs as the Drug Court program for Aboriginal or Torres Strait Islander ("ATSI") identifying offenders. The recognition and addressing of special needs is specifically authorised by section 21 of the Anti Discrimination Act 1977.
- 3.2 To increase the opportunity for ATSI identifying offenders to take part in a Drug Court program, the Registrar and the Drug Court team will have regard to the number of ATSI identifying applicants when determining the number of program places available. The number of available places will be increased by one place in each gender for which there are ATSI identifying offenders.
- 3.3 The computer generated random selection will then allocate places. That selection will allocate a minimum of one place to an ATSI identifying offender in each gender for which there are ATSI identifying offenders.

4. APPLICANTS WHO ARE SELECTED

- 4.1 The Registrar will notify the referring Court if an applicant has been accepted, and request that Court to remand the applicant to the Drug Court on a specified date within the next week.

5. APPLICANTS WHO ARE NOT SELECTED

- 5.1 The Drug Court will not accept an applicant who is not selected in accordance with clause 2 or 3.
- 5.2 The Registrar will notify the referring Court if an applicant has been unsuccessful in a ballot, or if the applicant's referral has been deferred.
- 5.3 An applicant who was not selected in a ballot will not be placed in a subsequent ballot unless the applicant is referred to the Drug Court in respect of an offence other than one related to the unsuccessful ballot.

6. PREVIOUS PARTICIPANTS

- 6.1 The Drug Court acknowledges that a drug-addicted person may need many episodes of treatment to achieve long-term recovery.
- 6.2 As the resources of the Drug Court are limited, preference will be given to applicants who have not been Drug Court participants previously.
- 6.3 An applicant who has previously been a Drug Court participant is not an appropriate person for a Drug Court program if it is less than three years since final sentence was imposed in relation to the participant's last Drug Court program, or if it is less than three years since the completion of the non-parole period of any final sentence that was imposed (not suspended), whichever is the later.

7. PREVIOUSLY REFUSED APPLICANTS

- 7.1 To take part in a Drug Court program, the Drug Court must be satisfied that, having regard to the person's antecedents, it would be appropriate for the person to participate in a Drug Court program under Section 7A(2)(c).
- 7.2 From time to time the Drug Court conducts hearings and makes determinations as to whether individuals are appropriate for a Drug Court Program.
- 7.3 If an applicant referred to the Drug Court has, within two years of the date of referral, been found to not be an appropriate person under s 7A(2) [or the previous section, s 7(2)], the applicant is not an appropriate person for a Drug Court program, and the Registrar will notify the referring Court that the applicant has not been accepted.