



Australian Government
Australian Institute of Criminology

Evaluation of the Queensland Special Circumstances Court Diversion Program

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Draft: not for release

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Acknowledgements

The Australian Institute of Criminology (AIC) would like to acknowledge the support and assistance provided by the Queensland Department of Justice and Attorney-General (DJAG) and the various stakeholders involved in the Special Circumstances Court Diversion Program (SCCDP). In particular we would like to thank Gregory Wiman, former A/Manager, Policy Development, Program Implementation and Evaluation, who provided support, advice and assistance to the AIC throughout the evaluation.

We would also like to express our gratitude to the program staff for conducting assessment interviews with SCCDP participants and maintaining the program database, which have been central to our evaluation. Our thanks also go to the Evaluation Steering Committee, comprising representatives of the various stakeholders involved in the program, for their assistance in providing access to data and interview participants. Finally, we thank the stakeholders (past and present) involved in the SCCDP who spoke to us about their experience of the program.

Acronyms

ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
ATSILS	Aboriginal and Torres Strait Islander Legal Services
ASOC	Australian Standard Offence Classification
CIPES	Courts Innovation Programs Evaluation System
CISP	Court Integrated Services Program
CJS	criminal justice system
DJAG	Department of Justice and Attorney General
ID	intellectual disability
MI	mental illness
MSO	most serious offence
NOI	National Offence Index
QCS	Queensland Corrective Services
QPS	Queensland Police Service
QWIC	Queensland Wide Interlinked Courts

Executive summary

The Special Circumstances Court Diversion Program (SCCDP) is a court-based rehabilitation program for offenders who are homeless or suffer from impaired decision-making capacity. The Department of Justice and Attorney General (DJAG) contracted the Australian Institute of Criminology (AIC) to evaluate the operation and effectiveness of the SCCDP. The evaluation period commenced in January 2010 and has involved the delivery of an interim report in March 2011 and an interim final report in December 2011. This final report presents the findings from the AIC's process and outcome evaluation, along with a number of recommendations to inform the future development of the program.

Evaluation methodology

The AIC evaluation has addressed the following key research questions:

- To what extent has the SCCDP model, in its various components, been implemented as intended during the pilot period?
- What are the barriers to implementing the SCCDP model as intended?
- To what extent does the current legislative framework support the activity of the SCCDP?
- How do the processes of the SCCDP address identified client needs, support requirements, and referral pathways at the various points of the integrated service delivery model?
- What service system outcomes are achieved within the pilot period because of the change/innovation and capacity building aspects of the program?
- What specific outcomes are achieved for participating clients as a result of their involvement in the pilot SCCDP?

To answer these questions, the AIC's evaluation involved both quantitative and qualitative research methods:

- A literature review identified lessons for the effective management and implementation of court based diversion programs for persons who are homeless or suffer from impaired decision-making capacity.
- A review of program documentation and materials informed the development of a program logic model describing the operation of the SCCDP and an evaluation framework that outlines the key questions relating to the various components of the program.
- Extensive consultation with court partners (including focused interviews conducted at different points during the evaluation and a half day workshop) reviewed issues relating to the operation of the court program, factors impacting upon its success, possible strategies to improve the operation of the court program, and to enable a qualitative assessment of the impact of the program.
- Observations of the court process examined the interactions between all court partners, whether the program operates in accordance with the guidelines outlined in relevant practice and procedure manuals, the extent to which the court process has been modified to

accommodate the specific needs of the target client group, and offender participation and engagement in the court process.

- The qualitative analysis of a number of randomly selected case studies for defendants who have participated in the SCCDP added to the understanding of the nature and extent of participants' involvement in the program, support provided to participants and the benefits delivered to participants through their involvement in the SCCDP.
- The analysis of data collected through the administration of an assessment tool (by DJAG) and stored in the Courts Innovation Program Evaluation System (CIPES) assessed the impact of the program on the health and wellbeing of participants.
- The analysis of quantitative data provided by DJAG examined participant offending behaviour before and after the program (including changes in the time to, frequency and seriousness of offending), court appearances and program participation, warrants ordered and sentence outcomes, compared to a matched comparison group.

Homelessness, mental illness, intellectual disability and the criminal justice system

There is a large body of evidence demonstrating that offenders with a mental illness (MI), intellectual disability (ID) or who are homeless are overrepresented at all stages of the CJS. There has been a considerable effort, both in Australia and overseas, to improve the criminal justice response for this group of offenders and to implement strategies that are designed to improve outcomes for offenders with impaired decision-making capacity.

The literature review highlighted 11 principles that underpin effective mental health court and diversion programs. These were identified from the best practice guides developed by Steadman et al. (1995) and Thomson, Osher and Tomasini-Joshi and the various evaluations of programs similar in operation to the SCCDP, both in Australia and overseas. While these have been drawn primarily from the experiences of programs targeted towards offenders with MI, and to a lesser extent ID, the co-occurrence of MI, ID and homelessness means that these lessons have wider application to programs like the SCCDP:

- Integrated services: Multi-disciplinary approach that integrates mental health and social services with the CJS.
- Regular meetings of key agency representatives: Administrative meetings that deal with the operation of the program and funding arrangements, and meetings between service providers and stakeholders regarding individualised treatment plans and the progress of clients.
- Strong leadership: Program coordinator with excellent communication skills and an awareness and understanding of the key elements of program.
- Clear and realistic target population: Clear eligibility criteria that take into consideration the treatment capacity of the community, the suitability of the program for certain offenders and the needs of the target population.
- Clearly defined terms of participation: Terms of program participation should be well defined and made clear to clients, while retaining flexibility to enable them to be individualised to suit the needs and circumstances of the offender.
- Participant informed consent: The decision to participate in a program should be voluntary and made only once the offender is fully informed about the process and the requirements of participation.
- Client confidentiality: Personal information about the client and treatment progress should remain confidential.

- Dedicated court team: Team who are trained in the identification and management of a broad range of factors relating to impaired decision-making and homelessness.
- Early identification: The identification of suitable clients should be made as early as possible in their interaction with the CJS.
- Judicial monitoring: Client program engagement and participation should be closely monitored by the court and subject to sanctions and rewards.
- Sustainability: Formalisation and institutionalisation of the program to ensure long-term sustainability (Steadman et al. 1995; Thompson et al. 2007).

Program design and management

SCCDP is a pre-sentence bail based and post-sentencing court based rehabilitation program for offenders who are homeless or suffer from impaired decision-making capacity. The program aims to identify those factors that may be contributing to the defendant's offending behaviour and then refer participants to available treatment, rehabilitation and support services while under court supervision, with the goal of improving their health and wealth being, improving their living circumstances and, ultimately, leading to a reduction in their offending behaviour. The program involves:

- a comprehensive assessment process that identifies factors contributing to the defendant's offending behaviour and informs the development of a case plan and referrals to a range of services to address accommodation, mental health and other needs;
- modifying court proceedings so that hearings are conducted in a way that is more appropriate for the client group, including being more informal and less adversarial than mainstream Magistrate Court hearings and providing greater opportunity for interaction between court partners, the defendant and their family or support persons;
- judicial monitoring of clients under pre-sentence supervision and, in some cases, post-sentence supervision, while they participate in a range of services designed to address those factors contributing to their offending;
- a flexible model of service delivery, which enables the program to respond to the specific characteristics and often complex needs of offenders and to adapt the duration and intensity of engagement and supervision accordingly;
- providing assistance to offenders through ongoing case management to improve access to support services and assist clients to reintegrate into the community;
- a high degree of coordination between criminal justice agencies and government and non-government service providers to ensure referral pathways and continuous support for offenders; and
- imposing a sentence that is focused towards rehabilitation, which may include conditions requiring the offender to continue to report to the court on their progress and/or participate in specified treatment or rehabilitation programs.

There were several key findings drawn from a review of the design and management of the SCCDP and the participation of the various stakeholders involved in the program:

- There is a high degree of support among stakeholders involved in the program for the SCCDP as an initiative to reduce reoffending among offenders with a mental illness, intellectual disability or who are homeless.
- There is a core group of stakeholders involved in the implementation of the SCCDP and, for the most part, these stakeholders have demonstrated a high level of commitment to the program, invest significant resources and have established effective working relationships.

- There are philosophical and organisational differences between the different court partners and service providers involved in the program that have presented certain challenges to the implementation of the pilot. For example, there are tensions between the views of different stakeholders regarding the relative emphasis that should be placed on the justice and therapeutic goals of the Special Circumstances Court.
- There are mixed views regarding the need for additional legislation to support the program. While the Practice Direction provides greater clarity around eligibility, referral and assessment procedures, the absence of an endorsed Practice and Procedure Manual (PPM) has meant that there are elements of the program that are not well defined and there is a lack of guidance around the roles and responsibilities of stakeholders involved in the program.
- The Practice Direction, introduced in late 2010, has addressed some of the concerns raised in relation to the eligibility of SCCDP participants and certain offences, as well as providing more structure around the steps involved in referring defendants to the program.
- There were concerns about the regularity and attendance at program Steering Group meetings, while a number of stakeholders involved in the delivery of the program suggested that there was a need to include at least one representative from among the various service providers on the Steering Group, given the high level of involvement of these government and non-government organisations in the operation of the program.
- Funding for the program ended in December 2011. Recognising the importance of the program, most court partners agreed to fund their ongoing involvement in the program. However, the Special Circumstances Court has reduced the number of sitting and funding for the dedicated court psychologist has not been extended. The uncertainty around funding and the long-term future of the program has been the cause of some instability (eg leading to the departure of key program staff).
- The importance of an ongoing program of training and professional development was raised by a number of stakeholders involved in the program. This includes training to assist court partners to develop a better understanding of the client population, of the services that are available for defendants and (for service providers) of the legal process.
- The literature review highlighted 11 principles that underpin effective mental health court and diversion programs. The SCCDP is consistent with the majority of these principles, although there is scope to more clearly define the terms of participation for participants.

Program eligibility, referrals and participants

- The SCCDP now has in place clear eligibility criteria, which set clear parameters for determining the eligibility of offenders, while allowing for some level of discretion. Despite being a focus of considerable debate during the early stages of the evaluation, concerns about ineligible offenders being accepted into the program have been addressed through the release of the Practice Direction in late 2010.
- The most common source of referrals for the program are duty lawyers and Court Case Coordinators, however stakeholders reported increased referrals from other sources, including Magistrates, defendants and police watch house staff.
- Court partners recognised the need to continue to build awareness of the program among referral sources. Further, there is still a need for more consistent processes for the first identification of potential participants in Arrest Court to ensure that eligible defendants are provided the opportunity to participate in the program.
- The introduction of a formal eligibility assessment has reportedly improved the filtering of potential participants and reduced the occurrence of ineligible or unsuitable defendants being referred and accepted into the SCCDP, reducing the impact on court resources.

- Overall, stakeholders reported a high level of satisfaction with the assessment process and outcomes. The formal assessment interview was viewed as an integral source of information about the circumstances of each defendant, which enabled the Coordinator (with the assistance of other court partners) to develop a customised case plan that responded to the needs of individual defendants, rather than imposing a standard course of action.
- The assessments completed by the psychologist, while brief, had increased the capacity of the program to direct offenders with a MI to important mental health services.

CIPES records information on the nature and duration of each defendant's contact with the program, as well as information on program participants:

- Between when the SCCDP commenced in June 2009 and the end of December 2011, there were 679 referrals to the program, involving 546 individuals. The number of referrals per month has varied across the evaluation period but, after a period of decline in late 2010 and early 2011, appears to have increased in more recent months.
- Of the 679 referrals made to the program during the evaluation period, the defendant was assessed as suitable and admitted to the program in 79 percent (n=554) of cases. A total of 453 defendants (83 percent of all defendants referred) were admitted into the program for at least one episode during the evaluation period.
- Of the 546 defendants referred to the program during the evaluation period, 22 percent (n=120) had been referred to the SCCDP prior to the commencement of the evaluation period.
- Around one-third (36%) of offenders accepted into the SCCDP were referred to Special Circumstances Court with a property offence as their MSO, followed by violent offences (24%) and drug offences (14%).
- Fifty-four percent of offenders accepted into the program were charged with at least one property offence, 44 percent were charged with a disorder offence and 41 percent were charged with a drug offence.
- Fifteen percent of program participants were charged with more than ten offences.
- Ninety-three percent had a prior criminal history (at least one prior finalised charge).

Participation in the SCCDP

- While under pre-sentence supervision, the defendant is required to attend and regularly report to the Special Circumstances Court and participate in specified treatment or rehabilitation programs.
- The high level of supervision provided to participants by the court was viewed by many stakeholders as integral to the success of the program in assisting offenders to address the issues contributing to their offending behaviour. In particular, the authority of the court and the structure and accountability it provides to defendants are viewed as important factors in encouraging participants to attend and engage in services to address the factors underlying their offending behaviour, required as part of their participation in the program.
- Formal case plans are developed through extensive consultation between the Court Case Coordinator and various court partners, including through individual meetings, pre-court meetings and hearings within the Special Circumstances Court. There is scope to improve the monitoring of participants' progress against these case plans.
- Pre-court meetings are an important opportunity to share information about the defendant's progress in the program in an informal setting, however there were some concerns about this discussion taking place without the defendant being involved.
- Court proceedings within the Special Circumstances Court are more informal than mainstream Magistrates Court, with a greater level of interaction between the various court

partners, defendant and service providers. Despite recognising the need for the Special Circumstances Court to be modified to suit the population coming before the court, there was still strong support for the court to retain its adversarial format, at least to some degree, and to ensure that it continues to operate as a 'legal authority'. The perceived power, structure, discipline and accountability offered by the court is regarded as an important factor in motivating behavioural change.

- Some court partners were concerned about the availability and reliability of information on defendants' participation in the program. Service providers reported that the expectation that they would inform the Special Circumstances Court of the progress of participants and their attendance and/or participation in programs that they had been referred to was a source of some tension.
- Several issues were raised in relation to the defendant's participation in the program under bail conditions. There is no clear guidance as to what constitutes 'participation in the program' under section 11(9) of the Bail Act, and therefore no guidance as to what constitutes a breach. There are perceived inconsistencies in the way that the court responds to apparent breaches.
- There is a range of views regarding the responsibility for case managing participants involved in the program, which may be impacting upon the level of individual support provided to defendants.
- There was widespread agreement that there was a need to consider exit strategies and transition plans for defendants once they complete the program. There was a common concern expressed by both court partners and service providers that many defendants were overly dependent upon the continued support of those involved in the program, particularly Court Case Coordinators.

The total number of court appearance events and number of days taken to finalise the reference court episode was calculated for each offender referred to the SCCDP:

- On average, SCCDP participants appeared in the Special Circumstances Court 7.8 times and spent 164 days within the program.
- Thirty-nine percent of offenders spent longer than 24 weeks in the SCCDP (the limit that has been set in the Practice Direction). While this figure does not differentiate between time spent in the program pre or post-sentence, it suggests that concerns about the length of time spent in the program are justified.
- There has been a reduction in the number of court appearances and significant reduction in the time to finalisation for participants accepted into the program (for the first time) since the introduction of the Practice Direction, reflecting a concerted effort to limit the length of time participants remain with the program.
- The average number of court appearance events and days to finalisation for the reference court episode (ie includes the period before being referred to the SCCDP) for the intervention and comparison groups was also compared. This shows that:
 - participants in the SCCDP had an average of four times as many court appearance events (9.9) than offenders dealt with in a mainstream Magistrates Court (2.5 events); and
 - participants in the SCCDP took an average of 239 days from their first court appearance in Arrest Court to all charges were fully finalised (or their participation in the program post-sentence ended), compared to an average of 51.5 days for offenders sentenced in mainstream Magistrates Courts.
- The high number of court appearance events and length of time taken to finalise matters reflects the level of contact and supervision provided to participants during their contact with the SCCDP, but demonstrates that the program is resource intensive for the court.
- There may be scope to reduce the time taken to refer offenders to the SCCDP (without comprising on the appropriate steps required to refer offenders).

Sentencing offenders in the Special Circumstances Court

The evaluation concluded that the sentences imposed in the Special Circumstances Court offer greater opportunity to supervise offenders post-sentence (either by the court or QCS), are more likely to require offenders to continue to participate in programs to address their offending behaviour, and reduce the financial burden on offenders who do not have the capacity to pay fines. The evaluation also found:

- There are no clear guidelines to assist the Magistrate to determine (based on submissions from court partners) that the defendant has successfully completed the case plan and is ready to proceed to sentence.
- While the performance of the offender in participating in the range of therapeutic programs offered to them while under pre-sentence supervision is taken into consideration as a possible mitigation of penalty, there is no clear guidance on how this principle is applied in practice and there are some concerns that this policy had been applied inconsistently.
- There are a number of options available to the Magistrate in sentencing the defendant, including probation, community service orders, good behaviour bonds, fines and, in some cases, imprisonment. There are different views about the suitability of the different options.
- The improved relationship between the Special Circumstances Court and QCS officer assigned to the program was reportedly leading to probation orders becoming a more common sentence option.
- There is a need for more options in terms of the range of community service projects that could be attached to community service orders, including projects that were more suitable for offenders with an MI, ID or who are homeless and with organisations that cater specifically for these types of offenders.
- Court partners reported that the emphasis on post-sentence supervision had declined over the evaluation period, with a greater emphasis now on pre-sentence supervision and court supervision of participants while on bail.

There were a number of differences in the sentence orders imposed in Special Circumstances Court compared with those imposed in a normal Magistrates Court:

- Seven percent of offenders sentenced in the Special Circumstances Court received some form of custodial order as their principal sentence, compared with 16 percent of offenders sentenced in a normal Magistrates Court.
- Offenders sentenced in the Special Circumstances Court (93%) were more likely to receive a non-custodial order as their principal sentence than a matched group of offenders sentenced in a mainstream Magistrates Court (84%).
- Offenders in the comparison group were nearly four times more likely (56%) than SCCDP participants (15%) to receive a monetary order as their principal sentence. Conversely, SCCDP participants (64%) were three times more likely than offenders in the comparison group (22%) to receive some other non-custodial order, which include good behaviour bonds.
- SCCDP participants sentenced in the Special Circumstances Court (13%) were twice as likely than offenders in the comparison group (6%) to receive a community supervision or work order as their principal sentence type, which include community service and probation orders.

Impact of the SCCDP on court appearance rates

- While this was not an explicit objective of the program, stakeholders interviewed as part of the evaluation suggested that SCCDP participants were more likely to turn up to the Special

Circumstances Court because of the additional support offered to them and because they could see benefits associated with their participation in the program.

- Overall, 15 percent of program completers absconded on at least one occasion during their reference court episode, compared with 47 percent of program terminates and 28 percent of offenders not accepted into the program.
- The proportion of offenders who absconded on at least one occasion prior to being referred to the program and went on to be terminated from the program was substantially higher than for program completers. This suggests that having had a warrant issued prior to referral to the program is an important indicator for identifying offenders who may go on to abscond during their participation in the SCCDP; suggesting that they might either not be suitable for the program or will require additional supervision.
- The total proportion of offenders who had absconded subject to warrant on at least one occasion was higher among SCCDP participants than among those offenders whose matter was heard and finalised in a normal Magistrates Court but the proportion of events resulting in a warrant being issued was the same for both groups. The overall rate with which warrants were issued was relatively similar across the two groups, taking into account the number of court appearance events.
- The propensity to abscond subject to warrant was greater among SCCDP participants prior to being referred to the Special Circumstances Court (except property offenders), suggesting that either court appearance rates improved for this group or Magistrates in the Special Circumstances Court were less likely to issue a warrant.
- The additional support and supervision provided by the program appeared to have a more positive impact on the level of compliance among violent offenders.
- Reducing the number of court appearance events required to refer a matter to the SCCDP and, to a lesser extent, during an offender's participation in the program, may help to reduce proportion of offenders who abscond subject to warrant, without necessarily requiring changes in the propensity of Magistrates to issue warrants.

Addressing the needs of SCCDP participants

The program has performed well in terms of integrating therapeutic programs in the court process and ensuring access to important services for offenders with a MI, ID or who are homeless:

- The SCCDP is recognised as an important mechanism for engaging a hard to reach client group in support services and rehabilitative and treatment programs.
- The program has effectively engaged and maintained the involvement of a large number of service providers that deliver a range of important rehabilitative, treatment and support services to SCCDP participants.
- Service providers noted a substantial improvement in terms of the referral pathways between the court and community-based services, compared with how the program used to operate as part of Homeless Persons Court Diversion Program (HPCDP).
- Information recorded on the referral of SCCDP participants to various service providers supports the finding that the SCCDP has established important referral pathways with a number of community-based organisations delivering a range of rehabilitative, treatment and support services across the Brisbane metropolitan area.
- The appointment of the court psychologist to the program has improved the capacity of the SCCDP to support defendants with a mental illness.

- The availability of services in the community remains a significant challenge for the SCCDP, however courts partners, and in particular Court Case Coordinators, continue to take steps to identify and engage new services in the program.

SCCDP participants have complex needs and experience a range of issues related to their health and wellbeing that impact on their offending behaviour. According to the assessment interview completed at the time of referral:

- around three quarters of all participants admitted into the program were homeless at the time of being referred to the SCCDP;
- the vast majority of participants involved in the SCCDP were not employed (94% of all respondents);
- forty-three percent of all participants admitted into the program had consumed alcohol at least once a week in the three months leading up to the episode, and one in five (20%) reported consuming alcohol daily;
- sixty-one percent of participants reported using at least one drug (other than alcohol) in the previous three months, and 46 percent reported using at least one drug on a weekly basis or more;
- twenty-nine percent of participants reported feeling that they needed or were dependent on at least one drug (other than alcohol) at the time of referral, and 21 percent had tried to get in or had been in treatment in the previous three months;
- forty-three percent of SCCDP participants didn't go to the doctor, hospital or other health service in the previous three months on at least one occasion when they needed attention;
- a significant proportion of SCCDP participants show symptoms of depression, anxiety and/or stress at the time of being referred to the program, as evidenced by their scores on the DASS 21 mental health screen;
- the most common stressors reported as having been experienced by defendants, their family or friends in the previous three months were trouble with police (79%), drug problems (44%), trouble with family or family pressures (41%), seeing fights or seeing people getting beaten up (40%) and not being able to get a job (35%); and
- more than one third of all SCCDP participants (38%) felt that they were treated like a number not a person the last few times they were in court, and nearly half (43%) disagreed with the statement that the courts treat everyone equally.

The results from a comparison between the responses of SCCDP participants to questions in the assessment interview at referral and then again at follow up showed that:

- forty-eight percent of participants that reported being homeless for at least one day at the time of referral reported that they were homeless for fewer days at follow up than at the commencement of their episode;
- the average number of days homeless for all participants that completed a follow up assessment at the completion of their first episode in the program fell substantially, as did the proportion of participants that reported sleeping rough or in stop-gap housing;
- the proportion of participants that reported using any drug (besides alcohol) on at least a weekly basis decreased from 40 percent to 25 percent, and the proportion that reported not having used drugs at all nearly doubled, increasing from 30 percent to 59 percent;
- the proportion of participants that reported feeling that they needed or were dependent on any drug (besides alcohol) decreased from 33 percent to eight percent; and
- the proportion of participants who reported their health as being better now than three months ago increased from 30 percent to 58 percent, and the proportion who reported their health as being worse now declined from 36 percent to 15 percent;

- the proportion of participants who recorded scores on the DASS 21 that fell within the normal range increased significantly for depression, anxiety and stress, and the proportion of participants who recorded scores that fell within the extremely severe range decreased significantly across all three scales;
- there were substantial declines in the proportion of participants that reported having experience various recent stressful events; and
- those participants who completed an assessment interview at the completion of their episode were overwhelmingly positive about the experience and the support and benefits the SCCDP provides.

Some caution needs to be taken in generalising these results to the entire population of defendants that participated in the SCCDP, given the relatively low follow up rate (around one in four defendants that were accepted into the program on their first referral). Nevertheless, these results are encouraging, and suggest that the SCCDP has had a positive impact in terms of improving the health and wellbeing of those defendants that completed a follow up survey at the completion of their first episode. In particular, the SCCDP has been successful in finding stable accommodation for those defendants who do not have adequate housing, helping defendants to address their problematic drug use and dependency issues, and helping to address the mental health problems (and health more broadly) of participants.

Impact of the program on reoffending

The final component of the evaluation involved an assessment of the impact of the SCCDP on reoffending among program participants.

- An analysis of the time taken to reoffend among program participants and a matched comparison group concluded that:
 - offenders that were terminated from the program took less time to reoffend than those participants who went on to complete the program;
 - there was no significant difference between offenders who participated in the SCCDP and those sentenced in mainstream courts in terms of the time taken to reoffend; and
 - controlling for all other factors, participation in the SCCDP did not significantly increase or decrease the risk that an individual would reoffend at any point in time.
- Offenders participating in the SCCDP who reoffended during the follow up period were no more likely than offenders sentenced in a normal Magistrates Court to commit a less serious offence.
- The proportion of offenders who offended more frequently (a negative result) in the period after their episode in SCCDP ended was significantly lower among program completers than among those offenders who were terminated from the program.
- Holding all other variables constant, the frequency of offending in the follow up period was significantly lower for offenders who participated in the SCCDP than offenders sentenced in a normal Magistrates Court. This finding is consistent with the views of stakeholders involved in the program, who reported that, while participants continued to reoffend, the SCCDP had led to a reduction in the level of offending among the target group.
- The proportion of offenders who reoffended and committed a breach offence as their first proven offence was significantly higher among offenders who were ineligible for the SCCDP than among SCCDP participants. The proportion of offenders who committed a breach offence at any point during the follow up period was significantly higher for both the program terminate group and offenders who were ineligible for the program than program completers.

- Participants in the SCCDP who had reoffended post-sentence were significantly less likely than offenders sentenced in a normal Magistrates Court to commit a breach offence during the follow up period.

Recommendations

This report ends by making a number of recommendations to improve the operation and effectiveness of the SCCDP.

Recommendation 1

There should continue to be a court-based program operating in the Brisbane Magistrates Court that addresses the needs of offenders who are homeless or suffer from impaired decision-making and that incorporates the key features of the SCCDP model described in this report.

Recommendation 2

A Practice and Procedure Manual (PPM) needs to be developed and endorsed by all stakeholders involved in the management and delivery of the program. The PPM should describe the objectives of the program, the roles of responsibilities of key stakeholders involved in the program, protocols to guide the sharing of information and the operation of each stage in the program. The development of this PPM should be led by the SCCDP program manager (DJAG), but should be developed in consultation with the various partners.

Recommendation 3

The objectives of the SCCDP need to be agreed and defined in relevant program documentation (ie the PPM), as these will serve to guide the operation of the program and decisions about any changes that should be made to the program. These objectives should reflect the outcomes measured as part of the evaluation. Specifically, improving access to therapeutic programs and support services for offenders with a MI, ID or who are homeless; addressing the causes of offending among SCCDP participants; improving compliance with court orders (bail and sentence) and reducing reoffending among offenders with a MI, ID or who are homeless.

Recommendation 4

The Steering Group should meet on a more regular and consistent basis (bi-monthly or quarterly) to discuss issues relating to the operation of the program. There should be representation from the service providers involved in the program on this Steering Group.

Recommendation 5

Court partners involved in the SCCDP need to be funded for their involvement in the program to ensure their continued support and participation. This includes the Magistrates Court, DJAG, QPS, QCS and LAQ. Brokerage funding should also be provided to support participants involved in the program.

Recommendation 6

Funding needs to be provided to support the reintroduction of a dedicated court psychologist with expertise in forensic and general psychological assessment to conduct assessments of potential participants, develop diversion plans and provide expert advice to the court.

Recommendation 7

Consideration should be given to whether service providers responsible for supporting large numbers of SCCDP participants could be contracted by DJAG to provide these services (similar to the CISP model in Victoria).

Recommendation 8

Where they do not already exist or are not up to date (and where there is not financial arrangement in place), a formal memorandum of understanding should be established between the Department and key service providers that clearly sets out the nature of the services to be provided, the role of the service provider in the court and any other requirements (eg information sharing).

Recommendation 9

Stakeholders involved in the management and delivery of the SCCDP should be supported by an ongoing program of training and professional development. This includes training to assist court partners to develop a better understanding of the client population, of the services that are available for defendants and (for service providers) of the legal process.

Recommendation 10

There is a need to continue to build awareness of the SCCDP among referral sources, including non-government service providers, boarding houses and operational police through the distribution of information materials (posters, brochures etc) and by actively promoting the program to potential referral sources.

Recommendation 11

A more consistent process should be established for the first identification of potential participants in Arrest Court to ensure that eligible defendants are provided the opportunity to participate in the program. This could involve the introduction of a referral form that can be completed for potential participants and considered by the Magistrate prior to ordering the Court Case Coordinator to complete an eligibility assessment.

Recommendation 12

Where possible, and without compromising the necessary steps involved in referring eligible offenders, there should be a genuine attempt to minimise the number of court appearance events and time taken to refer offenders to the SCCDP.

Recommendation 13

As part of the assessment of participants completed prior to their acceptance in the program, the report prepared by the Court Case Coordinator should also outline the recommended length, duration and intensity of supervision required for each participant. This should take into consideration their current circumstances, previous performance in complying with court orders (eg breaches of bail or sentence orders) and their motivation and willingness to address their offending behaviour.

Recommendation 14

Formal assessment interviews should be completed for all participants at the completion of their involvement in the program and prior to being sentenced by the Magistrate. This information (and how it compares to the assessment interview at the commencement of the episode) should be reported to the Court to assist in sentencing (and any decisions about post-sentence supervision).

Recommendation 15

A review of the case planning tools and processes used in other locations for similar programs should be undertaken to identify where improvements can be made, in terms of developing individual case plans, monitoring progress against these case plans and reporting on performance in a more systematic way. There is a need for better integration of the assessment interview data in CIPES with case planning processes to minimise duplication of data collection.

Recommendation 16

The Steering Group should develop protocols around the sharing of information between service providers (including Queensland Health) and the Court to assist with the monitoring of participants' progress while under supervision. These protocols should be based on input from all parties and reflect a balance between adequate information being available to effectively monitor performance while also maintaining appropriate levels of confidentiality. These protocols should be incorporated into the participant consent form and communicated to all participants prior to their consenting to participate in the program.

Recommendation 17

Court partners should agree on clearly defined terms for participation in the program. These should state that the participant is required to turn up to their scheduled court appearances, attend and participate in referred services and not reoffend while under supervision. This should include some agreement on what constitutes non-participation, which should enable the Court to retain some flexibility and discretion in responding to participants. These terms of participation should be reflected in relevant program guidelines and, potentially, relevant legislation (such as the Bail (Prescribed Programs) Regulation 2006). They should be communicated to each participant and the time of seeking/being referred to the program and again at the commencement of their episode.

Recommendation 18

Court partners should agree on a general policy regarding the use of normal bail conditions alongside conditions under section 11(9) of the Bail Act for SCCDP participants under pre-sentence supervision, and this should be described in the PPM.

Recommendation 19

The terms of participation and policy on the use of bail conditions available to the Court should be supported by a policy that articulates the response to participants who do not comply with these terms and conditions. This policy should be developed in consultation with and endorsed by all court partners, and recognise and acknowledge the challenges that SCCDP participants can face in complying with court orders.

Recommendation 20

There is a need to better define the nature and extent of case management provided in the SCCDP, and to clarify the responsibility for the case management of SCCDP participants. This could be achieved through clarifying the role of stakeholders involved in the program in the PPM.

Recommendation 21

The development of a transition plan that clearly describes who has responsibility for supporting the defendant after their participation in the SCCDP has ended should be embedded as part of the management of offenders within the program. It should be a requirement that all offenders have a clear plan in place prior to the completion of their episode in the SCCDP (ie before being sentenced).

Recommendation 22

When information of a sensitive nature is being discussed the Special Circumstances Court should operate as a closed court. This decision should be made by the Magistrate when a request is put forward by either court partners or service providers.

Recommendation 23

There should be clear guidelines set out in the PPM that describes what constitutes program completion. Program completion should be linked to the goals set out in each defendant's individual case plan, which should be realistic and achievable for that defendant within the 24 week period that they are in contact with the SCCDP.

Recommendation 24

The PPM should outline a clear policy stating that participation in the program may be taken into account when sentencing participants and that this will require the defendant to meet the terms of participation set out in the PPM. This should be clearly communicated to participants both at the commencement and then regularly throughout their involvement in the program.

Recommendation 25

QCS should identify additional options in terms of the range of community service projects that can be attached to community service orders, including projects that are more suitable for offenders with an MI, ID or who are homeless and with organisations that cater specifically for these types of offenders.

Recommendation 26

Court partners, especially Court Case Coordinators, should continue to take steps to identify, document and engage services available in the community to support participants involved in the SCCDP. Stakeholders involved in the court also perform an important role in identifying service gaps and advocating for the establishment of new services to fill those gaps.

Recommendation 27

DJAG should continue to take steps to improve the recording of information about program participants and address the issues that have been identified in this report. Specifically, ensuring the consistent application of the phase structure within the database and encouraging the recording of adjournment reasons (especially failure to appear).

Introduction

In 2010, the Department of Justice and Attorney General (DJAG) contracted the Australian Institute of Criminology (AIC) to undertake the evaluation of the Queensland Special Circumstances Court Diversion Program (SCCDP). The evaluation commenced in January 2010 and has involved the delivery of an interim report (March 2011), interim final report (December 2011) and this final report.

Background

A Homeless Persons Court Diversion Program (HPCDP) was established at Brisbane Magistrates Court in 2006. The HPCDP aimed to provide additional support to homeless people charged with public order and other minor offences through the court process and to divert them from further contact with the CJS through referral to services to address accommodation, health and other needs which may be contributing to their offending behaviour. A key component of the HPCDP was the appointment of a Court Liaison Officer, who was responsible for liaising between the court, defendants experiencing homelessness, defendants' legal representatives, police prosecutors, community corrections and key service providers (including crisis accommodation, homelessness and welfare services). At the same time the Magistracy established a 'Special Circumstances List' for defendants with impaired capacity charged with offences relating to homelessness, which was held one day a week at the Brisbane Arrest Courts.

The HPCDP was evaluated in 2007. The evaluation concluded that:

- while operating differently to how it was originally designed, the program was having some success in connecting homeless people with a range of services, but that this was hampered by resource constraints;
- a range of government and non-government service providers were involved and made a valuable contribution to the effective operation of the program, however further funding for these services was necessary to ensure the ongoing sustainability of the program;
- the service delivery model was flexible, which reflected the characteristics and needs of the client group, and the level of engagement with the program varied between offenders; and
- there was a lack of data to determine the overall impact of the program on offenders, however there was anecdotal evidence that the program was having a positive impact on offenders' health and wellbeing and that offenders were less likely to receive financial penalties or a term of imprisonment (Guthrie et al. 2007).

The evaluation concluded with a number of recommendations relating to areas such as program funding, administration, staffing and eligibility criteria. The findings and recommendations from this evaluation were used to develop submissions to government to resource the broadened SCCDP.

Special Circumstances Court Diversion Program

The SCCDP is a court-based rehabilitation program for offenders who are homeless or suffer from impaired decision-making capacity. The SCCDP commenced in June 2009, and provides a separate pathway through the court process for adults charged with summary offences who are:

- homeless or at risk of being homeless; and/or
- suffering from impaired decision-making capacity as a result of either mental illness (MI), intellectual disability (ID) or brain/neurological disorders.

The program aims to identify those factors that contribute to an individual's offending behaviour and then refer participants to available treatment, rehabilitation and support services while under pre or post sentence supervision. This aims to improve the health and wellbeing of offenders, to improve their living circumstances and, ultimately, contribute to a reduction in their offending behaviour.

The SCCDP was established so that the needs of offenders with a MI, ID, cognitive impairment, or people who are homeless or at risk of homelessness could be better met within the initial stages of the criminal justice process. Research shows that homelessness and impaired decision-making capacity are important factors impacting upon the behaviour of a large number of individuals who offend (Harvey, Hildreth, MacLeod and Moran 2009; Kirkwood & Richley 2008). The SCCDP represents a concerted effort to improve the criminal justice response to these offenders.

The evaluation

The AIC was contracted to undertake a process and outcome evaluation of the SCCDP pilot and to examine the operation and effectiveness of the program. The AIC evaluation has sought to address the following key research questions:

- To what extent has the SCCDP model, in its various components, been implemented as intended during the pilot period?
- What are the barriers to implementing the SCCDP model as intended?
- To what extent does the current legislative framework support the activity of the SCCDP?
- How do the processes of the SCCDP address identified client needs, support requirements, and referral pathways at the various points of the integrated service delivery model?
- What service system outcomes are achieved within the pilot period because of the change/innovation and capacity building aspects of the program?
- What specific outcomes are achieved for participating clients as a result of their involvement in the pilot SCCDP?

This evaluation has combined both quantitative and qualitative research methodologies, and focuses on the performance of the program between June 2009 and December 2011. The AIC worked closely with DJAG during the early stages of the evaluation to develop better data collection processes to improve the quality of data available for this evaluation and future monitoring of the impact of the SCCDP. This has included the development of a revised assessment questionnaire, incorporating screening tools for MI and ID, which is completed for SCCDP clients pre and post participation in the program.

Evaluation methodology

The AIC evaluation has involved two key components: A process evaluation examining the implementation and operation of the SCCDP and an impact evaluation to determine what outcomes have been achieved for participating clients as a result of their involvement in the pilot SCCDP.

The process evaluation aimed to improve understanding of the activities that were delivered as part of the SCCDP. It was also focused on the implementation, operation and management of these activities, assessing whether they were being delivered as planned and in accordance with the original design of the program and how well they were delivered (i.e. to an acceptable standard and the satisfaction of various stakeholders involved in SCCDP). It also aimed to identify factors that may have impacted upon the delivery of these activities.

The outcome evaluation was concerned with the overall effectiveness of the SCCDP, examining whether the program's objectives have been achieved and determining what outcomes (intended or unintended) have been delivered as a result. The findings from the process evaluation were used to help explain the findings from the outcome evaluation and to understand why certain outcomes were observed.

The research methods involved in the process and outcome evaluation are described below. The methodology received approval from the AIC Human Research Ethics Committee (HREC), which is a registered HREC with the National Health and Medical Research Council (NHMRC). The AIC HREC ensures that AIC research projects will be conducted in accordance with the National Statement on Ethical Conduct in Human Research (NHMRC 2007) and, among other protocols, the Guidelines under s95 and s95A of the Privacy Act 1988.

Review of similar programs in Australia and overseas

A literature review was undertaken to identify lessons with respect to the effective management and implementation of court based diversion programs for persons who are homeless or suffer from impaired decision-making capacity. This included a review of similar programs operating in both Australia and overseas, as well as a review of research into the relationship between MI, ID and homelessness and offending and the implications for the criminal justice system (CJS). The findings from this review, presented in this report, have been used to identify a number of principles for good practice against which the operation of the SCCDP has been assessed.

Develop a program logic model and evaluation framework

A review of program documentation and materials was used to develop a program logic describing the operation of the SCCDP. Additional information was sought from key stakeholders as part of the initial round of interviews (described below). The purpose of the logic model was to describe the various components of the program and the logical sequence of steps necessary to deliver positive outcomes for SCCDP participants. This model formed the

basis for an evaluation framework, which sets out the key evaluation questions and performance indicators used to guide the AIC evaluation.

Interviews with key stakeholders

Interviews with court partners addressed issues relating to the operation of the court program, factors impacting upon its success, possible strategies to improve the operation of the court program, and also helped to inform the qualitative assessment of the impact of the program. The AIC worked with DJAG to identify key stakeholders involved in the SCCDP program and to engage them in the interview process. This included:

- Chief Magistrate and Magistrates involved in the SCCDP;
- SCCDP Court Case Coordinators;
- SCCDP Program Manager;
- other DJAG staff involved in the management and delivery of the program;
- Legal Aid Queensland (LAQ);
- Queensland Health, including the SCCDP psychologist;
- Queensland Corrective Services (QCS);
- Queensland Police Service (QPS);
- Office of the Adult Guardian; and
- non-government service providers including the Salvation Army, Sisters Inside and Micah Projects.

Interviews were undertaken in two stages. The first stage of interviews took place in September 2010 and sought stakeholder views regarding the operation of the SCCDP, whether the SCCDP was meeting the needs of the client population, factors affecting the court process and referral pathways and possible strategies for improving the operation of the court program. The interviews were also used to describe the SCCDP process and stakeholder roles and responsibilities, and helped to inform the development of the logic model describing the operation of the SCCDP and its various components, which was developed from a review of program documentation and materials.

Interview participants were also invited to participate in a half-day workshop that was held in May 2011, following the submission of the interim report. The purpose of this workshop was to bring stakeholders together to discuss issues relating to the operation of the court program, factors impacting upon its success, and to identify possible strategies to improve the operation of the court program. In addition, this workshop also contributed information for the purposes of the initial stages of the outcome evaluation.

A second round of interviews in November 2011 reviewed issues relating to the operation of the court identified in the interim report, what outcomes were achieved for participating clients as a result of their involvement in the SCCDP, and recommendations for the future development and operation of the SCCDP beyond the evaluation period.

Observations of the court process

The purpose of attending the Special Circumstances Court and observing the court process was to examine the interactions between court partners, assess whether the program operated in accordance with the guidelines outlined in relevant program documentation, determine the extent to which the court process has been modified to accommodate the specific needs of the target client group, and offender participation and engagement in the court process. The

observation of court processes was also designed to validate information provided by court stakeholders during the consultation process.

AIC researchers attended a number of SCCDP court sittings and hearings involving both Magistrates. Prior to their attendance, the AIC sought the approval of the presiding Magistrate to attend court for the purposes of observing proceedings. The AIC observed a range of matters, maintained a record of these observations and analysed these notes to identify key themes.

Case summaries

The AIC analysed a number of randomly selected case studies for defendants who had participated in the SCCDP. The information that formed the basis of these case studies was drawn from the case summaries maintained by the Court Case Coordinator. A total of 20 individuals were randomly selected by the AIC from among the total population of offenders referred to the SCCDP. Case summaries for these individuals were provided to the AIC, which extracted the relevant information and prepared a number of case studies that are included in this report. The primary purpose of the inclusion of these case studies was to describe the nature and extent of participants' involvement in the program, the type of support provided to participants and the benefits delivered to participants through their involvement in the SCCDP.

Analysis of quantitative data

An important finding from the evaluation of the HPCDP was that there was insufficient data to enable key outcomes from the court program to be measured (Guthrie et al. 2007). The evaluation recognised the limited nature of the data collection processes as a key problem in properly assessing the effectiveness of the HPCDP. While there was anecdotal evidence to suggest that the HPCDP had delivered important outcomes for offenders, it was not possible to determine the full extent of the impact of the HPCDP in terms of reducing the rate of reoffending among offenders who were homeless or addressing those factors that were contributing to the offending behaviour.

A database was developed for SCCDP within Court Innovation Program Evaluation System (CIPES), which provides a central repository for information relating to the criminal history and court appearance of SCCDP participants (regularly uploaded from the (Queensland Wide Interlinked Courts (QWIC) system). The database allows for SCCDP program staff to enter personal details and basic demographic data for each defendant referred to the program, create new episodes that commence on the date of referral to Special Circumstances Court, record the defendant's progress through the court and enter a case file number that enables court appearance data to be migrated across from QWIC. Criminal histories are generated through an automated name and date of birth search of QWIC. Data for the evaluation was routinely collected by DJAG staff (in CIPES) and court staff (in QWIC) for all offenders referred to the SCCDP.

CIPES also records information obtained through the assessment process administered by DJAG Court Case Coordinators. The assessment includes a series of questions across a broad range of issues that are asked of SCCDP participants prior to their participation in the SCCDP (at the time of referral), and then again at the completion of the program. Questions relate to areas such as living arrangements, family circumstances, education and employment, community involvement and participation, recent stressors, drug and alcohol use, health, income and expenditure and attitudes towards the CJS and (in the follow up profile) towards the SCCDP. The primary purpose of this information was to inform SCCDP court partners as to the current circumstances and specific service needs of clients coming before the program. DJAG

obtains the consent of all clients to participate in a pre-sentence assessment, and to share the information that is obtained through this assessment process with court partners and with relevant agencies for the purpose of evaluating the program (in this instance the AIC). The assessment process is discussed in later sections of this report.

In addition to the data contained within the CIPES database, the AIC also sought data from QCS relating to episodes of imprisonment for both the intervention and comparison groups. This was used to calculate free time (ie account for time in prison) as part of the analysis of reoffending.

The final stage of the evaluation involved a quantitative assessment of the activity and key outcomes from the SCCDP compared to other mainstream court processes, in accordance with the performance indicators set out in the evaluation framework (Table 1). This stage involved the analysis of:

- the total number of referrals and the outcome of these referrals;
- client demographics;
- current charges and prior criminal history;
- court appearance event data for both Special Circumstances Court and matched group of offenders dealt with in a mainstream Magistrates Court;
- sentencing outcomes for program participants and the matched group of offenders;
- mental health, living circumstances and intellectual disability of SCCDP participants, based on the assessment completed at the commencement of the program;
- changes in mental, physical health and wellbeing and living arrangements pre and post program;
- court appearance rates for offenders for both Special Circumstances Court and matched group of offenders dealt with in a mainstream Magistrates Court; and
- offending behaviour for both the SCCDP and a matched group of offenders (including changes in the time to, frequency and seriousness of offending).

This involved the quantitative analysis of the data collected and stored by DJAG in the CIPES database. Specifically, this component of the evaluation has involved the analysis of data collected via the offender assessment questionnaire, along with court appearance and criminal history data collected and stored by DJAG in CIPES. The purpose of this analysis has been to measure the longitudinal impact of involvement in the SCCDP on offenders who have a MI, ID and/or who are homeless. This component of the evaluation was based upon the methodology used as part of the AIC's evaluation of the Queensland Murri Court (Morgan & Louis 2010), undertaken on behalf of the DJAG and completed in 2010.

In describing the findings from this component of the evaluation, the AIC has reported data for all offenders who were referred to the program between June 2009 and December 2011, including those who were accepted into the program and, where relevant, those offenders who were not accepted into the program. For the purposes of the final outcome evaluation, the intervention group was limited to those participants in SCCDP who had a new episode that had been finalised between June 2009 and December 2011 in the Special Circumstances Court (ie they were not remitted back to Arrest Court). The first episode during the evaluation period was taken as that person's reference court episode (for SCCDP participants this was the first time they were referred to the program during the evaluation period, and for the comparison group this was the first time they appeared in court during the evaluation period). The parameters used to define program participants are described in the section 'Participation in the SCCDP'.

In order to determine whether the SCCDP had an impact in terms of outcomes such as court appearance rates and reoffending, it was necessary to select an appropriate comparison group

of sufficient size and comparability. This was comprised of a matched group of offenders who had not participated in the SCCDP.

The AIC worked with DJAG to determine the appropriate parameters for the selection of the comparison group of matched offenders. The selection of a comparison group was undertaken in two stages. Stage one involved DJAG extracting data from the QWIC database for offenders who were eligible to be referred to the Special Circumstances Court and for participation on the SCCDP. Offenders who were identified as having already appeared in the SCCDP (based on an existing record for that person within CIPES) were removed from this group.

Given that the SCCDP deals specifically with offenders with a MI, ID and/or who are homeless, and these factors are identified as having contributed to the offences for which the person is charged, it was necessary to select a comparison group that had similar characteristics, as well as similar demographic characteristics and offending patterns. The absence of a formal screening process for MI or ID within the wider offender population made this difficult. The comparison group was selected from:

- those individuals under the care of the Adult Guardian who have a criminal history (based on a name and date of birth search in QWIC); and
- those offenders who had pleaded guilty to offences in a metropolitan Magistrates Court in Brisbane and who have 'no fixed place of abode' or a known boarding house listed as their address.

There are limitations with this approach. The comparison group included offenders who appeared before the Brisbane Magistrates Court. The reasons that these offenders were not referred to the SCCDP are unknown. It may be that they were not identified as potential participants, the court may not have been aware of their housing situation or whether they suffered from a MI or ID, or the program may not have been in a position to accept new participants because of the participant cap. However it excludes those offenders who were referred to the program but were assessed as ineligible, including those offenders who did not consent to participation. Second, it was not possible to determine which of those offenders selected for the comparison group suffer from a MI. However, evidence in relation to the co-occurrence of MI and homelessness (eg AIC 2008; Backer & Howard 2007) suggests that the use of a reliable measure of homelessness (using the same criteria that have been used to select participants for the SCCDP) may help to overcome this issue.

The comparison group of offenders were then matched with offenders sentenced in Special Circumstances Court on:

- gender (exact match);
- age at referral (ie at the start of the episode);
- the most serious proven offence (exact match) and the number of proven offences for the reference court episode;
- the number of prior proven offences and most serious prior proven offence; and
- whether they had received an imprisonment order in the five years prior to referral.

These factors have been demonstrated to have an impact on outcomes for CJS participants, particularly in terms of reoffending (Payne 2007). The most serious prior offence and proven offence for the reference court episode were determined on the basis of the ABS (2009) National Offence Index (NOI). This is a tool that provides an ordinal ranking of the offence categories in the Australian Standard Offence Classification (ASOC) according to perceived seriousness of each offence. The MSO is the offence that is ranked highest according to this scale. It is important to note that different offence types (eg property offences and disorder offences) can fall near to one another according to this index, depending upon their perceived seriousness.

Table 1: Key characteristics of SCCDP and comparison group participants (% unless specified)		
	SCCDP	Comparison group
Demographic characteristics		
Male	79	79
Female	21	21
Age at referral (mean)	34.0	32.8
Most serious offence		
Violent offence	23	23
Property offence	33	33
Drug offence	19	19
Drink driving offence	1	1
Traffic offence	1	1
Disorder offence	10	10
Breach offence	3	3
Other	11	11
Number of offences		
1-5	81	84
6-10	12	10
More than 10	7	6
Mean number of offences	4.1	3.2
Most serious prior offence		
Violent offence	52	58
Property offence	21	20
Drug offence	16	10
Drink driving offence	3	3
Traffic offence	1	1
Disorder offence	5	4
Breach offence	2	3
Other	2	2
Number of prior offences		
None	10	12
1-5	17	18
6-10	8	13
11-20	16	17
More than 20	50	40
Mean number of prior proven offences	26.8	23.1
Prior imprisonment order	46	45
Observation period		
Average follow up time (days)	444	576
Total (n)	218	218

a: Proportion of those offenders with prior proven offences

b: Prior imprisonment order includes actual custodial order, imprisonment with immediate parole release date, fully and partly suspended sentences

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Matching observations were selected based using a Mahalanobis distance measure (Tabachnick & Fidell 2001). For each treated observation in the intervention group (SCCDP participants), the closest matching non-SCCDP observation was selected according to the

calculated distance measure, subject to the constraints of the variables above. This measure is calculated based on the correlation between two observations, one treated and the other not treated, comparing the two across all variables specified in the selection process. The observation within the non-SCCDP group that returns the shortest distance measure (ie most closely correlated) was then selected as the matched observation within the comparison group. Where two treated observations returned the same matched observation within the comparison group (which occurs when two treated observations are similar or exactly the same across the range of specified variables), the next closest match was identified and included in the comparison group.

The demographic characteristics, referring charges and criminal histories of the final intervention and matched comparison group are described in Table 1. While the two groups were not matched exactly across all parameters, bivariate analyses (chi square for dichotomous variables and t-tests for normally distributed continuous variables) showed that the only variables for which there was a statistically significant difference were the number of referring charges and the follow up time ($p < .05$). Findings from the analysis of processing time, sentence outcomes, court appearance rates and reoffending for the intervention and comparison groups are presented in this report.

Program logic and evaluation framework

A review of program documentation and interviews with SCCDP court partners informed the development of a program logic describing the operation of the SCCDP (Figure 1). A logic model is a way of describing the program, tying together in a logical order the inputs, processes, outputs and outcomes involved in a program. The logic model encourages those responsible for the design and management of programs to think through, in a systematic way, what the program aims to accomplish in the short and longer term and the sequential steps by which the program will achieve its objectives (Schacter 2002). Importantly, this model provides the foundation for identifying a set of appropriate performance indicators and determines what outcomes can be reasonably attributed to the SCCDP.

A model was developed that outlines the key elements of the SCCDP program, including the relationship between the range of activities undertaken by the various stakeholders involved in the program and the hierarchy of short, intermediate and long-term outcomes. This model details the preconditions that must be met in order for the high-level outcomes of the program to be achieved, which include improving the health and well-being of offenders who are homeless or have a MI or ID and reducing the likelihood that they will reoffend.

There are a number of assumptions that underpin the logic model for the SCCDP. Specifically, the logic model assumes that:

- if appropriate resources are invested in the program for the duration of the pilot, the program design and management are sound and the relevant stakeholders are involved in the program, the program activities will be implemented as intended;
- if the program activities are implemented as intended, offenders with a MI, ID or who are homeless will be referred from the Special Circumstances Court to a range of services that can help to address the factors that contribute to their offending behaviour;
- if offenders with a MI, ID or who are homeless are referred to services that can help to address the factors that contribute to their offending behaviour, and these offenders participate in the programs provided by these services, their living circumstances and general health and well-being may improve; and
- if the factors that contribute to their offending are addressed, the likelihood that offenders participating in the SCCDP will reoffend may be reduced.

Alternatively, the program logic suggests that if:

- adequate resources are not invested in the program for the duration of the pilot; and/or
- the program design and management is flawed; and/or
- stakeholders that are necessary for the operation of the program are not involved; and/or
- program activities are not implemented as intended; and/or
- offenders who have a MI, ID or who are homeless are not referred to services that can help to address the factors underlying their offending behaviour; and/or

- these offenders do not participate in treatment, rehabilitation and support programs provided by these services;
- then the likelihood that offenders will continue to reoffend will not be reduced.

From this model, an evaluation framework was prepared that outlines key evaluation questions relating to the various components of the program, along with appropriate performance indicators and data sources and collection methods (Table 2). This evaluation framework has formed the basis for the AIC's evaluation of the SCCDP.

Figure 1: Logic model describing the SCCDP

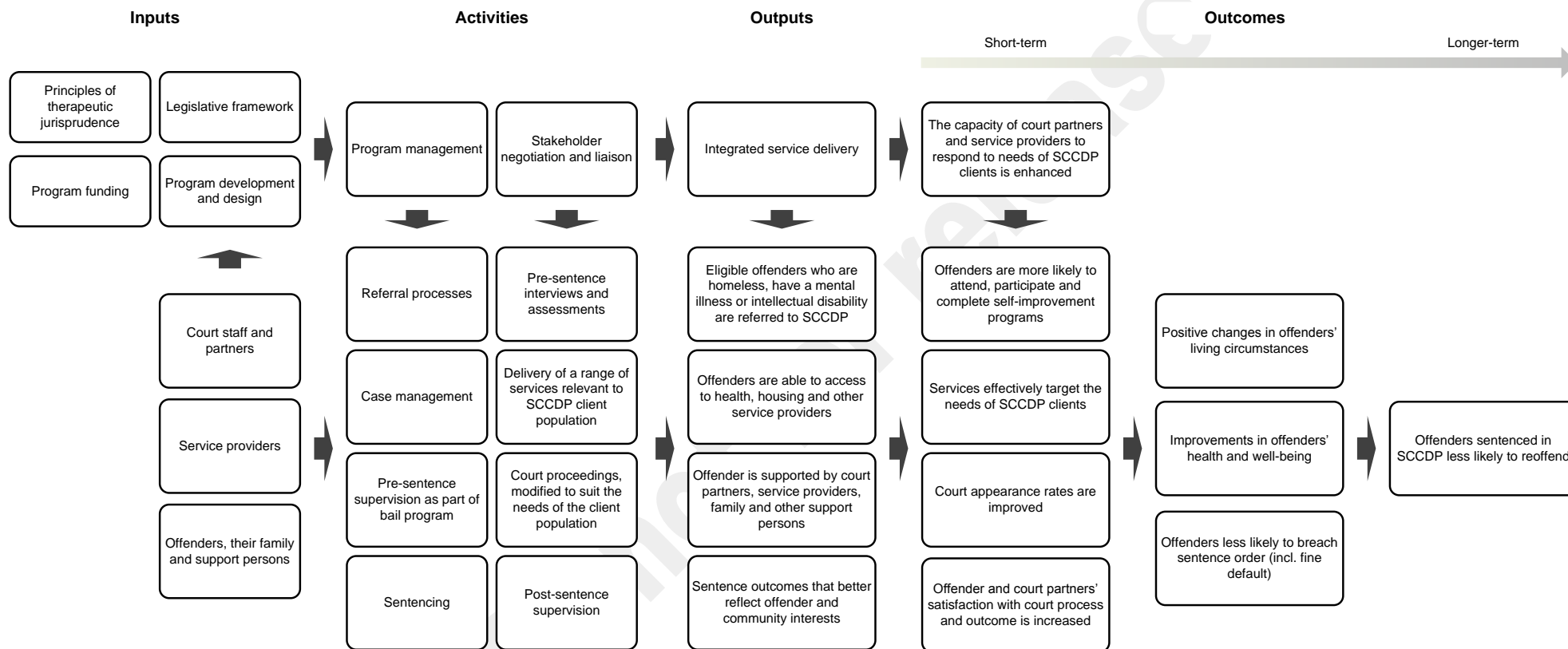


Table 2: Evaluation framework for SCCDP

Program component	Key evaluation questions	Performance indicators	Data collection method and source
Program design and funding (Input)	<p>Is the SCCDP model appropriate for the client group?</p> <p>To what extent does the current legislative framework support the activity of the SCCDP?</p> <p>Is the program adequately resourced?</p> <p>Is the SCCDP design consistent with the principles of therapeutic jurisprudence?</p>	<p>Extent to which stakeholders report being satisfied with the overarching framework, legislation, program design and funding</p>	<p>Interviews with key stakeholders involved in the SCCDP</p> <p>Review of program documentation and relevant legislation</p>
Key stakeholders involved in the program, including court staff, government agencies and service providers (Input)	<p>Are the stakeholders required to successfully implement the program involved at each stage of the process?</p> <p>To what extent are the various stakeholders supportive of the program in its current form?</p>	<p>Extent to which stakeholders report being involved in and supportive of the program</p>	<p>Interviews with key stakeholders involved in the SCCDP</p>
Program management and stakeholder collaboration (Activity)	<p>Are there adequate governance arrangements in place, and is the program managed effectively?</p> <p>Is there are high degree of stakeholder communication, negotiation and liaison?</p>	<p>Extent to which stakeholders report being satisfied with the overall management of the program</p> <p>Extent to which stakeholders report high levels of communication and collaboration between court partners</p> <p>Attendance and participation of key stakeholders in Special Circumstances Court</p>	<p>Interviews with key stakeholders involved in the SCCDP</p> <p>Review of program documentation and relevant legislation</p>
<p>Various activities delivered as part of the SCCDP, including:</p> <p>Assessment and referral processes</p> <p>Case management</p> <p>Service delivery</p> <p>Pre-sentence supervision</p> <p>Court proceedings</p> <p>Sentencing</p> <p>Post-sentence supervision (Activities)</p>	<p>To what extent has the SCCDP model and its various components, been implemented as intended during the pilot period?</p> <p>What are the barriers to implementing the SCCDP model as intended?</p> <p>Has the program been delivered in accordance with good practice?</p>	<p>Extent to which stakeholders report the various components of the program as having been implemented as intended during the pilot period</p> <p>Comparison between the operation of the SCCDP and accepted good practice in the delivery of court diversion programs for offenders with MI and ID</p>	<p>Interviews with key stakeholders involved in the SCCDP</p> <p>Observations of the Special Circumstances Court</p> <p>Review of program documentation and relevant legislation</p>

Table 2: Evaluation framework for SCCDP

Program component	Key evaluation questions	Performance indicators	Data collection method and source
Integrated service delivery (Output)	<p>To what extent do the processes of the SCCDP address identified client needs, support requirements, and referral pathways at the various points of the integrated service delivery model?</p> <p>Has the level of collaboration between court partners improved and what benefits have resulted?</p>	Extent to which various court partners report a high level of integration between criminal justice processes and service delivery	Interviews with key stakeholders involved in the SCCDP
Eligible offenders who are homeless, have a mental illness or intellectual disability are referred to SCCDP (Output)	How many offenders with a MI, ID or who are homeless were referred to and participate in the SCCDP?	<p>Number and proportion of offenders referred to SCCDP who:</p> <p>Are homeless</p> <p>Self-report as having a diagnosed MI or cognitive impairment</p> <p>Identified as having a MI or ID through screening tools administered by Case Coordinator</p> <p>Are diagnosed by the court psychologist as having some form of MI</p>	<p>Offender questionnaire administered as part of assessment process</p> <p>Psychologist assessment</p>
Offenders are able to access to health, housing and other service providers (Output)	Are offenders referred to programs and services that are able to address those issues related to their offending behaviour?	<p>Number and proportion of offenders who are referred to programs and services pre and post sentence</p> <p>Number and proportion of offenders who, at the completion of the program, report having been able to access the services they needed</p>	Offender questionnaire administered post participation in the SCCDP
Offender is supported by court partners, service providers, family and other support persons (Output)	<p>To what extent do various court partners support offenders during their involvement in the SCCDP?</p> <p>Has the SCCDP model been successful in providing opportunities and support for the offender's family and support persons to participate in the Special Circumstances Court?</p>	Number and proportion of offenders who, at the completion of the program, report being satisfied with the level of support provided to them through the program	Offender questionnaire administered post participation in the SCCDP

Table 2: Evaluation framework for SCCDP

Program component	Key evaluation questions	Performance indicators	Data collection method and source
Sentence outcomes that better reflect offender and community interests (Output)	To what extent do sentence orders provide opportunity for offenders to participate in rehabilitation and treatment programs?	Number and proportion of offenders sentenced in Special Circumstances Court that receive sentence orders that provide the opportunity for offenders to participate in rehabilitation, treatment and support programs, compared with offenders sentenced in a mainstream Magistrates Court	Analysis of sentence orders among SCCDP participants compared to matched comparison group
The capacity of the court program and service providers to respond to the needs of SCCDP clients is improved (Short-term outcome)	What service system outcomes are achieved within the pilot period because of the change/innovation and capacity building aspects of the program?	Extent to which stakeholders perceive SCCDP as being able to deliver positive outcomes Extent to which stakeholders identify barriers to delivering positive outcomes	Interviews with key stakeholders involved in the SCCDP
Offenders are more likely to attend, participate and complete self-improvement programs (Short-term outcome)	To what extent do offenders attend, participate in and complete (where relevant) self-improvement programs accessed through the SCCDP?	Extent to which stakeholders report SCCDP as having attended, participated and completed self-improvement programs Attendance, participation and completion rates among SCCDP clients referred to various treatment, rehabilitation and support programs	Interviews with key stakeholders, particularly service providers, involved in the SCCDP
Services effectively target the needs of SCCDP clients (Short-term outcome)	To what extent do the services available to SCCDP clients target the needs of offenders appearing before the program?	Extent to which court partners report the services available to SCCDP clients as effectively targeting the needs of offenders appearing before the program Comparison between characteristics of offenders participating in SCCDP across key indicators of health and well-being and the services that are made available to them	Interviews with key stakeholders involved in the SCCDP Offender questionnaire administered pre and post participation in the SCCDP

Table 2: Evaluation framework for SCCDP

Program component	Key evaluation questions	Performance indicators	Data collection method and source
Court appearance rates are improved (Short-term outcome)	Are offenders more likely to attend court hearings in the SCCDP than they are for hearings in mainstream Magistrates Courts, and	<p>Number and proportion of offenders who absconded subject to warrant on at least one occasion while appearing in the Special Circumstances Court, compared with:</p> <p>the same group of offenders appearing in a mainstream Magistrates Court; and</p> <p>a comparable group of offenders appearing only in a mainstream Magistrates Court.</p> <p>Number and proportion of court appearance events in Special Circumstances Court that resulted in a warrant being issued or ordered to lie on file, compared with:</p> <p>court appearance events for the same group of offenders appearing in a mainstream Magistrates Court; and</p> <p>court appearance events for a comparable group of offenders appearing only in a mainstream Magistrates Court</p>	Analysis of court appearance data pre, during and post participation in the SCCDP, compared with matched comparison group
Offenders' and court partners' satisfaction with the court process and outcome is increased (Short-term outcome)	To what extent has the level of satisfaction among offenders and court partners with the court response to offenders with MI, ID and who are homeless increased?	<p>Number and proportion of offenders who, at the completion of the program, report being satisfied with the level of support provided to them through the program</p> <p>Extent to which court partners report being satisfied with the criminal justice response to offenders with a MI, ID or who are homeless</p>	<p>Offender questionnaire administered pre and post participation in the SCCDP</p> <p>Interviews with key stakeholders involved in the SCCDP</p>
Positive changes in offenders' living circumstances (Intermediate outcome)	To what extent do offenders participating in the SCCDP demonstrate positive changes across key measures of housing stability?	Number and proportion of SCCDP participants who report improved stability of living arrangements	Offender questionnaire administered pre and post participation in the SCCDP

Table 2: Evaluation framework for SCCDP

Program component	Key evaluation questions	Performance indicators	Data collection method and source
Improvements in offenders' health and well-being (Intermediate outcome)	<p>To what extent do offenders participating in the SCCDP demonstrate positive changes across key measures of health and well-being?</p> <p>What external factors have impact (positively or negatively) upon whether offenders demonstrate positive changes across key measures of health and well-being?</p>	<p>Number and proportion of SCCDP participants who report improvements across key measures of health and well-being, such as:</p> <ul style="list-style-type: none"> mental health alcohol and substance use education and employment family relationships <p>Extent to which factors outside of the SCCDP process impact upon the health and well-being of offenders</p>	<p>Offender questionnaire administered pre and post participation in the SCCDP</p> <p>Interviews with key stakeholders involved in the SCCDP</p>
Offenders less likely to breach sentence order (incl. fine default) (Intermediate outcome)	<p>Are offenders who are sentenced in the Special Circumstances Court less likely to breach sentence orders when compared to a matched group of offenders sentenced in a mainstream Magistrates Court?</p>	<p>Number and proportion of offenders sentenced in Special Circumstances Court who breach sentence orders, compared with matched comparison group</p>	<p>Analysis of criminal history data pre and post participation in the SCCDP, compared with matched comparison group</p>
Offenders sentenced in SCCDP less likely to reoffend (Longer-term outcome)	<p>Do offenders who have their matter dealt with in SCCDP take longer to reoffend than a matched group of offenders that are finalised in a mainstream Magistrates Court?</p> <p>Among those that do reoffend, do SCCDP participants commit more or less serious offences than offenders in sentenced in mainstream courts?</p> <p>Is there a reduction in the frequency of offending by SCCDP participants when compared with offenders sentenced in mainstream courts?</p> <p>Do stakeholders perceive participation in the SCCDP as having had an impact on offenders' likelihood of reoffending?</p> <p>What external factors have impact (positively or negatively) upon the likelihood that offenders reoffend?</p>	<p>Estimated rate reoffending among offenders at 12 months and 24 months post-sentence, compared with matched comparison group</p> <p>Number and proportion of offenders who reoffend but who commit a less serious offence, compared with matched comparison group</p> <p>Average number of offenders per 365 free days pre- and post- participation in the SCCDP, compared with matched comparison group</p> <p>Extent to which factors outside of the SCCDP process impact upon the level of reoffending among participants</p>	<p>Analysis of criminal history data pre and post participation in the SCCDP, compared with matched comparison group</p> <p>Interviews with key stakeholders involved in the SCCDP</p>

Mental illness, intellectual disability, homelessness and the criminal justice system

The following section presents the findings from a literature review that has examined the relationship between homelessness, MI and ID and offending and the implications for the CJS. This has included a national and international review of the outcomes from court based diversion programs for persons who are homeless or suffer from impaired decision-making capacity, to identify lessons with respect to the effective management and implementation of programs like SCCDP.

The relationship between homelessness, mental illness, intellectual disability and offending

It is well established that offenders who suffer from a MI or ID are at greater risk of coming into contact with the CJS than the general population. The reasons for this are complex and the consequences for both the CJS and offender are significant. Attributed causes for this trend include:

- impaired decision-making abilities which may manifest in poor impulse control and anti-social behaviour;
- high levels of drug abuse; and
- an inability to understand laws and follow police orders and commands (Harvey et al. 2009).

Offenders with MI or ID are also more likely to experience entrenched social and economic disadvantage such as inadequate education and reduced access to suitable and stable accommodation both of which are important risk factors for coming into contact with the CJS.

Homelessness and offending

While there is only limited research that has attempted to measure the prevalence of homelessness among offenders involved in criminal justice processes, it is generally accepted that homelessness is a risk factor for becoming involved in crime in the first instance, and reoffending. However, the relationship between homelessness and offending is not straightforward (Willis 2004).

Between 1999 and 2006, a total of 24,936 police detainees were surveyed by the AIC for the Drug Use Monitoring in Australia (DUMA) program. Of this sample, seven percent reported living on the street, having no fixed address or living in crisis accommodation at the time of their apprehension (AIC 2008). Other research suggests that 10 percent of people under community supervision orders are homeless while 23 percent of female ex-prisoners do not have stable accommodation upon release (Willis 2004). Comparatively, an Irish study suggested that only two percent of people appearing before the courts were homeless at time of arrest (Seymour & Costello 2005). However,

the proportion of offenders that were homeless at time of arrest was much higher amongst those that received custodial sentences (25%) (Seymour & Costello 2005).

Australian and international research suggests that people who are homeless are at increased risk of coming into contact with the CJS. Reasons for this include:

- the criminalisation of street life - by virtue of living in a public place, people who are homeless are more susceptible to committing public order offences such as trespassing and public urination;
- higher occurrences of 'survival offending' such as shoplifting and squatting;
- substance abuse as a coping-mechanism may lead to offending behaviour in order to fund habits;
- police targeting homeless populations because of the community safety issues they are perceived as posing (Kirkwood & Richley 2008).

It has also been suggested that people who are homeless are more likely to come into contact with the CJS because they are more likely to have an MI and/or ID when compared with the general population.

Mental illness, intellectual disability and contact with the criminal justice system

A significant body of Australian and international research has attempted to determine the prevalence of MI and/or ID among offender populations. Findings from this research suggest that offenders with a MI and/or ID are overrepresented at all stages of the CJS (Harvey et al. 2009; Vanny, Levy & Hayes 2008; Hassan & Gordon 2003; Ogloff & Davis 2005). A comprehensive overview of findings from studies that have attempted to measure the prevalence of MI and ID in CJS settings is presented in Table 3. A summary of key findings with regards to the prevalence of MI and ID at each stage of the CJS is described below.

Police custody and courts

Although there is a lack of research that has examined the prevalence of MI and/or ID among offender populations that are engaged in the initial stages of the criminal justice process, some evidence suggests that a significant proportion of people in police custody and appearing before the court have non-trivial mental health issues. For instance, Lyall, Holland and Styles' (1995) research found that 15.2 percent of offenders being held at a police station in the United Kingdom (UK) had attended a school for children with learning difficulties or emotional/behavioural problems, or had engaged with a learning support unit in a mainstream school. Similarly, Hayes (1997) found that 23.6 percent of offenders appearing before a Western Australian local court had some level of ID, while another 14.1 percent were 'borderline'..

Remand

Some UK research suggests that approximately 60 percent of female offenders and 26 percent of male offenders are suffering from a psychiatric disorder at time of remand (Parsons, Walker & Grubin 2001; Watt, Tomison & Torpy 1993). Rates of ID also appear to be high within remand populations. Crocker et al.'s (2007) research suggests that 18.9 percent of Canadian pre-trial detainees fell below the probable IQ range (scored 70 or less) and another 29.9 percent were 'borderline'. However Murphy, Harnett and Holland (1995) found no evidence of ID within a sample of male remandees in a South London prison, although many may have been classified as 'borderline' if the authors had included such a category in their analysis.

Prison

The majority of research that attempts to measure the prevalence of offenders with MI and/or ID within the CJS has focused on prison populations. The research suggests that the proportion of

incarcerated offenders with a MI and/or ID is very high. Butler and Alnutt (2003) surveyed almost 1000 inmates in the NSW prison system and found that the majority (86% of the women and 72% of men) had been diagnosed with a psychiatric disorder in the preceeding 12 months. Subsequent analysis of the same sample found evidence that although only 0.8 percent of prisoners could be classified as having ID, 6.9 percent of respondents were 'borderline' (Butler 2003). Comparatively a Western Australian study suggested that 4.2 percent of the inmate population had a probable intellectual disability while another 9.2 percent were 'borderline' (Jones & Coombes 1990).

Table 3: Summary of literature assessing prevalence of offenders with MI and/or ID in the CJS					
Source	MI/ID	Jurisdiction	Sample Population	Assessment Tool	Prevalence
Butler & Alnutt (2003)	MI	Australia (NSW)	Prison	CIDI-A BDQ IPDE GHQ-12 K10	86% F 72% M
Earthrowl & McCully (2002)	MI	New Zealand (NZ)	Female prisoners	MI-RDS SCL	72.5%
Parsons et al. (2001)	MI	UK	Female remand		60%
Watt et al. (1993)	MI	UK	Male Remand	CAGE EPQ BRPS	26%
Magaletta et al. (2009)	MI	United States (US)	Prison	PSIQ PDS PSI-CF	15.2%
Murphy et al. (2000)	ID	Ireland	Prison	K-BIT WRAT-3 NAPS (author's own)	28.8%
Hayes (1997)	ID	Australia (WA)	Local Courts	K-BIT MASE	26.3% ID 14.1% borderline
Crocker et al. (2007)	ID	Canada	Male pre-trial detainees	EIHM	18.9% ID 29.9% borderline
Lyll et al. (1995)	ID	UK	Police station	Authors own	15.2%
Mason & Murphy (2002)	ID	UK	Probation	WAIS-R British Ability Scales	5.7%
Denkowski & Denkowski (1985)	ID	US	Prison	WAIS-R	2%
Jones & Coombes (1990)	ID	Australia (WA)	Prison	WAIS-R WJSIB	1.85%
Butler (2003)	ID	Australia (NSW)	Prison	WAIS-R	0.8% (≤ 70) 6.9% borderline
Murphy et al. (1995)	ID	UK	Male remand	WAIS-R BAS GHQ	0% *

* Did not define a borderline category even though some respondents may have fallen within this category

International research also suggests that a high proportion of incarcerated offenders have a diagnosed or probable MI and/or ID. For example, Earthrowl and McCully's (2002) study found that approximately 73 percent of female New Zealand prisoners (60% of which are Maori) were mentally ill, with suicide ideation being particularly high. Further, Magaletta, Diamond, Faust, Daggett and Camp's (2009) analysis of a sample of US federal prisoners suggested that between 15-19 percent of

incoming inmates had a history of MI, while an Irish study suggested that nearly one third of the inmate population had a probable ID (Murphy, Harrold, Carey & Mulrooney 2000).

Parole

As with attempting to measure prevalence during the initial stages of the CJS, estimating the extent of MI and/or ID within parole populations poses a number of methodological challenges. In one of the few studies involving parole populations Mason and Murphy (2002) found that 5.7 percent of a sample of parolees in the UK were intellectually disabled.

Co-occurrence of homelessness, mental illness and intellectual disability

It is well established that offenders with MI or ID are more likely to experience persistent or intermittent homelessness (Gray, Forell & Clarke 2009; Backer & Howard 2007; Seymour & Costello 2005). Research conducted by the AIC indicates that 31 percent of police detainees who self-identified as homeless had also previously been admitted to a psychiatric hospital, a prevalence rate twice that reported by non-homeless detainees (15%) (AIC 2008). Similarly, Seymour and Costello's (2005) analysis of an Irish prison population suggested that 35 percent had been diagnosed with a MI at some point in their life. Further, Lyall et al. (1995) noted that police detainees who attended special needs school were twice as likely to be homeless than suspects who had attended a mainstream school (16.7% v 8.4%), while Cockram (2005) found that a large number of intellectually disabled offenders involved in the Western Australian CJS live in hostels, group homes or other transient lodgings.

Individuals with impaired decision-making capacity are more likely to be homeless or are at risk of becoming homeless than the general population for a variety of reasons, including:

- violent or antisocial behaviour which may deter landlords;
- an inability to understand the rental payment system;
- 'aging out' of the care system, whereby individuals with MI or ID become legal adults and are removed from the youth welfare system which provides them with greater accommodation support; and
- reliance on family and friends for housing and care (Backer & Howard 2007).

Issues associated with estimating the prevalence of mental illness and intellectual disability among offender populations

Commentators have argued that determining the prevalence of MI and ID, or at least generating research that is widely accepted, is difficult due to the absence of standardised screening or assessment tools, definitions and methodologies (Hassan & Gordon 2003; Murphy, Harrold, Carey & Mulrooney 2000; Jones 2007). In particular, the use of IQ tests as a tool for identifying ID has emerged as a point of contention and divergence within the literature for a number of reasons.

- It has been suggested that IQ tests are culturally biased towards a white, middle-class, Western notion of intelligence. This suggests that such tests are inappropriate for minority offender populations and any prevalence rates attributed to these populations may be skewed by false positives (Jones & Coombes 1990; Butler 2003).
- The ID 'cut-off' point used by researchers in identifying the presence of ID differed slightly within the literature, as did the 'borderline' score spectrum, indicating different views regarding the appropriate thresholds.
- ID is defined a deficiency in both intellectual and social functioning (Crocker et. al. 2007; Butler 2003; Murphy et al. 2005; Hayes 1997). As such, ID figures generated by research which do not include a measure of adaptive functioning may be unreliable as they only test for one aspect of ID.

Similarly there are a number of other factors that affect the validity and reliability of attempts to identify and measure the prevalence of MI.

- Mental health assessments are usually conducted in a stressful environment, such that offenders who present with symptoms of MI may be responding to their environment and situation rather than an underlying mental health problem.
- Research is predominantly dependent upon self-report data that is unreliable, especially as mentally ill individuals are typically reluctant to self-identify due to fears of stigmatisation.
- Attempts to interview offenders and administer screening or assessment tools are often met with high refusal rates (Harvey et al. 2009, Vanny, Levy & Hayes 2008; Murphy et al. 1995; Ogloff & Davis 2005).

Impact of homelessness, MI and ID on offenders and the criminal justice system

Despite these challenges, identifying and responding to the special needs of offenders who have a MI, ID and/or who are homeless is important because they are at a greater risk of experiencing a range of negative outcomes resulting from their contact with the CJS. Offenders with a MI or ID:

- are more likely to have their sentence extended or parole eligibility revoked due to rule violations due to their inability to abide by the rigid rules and structured activities around which prison life revolves;
- are at a greater risk of physical and sexual victimisation than the general inmate population;
- are at a higher risk of being used by general inmate population in executing illicit activities such as drug dealing;
- are more likely to attempt suicide and self-harm than the general inmate population;
- are less likely to remain in treatment delivered in correctional settings
- find it more difficult when they have a criminal record to access social services, employment and housing, which affects their social relationships and self-image
- are more vulnerable during interrogation due to poor literacy and communication skills and greater reliance on others to make legal decisions for them; and
- are more susceptible to false incrimination due to suggestibility and confabulation (Magaletta et al. 2009; Axelson & Wahl 1992; Crocker et al. 2007; Gundjsson & Clare 1995; Vanny et al. 2008; Denkowski & Denkowski 1985; Adams 1986; Cockram 2005; Cockram et al. 2007; Wolff, Blitz & Shi 2007; Blitz, Wolff & Shi 2008; Butler & Alnutt 2003; Lyall et al. 1995; Jones 2007; Gray et al. 2009).

Further, the costs of dealing with offenders who suffer from a MI and/or ID in the CJS are significant. The overwhelming majority of offences committed by individuals with mental health issues are nuisance or public order offences which, despite their trivial nature, are time-consuming to process through the criminal justice system (Zappelli & Mellor 2004; Axelson & Wahl 1992). These associated costs escalate when the mental health of a defendant is questioned as the matter is usually adjourned until independent psychiatric testing has taken place.

The costs associated with dealing with offenders with specific mental health needs in prison settings are also considerable. Discussing the implications of their finding that the majority of incarcerated offenders in the NSW prison system were suffering from a MI, Butler and Alnutt said 'inmates in NSW are an extremely psychologically disturbed group' and the 'overall burden of MI...for both the Corrections Health Services and the Department of Corrective Services is staggering' (2003:16). Rather than simply providing detention and security, the financial burden for dealing with difficult groups such as those with mental health issues has been shifted from the health sector onto the corrections and judicial system. As a consequence, the prison system is required to provide

medication, suicide prevention details and take on other costs associated with the care of individuals with mental health issues (McGaha, Boothroyd, Poythress, Petrila & Ort 2002; Seltzer 2005).

The literature also suggests that offenders with MI and/or ID are more likely than other offender groups to be held on remand and refused parole. This places a greater burden on the CJS to house and treat this high-risk and high-needs offender group, and may also pose a number of questions around the potential abuse of the legal rights of offenders. Axelson and Wahl's (1992) study of suspects held in a county jail in Washington suggested that even when hospital detention was taken out of the equation, and despite the predominately trivial nature of their offences, suspects with MI spend much more time in pre-trial confinement when compared to offenders without a MI. Similarly, Cockram's (2005) research concluded that 75 percent of offenders with ID involved in the Western Australian CJS were given a finite sentence (no possibility of parole) compared with 69 percent of non-disordered offenders.

Numerous explanations for this trend have been put forward by commentators. For example, it has been suggested that as offenders with MI and/or ID are more likely to be homeless and lack social support networks, the court may be more wary of granting bail and parole (Gray et al. 2009; Lyall et al. 1995). Similarly, the lack of appropriate community based services that have the capacity or are willing to deal with the parolees that have a MI and/or ID has proven a significant impediment to the release of offenders with a MI and/or ID (Cockram 2005).

Some research suggests that offenders with a MI and/or ID are more likely to violate the conditions of their parole and/or reoffend upon release than other offender populations: 'Following release, ex-prisoners with learning disability are likely to experience even more difficulties than their peers in re-integrating to their communities. Their poor-problem solving skills limitations in adaptive behaviour are likely to contribute to increased recidivism rates' (Murphy et al. 2000:18). The often significant difficulties experienced by offenders with a diminished decision-making capacity when they are attempting to re-integrate into the community are exacerbated by the lack of appropriate and post-release treatment programs for parolees (Murphy et al. 2000; Gray et al. 2009). As a consequence, parolees with mental health issues are more likely to violate the conditions of their parole or reoffend, which places them in the CJS all over again.

Principles for an effective criminal justice response to offenders with an impaired decision-making capacity

An analysis of the literature indicates that people with MI, ID and/or who are homeless are overrepresented in the CJS. As such there are several principles that should underpin a CJS response to offenders with impaired decision-making capacity. An effective criminal justice response to offenders with a MI, ID and/or who are homeless:

- integrates health, social and justice sectors so that persons can be referred to appropriate service providers;
- recognises the individual and often complex needs of offenders;
- facilitates the early identification of at-risk offenders and of MI and ID;
- ensures that criminal justice agencies have the capacity to respond to people with mental health issues, who suffer from some form of cognitive impairment or who are homeless;
- is based upon a continuous care model with single-point access to services;
- protects the individual human worth, dignity and privacy of clients;
- integrates principles of therapeutic jurisprudence into the court process and response;
- connects offenders with health and social services after release from prison; and

- uses diversionary programs for minor offences (Lurigio 2000; AHMAC 2006).

There is growing recognition of the importance of these principles in dealing with offenders who have a MI, ID and/or who are homeless, and there are an increasing range and number of programs at different stages of the CJS that attempt to apply these principles to practice.

Court diversion programs for offenders with mental illness, intellectual disability and who are homeless

It has been argued that traditional judicial approaches to dealing with offenders who have mental health issues are not can often create a situation referred to by some commentators as the 'revolving door' of 'decompensation, disturbance and rearrest' (Graham 2007:50; Steadman, Morris & Dennis 1995:1635). In response to this dilemma, mental health courts and diversion programs have developed as a way of dealing with this difficult offender population.

Mental health courts and diversion programs are based upon therapeutic jurisprudence principles which emphasise the law's 'healing potential to increase wellbeing' (Graham 2007:18). These programs aim to address the underlying causes for criminal behaviour rather than the symptoms, and uses the interaction an offender has with the CJS as an opportunity to 'encourage engagement with appropriate services, and to improve motivation and treatment compliance' (Burvill, Dusohamed, Hunter & McRostie 2003:19). Court-based mental health intervention programs seek to address the immediate issues facing offenders and, on occasion, broader and deep-rooted socioeconomic issues such as homelessness. This may be done by referring the offender to court-based treatment programs or, where available, treatment programs in the community or correctional settings.

Australian examples

Currently there are a number of mental health courts and diversion programs operating within the Australian CJS, excluding the ACT and Northern Territory. They differ in terms of structure and approach, but they share an overarching aim of engaging this 'difficult to serve, and often underserved, population in more sustained mental health services while simultaneously reducing criminal justice involvement' (McGaha et al. 2002:125). Other aims of mental health courts and diversion programs include:

- improving outcomes for offenders, victims and communities (Plotnikoff & Woolfson 2005;
- reducing CJS costs;
- improving the health and wellbeing of offenders with MI and ID (Williams, Hands & Davies 2009); and
- providing efficient service provision through inter-agency coordination and collaboration (Williams et al. 2009).

The majority of Australian mental health courts and diversion programs currently in operation have been evaluated. The ways in which researchers define and measure program outputs and outcomes differ, although they have largely been concerned with reoffending rates. Other outcome measures included:

- program referral rates;
- correct diagnoses of MI;
- diversion to appropriate treatment options; and
- court expenditure.

South Australia - Magistrates Court Diversion Program

The first Australian court program to deal specifically with offenders with a MI and/or ID, the Magistrates Court Diversion Program (MCDP) aims to 'use the defendants contact with the CJS as a vehicle for providing a treatment and support program designed to effect behavioural change' (Skrzypiec, Wundersitz & McRostie 2004a:14). However, the MCDP was also a cost-saving exercise as it is an alternative to the s269 Mental Impairment Defence (Criminal Law Consolidation Act 1935). Eligibility for the program is broad as it is open to any defendant who has committed a summary/minor offence, and has a mental impairment, the definition of which includes MI, ID, brain injury, dementia and personality disorders. The diversionary powers of magistrates working with the MCDP is found under s19C of the Criminal Law (Sentencing) Act 1988 (SA) which allows magistrates to dismiss charges against mentally impaired defendants who have committed a summary offence, regardless of whether the prosecution had withdrawn charges (Williams et al. 2008). Further provisions within the Criminal Law Consolidation (Mental Impairment) Act 1995 (SA) give magistrates the power to sentence mentally impaired persons to 'supervision under license' in a correctional facility or the community (Burvill et al. 2003).

The MCDP is overseen by a specialist Magistrate and a three person team consisting of a project coordinator, a clinical advisor who assesses all referrals, and a Mental Health Liaison Officer (MHLO) who connects clients with community based treatment services. The MHLO maintains regular contact with clients and their service providers in order to monitor treatment progress. Failure to comply with treatment results in clients being brought before the magistrate who encourages the offender to continue treatment. Persistent non-compliance can result in the client's removal from the program, whereas successful completion usually results in charges being dismissed or a good behaviour bond.

New South Wales - Statewide Community and Court Liaison Services

The Statewide Community and Court Liaison Services (SCCLS) provides psychiatric triage in 17 Magistrates Courts in NSW and aims to link offenders with mental health issues with appropriate treatment services, assist Magistrates give fair and appropriate sentences, minimise the exposure offenders with MI and/or ID have with the CJS and educate people working within the CJS about mental health issues more generally (Bradford & Smith 2009). Eligible defendants have committed a non-indictable offence and be either developmentally disabled or (at the time of the offence) suffering from a MI/disorder. However, individuals who are mentally ill as defined under s14 of the Mental Health Act 2007 (NSW) are ineligible. A guilty plea is not necessary for inclusion in the program.

NSW Justice Health provides mental health officers at a number of courts who conduct assessments, liaise with community and correctional based mental health treatment service providers on behalf of clients, and make recommendations to Magistrates as to appropriate sentences. After assessing the offender, SCCLS mental health workers may recommend that the client be referred to community based or correctional treatment services, which the Magistrate can accept or reject. However, once clients have been referred to the appropriate services, mental health officers have no ongoing clinical management or supervisory role (Bradford & Smith 2009).

Unlike other Australian mental health courts and diversion programs, the diversionary powers of magistrates presiding over SCCLS matters are specifically outlined under s32 and 33 of the Mental Health (Forensic Provisions) Act 1990 (NSW). Under s32, magistrates may dismiss charges laid against mentally disordered offenders, discharging them either into the care of a responsible person (conditionally or subject to conditions) on the condition that the defendant obtain mental health assessment or treatment, or unconditionally (Gotsis & Donnelly 2008:1). Legislative amendments made in 2004 allow Magistrates to recall offenders and deal with charges afresh if they become aware that the client is not fulfilling their treatment requirements.

Tasmania - Mental Health Diversion List

Operating since 2007 out of Hobart Magistrate's Court, the Mental Health Diversion List (MHDL) aims to reduce crime rates by addressing the mental health needs of defendants through therapeutic intervention programs. To be eligible, offenders must have committed a summary or minor offence and have diminished intellectual and/or mental functioning as a result of MI as defined under s4 of the Mental Health Act 1996 (TAS). Consequently, the MHDL is only open to intellectually disabled offenders if they have a co-morbid diagnosis of an MI. The diversionary powers of MHDL magistrates are derived from provisions in the Bail Act 1994 (TAS) and Sentencing Act 1997 (TAS).

The administrative and operational details of the MHDL are overseen by a project team comprised of representatives from the Magistrate's Court, Police Prosecution Services, Mental Health Court Liaison officers, Legal Aid and the Law Society Criminal Law Committee. MHDL matters are presided over by one or two dedicated Magistrates, and every referral is assessed by a Forensic Mental Health Court Liaison Officer (FHMCLLO) who liaises between the client and community-based treatment services. Once eligibility has been determined, the Magistrate adjourns the matter and adherence to the treatment plan is set as a condition of bail. After the successful or unsuccessful completion of treatment, the client's matter is finalised and the Magistrate delivers a sentence which takes into consideration their compliance with the program and the recommendations of the FMHCLLO.

Western Australia - Intellectual Disability Diversion Program

The Intellectual Disability Diversion Program (IDDP) was established in 2003 in Perth Magistrates Court as a joint initiative between Disability Services WA and the Department of Corrective Services. The program aims to reduce the rate of imprisonment and recidivism of offenders with ID and improve the ways in which people with ID are handled within the CJS (Zappelli & Mellor 2004). The IDDP is presided over by a specialist Magistrate, a co-ordinator and a support officer. The co-ordinator acts as the case manager and assesses all referrals, liaises between different stakeholder groups including the police, legal aid, family members, carers and local mental health service providers, while also being responsible for training, maintaining records, collecting client data and monitoring the client's treatment progress. The IDDP also runs formal training courses to educate officers working within the CJS about ID identification and management.

Eligibility for IDDP services is very narrow as clients have to meet the selection criteria as set by the Disability Services Commission. This has the effect of excluding offenders with MI, brain injury and other forms of mental impairment such as senility. Clients must have committed a minor offence. The powers of Magistrates to adjourn matters and set treatment as a condition of bail are taken from s16 of the Sentencing Act 1995 (WA) and s17 of the Bail Act 1982 (WA). However, Magistrates can only adjourn matters for a maximum of six months. Although participation in treatment is set as a condition of bail, non-compliance usually results in the offender being returned to court for further encouragement from the Magistrate rather than their removal from the program. However, continued non-compliance results in bail being withdrawn and the defendant's referral to the normal court system (Williams et al. 2008).

Victoria - Court Integrated Services Program

Established in 2006, Court Integrated Services Program (CISP) 'offers a coordinated, team-based approach to the assessment and treatment of defendants in the pre-trial or bail stage. It provides case management support and links defendants to support services such as drug and alcohol treatment, crisis accommodation, disability services and mental health services' (Department of Justice 2010:3). CISP offers a range of services to clients and courts (referral, assessment, reporting, supervision) across a variety of service sectors (mental health, drug and alcohol, housing, employment) each of which has its own specific referral and delivery process (Ross 2009). The overall aim of the program

is to reduce offending rates by addressing the underlying causes of crime through individual case management.

There are three levels of intervention and supervision offered to offenders, depending on their level of assessed risk and need. Support and services range from the provision of referrals to community organisations and no further involvement in the program, to intermediate or intensive case management, depending on eligibility and the assessed needs of the client. Eligibility for CISP is broad. Once a referral has been made, a case manager assesses the defendant using various screening tools. If there is evidence that the defendant has an MI and/or ID they are referred for further clinical assessment by trained mental health clinicians (since 2010 this involves the Assessment and Referral Court (ARC) list advisor). Some service providers are contracted to provide direct services to clients involved in the program, while additional services may be delivered by referring the client to external agencies (with brokerage funds available to support this process).

Unlike other Australian mental health courts or diversion programs, CISP clients do not have to admit to the offence or enter a plea of guilty in order to be considered for the program. Eligible referees must have committed a summary offence. CISP clients are assigned to a caseworker (if case management is required) that prepares a case management plan and provides continue supervision and monitoring of that plan throughout the duration of their involvement in the program, which is usually about four months. Involvement in CISP may be a condition of bail or recommended with any court order (with or without court direction), and there may be a requirement to reappear before the Magistrate for a progress review. At the end of the period of bail the client will return to the court, enter a plea and will be sentenced. Participation in CISP is taken into consideration in sentencing the defendant, and successful treatment completions are likely to result in a community order, suspended sentence, fine or bond. Since the repeal of s128A of the Magistrate's Court Act 1989, Magistrates utilise the Victorian Sentencing Act 1991 as a way of diverting offenders away from the CJS, as well as suspending terms of imprisonment under exceptional circumstances.

The ARC list was established in 2010 to meet the needs of offenders in the Melbourne Magistrates Court who have a MI or cognitive impairment (Magistrates Court of Victoria 2011). ARC works collaboratively with CISP, who are responsible for case management of clients. An ARC list clinical advisor undertakes a comprehensive clinical assessment and, if the referral is accepted, develops a draft individual support plan in collaboration with CISP staff. The Magistrate must approve this plan, and the participant must appear before the ARC list Magistrate on a regular basis to review progress. Participants will be involved for between three and 12 months, and will be sentenced within the ARC list (if they plead guilty) or returned to a mainstream Magistrates Court (if plead not guilty).

International Examples

America

There are currently over 250 mental health courts and diversion programs operating in the US (Schneider 2010). The first, which was established in 1997 by a taskforce comprised of representatives from the Public Defenders' Office, County Jail and community based service providers, was the Broward County Mental Health Court (MHC).

The Broward MHC deals specifically with offenders who have committed a minor offence and have a mental disorder, the definition of which is purposefully broad. Referrals are taken from a wide range of sources, including the police, jail staff, family and friends, and participants are referred into community based mental health and substance abuse treatment services and, where appropriate, are put in contact with broader social services such as housing. MHC judges may dispense of the client's charges during the initial hearing, or they may remain open until the offender completes their treatment. Broward MHC matters usually result in conditional release orders and occasionally

probation. The progress of clients is monitored by the judge via 'status' hearings during which the treatment plan is evaluated and changed if appropriate (McGaha et al. 2002).

United Kingdom

By the end of the 1990s there were over 150 court based mental health schemes operating in the UK. However, this number has decreased significantly in recent years, partially due to inadequate funding and staffing (Schneider 2010). Chung, Cumella, Wensley and Easthope (1999) conducted an evaluation of a mental health diversion program in West Midlands England. However, for undisclosed reasons, perhaps due to issues of confidentiality, the authors did not provide many details about the program. Community psychiatric nurses play a key role in the program as they visit the court lockup and screen all inmates for mental health issues prior to their appearance in court. Eligibility appeared to be very broad, as the examined sample included individuals whose mental health issues ranged from schizophrenia to pre-menstrual syndrome. It was suggested by the authors that serious offenders, such as rapists, were not likely to be referred to community based treatment.

The impact of mental health courts and diversion programs on offenders and the criminal justice system

Commentators have noted that due to their popularity with politicians, the judiciary and the public, mental health courts and diversion programs are likely to remain in place. However, this popularity appears to be based largely on anecdotal evidence rather than the rigorous evaluation of these programs, either in Australia and overseas (Richardson & McSherry 2010). However, many of the courts have been evaluated, and these evaluations provide some tentative support for these alternative sentencing procedures. Some of the outcomes delivered include:

- a reduction in reoffending;
- high treatment retention rates
- fewer imposed custodial sentences;
- increased client satisfaction with process and outcomes as clients receive fairer treatment that takes into consideration their individual circumstances;
- reduced court costs as a result of more expedient dealing with cases;
- increase in client linkage with services such as housing; and
- increase in client quality of life (Ross 2009; Christy et al. 2005; Zappelli & Mellor 2004; Newitt & Stojcevski 2009; Bradford & Smith 2009; Burvill et al. 2003; Graham 2007).

However, there have been a number of issues associated with mental health courts and diversion programs. These include:

- an increase in stakeholder workloads as offenders with mental health issues are high maintenance and resource-intensive
- high staff turnover resulting in a lack of consistency in support and expertise in courts (Ross 2009);
- a break-down in interagency relationships; and
- low eligible referral rates (Zappelli & Mellor 2004; Ross 2009; Graham 2007; Bradford & Smith 2009).

Table 4: Summary of court diversion programs in Australia for offenders with a mental illness, intellectual disability or who are homeless

Jurisdiction	Program	Eligibility criteria	Legislative framework	Evaluation design	Outcomes	Implementation challenges
NSW	Statewide Community and Court Liaison Services	<p>Non-indictable offence</p> <p>Developmentally disabled or suffering from a mental illness/disorder</p> <p>Excludes mentally ill as defined under s 14 of the Mental Health Act 2007 (NSW)</p>	s32 and 33 Mental Health (Criminal Procedure Act) 1990	<p>Outcome evaluation</p> <p>Pre-post</p> <p>Quantitative and Qualitative methods (justice and health administrative data and interviews)</p> <p>Control</p>	<p>Decrease in reoffending by participants</p> <p>Reduction in court costs</p> <p>Offenders with MI received more appropriate sentences</p>	<p>Failure to educate stakeholders about mental health identification</p> <p>Weak relationships forged between SCCLS workers and local health services</p>
SA	Magistrate's Court Diversion Programme	<p>Summary/minor offence</p> <p>'Mental impairment' (includes MI/ID, brain injury, dementia and personality disorders)</p> <p>Admits to the objective elements of the offence</p>	<p>s19 Criminal Law (Sentencing) Act 1988 (SA)</p> <p>Criminal Law Consolidation (Mental Impairment) Act 1995 (SA)</p>	<p>Process and outcome evaluation</p> <p>Pre-post</p> <p>Quantitative and Qualitative methods (administrative and police records, interviews/surveys with stakeholders and observations)</p>	<p>90% of participants complied with their treatment plan</p> <p>66.2% not offended in the first 12 months</p> <p>Majority given a good behaviour bond, suspended imprisonment or had no penalty recorded</p>	

Table 4: Summary of court diversion programs in Australia for offenders with a mental illness, intellectual disability or who are homeless

Jurisdiction	Program	Eligibility criteria	Legislative framework	Evaluation design	Outcomes	Implementation challenges
Tas	Magistrates Court Mental Health Diversion Programme	<p>Summary or minor offence</p> <p>Diminished intellectual and/or mental functioning as a result of mental illness as defined under s4 of the Mental Health Act 1996 (Tas)</p> <p>Court must be satisfied that matter will not be contested or is under dispute</p>	<p>Bail Act 1994 (Tas)</p> <p>s7 Sentencing Act 1997 (Tas)</p>	<p>Process and outcome evaluation</p> <p>Pre-post</p> <p>Quantitative and Qualitative methods (court observations, administrative data, stakeholder interviews)</p>	<p>64% completed treatment</p> <p>Clients more likely to refrain from reoffending in the first year than control group (92.3% v 50%)</p> <p>Increase in client 'quality of life'</p> <p>Clients being given a 'fair go'</p> <p>Reduced court expenses and time spent dealing with external psychiatrists and other issues that arose from the use of s16 Insanity Defence</p> <p>Strong relationships forged between court officers and community-based treatment programs</p>	<p>Some stakeholders reported an increase in workload due to the complex needs of MI offenders</p>
Vic	Court Integrated Services Programme	<p>Summary offence</p> <p>Not required to enter a plea</p> <p>Clients have a MI, ID or physical disability, drug and alcohol dependency, inadequate social, family and economic support.</p> <p>Matter before court warrants intervention to reduce risk or address needs</p>	<p>s. 27 Victoria Sentencing Act 1991 (VIC)</p>	<p>Process and outcome evaluation</p> <p>Pre-post</p> <p>Quantitative and qualitative methods (administrative data, interviews and focus groups, crime records)</p> <p>Control</p>	<p>70% suitable referral rate, 60% program completion rate</p> <p>Recidivism rates lower and took clients longer to reoffend</p> <p>Clients less likely to receive a custodial sentence</p> <p>Clients access to services improved</p> <p>Client reported general feelings of support and empowerment</p> <p>Magistrates jobs made 'easier'</p>	<p>High staff turnovers resulted in a lack of expertise and experience amongst case managers</p> <p>CISP cases high maintenance resource intensive</p>

Table 4: Summary of court diversion programs in Australia for offenders with a mental illness, intellectual disability or who are homeless						
Jurisdiction	Program	Eligibility criteria	Legislative framework	Evaluation design	Outcomes	Implementation challenges
WA	Intellectual Disability Diversion Program	<p>Minor offence</p> <p>Meet selection criteria as set by the Disability Services Commission.</p> <p>Excluding offenders with MI, brain injury and other forms of mental impairment such as senility</p>	<p>s16 Sentencing Act 1995 (WA)</p> <p>s17 Bail Act 1982</p> <p>Criminal Law (Mentally Impaired Defendants) Act 1996</p>	N/A	<p>Clients increased access to services as they were labelled as 'high risk' by service providers</p> <p>Low recidivism rates</p> <p>More appropriate sentences for clients</p> <p>More efficient resource management due to cross-agency liaison</p>	Low eligible referral rates

Source: Bradford & Smith 2009; Department of Justice 2010; Ross 2009; Newitt & Stojcevski 2009; Graham 2007; Burvill et al. 2003; Skrzypiec et al. 2004a.

Challenges in evaluating mental health courts and diversion programs

Evaluating court based mental health diversion programs has proven difficult, partly because a characteristic of these schemes is that they are, by design, adaptive to a variety of internal and external pressures and as such are structurally quite fluid. While this may go some way to ensuring their long-term survival, it does pose significant problems for evaluators as it makes it difficult to 'assess their performance and even more challenging to extrapolate future consequences' (Wolff & Pogorzelski 2005:542). An analysis of the evaluation literature reflects this difficulty and also raises a number of methodological issues:

- absence of control groups;
- biased sample selection;
- lack of information about participant treatments;
- absence of longitudinal designs; and
- lack of objective data on key variables (Wolff & Pogorzelski 2005; Hartford, Carey & Mendonca 2007).

A number of the studies reviewed here did utilise comparison groups that were obtained by matching program clients with a non-referred offender who had similar demographic, socio-demographic and forensic characteristics. However, this matching method is based upon underlying and potentially erroneous assumptions. Although the comparison group may look the same on some characteristics, this may 'conceal exogenous differences (such as the motivation to supervised treatment) that systematically interact with the mental health court intervention and contribute, perhaps in part, to its operation' (Wolff & Pogorzelski 2005:547). This is a limitation associated with the use of criminal justice data to match offenders and is difficult to overcome (including as part of the current study).

An important issue raised by Wolff and Pogorzelski (2005) is that mental health court evaluations often utilise samples that are not representative of the program's target population. Although the eligibility criterion for court based mental health diversion programs are usually quite broad, eventual inclusion may be dependent upon the Magistrate or judge, meaning that program participant populations are skewed towards those who were more likely to respond to treatment in the first place. As such, evaluators are using samples which are already biased towards favourable intervention outcomes.

Evaluations may also be hindered by the absence of sub-analyses which may demonstrate whether participant intervention outcomes are related to the different kinds of treatment clients may have undergone. For instance, a valuable sub-analysis may be whether individuals who were engaged in substance abuse treatment as well as mental health services had more positive outcomes from their participation in the program than those who did not receive substance abuse treatment.

A number of the studies were also limited by the short time frame within which the program had been operating. For instance, the IDDP evaluation was conducted during its first year of operation, limiting any long term outcomes analysis of the program (Zappelli & Morrel 2004). Also, Richardson and McSherry (2010) argue that to fully understand the effect of a program, evaluations should not be restricted to one-off reviews conducted during the initial stages when enthusiasm is high, but ongoing, periodic review. This has not occurred with many mental health courts or diversion programs, the notable exception being the Broward MHC (reference). The ability of evaluators to assess the long term outcomes of mental health courts was also hindered by high attrition rates, a particular issue with this study population which is characterised by its transience and high rates of homelessness.

The evaluation literature was also limited by the different ways in which researchers conceptualised and measured program outcomes, an issue exacerbated by the tension which traditionally exists between the health and judicial disciplines. For instance, the only outcome measure used in the MCDP evaluation was client recidivism rates, while other researchers looked at factors such as treatment retention rates or reduced court costs. Other methodological issues which arose within the literature include:

- small sample sizes, such as the evaluation of the IDDP, which only used a sample of 23 clients to assess the recidivism rates of program participants;
- the absence of random sampling methods (due to the inevitable ethical issues which arise from denying at risk individuals potentially therapeutic treatment);
- external factors which may have affected client behaviour but were not taken into account; and
- client reoffending data drawn from police databases which excludes unreported criminal behaviour (Zeppelli & Mellor 2004; Richardson & McSherry 2010)

Lessons for the effective management and implementation of court diversion programs

Some commentators, most notably Steadman et al. (1995) and Thompson, Osher and Tomasini-Joshi (2007), have attempted to devise a best practice guide for jurisdictions seeking to implement a successful mental health court or diversion program. Integrating the two frameworks, there are 11 elements of successful mental health court and diversion programs (Table 5).

Principle	Description
1. Integrated services	Multi-disciplinary approach that integrates mental health and social services with the CJS
2. Regular meetings of key agency representatives	Administrative meetings that deal with the operation of the program and funding arrangements, and meetings between service providers and stakeholders regarding individualised treatment plans and the progress of clients
3. Strong leadership	Program coordinator with excellent communication skills and an awareness and understanding of the key elements of program
4. Clear and realistic target population	Clear eligibility criteria that take into consideration the treatment capacity of the community, the suitability of the program for certain offenders and the needs of the target population
5. Clear defined terms of participation	Terms of program participation should be well defined and made clear to clients, while retaining flexibility to enable them to be individualised to suit the needs and circumstances of the offender
6. Participant informed consent	The decision to participate in a program should be voluntary and made only once the offender is fully informed about the process and the requirements of participation
7. Client confidentiality	Personal information about the client and treatment progress should remain confidential
8. Dedicated court team	Team who are trained in the identification and management of a broad range of factors relating to impaired decision-making and homelessness
9. Early identification	The identification of suitable clients should be made as early as possible in their interaction with the CJS
10. Judicial monitoring	Client program engagement and participation should be closely monitored by the court and subject to sanctions and rewards
11. Sustainability	Formalisation and institutionalisation of the program to ensure long-term sustainability

Source: Steadman et al. 1995; Thompson et al. 2007

These elements are described in detail below. While these have been drawn primarily from the experiences of programs targeted towards offenders with MI, and to a lesser extent ID, the co-occurrence of MI, ID and homelessness means that the lessons have wider application to programs like the SCCDP.

1. Integrated services

More than anything else, the successful integration of mental health and social services with the CJS and the fostering of a collaborative, multi-disciplinary approach are essential to the success of mental health courts and diversion programs. Schneider (2010:202) argues that:

While the nuts and bolts of mental health courts will vary, integral to the functioning of a mental health court is a multidisciplinary team approach. Judges and lawyers are supplemented by any number of psychiatrists, psychologists, case workers, and social workers who collaborate on how the particular needs of the accused can effectively be met.

The evaluation literature suggests that seemingly effective diversion programs, most notably CISP, had success forming and maintaining strong and productive relationships between various stakeholder groups, most notably mental health services and the judiciary (Skrzypiec et al. 2009; Ross 2009).

However, although the success of diversion programs is dependent upon the formation and maintenance of strong inter-agency relationships, different agencies will inevitably have opposing eligibility requirements and approaches to the issues facing offenders with mental health issues and compounding social disadvantage such as insecure housing. This can present challenges for court partners working together across different sectors. For instance, Bradford and Smith (2009) found that the ability of mental health clinicians working with the SCCLS to make effective and individualised treatment plans for clients was hindered by their strained relationship with local mental health agencies.

2. Regular meetings of key agency representatives

One method for creating and maintaining strong inter-agency bonds is through regular meetings involving representatives from all stakeholder groups. These include administrative meetings that deal with the operation of the program and funding, and meetings between service providers and stakeholders about individualised treatment plans. Steadman et al. (1995) noted that these meetings are especially important in the early stages of implementation as they ensure the commitment and engagement of different agencies from the outset. Many of the evaluated court programs held regular meetings, although these varied in type and frequency. For instance, a significant concern raised by MHDL stakeholders was that pre-court meetings were becoming less frequent and, when they did occur, not all stakeholders were present (Newitt & Stojcevski 2009).

3. Strong leadership

Steadman et al. (1995) argues that during the initial stages of operation, a program director with excellent communication skills and an awareness and understanding of all elements of the mental health court or diversion program is essential. Ideally, mental health diversion programs are spearheaded by a director who spends the months leading up to the program commencement promoting the program to CJS and mental health services so they are on board from the outset. However, the long-term sustainability of a diversion program is dependent upon whether it is institutionalised, meaning that 'leadership evolves from a single individual to broad-based institutional support' (Steadman et al. 1995:1633).

4. Clear and realistic target population

Thompson et al. (2007) argues that from the outset, successful mental health courts and diversion programs should aim to have clear eligibility criterion which:

- considers the community's capacity to treat clients;
- takes the relationship between mental health issues and the defendants' offences into account; and
- considers the individual circumstances of each case.

Eligibility criteria were a significant issue highlighted within the evaluation literature. For instance, IDDP stakeholders suggested that restricting program access to individuals who were eligible for Level 3 Disability Commission services meant that a large section of suitable offenders were denied access to the program (Zeppelli & Mellor 2004). By contrast, mental health service providers dealing with MCDP referrals were frustrated by the program accepting individuals with personality disorders who are characteristically high-maintenance, have low treatment retention rates and are ineligible for inclusion in most community-based mental health services (Skrzypiec et al. 2004a).

5. Clearly defined terms of participation

It has been suggested that terms of program participation need to be made clear to clients from the outset, and individualised to suit the needs and circumstances of the offender (Thompson et al. 2007). Suggestions for appropriate terms of participation include:

- minimal supervision requirements, since restrictive measures will be more likely to result in minor violations;
- the potential for program withdrawal without impunity (Thompson et al. 2007; Seltzer 2005);
- ensuring that successful completion of treatment is clearly defined and recognises that mental health issues are long-term; and
- maintaining that noncompliance with treatment should not result in jail time or removal from program in recognition of the fact that setbacks are typical for this population and do not necessarily reflect a lack of desire to comply with court orders (Seltzer 2005)

6. Client Confidentiality

The integration of the CJS with mental health services poses confidentiality issues for court workers and offenders. Most notably, Plotnikoff and Woolfson (2005) suggest that the requirement of mental health and social service workers to report to the court about the progress of clients may impede their ability to form open and productive relationships with clients. To ensure that the rights of the offender are protected and that mental health court workers can maintain effective relationships with clients, Thompson et al. (2007) suggests that strict procedures governing the release of client information should be introduced during the earliest stages of project implementation. Release forms will be most likely to be part of these processes and clients should be given the opportunity to go through them with their legal counsel before consenting. Once a client enters the program, information exchanges between service providers, mental health workers and magistrates should be conducted in a closed court.

7. Informed consent

Participation in mental health courts and diversion programs should be based on informed consent. However, Seltzer (2005) argues that even though participation in most mental health courts and diversion programs is voluntary, in reality they are inherently coercive and offenders may consent to engaging in these processes without fully understanding the risks or commitment that come with participation. For instance, many court based mental health programs require clients to enter a guilty plea, which may have repercussions for the client in their ability to access housing, employment and, potentially, some community based mental health services. Also, defendants may be incapable of consenting to participate if their mental health issues are exacerbated by stress (Plotnikoff & Woolfson 2005). It has been

recommended by some commentators that informed consent is facilitated through the presence of legal counsel and a mental health advocate who can clearly explain the mental health court process and the consequences of participation (Seltzer 2005).

8. Dedicated court team

Thompson et al. (2007) argues that successful mental health courts are those which have a dedicated team who are trained in the identification and management of a broad range of mental health issues, while also having access to ongoing education and professional development. In particular, the importance of having a specialist Magistrate who is sympathetic to the issues facing defendants with a cognitive impairment was highlighted in the literature, since a positive relationship between the defendant and Magistrate may increase the likelihood of the client completing their treatment plan (Plotnikoff & Woolfson 2005). Newitt and Stojcevski (2009) suggested that effective Magistrates make a 'conscious effort to speak directly to, and include, the defendant in discussions about their matters, especially about their progress on the List and in their treatment. They give praise for compliance and encourage each defendant to 'keep up the good work' (2009:57). The need for defence lawyers and police prosecutors who are trained in the operation of mental health courts and diversion programs was also emphasised in the literature, since lawyers unfamiliar with the program may find it difficult to move away from an adversarial process.

Similarly, the research indicates that the most successful mental health case managers were those who were experienced in dealing with criminal justice processes as well as mental health issues, though formal education is not necessary. Notably, one of the main weaknesses of the evaluated mental health courts and diversion programs was the inability of mental health workers to cross the divide between the CJS and mental health services. Notably, the mental health officers working with the MHDL appeared to be especially effective at manoeuvring between the CJS and mental health services, a skill they attributed to being employed and trained by the health sector rather than the CJS (Newitt & Stojcevski 2009). Also, interviewed stakeholders argued that the most effective CISP mental health workers were those who had experience and training in the management and identification of a range of mental health issues. Clinicians who were specialised in one area, such as ID, were less able to support diverse client groups than other more generalised practitioners (Ross 2009).

Culturally diverse case managers was identified by Steadman et al. as an important inclusion in successful diversion programs which should be 'designed and implemented on the basis of the cultural experiences of the people they are meant to serve' (1995:1634). However, this was not an issue mentioned in relation to the operation of Australian mental health diversion programs, notable since Indigenous offenders are overrepresented in the Australian CJS.

9. Early Identification

Successful mental health courts and diversion programs facilitate the earliest identification of mental health issues as possible (Steadman et al. 1995; Thompson et al. 2007). Early identification is encouraged through the acceptance of referrals from a wide array of sources such as law enforcement officers, pre-trial and jail staff, defence counsel, family and carers (Thompson et al. 2007). However, although many of the evaluated mental health courts and diversion programs did accept referrals from a variety of sources, it also became apparent that the majority of referrals came from those most intimately involved in the program (mental health officers and Magistrates). This may have the effect of reducing the likelihood that MI or ID would be identified early in offenders' pathway through the CJS. Early identification is made particularly difficult due to the reluctance of offenders with mental health issues to self-identify and their ability to hide their disability (Scheyette, Vaughn, Taylor & Parish 2009; Lyall et al. 1995). These issues are exacerbated by the lack of training among many CJS staff, including police, in detecting MI or ID in offenders, especially where it is less apparent from the offender's

behaviour (Scheyette et al 2009; Ogloff & Davis 2005; Lyall et al. 1995). Early identification is also facilitated by the presence of a mental health officer who is trained in identification and management of a wide variety of mental health issues in the court process, and who can help improve the capacity of other court partners to identify offenders with MI or ID.

10. Judicial monitoring

Research suggests that offenders' whose program engagement is closely monitored by the court and subject to sanctions and rewards have higher treatment retention rates than those who are unsupervised (Plotnikoff & Woolfson 2005). Rewards generally include encouraging remarks from the Magistrate, fewer restrictions on their bail conditions, lighter sentences or even a round of applause from the court. However, sanctioning appeared to be a controversial point amongst stakeholders, with some mental health clinicians arguing that their ability to form a productive and positive relationship with clients is affected by the requirement that they inform the court of any breaches in conditions of bail (Plotnikoff & Woolfson 2005). Others have been frustrated by the lack of consequences for non-compliance with treatment, in particular substance abuse programs (Skrzypiec et al. 2009). Judicial monitoring appears to be best practice in relation to mental health courts rather than diversion programs, however it may promote higher treatment retention rates.

11. Sustainability

The long-term sustainability of a mental health court or diversion programs is dependent upon their formalisation and institutionalisation, which will inevitably involve some form of evaluation. However, a common issue encountered by researchers analysing the effectiveness of mental health courts has been incomplete and inaccurate client data (Newitt & Stojcevski 2009; Graham 2007). As such, it has been argued that during the implementation phase, clear and consistent data collecting protocols should be instituted, as well as suitable information technologies that facilitate such processes (Graham 2007; Christy et al. 2005; Richardson & McSherry 2010). Without periodic evaluation, the evidence supporting mental health courts and diversion programs will remain anecdotal and sporadic, which will undermine their operation and expansion (Richardson & McSherry 2010:253).

Although the evaluation literature provides support for the best practice guides proposed by Thompson et al. (2007) and Steadman et al. (1995), it also highlighted other issues which may serve as lessons to guide the future implementation of mental health courts and diversion programs. The evaluation literature suggests that during the preliminary stages of a mental health court program, educating all potential stakeholders in how the service operates, the referral process and the role of court officers is essential (Bradford & Smith 2009, Zapelli & Morrell 2004). A lack of widespread awareness has a number of implications for the successful implementation of a diversion program. Firstly, there will be a lack of referrals except from parties who are already intimately involved in the project, resulting in a delay in treatment as well as impeding the long-term sustainability of the program (Newitt & Stojcevski 2009). Conversely, when knowledge of referral criteria is partial or absent, there could be a large number of inappropriate referrals, resulting in an excessive workload for program officers (Ross 2009).

External factors that may impact upon the efficacy of court based diversion programs

The main factor that appears to impact upon the efficacy of court based diversion programs is the availability of appropriate community-based mental health services. One of the goals of many mental health courts and diversion programs is to minimise the interaction that an offender with a MI has with the CJS by placing them in community-based treatment. However, this assumes that such treatment programs are available, are willing to take referrals from the

CJS, and are accessible to the client. Seltzer (2005) argues that the main issue facing offenders with a MI is the lack of appropriate and willing community services (the same issue exists for offenders with an ID). For instance, stakeholders interviewed during the CISP evaluation noted that the demand for housing support far outstripped supply (Ross 2009). Also, community based treatment services may be reluctant to take referrals from the CJS, as was the experience of stakeholders working with the SCCLS (Bradford & Smith 2009). Even when court program clients are eligible for certain community-based treatment programs, they may not be able to access them if they have to pay for travel or suffer from a physical disability. This is a particular issue for programs operating in rural communities.

Other factors that affect the efficacy of court based diversion programs include:

- high program staff turn-over rates, which mean that relationships are not maintained between stakeholders and a larger workload results for remaining case managers;
- inadequate staffing, such that case managers and program coordinators become overloaded and unable to dedicate sufficient time to each referral;
- inadequate or out-dated legislation which restricts the intervention capabilities of programs. For example, Western Australian Magistrates can only defer a matter for a maximum of six months, which may not be enough time to address the complex needs of offenders;
- ambiguously worded legislation may also impact upon the eligibility of client groups. For example, under s32 of the Mental Health (Forensic Provisions) Act 1990 (NSW) an offender may be eligible for diversion if they are 'developmentally disabled'. What this means in practice is unclear and this lack of clear statutory definition means that a Magistrate may exclude from participation someone who is suffering from ID if they draw a very narrow definition of developmental disability;
- a lack of police training in the identification of mental health issues in offenders;
- a reluctance among some police to engage in pre-arrest diversion schemes due to difficulties associated with accessing and navigating the health and social welfare sectors (Seltzer 2005); and
- the inability of programs to deal with the socio-economic reasons behind offending behaviour such as housing and employment.

It has been argued that 'Court-based diversion, although necessary, is not a panacea for addressing the needs of the growing number of people with mental illnesses who come into contact with the CJS. Rather it should be seen as but one part of the solution' (Seltzer 2005:585-586). The literature suggests that mental health courts and diversion programs will only be able to have a positive impact on the circumstances of offenders with MI and/or ID if they are delivered in combination with appropriate reforms to the mental health sector that provides further funding of comprehensive and accessible community based treatment services, as well as pre-arrest diversion schemes. Pre-arrest diversion schemes would serve to further minimise the interaction that offenders with MI and/or ID have with the CJS, maximise offenders' chances of accessing social services, housing and employment by avoiding a criminal record and result in fewer referrals to court based diversion schemes in the longer term. These programs would necessitate the further training of police in the identification of ID and/or MI as well as training in the public health system and housing and employment services.

The design, management and implementation of the SCCDP

This section of the report provides an overview of the key features of the SCCDP, reviews the management of the program, describes the roles and responsibilities of stakeholders involved in the program, and ends with an overall assessment of the program against good practice. Later sections describe the findings from an assessment of the operation of the SCCDP and its various components, including issues identified as impacting upon the operation of the program.

This draws upon the interviews and workshop with key stakeholders, observations of the court process, and a review of program documentation and materials made available to the AIC for the purpose of the evaluation. The results from the analysis of quantitative data on the operation of the program and key outputs are also presented throughout these sections of the report.

Preliminary findings from the process evaluation were presented in the interim report and discussed at a stakeholder workshop in May 2011. The findings summarised in the following sections of this report build upon those presented in the interim report, incorporating the additional feedback provided through the workshop and subsequent interviews completed in November 2011.

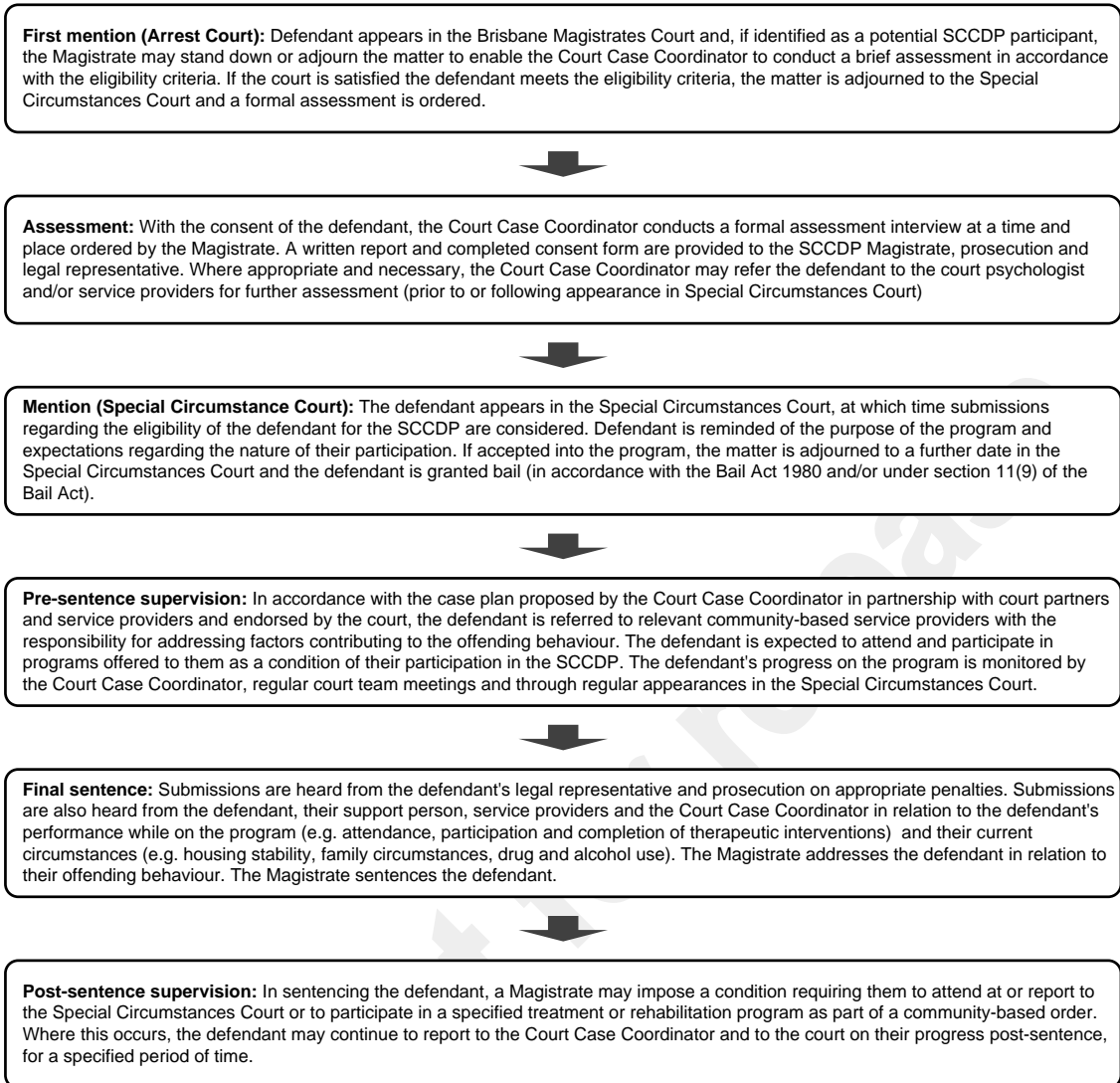
There are two important considerations in reviewing the findings from the evaluation as they relate to the operation of the SCCDP. First, the program continues to undergo a process of ongoing development and refinement as stakeholders continue to negotiate the parameters of the program and refine the mode of operation. While every attempt has been made to ensure the most up to date details of the program have been described, recent changes made to the program may not be reflected in the description of the program described below.

Second, and as is discussed at different stages throughout this report, there is a lack of endorsed documentation describing the intended operation of the program beyond the information available from the Practice Direction. In describing the operation of the program (both intended and actual), the AIC has relied upon the information providing by stakeholders during the interview process. Where appropriate, information from within the draft Practice and Procedure Manual (PPM) has also been used, but only in those circumstances in which the AIC has been able to verify the accuracy of information contained within.

Key features of the program

SCCDP is a pre-sentence bail based and post-sentencing court based rehabilitation program for offenders who are homeless or suffer from impaired decision-making capacity. The program aims to identify those factors that may be contributing to the defendant's offending behaviour and then refer participants to available treatment, rehabilitation and support services while under court supervision, with the goal of improving their health and wealth being, improving their living circumstances and, ultimately, leading to a reduction in their offending behaviour.

Figure 2: Stages in the Special Circumstances Court Diversion Program



There are important differences between the SCCDP process and mainstream Magistrates Courts. Understanding the nature of these differences is important in evaluating the mechanisms through which the SCCDP aims to contribute to more positive outcomes for offenders with a MI, ID or who are homeless. In particular, the SCCDP involves:

- a comprehensive assessment process that identifies factors contributing to the defendant's offending behaviour and informs the development of a case plan and referrals to a range of services to address accommodation, mental health and other needs;
- modifying court proceedings so that hearings are conducted in a way that is more appropriate for the client group, including being more informal and less adversarial than mainstream Magistrate Court hearings and providing greater opportunity for interaction between court partners, the defendant and their family or support persons;
- judicial monitoring of clients under pre-sentence and post-sentence supervision, while they participate in a range of rehabilitative and treatment services designed to address those factors contributing to their offending;
- a flexible model of service delivery, which enables the program to respond to the specific characteristics and often complex needs of offenders and to adapt the duration and intensity of engagement and supervision accordingly;

- providing assistance to offenders through ongoing case planning and oversight to improve access to support services and assist clients to reintegrate into the community;
- a high degree of coordination between criminal justice agencies and government and non-government service providers to ensure referral pathways and continuous support for offenders; and
- imposing a sentence that is focused towards rehabilitation, which may include conditions requiring the offender to continue to report to the court on their progress and/or participate in specified treatment or rehabilitation programs.

There are a number of key stages in the SCCDP described in the Practice Direction and that came into effect as at December 2010. These are outlined in Figure 2.

Operating framework

The SCCDP operates within a normal Magistrates Court framework and is not specifically established in legislation. The legislation that applies to the operation of the SCCDP includes:

- *Bail Act 1980* (generally) for matters relating to bail and bail conditions generally;
- Section 11(9) of the *Bail Act 1980* and *Bail (Prescribed Programs) Regulation 2006*, which enable the Magistrate to impose a condition that the defendant participates in the SCCDP, attends Special Circumstances Court, and participates in specified treatment or rehabilitation programs;
- *Justice Act 1886*, in relation to adjournments;
- *Penalties and Sentences Act 1992* for sentencing, including:
 - good behaviour orders pursuant to s19(1) (b) and s19(2) (where no conviction is recorded) and section 31 (where a conviction is recorded), which may require the defendant to report to the court post-sentence; and
 - other sentencing options, such as probation, community service orders, monetary orders and imprisonment orders.
- *Mental Health Act 2000*;
- *Corrective Services Act 2006*; and
- *Criminal Code*, *Police Powers and Responsibilities Act 2000* and *Drug Misuse Act 1986* for eligible and ineligible offences.

Court partners were asked to comment on the extent to which the current legislative framework supported the activity of the SCCDP. Views regarding the extent to which the program should be specifically established in legislation were mixed, with some court partners suggesting that certain aspects of the program, such as eligibility, should be defined in legislation. Others suggested that a more extensive legislative framework was warranted, describing both the parameters and procedures for the operation of the program, and that establishing the program in legislation (like, for example, the *Drug Court Act 2000*) would provide greater structure and consistency in the administration of the program. It may also assist the program with attracting long-term funding.

However, other court partners felt that the program was not large enough to warrant its establishment in legislation (beyond the *Bail (Prescribed Programs) Regulation 2006*). Instead it was argued that consideration as to whether the program should be established in legislation should take place once the evaluation has been completed, and an informed decision regarding the development and expansion of the program can be made.

Nevertheless, almost all stakeholders argued for the program and its various stages and components to be more clearly defined. In addition to the legislative framework, in December 2010 (midway through the evaluation period) the Chief Magistrate issued a Practice Direction to

govern procedures in the Magistrates Court and, in particular, the Special Circumstances Court and SCCDP. The Practice Direction provides clear guidance around certain issues relevant to the operation of the SCCDP, including eligibility criteria, procedures for referring defendants to the Special Circumstances Court and assessment processes.

The Practice Direction sought to overcome the absence of an agreement regarding key aspects of the Special Circumstance Court, particularly as they related to eligibility, referral and assessment procedures, which arose through the process of negotiating the terms of a PPM. The PPM aims to describe the process and the roles and responsibilities of each stakeholder involved in SCCDP. This manual was intended to serve an important purpose, including ensuring that all stakeholders are aware of how the program operates and the nature of their contribution, providing a framework and reference for court partners, and organising court activity within a consistent set of principles. As at the end of 2011, a final version of the PPM for the program had not been endorsed, and it was clear from the interviews that court partners did not support the draft version of the PPM.

The absence of a PPM or alternative guidance relating to the program means that, even with the Practice Direction, several elements of the program have not been well defined or, where they have been defined (such as within the draft PPM), are not yet endorsed. This includes:

- clear objectives to guide the operation of the program;
- the roles and responsibilities of key stakeholders involved in the program, including government and non-government partners;
- agreed protocols to guide the sharing of information about program participants and the limits to this information sharing;
- the nomination of new Magistrates, including the requirement for specific training and induction; and
- the operation of the program once the defendant has been accepted into the program, including guidance relating to pre-sentence supervision, court proceedings, case management and post-sentence supervision.

These issues are considered in more detail in the discussion of various stages and components of the program. It should be noted that work is continuing on a PPM (led by DJAG), in recognition of the need to more clearly define all aspects of the program's operation. While most stakeholders acknowledged the importance of developing better guidelines, a number also stressed the importance of retaining some level of flexibility: '[The] danger is that we restrict flexibility in the way the court responds to people, and the way that people can interact with clients' (court partner personal communication)

Program management

The SCCDP is governed by an Interdepartmental Steering Committee (ISC) (the 'Steering Group'), comprising representation from judicial officers, legal practitioners and Queensland Government court partners. This includes:

- Magistrates;
- DJAG;
- Queensland Treasury (QT);
- Department of Premier and Cabinet DPC;
- QPS;
- LAQ;
- QCS; and

- Queensland Health.

The purpose of this Steering Group was to oversee the administration and implementation of the program throughout the pilot period. The Group was intended to meet every second month (currently every third) to review issues relating to the SCCDP and the evaluation. Reports from stakeholders suggested that the Steering Group had not met regularly during the pilot period and, when the Steering Group has met, not all agencies have attended. This may be a factor in the lack of agreement on the PPM and other implementation issues that have been identified below.

A number of stakeholders involved in the delivery of the program suggested that there was a need to include at least one representative from among the various service providers on the Steering Group, given the high level of involvement of these government and non-government organisations in the operation of the program. It was argued that this would help to facilitate an improved level of coordination between the justice and health sectors, which would in turn lead to more streamlined referral pathways. There were some concerns about the confidentiality of information that may be shared among government partners at these meetings, but this was not regarded as a significant hurdle.

There are regular meetings of local management groups comprising stakeholders involved in program delivery in other specialty court programs across Queensland but, while this was put forward as an option, there were concerns that this would potentially result in duplication in membership across the two groups. Further, pre-court meetings involve many of these stakeholders and provide the opportunity to address day-to-day issues relating to program delivery. The Steering Group therefore performs an important role in ensuring that the program, and the involvement of key partners involved in the SCCDP, is effectively managed.

Program funding

In 2009, the SCCDP received funding to support the expansion of the program from the original HPCDP and to provide sufficient staffing resources to accommodate a capped number of 120 defendants participating in the program and increase the number of sitting days from one to three per week. This included funding towards:

- a dedicated Magistrate to preside over the Special Circumstances Court List;
- a court psychologist with expertise in forensic and general psychological assessment to conduct assessments of potential participants, develop diversion plans and provide expert advice to the court;
- additional service delivery positions, including a Court Coordinator (DJAG), legal representative from Legal Aid Queensland (LAQ) and a police prosecutor from Queensland Police Service (QPS).

In addition to this funding commitment, government agencies including DJAG, QPS, QCS and LAQ agreed to continue to internally fund resources to support the operation of the SCCDP, providing additional staffing to support the increased number of clients.

The program funding also provides for brokerage support of \$40,000 per year for participants accepted into the program. This was a direct outcome of the evaluation of the HPCDP, and has been used by the Court Case Coordinators to cover a range of expenses to assist defendants to get 'back on track'. This includes the purchase of crisis accommodation, rental bonds and payments, birth certificates, recreational programs and pre-purchased transport tickets for participants to attend court and other appointments required under the case plan. An important factor in determining how to allocate this brokerage funding was consideration of the public interest, and whether the broader community would view the expenditure as appropriate.

This funding ended in December 2011. Recognising the importance of the program and that it should continue at least until the end of the evaluation period, most court partners (Magistrates Court, DJAG, QPS, LAQ and QCS) agreed to fund their ongoing involvement in the program. However, due to uncertainty around funding, the Special Circumstances Court reduced the number of sitting days from three to two days per week (Thursday and Friday). This has reportedly reduced the time that is being allocated to each defendant appearing before the Court. Funding for the dedicated court psychologist has not been extended beyond 2011. The uncertainty around funding and the long-term future of the program has been the cause of some instability among the staff that remain involved in the program (eg leading to the departure of key program staff).

Stakeholders involved in the program

There is a core group of stakeholders involved in the implementation of the SCCDP and, for the most part, these stakeholders have demonstrated a high level of commitment to the program and have established effective working relationships. Beyond this core group of court partners there is a range of other agencies (government and non-government) that have a role in the management or delivery of the SCCDP, either on a regular or more ad hoc basis.

There are two Special Circumstances Court teams that sit on alternating weeks, with each team comprising a specially designated Magistrate, Court Case Coordinator, Police prosecutor and LAQ lawyer. This enables the program to provide continuity of care to clients participating in the program, assists with developing and maintaining relationships between key individuals involved in the program, and also provides court partners with the opportunity (in the alternate week) to prepare for upcoming matters and deal with existing matters and clients (and, in the case of the Court Case Coordinator, identify new prospective clients). It also enables the program to support an increased number of clients, compared with the HPCDP. The team-based approach to supporting defendants participating in the SCCDP was viewed by stakeholders as one of the key strengths of the program, providing for a more comprehensive approach to dealing with complex offenders and working towards an integrated service delivery model.

However, the court is highly dependent upon the individuals that represent the organisations involved in the program, and the relationships that are formed between these individuals. While these relationships are currently an important factor in the smooth functioning of the program, this poses a risk to the stability and sustainability of the program in the long term. This issue is compounded by the lack of clear guidelines for the operation of the program (beyond eligibility, referral and assessment procedures) and agreement about the roles and responsibilities of court partners. As such, the program has largely operated in accordance with the collective understanding of those individuals involved in the SCCDP: 'When people leave the court they leave with a lot of information, and we don't have a process in place to document this knowledge' (court partner personal communication).

Magistrate

There are two specially designated Magistrates involved in SCCDP and they are responsible for determining the nature and duration of a defendant's participation in the program (based on the submissions of court partners). The Magistrate has the final say with respect to whether a defendant is eligible for SCCDP, endorsing the case plan and referrals to relevant service providers. They are also responsible for sentencing the offender and the overall management of the Special Circumstances Court hearing.

The Magistrate presides over court proceedings and imposes sentences based on the evidence before the court and the information provided through the various submissions made by all court

participants, particularly as it relates to the defendant's performance while under pre-sentence supervision. They seek input from court partners and service providers about participants' case plans and sentencing options.

The Special Circumstances Court Magistrates have established positive relationships with other court and program partners, and observations of the court process indicated that they are effective in encouraging and supporting an open dialogue between all stakeholders, including the defendant, their family or support persons and the various court partners, during pre-sentence and sentence hearings. They also appeared to have considerable influence in determining the course of action that will be undertaken by the defendant as part of their case plan while under pre-sentence and post-sentence supervision.

SCCDP Program Manager

The DJAG program manager is responsible for the overall management of the SCCDP and, in particular, the coordination of partner contributions to the program. This role involves managing the relationship between the various stakeholders involved in the program, mentoring new staff, and providing assistance with other aspects of the court process such as assessments. The program manager was also responsible for developing the original draft framework (PPM) for the program.

Court Case Coordinator

There are two Court Case Coordinators involved in the SCCDP, and these Coordinators work exclusively with their respective Magistrate. They perform a similar function, although there are some minor differences that reflect the different modes of operation in the two Courts and with the two Magistrates. The Court Case Coordinators perform a number of important functions that are central to the effective operation of the program, including:

- identifying potential participants for SCCDP when they appear in Arrest Court;
- completing the initial assessment and eligibility checklist for defendants appearing in Arrest Court at the request of the Magistrate;
- interviewing defendant's prior to appearing in Special Circumstances Court as part of the formal assessment process and providing a written report to the court;
- developing a case plan based on the formal assessment interview;
- distributing brokerage funding to eligible defendants;
- providing support to defendant before and after court and while offender is engaged in pre-sentence or post-sentence supervision, regularly reviewing their program in accordance with their case plan;
- liaising with other government departments and non-government organisations to source rehabilitation and program options for SCCDP clients;
- participating in pre-court meetings and liaising with relevant service providers to review the defendant's progress against the case plan; and
- making submissions to the court on the defendant's participation in the program, the appropriateness of existing referrals and recommendations for alternative strategies.

Psychologist

The expansion of the HPCDP to the SCCDP and greater focus on the mental health of defendants was accompanied by the appointment of a dedicated court psychologist to support the program (as at March 2010). The psychologist performed an assessment & liaison role, but was not responsible for the ongoing treatment of clients involved in the program. This role involved:

- comprehensive assessments of those defendants who appear, on the basis of a mental health screen administered by Court Case Coordinators, to have MI;
- providing recommendations for treatment and referrals to appropriate services;
- providing advice and support to other services on issues relating to mental health and well-being of SCCDP clients;
- following up post referral to observe the progress of clients;
- obtaining relevant information from appropriate sources on available services and treatment options.

Other court partners were overwhelmingly positive about the involvement of the psychologist in the program, since mental illness has a significant impact on both the defendant's likelihood to reoffend and their capacity to participate as part of the program. The court psychologist therefore performs an important role in the identification of mental illness among SCCDP participants and with improving access to mental health services (for further diagnosis and treatment).

Defendant's legal representative

The defendant's legal representative is most commonly an employee of LAQ or, where the defendant is Indigenous, ATSILS. The defendant's legal representative takes instruction from their client at the time of the appearance before the Arrest Court as to their plea (or intended plea) and their willingness to have the matter transferred to the Special Circumstances Court. They also provide advice to defendants on whether they should consider the option of participating in the SCCDP and, as described below, is an important source of referrals to the program.

The defendant's legal representative also makes submissions to the Court on behalf of their client about their client's background and any circumstances surrounding the offence that they have discussed with their client and which the offender wishes the Court to take into consideration, both at referral and throughout the program. They may also discuss their client's willingness and capacity to commit to a recommended course of action as part of their participation in the program or sentence to address these underlying issues, and contribute to the development of the defendant's case plan.

Lawyers involved in the program also described their role as one of advocacy and support, and regularly assist the defendant with administrative functions such as obtaining birth certificates, completing Legal Aid applications and preparing letters to doctors to release their medical history. They will also report on the defendant's progress in terms of the strategies outlined in the case plan, but are reliant on the information provided by the Court Case Coordinators and service providers.

Queensland Police Service

Police prosecutors are an important part of the court team and make a significant contribution to the supervision of defendants as part of the bail program, both in Special Circumstances Court and at pre-court meetings. Like the defendant's legal representative, their contribution to the SCCDP is substantially greater (and therefore more resource intensive) than in other Magistrates Courts. The QPS described their role in SCCDP as involving:

- the prosecution of defendants within the Special Circumstances Court;
- participating in referral, pre-sentence supervision, breach, program termination or completion processes and the sentencing of participants;
- identifying suitable defendants for the program (especially in the police watch house);
- the management of defendants in custody including those referred for assessment;

- intelligence gathering, and locating and bringing before the court participants who abscond;
- participating in relevant stakeholder and SCCDP reference group meetings; and
- participating in the evaluation, development and enhancement of the SCCDP model.

QPS further described their role in SCCDP as protecting the interests of the State and the public by ensuring that those who commit offences are appropriately dealt with and in assisting the court to determine the truth of the matter and not fall into appealable error. This includes scrutinising the information provided by other court partners. Further, while the prosecution represents the QPS during the SCCDP case management process (ie attending pre-court meetings), the role of the prosecutor also includes assisting to maintain program integrity.

Queensland Corrective Services Probation and Parole

QCS Probation and Parole provide a dedicated officer to support the SCCDP and this officer regularly attends court sitting days to provide advice and support to the Special Circumstances Court. The officer can advise the court on an offender's suitability for community-based orders prior to sentencing by:

- discussing the options with the offender and assess whether there are circumstances (such as drug and alcohol use) that would affect their ability to comply with the order;
- reviewing any previous response to community-based orders; and
- liaising with the Court Case Coordinator and with relevant stakeholders and community-based service providers.

When an offender is placed on a community-based order the officer will (either directly or indirectly through the officer responsible):

- manage the offender's compliance with the order through an offender management plan, including whether the offender has participated in services required as part of their order;
- report back to the court as required; and
- take action on breach of orders as required.

Where community-based orders include additional conditions to the standard order conditions, such as participating in treatment or rehabilitation programs, the officer will also liaise and negotiate with appropriate community-based agencies for the purpose of referral and satisfying those conditions.

The location of this officer in the court building on court sitting days enables them to respond quickly when called upon by the Magistrate. There were some concerns raised (by QCS) about the efficiency of having this position within the court building, especially given the reduced number of program participants. Feedback from court partners indicates that the level of involvement and engagement of the probation and parole officer with the program has increased over time, largely due to the relationships they had forged with the Magistrate/s and other court partners. As a consequence, they had greater opportunity to contribute to decision-making processes, which was reportedly helping to ensure a continuation of service provision from pre-sentence supervision (as well as helping to inform decision-making when it comes to sentencing).

Service providers

A range of government and non-government organisations provide rehabilitation, treatment and support services to defendants in SCCDP. The program has effectively engaged and maintained the involvement of a large number of service providers. There is a core group of service providers that regularly attend court and provide support to defendants, as well as others that will accept referrals from the Special Circumstances Court.

Community-based organisations invest considerable time and resources in supporting SCCDP participants. This may occur as part of an offender's participation in program while under pre-sentence or post sentence supervision (including where it is a condition of a community-based order). Many of the services offered extend beyond the participants contact with the SCCDP. The role of these service providers can include:

- attending court and providing input as to the needs of defendants appearing before the court and the services that may be available to support them while participating in the program (and beyond);
- liaising with the Court Case Coordinator to determine appropriate strategies for defendants participating in the program, including both internal and external referral pathways;
- conducting an assessment as to the suitability of the defendant to participate in the relevant service and provide submissions to the court either directly or via the submissions of Court Case Coordinators;
- attending pre-court meetings to discuss the offender's progress while under pre or post-sentence supervision;
- support and advocacy on the behalf of defendants appearing before the Special Circumstances Court; and
- providing rehabilitation, treatment and support services to defendants participating in the SCCDP.

Key service providers involved in the SCCDP include (but is not limited to):

- Micah Projects: Dedicate two early intervention workers to provide a referral pathway directly from the SCCDP. The Court to Home program provides planned support to individuals referred by the Court Case Coordinators to address issues related to their homelessness, including assistance with accessing appropriate and affordable housing and overcoming those problems that increase their risk of homelessness.
- Sisters Inside: Provide support and assistance to women involved in the CJS, particularly those who are in prison or who have been recently released. Also provide support to their children to ensure they have access to education, health care and secure accommodation.
- Salvation Army: Based in an office within the court building, a staff member from Salvation Army provides support to SCCDP participants prior to and after their attendance at Special Circumstances Court. In addition to the informal contact with participants, the Salvation Army provide group counselling sessions (either at the court or in other community settings), an employment service and (in partnership with staff from QCS) the Positive Lifestyles Program.
- Brisbane Youth Service (BYS): Provides a range of community-based services for young people participating in the SCCDP, including drop-in services, medical clinic, a drug intervention team, various prevention programs, housing, education and employment programs and support for your families. A reduction in funding means that the involvement of BYS has reduced from the HPCDP.

Issues relating to the delivery of services to participants involved in the SCCDP are described in the section 'Addressing the needs of SCCDP participants'.

Training and development

The importance of an ongoing program of training and professional development was raised by a number of stakeholders involved in the program. Given the complex needs of offenders appearing before the Special Circumstances Court, stakeholders were supportive of providing ongoing training for individuals involved in the program that would assist them to develop an improved understanding of issues related to this particular client population. This would enable

those individuals involved in the program to have a better appreciation of the factors that are contributing to the defendants' offending behaviour, including different forms of MI and ID as well as substance use (including illicit substances and prescribed medication).

Given the integration of health and justice sectors, there was also a suggestion for additional training for service providers to develop their understanding of the court process, and for criminal justice agencies to receive training and advice on issues relating to service delivery for the SCCDP client group, including the types of services available (and what they involve) and factors impacting upon the non-government sector. Improving the guidelines for the operation of the SCCDP will help to highlight areas for training and development.

Therapeutic and justice goals

Overall, there was strong support among all stakeholders for the program as an important initiative to reduce contact with the CJS among offenders with MI, ID and/or who are homeless. The SCCDP aims to incorporate key principles of therapeutic jurisprudence into the court response to offenders with MI, ID and/or who are homeless. A fundamental principle underlying the concept of therapeutic jurisprudence is that the response to offenders should be targeted at the problems and disadvantages that give rise to their criminal behaviour (Ross 2009). The SCCDP is well placed to respond to these underlying issues - in this case MI, ID and/or homelessness - and promote the physical and emotional well-being of offenders (King & Ford 2006; Slobogin 1996). Consistent with the practical application of therapeutic jurisprudence, the SCCDP model demonstrates the integration of treatment and rehabilitation programs with the court response and case processing, judicial monitoring and the involvement and collaboration with community-based and government service providers (Freiberg 2002).

There are philosophical and organisational differences between the different court partners and service providers involved in the program that have presented certain challenges to the implementation of the pilot. In particular, there are some tensions between the views of different stakeholders regarding the relative emphasis that should be placed on the justice and therapeutic goals of the Special Circumstances Court, and whether the therapeutic elements of the program were conducive to achieving behavioural change. As a result, there were conflicting views on a number of issues relating to the operation of the court, including:

- the requirement for service providers to report to the court on the progress of participants in terms of attending, participating and completing therapeutic interventions offered as part of the program;
- the primary focus of the program in terms of compliance versus rehabilitation, and the degree of flexibility that should be afforded to participants when they do not adhere to the requirements of the program (eg failing to appear in court or at scheduled appointments);
- the degree to which the judicial system should engage in social work, and attempt to provide direct support to defendants appearing before the Special Circumstances Court; and
- what constitutes success for offenders with MI, ID and/or who are homeless.

Some of these tensions have persisted throughout the first and second year of the evaluation, and are subject to ongoing debate and disagreement between some stakeholders involved in the program. These are discussed in more detail in the relevant sections of this report. However, both the court partners and service providers reported that they had attempted to overcome these issues through a process of negotiation and compromise.

For example, some court partners that operate outside the CJS reported that stakeholders who were more accustomed to the adversarial court process – such as Magistrates, legal representatives, and police prosecutors – had demonstrated that they were supportive of the program. In particular, these court partners had modified the way in which they interact with one

another, with the defendant and service providers, consistent with the informal nature of proceedings and focus on the well-being of offenders.

Consistency with good practice

There has been a considerable effort, both in Australia and overseas, to improve the criminal justice response for offenders with impaired decision-making capacity and to implement strategies that are designed to improve outcomes for this group of offenders. The literature review highlighted 11 principles that underpin effective mental health court and diversion programs. These were identified from the best practice guides developed by Steadman et al. (1995) and Thomson, Osher and Tomasini-Joshi (2007) and the various evaluations of programs similar in operation to the SCCDP, both in Australia and overseas. While these have been drawn primarily from the experiences of programs targeted towards offenders with MI, and to a lesser extent ID, the co-occurrence of MI, ID and homelessness means that these lessons have wider application to programs like the SCCDP.

Findings from a comparison of the design and implementation of the SCCDP with these good practice principles are summarised in Table 6. The SCCDP is consistent with many of these principles, although there are some issues relating to the operation of the program that have been highlighted. These issues are also discussed in detail in the relevant sections of this report.

Table 6: Consistency with principles for effective court programs for offenders with MI, intellectual disability or who are homeless

Principle	Description	Implementation in SCCDP
1. Integrated services	Multi-disciplinary approach that integrates mental health and social services with the CJS	There is evidence of an integrated response and a high level of involvement by both mental health (court psychologist) and service providers. Philosophical and organisational differences continue to result in tensions around some aspects of the court process, but court partners report an effective working relationship.
2. Regular meetings of key agency representatives	Administrative meetings that deal with the operation of the program and funding arrangements, and meetings between service providers and stakeholders regarding individualised treatment plans and the progress of clients	While there were some concerns about how regular the meetings were and how well they were attended, the program is overseen by a Steering Group. There is scope to involve service providers in these meetings Pre-court meetings are held weekly, and perform an important function in monitoring the progress of participants and help to inform decision-making.
3. Strong leadership	Program coordinator with excellent communication skills and an awareness and understanding of the key elements of program	There is a designated program manager with responsibility for overseeing the program and managing the relationships between key stakeholders.
4. Clear and realistic target population	Clear eligibility criteria that take into consideration the treatment capacity of the community, the suitability of the program for certain offenders and the needs of the target population	There are clear eligibility criteria in place, with the Practice Direction providing clear guidelines as to the criteria for participating in the program, including definitions of homelessness, mental illness and ID.
5. Clear defined terms of participation	Terms of program participation should be well defined and made clear to clients, while retaining flexibility to enable them to be individualised to suit the needs and circumstances of the offender	An area where the program is currently lacking. Participation is loosely defined as turning up to court and attending programs as directed. However there is little guidance around what constitutes failure to participate in the program. There is a great deal of flexibility in the courts response to individual defendants.
6. Participant informed consent	The decision to participate in a program should be voluntary and made only once the offender is fully informed about the process and the requirements of participation	There are strict processes and guidelines in place to ensure that the defendant provides informed consent to participate and to allow the sharing of information.

Table 6: Consistency with principles for effective court programs for offenders with MI, intellectual disability or who are homeless

Principle	Description	Implementation in SCCDP
7. Client confidentiality	Personal information about the client and treatment progress should remain confidential	There is considerable debate surrounding the sharing of information between the court and service providers (particularly as it relates to non-treatment interventions), and some concerns with respect to disclosing information of a personal nature in open court. Pre-court meetings have been an effective mechanism for determining an appropriate course of action based on information shared between court partners.
8. Dedicated court team	Team who are trained in the identification and management of a broad range of factors relating to impaired decision-making and homelessness	There are two dedicated court teams comprising individuals with varying degrees of experience in the program. The appointment of the court psychologist to the program has improved the capacity of the SCCDP to support defendants with a MI.
9. Early identification	The identification of suitable clients should be made as early as possible in their interaction with the CJS	There is scope for improving the identification of potential participants as early as possible by continuing to raise awareness among referral sources of the program and to institute consistent first identification procedures.
10. Judicial monitoring	Client program engagement and participation should be closely monitored by the court and subject to sanctions and rewards	The progress of defendants is reviewed by Magistrates through regular appearances in Special Circumstances Court. There are some concerns with respect to the lack of appropriate sanctions for not complying with the requirements of the program.
11. Sustainability	Formalisation and institutionalisation of the program to ensure long-term sustainability	<p>This represents the second evaluation of this (albeit modified) program and the recommendations from this evaluation will inform the development and potential expansion of the program.</p> <p>The reliance on key individuals involved in the program and the current uncertainty around program funding represent threats to the long-term sustainability of the program.</p> <p>There are different views as to the best model to adopt in the future, but agreement that the SCCDP is an important initiative and should continue in some form into the future. Currently recognised in the <i>Bail (Prescribed Programs) Regulation 2006</i>, there is support among some stakeholders for the program to be better defined within the relevant legislation.</p>

Program eligibility, referrals and participants

This section of the report describes the program eligibility criteria, referral and assessment process, along with a number of issues that were identified during the evaluation. Referral rates for the SCCDP over the period of the evaluation and the outcomes of these referrals are also presented, as well as a profile of offenders and charges referred to the program.

Eligibility criteria

The eligibility criteria for SCCDP were subject to considerable debate among court partners during the first year of the evaluation period, and had been revised on a number of occasions prior to the Practice Direction being issued. The Practice Direction outlines the full eligibility criteria for the SCCDP. In summary, these criteria set out that an offender may be eligible to participate in the program if they:

- were an adult at the time the alleged offence/s were committed;
- are homeless or have impaired decision-making capacity;
- are charged with offences that arose in circumstances connected to the defendant's homelessness and/or impaired decision-making capacity;
- are charged with eligible offences, insofar as the offences:
 - were committed within the Brisbane Central Division of the Magistrates Court (except where the defendant is before the Special Circumstances Court on eligible charges and the prosecution and defendant consents to the defendant's acceptance in the program);
 - are able to be dealt with summarily;
 - are not serious offences or do not involve allegations of serious personal violence (as defined in relevant legislation);
- do not have charges pending before a court for serious offences or offences that involve serious personal violence;
- have not previously been convicted for offences of a sexual nature, except where the prosecution and defendant consent to the defendant's acceptance into the Program; and
- are not serving a term of imprisonment other than by way of parole or a suspended sentence.

Further, it is a requirement for the defendant to plead guilty or intend to plead guilty to the charges prior to their referral to the Special Circumstances Court. A defendant who meets the eligibility criteria must also provide informed written consent to participate in the program, which includes participating in a formal assessment interview, and provide informed written consent to the exchange of information between the court and agencies involved in the program.

The Magistrates Court retains the discretion to refuse entry to the program or to exclude a defendant from the program after giving consideration to factors such as the nature of the

offences for which they are charged, the background of the defendant, including the defendant's criminal history, the circumstances of the defendant, including whether the defendant may benefit or continue to benefit by participating in the program and the availability of places on the program.

Definitions of homelessness and impaired decision-making capacity

The Practice Direction also provides clear definitions for homelessness and impaired decision-making capacity. For the purposes of acceptance into the SCCDP, the program relies upon the definition of homeless used by the ABS. According to this definition, there are three categories of homelessness:

- primary homeless (sleeping rough): people without conventional accommodation;
- secondary homeless (stop-gap housing): people who move from one temporary shelter to another; and
- tertiary homeless (boarding house residents): people living in boarding houses on a medium to long-term basis (ABS).

In addition, this definition includes defendants who are assessed as being at imminent risk of being homeless.

The Practice Direction also provides a clear definition for impaired decision-making capacity; referring to a person who has a disability that is attributable to an intellectual, psychiatric, cognitive or neurological impairment, which results in a reduction of the person's capacity for communication, social interaction or learning and the person needing support. This is an important point. Failing to clearly define the condition that is central to the defendant's involvement in the program (i.e. as a court for persons with MI or ID) has been previously shown to exclude participants who should otherwise be considered eligible for a mental health court and diversion program (Bradford & Smith 2009). Nevertheless, there was still some suggestion that these definitions may have been loosely applied to some defendants, such that they were not currently homeless or at a real risk of becoming homeless, or did not appear to suffer from impaired decision-making capacity.

It was identified in the interim report that a number of stakeholders had expressed the view that, because of a lack of agreement and clarity surrounding the eligibility criteria prior to the release of the Practice Direction, offenders who should have been excluded from the SCCDP on the basis of the charges they were facing were being accepted into the program. Specifically, a number of stakeholders expressed a concern that serious offences were being dealt with in the Special Circumstances Court when a defendant was also charged with eligible offences, largely because the eligibility criteria had not been clearly defined and agreed by all parties involved in the program. There was relatively widespread acknowledgement of the need to be stricter with regards to eligible offences. However, while there were some exceptions, feedback from court partners during the workshop and second round of interviews suggested that the issues around eligibility had been largely addressed through the release of the Practice Direction in late 2010.

The referral process

In addition to the eligibility criteria, the Practice Direction also provides clear guidance around the referral and assessment procedures for SCCDP clients.

Source of referrals

The Practice Direction states that defendants may be identified as potential SCCDP participants upon first appearing in the Brisbane Magistrates Court by:

- police;
- defendants;
- defendants' legal representatives (including duty lawyers);
- community organisations;
- state government agencies; or
- Magistrates.

The most common source of referrals for the program was reported by stakeholders and defendants as being duty lawyers and Court Case Coordinators (see Table 7). Duty lawyers regularly interview defendants prior to appearing in Court and, either through speaking with the defendant or observing their behaviour, may conclude that they are either homeless and/or may be suffering from some form of impaired decision-making capacity. The second referral pathway involved Court Case Coordinators identifying defendants from the Arrest Court list who had listed 'no fixed address' or a known boarding houses or crisis accommodation as their residential address. A list of potential participants was then submitted to the Arrest Court for consideration. This process originated in the HPCDP but was reported as having become less common.

Table 7: Reasons for choosing to have case heard in Special Circumstances Court		
	n	%
Advice from lawyer	41	42
Suggestion from another person	42	43
I thought I would be treated more fairly	21	22
I thought I would receive an easier sentence	8	8
No particular reason	3	3
Total respondents	97	-

Responses provided at follow up to first episode in SCCDP. Respondents could select multiple reasons

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Stakeholders reported that the growing awareness of and support for the program was leading to a number of referrals being initiated by other sources, including Magistrates and defendants themselves (ie self-referrals). Police watch house staff were also acknowledged as an increasingly important source of referrals. Court partners recognised the need to continue to build awareness of the program among referral sources, including non-government service providers, boarding houses and operational police. This could be achieved through the distribution of information materials (posters, brochures etc) or actively promoting the program to potential referral sources. Further, there is still a need for more consistent processes for the first identification of potential participants in Arrest Court to ensure that eligible defendants are provided the opportunity to participate in the program.

There was some concern that there is a growing perception among defendants appearing before the Arrest Court that having their matter dealt with in the Special Circumstances Court would result in a reduced penalty (ie 'forum shopping'), although this was reported by defendants as a reason in only eight percent of cases (see Table 7).

Initial assessment

Upon their first appearance in Arrest Court a defendant may be identified as a potential participant for SCCDP by one of the sources listed above, who will propose that the Magistrate initiate an assessment of the defendant's eligibility and suitability to participate in the program. Prior to the Practice Direction, this often involved the matter being stood down to allow time for a brief meeting between the Court Case Coordinator and defendant (often only taking a couple of minutes), which would then be reported back to the court. There were rare occasions where

the matter would be adjourned to the Special Circumstances Court without an initial assessment having taken place.

The Practice Direction now provides for a greater level of formality in this process, insofar as the Magistrate will stand down or adjourn the matter for a short period to enable the Court Case Coordinator to conduct a brief assessment in accordance with the eligibility criteria (a checklist). The Coordinator provides the initial assessment checklist to the defence and prosecution, and makes a recommendation to the Magistrate as to the eligibility of the defendant for SCCDP. The court will then consider the eligibility assessment, all other relevant facts and circumstances relating to the matter and hear any submissions by the parties before making a decision as to whether the matter will be adjourned to the Special Circumstances Court.

If the court does not consider the defendant eligible or suitable to participate in the Program, the matter will proceed in the normal way before the Magistrates Court. If the Court is satisfied that the defendant meets the eligibility criteria, before adjourning the matter to the Special Circumstances Court the magistrate will ensure that the defendant has either entered a plea of guilty or indicated an intention to plead guilty to the offence/s to be adjourned to the Special Circumstances Court. If the court is satisfied the defendant meets the eligibility criteria, the matter is adjourned to the Special Circumstances Court and a formal assessment ordered. The institution of a formal eligibility assessment has reportedly improved the filtering of potential participants and reduced the occurrence of ineligible or unsuitable defendants being referred and accepted into the SCCDP.

Referral pathways

Stakeholders described variations in the referral pathway experienced by offenders between being identified as a potential participant in Arrest Court, participating in a formal assessment and appearing in Special Circumstances Court. In particular, the referral pathways varied in terms of whether the full assessment interview took place prior to the offender being referred from Arrest Court, prior to the defendant's first appearance in the Special Circumstances Court or after the defendant had first appeared in Special Circumstances Court.

A number of stakeholders expressed a preference for the formal assessment interview being conducted prior to the defendant first appearing in the Special Circumstances Court. This was because there was a perception that, once the defendant appeared in the Special Circumstances Court, there was little chance that they would be denied access to the program, irrespective of whether the assessment identified that they were not suitable or eligible for the program. Conversely, there was a view among other partners that it was important for prospective participants to be able to attend Special Circumstance Court and access the range of services offered as soon as possible.

The Practice Direction appears to have addressed this issue, at least in part. The Practice Direction requires that, once it has been determined that the defendant meets the eligibility criteria for the program, the Magistrate in Arrest Court then adjourn the matter to the Special Circumstances Court. The defendant is to be granted bail in accordance with the Bail Act 1980 and, unless a formal assessment has already been completed, must attend a formal assessment interview prior to the date of appearance in the Special Circumstances Court. Participation in a formal assessment interview is required prior to the defendant's acceptance into the program being considered by the Special Circumstances Court. Although there were some reports that defendants were still appearing before the Special Circumstances Court before completing the assessment interview, feedback provided in late 2011 suggests that this is happening less frequently than it was prior to the release of the Practice Direction.

Formal assessment interview

If the defendant consents to a formal assessment interview, the Coordinator will interview the defendant. The purpose of the formal assessment interview is to assess:

- the nature of the defendant's homelessness and/or impaired decision-making capacity; and
- the defendant's suitability for treatment, rehabilitation and other support services.

The assessment tool administered by the Court Case Coordinators includes questions relating to the defendant's health and well-being, including family circumstances, living arrangements, education and employment and drug and alcohol use. It also includes screening tools for MI and ID. The Coordinator also obtains informed written consent from the defendant to participate in the program and for the exchange of information from the assessment process and throughout their participation in the program.

Upon completion of the formal assessment interview, the Court Case Coordinator will provide a written report to the defence and prosecution (in the first instance) and then to the Magistrate. The purpose of this report is to outline:

- the eligibility and suitability of the defendant for the program;
- the type of treatment, rehabilitation and support options that should be offered to the defendant as part of their participation in the program, based upon the information obtained through the formal assessment interview; and
- the nature of available and relevant support that is available and can be provided by the program to the defendant.

The Court Case Coordinator is required to provide a written report on the formal assessment and a copy of the signed consent form to the defence, prosecution and Special Circumstances Court Magistrate in time for the defendant's first appearance before that court.

The formal assessment interview includes the DASS21, a screening tool for MI. Where the defendant scores above the threshold for this scale they are referred to the SCCDP psychologist for a clinical assessment. In the event that the psychologist assesses the defendant as suffering from a MI, the psychologist will provide them with referrals to relevant mental health services.

The formal assessment interview was viewed by court partners as an integral source of information about the circumstances of each defendant, which enabled the Coordinator (with the assistance of other court partners) to develop a customised case plan that responds to the needs of individual defendants, instead of attempting to impose a standard course of action. Similarly, the assessments completed by the psychologist, while brief due to limits of confidentiality, had reportedly increased the capacity of the program to direct offenders with a MI to important mental health services. Overall, stakeholders reported a high level of satisfaction with the assessment process and outcomes.

Special Circumstances Court

According to the Practice Direction, once the formal assessment interview has been completed the defendant appears in the Special Circumstances Court for the first time, at which point submissions regarding the eligibility and suitability of the defendant for the SCCDP are considered by the Magistrate. The Magistrate will consider the written report from the assessment interview, along with all other relevant facts and circumstances, and hear any submissions by the various parties before determining whether to accept the defendant into the program. A defendant is not eligible to participate in the program unless the Special Circumstances Court has accepted them into the program.

The defendant's first appearance in the Special Circumstances Court is used as an opportunity to remind the defendant of the purpose of the program, the nature of support offered, expectations regarding their behaviour and participation in the program, and the roles of court partners and service providers present in the court. This 'induction', as one Magistrate described it, is an important first step in building the relationship between the court and the defendant. This is also important as it ensures that the court is transparent to the defendant in terms of what is involved and what they are required to do to remain within the program (issues around these requirements and the lack of clearly defined terms of participation are discussed in the next section of this report).

Referrals to the program

Data on all defendants referred to the SCCDP is contained within CIPES. CIPES records information on the nature and duration of defendant's contact with the program. It also makes it possible to determine the outcome of referrals to the program.

A new SCCDP episode is created for an individual when they are referred to the Special Circumstances Court. DJAG program staff enter a start and end date for each episode in SCCDP and for each phase within that episode (irrespective of whether a person is accepted into the program or not). When a defendant is identified as a potential SCCDP participant in Arrest Court, assessed by the Court Case Coordinator in accordance with the eligibility checklist and their matter adjourned to the Special Circumstances Court pending a formal assessment interview with the Court Case Coordinator, an episode start date is entered. When an offender leaves the program (not accepted into the program, remitted to Arrest Court, absconds subject to warrant, sentenced etc), the episode is completed and an episode end date is recorded.

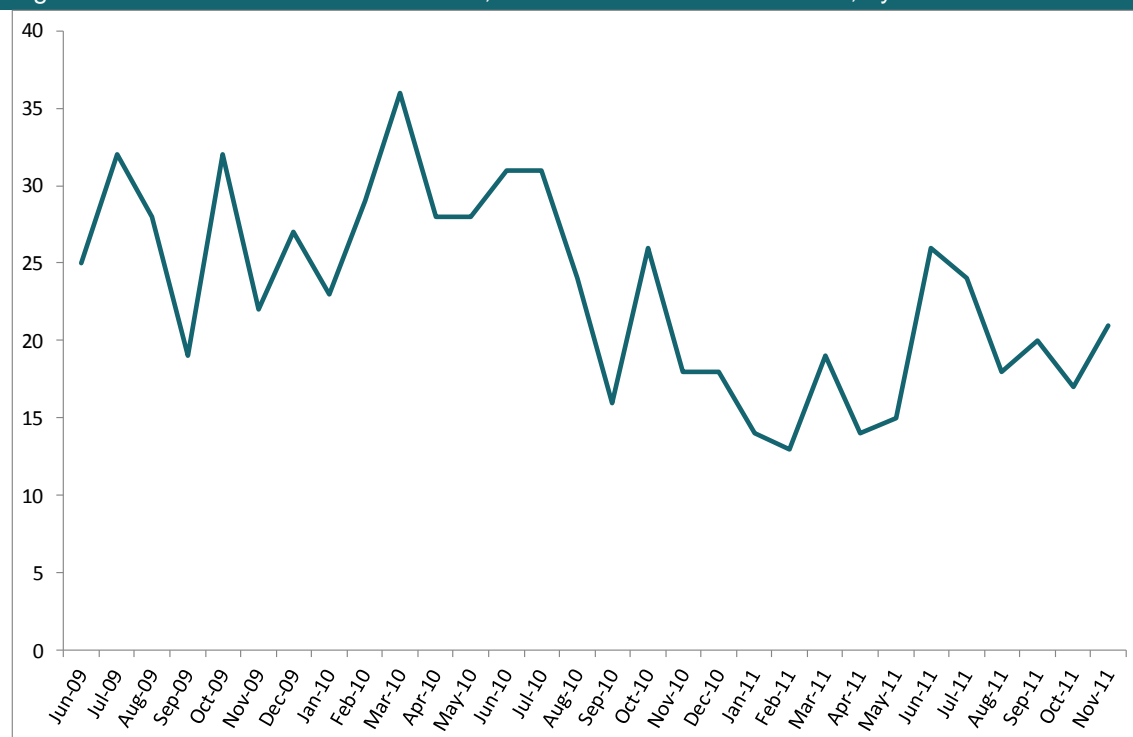
Within these start and end dates there are a number of different episode phases that may be entered (Presentence, Remitted to Arrest Court, Transferred to Court 26 (MH), Bailed into program, Warrant issued, Final sentence, Court supervised recognisance, Recognisance completed). This phase structure was instituted following the submission of the AIC's interim report from the evaluation and the review of a preliminary extract. However, resource constraints have prevented this phase structure being applied in full to those episodes that were already recorded within the CIPES database. Therefore while many episodes followed the new phase structure, others were left unchanged. Nevertheless, there was sufficient information to determine who had been accepted into the program and who had been assessed as ineligible and was therefore not accepted.

When a new episode is created, the offender immediately enters the pre-sentence phase (the start date for which coincides with the episode start date). Upon first appearing in the Special Circumstances Court, defendants that are assessed as being ineligible or unsuitable for the program (based on the formal assessment interview or submissions from relevant court partners) have their episode completed on the database by noting the phase 'Remitted to Arrest Court' or 'Transferred to Court 26 (MH)'. The end date for this episode will coincide with this court appearance date.

The presence of either of these two phases (and no other phase besides a presentence phase) was used to identify those defendants not accepted into the program. Where the person was recorded as having been 'Remitted to Arrest Court' but had been with the program for longer than 60 days (two months), they were assumed to have been accepted into the program (as was the process prior to the introduction of the new phase structure). This resulted in the two groups of defendants; those referred to and accepted into the program and those who were referred but were assessed as ineligible and not accepted into the program. Additional counting rules used as part of this evaluation are described in the next section of this report.

Between June 2009 (when the SCCDP commenced) and the end of December 2011, there were 679 referrals to the program involving 546 individuals. As shown in Figure 3, the number of referrals to the program per month has varied over this period but, after a period of decline in late 2010 and early 2011, appears to have increased in more recent months (despite reducing the number of court days from three to two per week). While it is not possible to identify from the CIPES data how many participants were in the program on any one day, stakeholders reported that the program has operated below the cap of 120 participants set for program. Stakeholders therefore conceded that it would be possible (particularly prior to the reduction in the number of court days and uncertainty around funding) to increase the number of participants involved in the program. For this reason they were largely supportive of attempts to increase awareness of and support for the program among referral sources.

Figure 3: Number of referrals to SCCDP, June 2009 to November 2011, by month



Excludes December 2011 due to delay in data entry for new referrals. Figures for the most recent months may underestimate the total number of referrals due to delays in data entry.

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Further analysis of data on referrals to the program produced the following results:

- Of the 546 individuals who were referred to the program, 79 percent (n=430) were referred on one occasion during the evaluation period, 17 percent (n=91) were referred twice, three percent (n=17) were referred three times and two percent (n=8) were referred four or more times (the maximum being five referrals).
- Of the 679 referrals made to the program during the evaluation period, the defendant was assessed as suitable and admitted to the program in 79 percent (n=554) of cases. In the remaining 21 percent (n=143) the defendant was assessed as unsuitable, did not consent to participating in the program or did not attend Special Circumstances Court and therefore were not admitted to the program.
- A total of 453 defendants (83 percent of all defendants referred) were admitted into the program for at least one episode during the evaluation period. The other 17 percent of defendants (n=93) were referred but were not admitted into the program.
- Of the 453 defendants referred and admitted into the program, 82 percent (n=372) were admitted into the program for one episode during the evaluation period. The rest were admitted for multiple episodes: 14 percent (n=65) were admitted into the program for two

episodes, two percent (n=13) for three episodes and one percent (n=3) for four or five episodes.

- Of all those defendants admitted into the program, 439 (97%) were admitted the first time they were referred to SCCDP (during the evaluation period only).
- Of the 546 defendants referred to the program during the evaluation period, 22 percent (n=120) had been referred to the SCCDP prior to the commencement of the evaluation period.

Referring charges and criminal history of offenders referred to the SCCDP

Information is recorded in CIPES for all offenders referred to the SCCDP at the commencement of their episode, irrespective of whether they are accepted into the program or not. The sex, age and referring charges for offenders referred to the SCCDP are presented in Table 8. Of the 539 unique individuals referred to the SCCDP on at least one occasion during the evaluation period and for whom this information was available, around three quarters (73%) were male. There was no difference between those offenders who were accepted into the program and those who were assessed as ineligible.

Around one in ten (11%) offenders accepted into the program were under the age of 21, 50 percent were aged from 21 to 35 years and the remaining 39 percent were aged 36 years or older. The most notable difference between the demographic profiles of offenders accepted into the program and those who were not was that the proportion of offenders aged 36 years and older was higher among those offenders who were assessed as being ineligible for the program (49%).

The counting rules for identifying those charges referred to the SCCDP were consistent with those used in the evaluation of the Queensland Murri Court (Morgan & Louis 2010). When an offender is referred to SCCDP, DJAG program staff enter the case file number corresponding to the charges that have been referred to SCCDP into CIPES. There may be multiple case file numbers and each case file number can correspond to one or more charges. Not all of these charges may be heard during the offender's first appearance in Special Circumstances Court. If there are other charges pending or new charges entered into the system, these may be appended to the existing case file or alternatively a new case file created for that person. Individual charges corresponding to the same case file number may not be dealt with all at the same time. Charges that appear on those case files may have already been finalised prior to the offender's first appearance in Special Circumstances Court. Therefore, for the purposes of this evaluation, referring charges:

- include all charges relating to the case file number entered into the database upon an offender's referral to SCCDP and all subsequent case file numbers entered into CIPES that appear between the start and end date for that person's episode in SCCDP; and
- exclude those charges that were finalised prior to appearing in Special Circumstances Court.

For the purposes of analysis, this report focuses on the first episode for each offender (the reference court episode). This applies to offenders accepted into the SCCDP, offenders who were assessed as ineligible and for those offenders selected within the comparison group. Note that offenders who were not accepted to the program on their reference court episode could be accepted into the program following a subsequent referral.

Court appearance data was available for 539 of the 546 offenders referred to the SCCDP. Court appearance data for seven offenders was missing from the database, most likely due to the case file number having been incorrectly entered. Charges were classified according to the

Australian Bureau of Statistics (ABS) ASOC. This is a hierarchical classification framework for criminal offences with eight major categories. The principal offence refers to the MSO according to the NOI, a seriousness ranking contained within ASOC. In Table 8, the principal offence refers to the offence category relating to the highest ranking (ie MSO) for each offender's reference court episode.

Table 8: Referring charges for offenders referred to the SCCDP				
	Accepted into program		Not accepted into program	
	n	%	n	%
Sex				
Male	318	73	77	73
Female	115	27	29	27
Age				
17-20	46	11	8	8
21-25	62	14	16	15
26-30	79	18	15	14
31-35	79	18	15	14
36 and over	167	39	52	49
MSO				
Violent offence	106	24	27	25
Property offence	158	36	38	36
Drug offence	59	14	7	7
Drink driving offence	6	1	1	1
Traffic offence	4	1	1	1
Disorder offence	37	9	12	11
Breach offence	12	3	9	8
Other	51	12	11	10
All offence categories				
Violent offence	110	25	27	25
Property offence	232	54	55	52
Drug offence	178	41	37	35
Drink driving offence	13	3	3	3
Traffic offence	41	9	11	10
Disorder offence	190	44	45	42
Breach offence	84	19	39	37
Other	174	40	41	39
Number of charges				
1-5	300	69	70	66
6-10	69	16	13	12
11-20	37	9	15	14
More than 20	27	6	7	7
Average number of charges	6.1 (1/58)	-	7.8 (1/111)	-
Median number of charges	3.0	-	3.0	-
Total	433	-	106	-

These figures relate to each offender's first episode (reference court episode) in SCCDP during the evaluation period. 13 offenders who were assessed as ineligible in their first episode were subsequently accepted into the program. Excludes those offenders for which court appearance data was unavailable. Percentages may not add to 100 due to rounding

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The charges referred to the SCCDP for offenders accepted into the program and those who were assessed as ineligible are described in Table 8:

- Around one-third (36%) of offenders accepted into the SCCDP were referred to Special Circumstances Court with a property offence as their MSO, followed by violent offences (24%) and drug offences (14%).
- Fifty-four percent of offenders accepted into the program were charged with at least one property offence, 44 percent were charged with a disorder offence and 41 percent were charged with a drug offence.
- Offenders not accepted into the program were more likely to be charged with a breach offence. Thirty-seven percent of offenders not accepted into the program were charged with a breach offence, compared to 19 percent of program participants.
- Around two-thirds (69% of offenders accepted into the program, 66% of offenders not accepted into the program) were charged with five offences or fewer. Fifteen percent of program participants and 21 percent of ineligible offenders were charged with more than ten offences.
- Overall, the average number of charges was higher among those offenders not accepted into the program (7.8 charges), compared with 6.1 charges on average among program participants, although there was no difference in the median number of charges between the two groups.

Information on prior criminal history for each person referred to Special Circumstances Court is also contained within the SCCDP database. Prior criminal histories are regularly extracted from the QWIC database using a process that matched the name and date of birth of those offenders recorded in CIPES with the equivalent information contained within QWIC (for those offenders who had at least 1 prior finalised charge).

Once a charge has been finalised, the details relating to that offence are recorded as part of an offender's criminal history. If none of the current charges had been finalised, there was no way of determining whether the lack of a criminal history was due to the offender not having previously offended, or because of some error in the matching process (eg an incorrectly entered name or date of birth). Any analysis of offenders' criminal histories was therefore limited to those offenders who had at least one of the charges referred to the SCCDP as part of their reference court episode finalised since the commencement of their SCCDP episode. As a result, of the 539 offenders with court appearance data for their reference court episode, 93 were excluded on the basis that they did not have a finalised charge and a further 23 were excluded because they were found to be missing criminal history data.

A large proportion of offenders referred to the SCCDP have extensive criminal histories. Among those offenders accepted into the SCCDP during the evaluation period and who had at least one charge finalised:

- 93 percent had a prior criminal history (at least one prior finalised charge);
- 16 percent had between one and five prior finalised charges, 26 percent had between six and 20 and 51 percent had more than 20 prior finalised charges;
- 53 percent of those with prior finalised charges had a violent offence as their most serious prior offence, followed by property offences (21%); and
- 47 percent had previously received some form of imprisonment order for a prior finalised charge.

The most notable difference between those offenders accepted into the program and those who were assessed as ineligible was the proportion of offenders who had a violent offence (68% of ineligible offenders) or drug offence (4% of ineligible offenders compared to 16% of program participants) as their most serious prior offence.

Table 9: Prior criminal history of offenders referred to the SCCDP

	Accepted into program		Not accepted into program	
	n	%	n	%
Most serious prior offence				
Violent offence	169	53	50	68
Property offence	67	21	16	22
Drug offence	50	16	3	4
Drink driving offence	5	2	0	0
Traffic offence	3	1	0	0
Disorder offence	10	3	2	3
Breach offence	5	2	2	3
Other	10	3	1	1
Number of prior finalised charges				
None	24	7	6	8
1-5	55	16	14	18
6-10	31	9	8	10
11-20	59	17	13	16
More than 20	174	51	39	49
Mean number of prior finalised charges (min/max)	30.7 (0/223)		30.3 (0/224)	
Median number of prior finalised charges	21.0		20.0	
Prior imprisonment	162	47	39	49
Total	343	-	80	-

a: Proportion of those offenders with prior proven offences

Includes only those defendants with at least one charge finalised during their reference court episode.

Excludes 23 offenders who were missing criminal history data. Percentages may not add to 100 due to rounding

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Participation in the SCCDP

If the Court accepts the defendant into the Program, the Magistrate will adjourn the matter to a further date in the Special Circumstances Court and grant bail or vary/extend the grant of bail to the defendant in accordance with the Bail Act 1980, and where appropriate impose a condition under section 11(9) of the Bail Act that the defendant participate in the program. While under pre-sentence supervision, the defendant will be required to attend at and regularly report to the Special Circumstances Court and participate in specified treatment or rehabilitation programs.

Once the defendant is engaged in the program under pre-sentence supervision, there is an opportunity to initiate and supervise therapeutic intervention strategies to address issues identified in the assessment and presented to the court and to introduce the offender to opportunities for treatment, rehabilitation and support services within the community. The practice direction specifies that the defendant should not be maintained on bail for longer than 24 weeks from their acceptance into the program.

Pre-sentence supervision also provides the opportunity for the offender to demonstrate that a community-based order is a viable sentencing option. The performance of the offender in participating in the range of therapeutic programs offered to them while under pre-sentence supervision is taken into consideration as a possible mitigation of their sentence.

There are several elements to the pre-sentence supervision phase:

- case plans;
- pre-court meetings; and
- regular appearances to the Special Circumstances Court.

The high level of supervision provided to participants by the court, including regular attendance and reporting on progress, was viewed by many stakeholders as integral to the success of the program in assisting offenders to address the issues contributing to their offending behaviour. In particular, the authority of the court and the structure and accountability it provides to defendants are viewed as important factors in encouraging participants to attend and engage in services to address the factors underlying their offending behaviour, required as part of their participation in the program.

Case plans

An important feature of the program is the high degree of flexibility in terms of the nature of support and assistance provided to participants, and the ability to develop individualised case plans based on the specific circumstances and needs of each defendant.

The HPCDP evaluation found that there were no formal diversion or treatment plans for defendant's involved in the program (Creative Sparks 2007). In SCCDP, templates have been developed that enable the Court Case Coordinator to work with the defendant, court psychologist and service providers to determine appropriate goals and strategies to address issues that have been identified through the formal assessment interview. There was still some

question as to the extent to which there was a clear case plan in place against which the progress of SCCDP participants could be routinely monitored. Court Case Coordinators conceded that the process of case planning and then monitoring progress against these plans could be improved. While an assessment questionnaire is completed and entered into CIPES for all new participants, CIPES is not regularly accessed by program staff and is not used for regular case planning purposes. At present, the case plan is relatively unstructured and performance is not closely monitored against the goals set for each participant (although this is often because the process is flexible). One Coordinator suggested that a more sophisticated system could replace the case planning notes that are currently maintained for each participant, drawing upon the types of resources used in the community services sector (while recognising that the role of Coordinators is case planning, not case management).

Case plans are developed through extensive consultation between the Court Case Coordinator and various court partners, including through individual meetings, pre-court meetings and hearings within the Special Circumstances Court. The case plan may be developed in consultation with the defendant and the service providers involved in the program through meetings that take place following the defendant's first appearance in Special Circumstances Court. Where appropriate, the Coordinator may refer the defendant for a brief assessment with relevant service providers. Alternatively, this may occur when the defendant reappears in the Special Circumstances Court and the case plan is endorsed. In the event that there is an immediate need, such as crisis accommodation, the Coordinator will initiate contact with service providers immediately upon the defendant being accepted into the program. Referrals to these providers can be made prior to the matter first appearing in Special Circumstances Court.

The case plan is submitted to the prosecution, defence and Magistrate, and following submissions from the various parties and discussions with the defendant a final decision is made by the Magistrate as to the nature of support to be provided to the defendant, including referrals to relevant service providers. There was some variation in terms of the level of input from the Magistrates into these case plans; one Magistrate reported that they were more likely to endorse the case plan developed by the Court Case Coordinator, whereas the other Magistrate used this court hearing to review the case plan with court partners (described as a case planning hearing) and, where necessary, recommend the case plan be modified based on feedback from these partners.

The case plan is reviewed as part of the pre-court meetings and Special Circumstances Court hearings. There may also be informal contact between the defendant and the Court Case Coordinator outside of these processes. Over the course of the defendant's participation in the program, additional referrals to different service providers can be made as new issues arise, or in place of previous referrals (which can occur for a range of reasons, such as due to issues to do with the availability of placements, distance and transport requirements, defendant not suited to the program etc).

Pre-court meetings

Pre-court meetings are scheduled for each Tuesday, and provide an opportunity for the defendant's legal representative (LAQ), Court Case Coordinator, QPS prosecutor, service providers, QCS probation and parole and other stakeholders (where appropriate) to come together to discuss the progress of participants appearing in Special Circumstances Court that week and assess whether they are ready for sentencing. Stakeholders regard these meetings as an important opportunity to share information relating to each matter before the court in an informal setting.

Another issue raised by service providers was whether it was appropriate for these discussions to take place without the defendant being involved. While acknowledging that SCCDP

participants had consented to the sharing of information between court partners as part of their involvement in the program, some service provider staff indicated that they felt uncomfortable discussing clients in their absence. Nevertheless, all court partners reported that the pre-court meetings were an integral part of the model.

Reporting on participant's progress to the Special Circumstances Court

Participation in the program requires that the defendant regularly appears in the Special Circumstances Court to report on their progress against their case plan. The Magistrate will attempt to actively engage with the defendant and discuss with them their perceptions of how they are going and identify issues that may be impacting upon their progress. However, they will also liaise with the defendant's legal representative, Court Case Coordinator, service providers and prosecution (particularly where there are new offences) during these hearings to discuss the progress of the defendant.

The main approach to reporting on the defendant's progress reported by stakeholders involved the Court Case Coordinators liaising with service providers, either one on one or as part of the Tuesday pre-court meetings. This information was then reported back to the court during hearings. In some instances, the Magistrate may ask the service provider during court hearings to comment on the defendant's progress.

Some court partners were concerned about the availability and reliability of information on defendants' participation in the program. Service providers reported that the expectation that they would inform the Special Circumstances Court of the progress of participants with respect to their attendance and/or participation in programs that they had been referred to was a source of some tension, suggesting that:

- it had the potential to undermine the relationship between the client and the service provider, which was integral to the effectiveness of the intervention;
- there were issues with respect to the confidentiality of information and the need for the defendant to provide written consent to the information being provided to the court; and
- their role is one of advocacy, where they would speak on the behalf of their client about the support and services that are being provided or provide letters to the court in support of the defendant.

Other court partners suggested that the lack of reliable information on SCCDP participants attendance and engagement in services, required as part of their participation in the program, limited the ability of the Court to effectively supervise and respond to positive or negative behaviour: 'What kind of value is a court process which connects people with external service providers and then simply ejects them? Don't we have some kind of responsibility to determine whether they have engaged in the referrals?' (court partner personal communication). These court partners argued for protocols around the sharing of information between service providers and the Court, to help overcome the concerns raised by service providers.

Participation in the program, bail conditions and compliance

One of the more contentious issues raised during the interviews was around bail conditions and the processes that were or should be in place to respond to breaches. When the court first accepts the defendant into the program, the Magistrate will adjourn the matter to a further date in the Special Circumstances Court and grant bail or vary/extend the grant of bail to the defendant in accordance with the Bail Act 1980. Where appropriate the Magistrate may impose

a condition under section 11(9) of the Bail Act that the defendant participates in the program, either in addition to or in place of other bail conditions. Section 29(2c) of the Bail Act 1980 specifies that, where a condition is imposed under section 11(9) that the defendant participate in the SCCDP, including by way of the defendant attending Special Circumstances Court and participating in a specified treatment or rehabilitation program, the failure to abide by this condition does not constitute an offence. The normal rules apply for other bail conditions.

Any breach of a condition of bail, including breach of a condition imposed under section 11(9) of the Bail Act or breach of any other order made by the Special Circumstances Court, may result in the defendant's participation in the program being terminated. If this occurs, the defendant may plead guilty and be sentenced in the Special Circumstances Court, or be referred to another court to be sentenced in the normal way.

Several issues were raised in relation to the defendant's participation in the program under bail conditions:

- there is no clear guidance as to what constitutes 'participation in the program' under section 11(9) of the Bail Act, and therefore no guidance as to what constitutes a breach;
- some defendants may be subject to bail conditions other than the condition under section 11(9) whereas others will not, which makes a consistent breach policy difficult to enforce;
- the lack of bail conditions other than those under section 11(9) was perceived by some court partners as limiting the capacity of the court to respond to negative behaviour;
- there is a perceived unwillingness among service providers to report breaches (ie non-attendance or engagement in programs) to the court;
- there is no consistent response to those defendants who reoffend while they are participating in the program; and
- there is a perceived reluctance for the court to subsequently exclude defendants from the program once they have been accepted into the program, despite not regularly attending court or following through with scheduled appointments with service providers.

It is therefore important that issues relating to the supervision of SCCDP participants while under pre-sentence supervision be resolved to the satisfaction of all court partners.

At the workshop in May 2011, stakeholders were asked to define 'participation in the program'. There was general agreement that participation in the SCCDP is a performance-based assessment. This means that in order to continue in the program, participants are required to:

- turn up to their scheduled court appearances;
- attend and participate in referred services; and
- not reoffend while under supervision.

There was less agreement around the level of discretion that should be offered to offenders who fail to meet one or more of these criteria (and on how many occasions). While there was some recognition that it was necessary to allow some flexibility and discretion because of the complex issues faced by offenders, there was also an acknowledgement that it was necessary to be clearer around the expectations of participants and the threshold for terminating participation in the program. As one court partner noted: 'If you have three strikes against them, then they're gone. Doesn't matter how needy they are, we can't do anything with them' (personal communication).

There were several factors that were identified as increasing the likelihood of a defendant complying with the requirements of their participation in the program. These were:

- a high level of support, and an acknowledgement by the defendant that they are supported;
- a structured approach to addressing factors contributing to the defendant's homelessness and offending;

- incentives to make changes and to encourage behaviour change; and
- appropriate sanctions to increase accountability and encourage compliance.

The majority of court partners and service providers reported that the incentives offered by the Special Circumstances Court, including positive reinforcement from the Court (especially the Magistrate), the high level of support from various parties and eventual mitigation of penalty, were sufficient to motivate participants to engage in the program and comply with orders and referrals made by the Court. They were opposed to additional sanctions. While acknowledging that they were sometimes required, many court partners argued against the use of additional bail conditions to manage participation in the program, given that SCCDP participants had difficulty complying with these conditions due to issues relating to MI, ID and homelessness.

QPS recommended that a breach policy similar to the Queensland Indigenous Alcohol Diversion Program (QIADP) be instituted so that normal bail conditions, if breached, could be enforced through non-punitive responses. Other court partners, who argued that the condition under section 11(9) of the Bail Act was sufficient to manage offenders under pre-sentence supervision and that the program needed to retain some flexibility in the way it manages behaviour, did not support this approach. An alternative may be to include definitions of participation and non-participation in the SCCDP within the *Bail (Prescribed Programs) Regulation 2006*, which may then be enforced by the Court. There is a need to more clearly define the terms of participation in the SCCDP and develop a clear policy around bail and breaches of bail conditions, and these should be reflected in relevant program guidelines.

Court proceedings

Court proceedings within the Special Circumstances Court are more informal than mainstream Magistrates Court, with a greater level of interaction between the various court partners, defendant and service providers. This informality allows for more open dialogue between the parties in attendance including the defendant who is encouraged to speak directly to the Magistrate. This helps to identify important information about the defendant, their current circumstances and their progress while under supervision. Court partners and service providers generally agreed that the informal proceedings in Special Circumstances Court were more appropriate for offenders with a MI or ID. Slowing the process down allows concepts such as bail conditions and participation in appropriate services to be explained to offenders in a way increases the likelihood they will understand what they have to do, and factors impacting on compliance to be identified.

Each court appearance can take substantially longer than a normal Magistrates Court hearing, as participants' progress in the program is discussed and/or an appropriate course of action considered. Due to uncertainty around funding, the Special Circumstances Court recently reduced the number of sitting days from three to two days per week (Thursday and Friday). This has reportedly reduced the time that is being allocated to each defendant appearing before the Court.

The defendant's first appearance in the Special Circumstances Court is used as an opportunity to remind the defendant of the purpose of the program, the nature of support offered, expectations regarding their behaviour and participation in the program, and the roles of court partners and service providers present in the court. This 'induction', as one Magistrate described it, is considered by Magistrates and Court Coordinators to be an important first step in building the relationship between the court and the defendant. This is also important as it ensures that the court is transparent to the defendant in terms of what is involved in the program.

Interview participants did raise a number of concerns about Special Circumstances Court hearings. There was some concern among service providers that when they were present in the court room they may be asked by the Magistrate to comment on the suitability and availability of services with which they were unfamiliar. Related to this issue was the Magistrate making decisions to refer the defendant to programs that have a negative reputation or which may not be consistent with what had been agreed at the pre-court meeting.

Similarly, there was a suggestion that the information provided by service providers or the Court Case Coordinators, as it related to participants' attendance and engagement with interventions, was not subject to critique by police prosecutors (or the defendant's legal representative), because of the impromptu and ad hoc nature of the information provided.

A number of stakeholders (particularly service providers) raised the issue of confidentiality and, in particular, their reluctance to discuss issues of a private nature about defendants in an open court. Other stakeholders felt uncomfortable engaging with the defendant in an open court to discuss issues that were personal or potentially distressing. While the Magistrate has the option of closing the court, the Special Circumstances Court is an open court and, as such, there are often various people not directly involved in the matter being heard present in the courtroom. It was suggested that the Magistrate should be more willing to close the court when sensitive issues were being discussed.

Related to this point is the potential for negative behaviour to be modelled to other defendants present in the courtroom. Following on from the concerns that have already been raised about the response to non-compliance, there was a concern that other participants may perceive the lack of sanctions being imposed as there being limited consequences associated with not complying with their own case plan or bail conditions.

Overall, and despite recognising the need for the Special Circumstances Court to be modified to suit the population coming before the court, there was still strong support for the court to retain its adversarial format, at least to some degree, and to ensure that it continues to operate as a 'legal authority'. The perceived power, structure, discipline and accountability offered by the court is regarded as an important factor in motivating behavioural change.

Case management

An important feature of the SCCDP is the ongoing supervision, support and assistance that is provided to offenders through case management. The issue of case management is relevant to both pre and post-sentence supervision (discussed in the next section).

There is a range of views regarding who has the ultimate responsibility (Court Case Coordinator, QCS Probation and Parole, the Magistrate, service providers or the relevant Special Circumstances Court team) for case managing participants involved in the program (and where that responsibility ends), which may be impacting upon the level of individual support provided to defendants. Some of the views shared by stakeholders included:

- the Court Case Coordinator is responsible for the case management of participants while they were in contact with the program;
- the Court Case Coordinator is responsible for the case management of participants while they were under pre-sentence supervision, but once sentenced the Coordinator was no longer responsible for case management;
- depending on the sentence imposed by the Magistrate, QCS Probation and Parole Officers may be responsible for case managing offenders post-sentence (eg where they receive a probation order);

- the judicial officer is responsible for case management of offenders while they were under their supervision;
- the court and court partners do not perform a case management role – instead, it is the responsibility of individual service providers to case manage offenders with whom they have contact as part of their participation in a rehabilitation or support program; and
- case management is performed by the relevant Special Circumstances Court team, comprising representation from QPS, LAQ, QCS, service providers along with the Court Case Coordinator and Magistrate.

The report on the evaluation of the HPCDP was clear in recommending that the role of the Court Case Coordinators should not extend to case management (Guthrie et al. 2007). The different views held by stakeholders involved in the SCCDP around case management appeared to be due in part to different views about what is meant by case management. At the workshop in May 2011, court partners and service providers did not feel that this was having a significant impact on participants while they were being supervised in the SCCDP. In practice, the role of supervision is shared by the court and the various service providers that support the program. It was conceded that it is important that there is a clear separation between the court and community services:

'The credibility of the court [will be] negatively affected if [there is a perception] Magistrates are providing too much support for participants...Magistrates should be compassionate and understanding but their role is to enforce the law' (service provider personal communication)

In short, this means that it is important that the Magistrate along with the prosecution and defence have responsibility for supervising the participant's compliance with court orders and performance in the program, but that decisions about the type of services to be provided should be made by the Court Coordinators and services providers (and endorsed by the Court) based on their assessments of service needs and availability.

There is a need to better define the nature and extent of case management provided in the SCCDP, and to clarify who is responsible for the case management of SCCDP participants. This could be achieved through clarifying the role of stakeholders involved in the program and terms of participation (which has already been discussed). This has important implications for ensuring the effective transition of offenders from court supervision to supervision in the community and preventing the potential duplication of case planning and support.

Exit strategies and transition plans

There was widespread agreement that there was a need to consider exit strategies and transition plans for defendants once they complete the program. There was a common concern expressed by both court partners and service providers that many defendants were spending too long in the program and become overly dependent upon the continued support of court partners, particularly Court Case Coordinators: 'As soon as someone is linked to another service, has shown some insight, let them go. The court is not a babysitter...' (court partner personal communication).

Developing a transition plan that would involve transferral of responsibility for supporting the defendant after their participation in the SCCDP has ended to a community-based service provider with whom they already have ongoing contact, would help to address this issue. This should be integrated as part of the management of offenders within the program, and it should be a requirement that all offenders have a clear plan in place prior to the completion of their episode in the SCCDP.

Length of time spent in the program

Stakeholders interviewed as part of the evaluation reported that a large number of defendants had remained in the program under pre-sentence supervision for considerably longer than the 24 weeks (6 months) specified in the Practice Direction. Court partners and service providers conceded that this was a consequence of the lack of clearly defined parameters for the program, especially in terms of what it meant to complete the program (like graduates in the Drug Court). Some stakeholders questioned whether this was necessary for what may otherwise be minor offences. Others argued that there was a risk that defendants become dependent upon the support and structure offered by the SCCDP or that it was an overuse of limited court resources.

It was possible to measure the length of time each participant spent in the program using court appearance data. Using the data contained within CIPES, it was possible to determine the length of time each participant remained in the SCCDP and the total number of court appearance events in Special Circumstances Court, as well as the overall time to finalisation for all offenders referred to the program (ie from the very first time they appeared in court to the end of their contact with the program and/or court). This was then also compared with the number of court appearance events and time to finalisation for the matched comparison group.

The CIPES database allows for program staff to enter personal details and basic demographic data for each offender referred to the SCCDP but, more importantly, to create new episodes that commence on the date of referral to the SCCDP. The case file numbers for referring charges are also entered, which enables court appearance data to be migrated across from QWIC.

The phase structure within CIPES, particularly the episode start and end dates, is important in that it provides the parameters to determine which of the court appearance events recorded in QWIC took place within the Special Circumstances Court, as well as providing information on the nature and duration of defendant's contact with the program. Issues relating to the inconsistent use of episode phases (which have already been described) meant that it was not possible to rely on the phase structure to monitor each defendant's progress through the different stages of the program (besides determining whether they were accepted or not accepted).

Offenders appearing in the Special Circumstances Court appear in a Brisbane Magistrates Court prior to being referred to the SCCDP. They may appear several times in a Magistrates Court for charges that are eventually referred to the SCCDP. Not all defendants referred to the SCCDP will be finalised and sentenced in the Special Circumstances Court, and court appearances may take place before, during or after they are involved in the program. Offenders who fail to abide by the conditions required for participation in the SCCDP, such as failing to engage with services recommended by the Court, failing to appear for scheduled court dates or not showing any willingness to address their offending behaviour, may be remitted back to a mainstream Magistrates Court for sentencing.

Given the limitations associated with the phase structure, it was necessary to identify an alternative method for determining where and when court appearance events took place and when and where charges were finalised. This was needed to determine which of those offenders accepted into the SCCDP were finalised in the Special Circumstances Court, and which offenders were remitted back to Arrest Court. This, coupled with the ability to identify which offenders were accepted into the program, resulted in three categories of offenders being identified. This included offenders who were:

- accepted into the SCCDP, participated in the program to completion and were finalised in Special Circumstances Court for all charges referred to the program (program completers, and the SCCDP intervention group);
- accepted into the SCCDP, participated in the program for some time but were remitted back to a mainstream Magistrates Court for sentencing (program terminates); and
- assessed as ineligible and not accepted into the program (ineligible for program).

To determine which offenders fell into which group, a similar methodology to that applied in the AIC's evaluation of the Queensland Murri Court was used to distinguish between court appearance events occurring within the Special Circumstances Court and those that took place in other Magistrates Court. When program staff enter the case file numbers for charges referred to the SCCDP, enabling court appearance data to be migrated across from QWIC, event details for the charges linked to these case files are stored in CIPES. Court appearance events are identified from the unique court appearance dates recorded in QWIC for those case files with charges that were referred to the SCCDP. Where the court appearance date falls on or between the episode start and end date for the SCCDP episode, the court appearance event was identified as an appearance in Special Circumstances Court. All other court appearance events were deemed to have taken place in a Magistrate Court. Court appearance events were then categorised into three distinct phases, specifically:

- *court appearance events pre-Special Circumstances Court*—refers to those appearance events that take place in a Magistrate Court prior to the SCCDP episode start date which denotes the date of referral to the Special Circumstances Court;
- *court appearances events in Special Circumstances Court*—includes those court appearances that take place on and after the SCCDP episode start date and prior to and on the episode end date (this is the SCCDP episode);
- *court appearance events post Special Circumstances Court*—includes those court appearances that take place after the SCCDP episode end date and may include charges that are not finalised in Special Circumstances Court, primarily for offenders who are remitted back to arrest court.

It was then necessary to distinguish between those charges that were finalised in Special Circumstances Court and those that were finalised in another Magistrates Court. Where charges were finalised was determined from the orders relating to each charge. Where the order relating to a charge indicated that the charge had been finalised, the court appearance event at which time the order was imposed was identified. Finalised charges were categorised according to whether they were finalised during a court appearance pre-, during, or post-Special Circumstances Court. Whether the reference court episode was fully finalised (ie all charges referred to the SCCDP had resulted in some form of order indicating finalisation), or partly finalised was determined on the basis of whether all charges associated with that episode (referring charges) had been finalised. Seven categories were subsequently identified according to when and where a reference court episode had been finalised:

- all charges finalised and all charges finalised in an Special Circumstances Court;
- all charges finalised, some finalised in an Special Circumstances Court and the remainder in a Magistrates Court (either before or after the SCCDP episode);
- all charges finalised and all charges finalised in a Magistrates Court;
- some charges finalised, of which all were finalised in an Special Circumstances Court;
- some charges finalised, of which some were finalised in an Special Circumstances Court and the remainder in a Magistrates Court (either before or after the SCCDP episode);
- some charges finalised, of which all charges finalised in a Magistrates Court; and
- no charges finalised by the end of the evaluation period.

These were used to determine the status of charges for each offender for their reference court episode:

- Of the 539 first time referrals (reference court episodes for each unique offender) to Special Circumstances Court between June 2009 and December 2011 (with court appearance data), 433 offenders were accepted into the program and 106 offenders were assessed as ineligible.
- Of the 106 offenders assessed as ineligible and not accepted into program, 72 were fully finalised, 16 were partially finalised (some charges finalised) and the remainder did not have any of the referring charges finalised by the end of the evaluation period.
- Of the 433 offenders accepted into the program, 317 had all of their referring charges finalised, 41 had some charges finalised, and 75 did not have any charges finalised by the completion of the evaluation period.
- Of the 317 offenders whose reference court episode had been fully finalised, 250 were fully finalised in the Special Circumstances Court and 67 had some or all charges finalised in a mainstream Magistrates Court.

This evaluation is primarily concerned with those offenders whose charges were fully finalised by the end of the evaluation period. A small number of offenders who were referred to the program for charges that were previously finalised were excluded from the analysis because of the counting rules used for the evaluation. It was then possible to determine how many offenders fell into each of the three categories (specified earlier) of offenders referred to the evaluation:

- 249 offenders were accepted into the SCCDP, participated in the program to completion and were finalised in Special Circumstances Court for all charges referred to the program (program completers, and the pool of offenders from which the intervention group was chosen);
- 55 offenders were accepted into the SCCDP, participated in the program for some time but were remitted back to a mainstream Magistrates Court for sentencing (no charges were finalised until after the SCCDP episode) (program terminates); and
- 72 offenders were assessed as ineligible and not accepted into the program (ineligible for program).

The total number of court appearance events and number of days taken to finalise the reference court episode was then calculated for each offender referred to the SCCDP (Table 10):

- SCCDP participants that completed the program required an average of 10.0 court appearance events and 238.5 days to finalise their reference court episode;
- SCCDP participants that were terminated from the program required an average of 15.6 court appearance events and 319.6 days to finalise their reference court episode; and
- Offenders referred to the program but who were assessed as ineligible required an average of 7.3 court appearance events and 166.4 days to finalise their reference court episode.

This means that, for participants in the SCCDP who completed the program, it took an average of nearly eight months from the first date charges that were eventually referred to the SCCDP appeared in a Magistrates Court until their participation in the SCCDP was completed. Not surprisingly, given the reasons for being terminated from the program included failing to attend scheduled court appearances, offenders who were terminated from the program took more court appearance events and more time than those offenders who completed the program. Offenders who were ineligible for the program took the least amount of time and court appearances, which again is not surprising given that they were referred back to a mainstream Magistrates Court for sentencing.

Table 10: Average number of court appearance events and days to finalisation for offenders whose matter was fully finalised

	Total (n)	Events	Days ^a
Completed program	249	10.0	238.5
Terminated from program	55	15.6	319.6
Ineligible for program	72	7.3	166.4

a: Average number of days from first court appearance until all charges are fully finalised and/or participation in the SCCDP is completed. These figures relate to each offender's first referral (reference court episode) to the SCCDP during the evaluation period. Limited to those offenders whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised). Excludes defendants who were referred to the SCCDP for charges that had previously been finalised (ie resented).

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The figures presented in Table 10 relate to the entire length of time the offender was in contact with the court program and includes the court appearance events and period of time prior to referral to the SCCDP and, for some offenders, the period after their SCCDP episode was completed. Table 11 outlines the average number of court appearance events and the average time to finalise matters for all offenders who participated in the program, disaggregated by episode phase. Results have also been disaggregated by sex, MSO and the status of offenders in the program. These results show that, on average:

- participants in the SCCDP appeared in the Special Circumstances Court 7.8 times and spent 164 days within the program, and 39 percent spent longer than 24 weeks in the SCCDP;
- it took 3.6 court appearance events and 97 days before an offender was referred to the SCCDP;
- participants eventually terminated from the program required twice as many court appearance events (6.2) and longer (134 days) to be referred to the program than those participants who completed the program;
- offenders with a violent offence as their MSO spent longer in the SCCDP (191 days) and required more court appearance events (9.8) than offenders with another offence as their MSO;
- females required more court appearance events (9.6) and spent longer (201 days) in the program than males (7.2 events and 152 days); and
- offenders who were terminated from the program required a further 103 days and 3.4 court appearance events to finalise their matter within a mainstream Magistrates Court.

The number of days in the program includes time spent under both pre-sentence and (if applicable) post-sentence supervision. The SCCDP episode is completed once the defendant has been sentenced by the Court, other than where that sentence includes a condition requiring the person attend at or report to the Court. Where there is such a condition, the total length of the episode includes the time up until the defendant has completed all conditions requiring attendance at or reporting to the Court. While these figures do not differentiate between time spent in the program pre or post-sentence, they suggest that the concern of stakeholders about the length of time spent in the program were justified.

Table 11 also presents the average number of court appearance events and days to finalisation for offenders by the episode start date, comparing those episodes commencing in 2009-10 (prior to the release of the Practice Direction) with those commencing in 2011. While the number of episodes commencing in 2011 and fully finalised is relatively low, this shows that there has been a reduction in the number of court appearances and significant reduction in the time to finalisation for participants accepted into the program (for the first time) since the introduction of the Practice Direction, reflecting a concerted effort to limit the length of time participants remain with the program. Further analysis showed that forty-three percent of participants (n=110) whose episode commenced in 2009-10 spent longer than the prescribed

24 weeks in the program. This was reduced to 14 percent of participants (n=5) whose episode commenced in 2011.

Draft: not for release

Table 11: Court appearance events for SCCDP participants, by episode phase

	Court appearance events pre Special Circumstances Court			Court appearance events in Special Circumstances Court			Court appearance events post Special Circumstances Court			All court appearance events		
	n	Events	Days	n	Events	Days ^a	n	Events	Days	n	Events	Days
Sex												
Male	153	3.3	97.8	218	7.2	151.6	31	3.0	87.7	218.0	10.0	234.4
Female	67	4.4	96.1	76	9.6	200.6	14	4.4	136.2	76.0	14.3	316.6
MSO												
Violence	54	4.3	85.9	67	9.8	190.9	14	4.2	128.6	67	14.1	297.0
Property	81	4.5	126.1	106	7.6	155.7	23	3.0	72.5	106	11.7	267.8
Other	85	2.4	77.1	121	7.0	157.1	8	3.1	145.0	121	8.9	222.1
SCCDP status												
Completed program	184	3.1	90.2	249	7.7	168.5	0	0	0	249	10.0	238.5
Terminated from program	36	6.2	133.5	45	8.8	141.0	45	3.4	102.8	45	17.2	350.6
Episode start date												
Episodes commencing in 2009-10	192	3.8	104.7	257	8.1	171.4	44	3.5	105.0	257	11.5	270.8
Episodes commencing in 2011	28	2.8	46.6	37	6.3	115.0	1	1.0	6.0	37	8.4	150.4
Total	220	3.6	97.3	294	7.8	164.3	45	3.4	102.8	294	11.1	255.6

a: average number of days spent in the program

b: average number of days from first court appearance until all charges are fully finalised and/or participation in the SCCDP is completed

n=number of offenders with court appearance events. These figures relate to each offender's first referral (reference court episode) to the SCCDP during the evaluation period. Limited to those offenders who were accepted into the program and whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised). Excludes offenders whose episode phases were incorrectly specified or who were referred to the SCCDP for charges that had previously been finalised (ie resented).

Some inconsistencies in assigning the episode start date (the same day as referral from Arrest Court, the first date on which the court was made aware of the referral or the first date of their appearance in the Special Circumstances Court), means that some offenders who appeared once in an Arrest Court and were referred that same day were counted as having only appeared in the Special Circumstances Court.

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Table 12 presents the average number of court appearance events and days to finalisation for the intervention and comparison groups. This shows that:

- Participants in the SCCDP had an average of four times as many court appearance events (9.9) than offenders dealt with in a mainstream Magistrates Court (2.5 events); and
- Participants in the SCCDP took an average of 239 days from their first court appearance in Arrest Court to all charges were fully finalised (or their participation in the program post-sentence ended), compared to an average of 51.5 days for offenders sentenced in mainstream Magistrates Courts.

The average number of court appearance events and days to finalisation was consistently higher for males, females and the different MSO types. The high number of court appearance events and length of time taken to finalise matters reflects the level of contact and supervision provided to participants during their contact with the SCCDP.

Table 12: Average number of court appearance events and days to finalisation for offenders in the SCCDP and comparison group

	SCCDP			Comparison group		
	n	Events	Days ^a	n	Events	Days
Sex						
Male	172	9.3	232.2	172	2.4	47.9
Female	46	12.3	261.7	46	2.7	64.8
MSO						
Violent offence	50	12.5	277.6	50	4.1	104.9
Property offence	71	10.1	251.9	71	2.4	48.8
Other offence	97	8.4	208.5	97	1.8	25.9
Total	218	9.9	238.5	218	2.5	51.5

a: Average number of days from first court appearance until all charges are fully finalised and/or participation in the SCCDP is completed
 Note: n=number of offenders with court appearance events. These figures relate to each offender's first episode (reference court episode) in SCCDP during the evaluation period. Limited to those offenders whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised)

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

These results have also been disaggregated by episode phase (Table 13). Of particular note is the finding that it takes, on average, a higher number of court appearance events and nearly twice as many days before a SCCDP participant is referred to the program than it does to finalise all charges in a mainstream Magistrates Court. There may be scope to reduce the time taken to refer offenders to the SCCDP (without comprising on the appropriate steps required to refer offenders). This is especially important given that stakeholders involved in the program suggested that many participants require immediate support and assistance and are in high-risk situations at the time of coming into contact with the court (eg serious MI or drug abuse, unstable and high-risk living arrangements etc). In these situations, it was argued that the sooner eligible participants could access the services available to them through the SCCDP, the better in terms of delivering positive outcomes (both for them and the CJS).

Table 13: Average number of court appearance events and days to finalisation for offenders in the SCCDP and comparison group

	SCCDP									Comparison group		
	Court appearance events pre-Special Circumstances Court			Court appearance events in Special Circumstances Court			All court appearance events					
	n	Events	Days	n	Events	Days ^a	n	Events	Days ^b	n	Events	Days
Sex												
Male	119	3.1	103.4	172	7.2	158.7	172	9.3	232.2	172	2.4	47.9
Female	38	3.5	72.0	46	9.4	195.2	46	12.3	261.7	46	2.7	64.8
Most serious offence												
Violent offence	39	4.2	89.1	50	9.3	194.6	50	12.5	277.6	50	4.1	104.9
Property offence	54	4	129.6	71	7.1	153.3	71	10.1	251.9	71	2.4	48.8
Other offence	64	1.9	71.4	97	7.2	161.4	97	8.4	208.5	97	1.8	25.9
Total	157	3.2	95.8	218	7.6	166.4	218	9.9	238.5	218	2.5	51.5

a: average number of days spent in the program

b: average number of days from first court appearance until all charges are fully finalised and/or participation in the SCCDP is completed

Note: n=number of offenders with court appearance events. These figures relate to each offender's first episode (reference court episode) in SCCDP during the evaluation period. Limited to those offenders whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised)

Some inconsistencies in assigning the episode start date (the same day as referral from Arrest Court, the first date on which the court was made aware of the referral or the first date of their appearance in the Special Circumstances Court), means that some offenders who appeared once in an Arrest Court and were referred that same day were counted as having only appeared in the Special Circumstances Court.

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Sentencing offenders in the SCCDP

The Practice Direction specifies that a defendant may be called upon at any time by the Court to enter a plea and that the Court may then proceed to sentence the defendant in accordance with the *Penalties and Sentences Act 1992*. This can occur when:

- the prosecution or defence make an application and/or the Magistrate decides to revoke the defendant's bail (eg because the defendant has withdrawn their consent to participate in the program or because they are not meeting the conditions of their participation) and the Magistrate removes the defendant's bail condition under section 11(9) which provides for the defendant to participate in the program; or
- the Magistrate determines (based on submissions from court partners) that the defendant has successfully completed the case plan and is ready to proceed to sentence.

There are no specific guidelines in the Practice Direction (or draft PPM) for what constitutes program completion. While the performance of the defendant in attending regular court hearings and participating in the range of therapeutic programs offered to them while under pre-sentence supervision is taken into consideration during sentencing, it was not immediately clear from the Practice Direction how this principle should or would be applied in practice. One suggestion was that the role of the SCCDP was to connect the defendant with appropriate service providers; once these connections have been made, and participation in these services confirmed, then the court should move to sentencing the defendant. Service providers with extensive experience working with offenders with a MI, ID and/or who are homeless argued that, given the complex needs of participants in the program, it is unrealistic to expect that clients will be able to access services immediately and that this will lead to immediate changes in behaviour. However, court partners and service providers recognised that there were limitations in terms of the length of time that participants could be supported in the program. Program completion should therefore be linked to the goals set out in each defendant's individual case plan, which should be realistic and achievable for that defendant within the 24 week period that they are in contact with the SCCDP.

Related to this issue, QPS expressed some concern that there had been inconsistencies in the degree to which participation in the program (or non-participation) had impacted upon sentencing outcomes (ie a reduced penalty without having demonstrated sufficient motivation to change behaviour and address factors underpinning their offending). This view was not put forward by other stakeholders. Nevertheless, the mitigation of penalty was viewed as an important incentive to encourage defendants to attend court and participate in therapeutic programs; therefore it should reflect the level of participation and compliance with orders made by the court (such as attending scheduled hearings and appointments with service providers). Once again, this highlights the need to more clearly define the terms of participation in the program, as well as an explicit policy recognising that participation (or not) in the program would be a factor in sentencing.

Sentencing options

There are a number of options available to the Magistrate in sentencing the defendant, including probation, community service orders, good behaviour bonds, fines and, in some cases, imprisonment. The Magistrate may impose as part of the sentence a condition requiring the defendant to attend at or report to the Special Circumstances Court and/or participate in a specified treatment or rehabilitation program. Magistrates and other court partners said that an important consideration in sentencing the defendant was ensuring that there was some level of ongoing supervision and support (provided by the court, QCS or by community-based service providers), and that sentences were appropriate for the offender in terms of their capacity to comply with any orders imposed.

Different views were expressed about the various sentencing options applied in the Special Circumstances Court. There was a reluctance to impose fines, usually a common option for many of the offences brought before the Special Circumstances Court, given the inability of SCCDP participants to pay them and the significant proportion of participants with a substantial existing debt due to previous fines. Instead, the Magistrates are more likely to impose a good behaviour bond. In addition to requiring an offender to be of good behaviour for a specified period, good behaviour bonds provide the court with the opportunity to impose an additional condition that requires the defendant to regularly report to the court for the duration of the bond. This enables the court to continue to supervise the defendant post-sentence and provide additional support as required. They also allow the offender to enter into a recognisance, which means they are only required to pay the set amount of money if they do not comply with the order (the offender would also be resentenced for the original charges, although no further penalty applies). They do not allow for conditions requiring the participation in specified treatment, rehabilitation and support programs.

Reporting requirements and requirements to participate in specified treatment, rehabilitation and support programs can be imposed as part of a probation order, however the offender is required to report to QCS (who may in turn report to the Special Circumstances Court on that person's progress on the order) and they represent a more resource intensive option. Breaching a probation order can also carry a more severe penalty (because the offender is sentenced for a breach and resentenced for the original offence/s) and, as such, they may be less suitable for defendants who are perceived to be at risk of non-compliance. However, the improved relationship between the Special Circumstances Court and QCS officer assigned to the program was reportedly leading to probation orders becoming a more common sentence option. Another option is community service orders, which are also supervised by QCS. Special Circumstances Court Magistrates argued that there is a need for more options in terms of the range of community service projects that could be attached to community service orders, including projects that were more suitable for offenders with an MI, ID and/or who are homeless and with organisations that cater specifically for these types of offenders.

There was a range of views about requiring defendants to continue to report to the court. Some stakeholders suggested that it was excessive, given the relatively minor offences that are frequently dealt with by the Special Circumstance Court. Other stakeholders suggested that there was a responsibility to provide continued supervision to the offender beyond the sentence. However, a number of those interviewed suggested that continued supervision of offenders was the responsibility of the human services sector rather than the legal process, and that an adequate support system needed to be established with these service providers during the court process to enable effective transition and support post-sentence.

Good behaviour bonds require the defendant to report to the court registry or the Magistrate at regular intervals for a specified period. The evaluation of the HPCDP reported that post-sentence supervision was an important factor in the rehabilitation of offenders (Guthrie et al.

2007). However, while they provide an opportunity for the Court Case Coordinator to have contact with the defendant post-sentence, offenders do not always appear before the Magistrate. Some stakeholders suggested that there was little value in conditions requiring that SCCDP participants continue to report to the court registry, and that it was not the responsibility of Court Case Coordinators to monitor defendants post-sentence. However, court partners reported that the emphasis on post-sentence supervision had declined over the evaluation period, with a greater emphasis now on pre-sentence supervision and court supervision of participants while on bail.

Sentence outcomes

Using data extracted from the QWIC database, it is possible to determine the sentence orders imposed on offenders sentenced in Special Circumstances Court for charges finalised within the reference court episode and compare this with the orders given to a matched group of offenders in the comparison group. Sentence types were classified according to the ABS (2009) Sentence Type Classification used in the Criminal Courts collection. The principal sentence refers to the main sentence type for an offender based upon the hierarchy used in this classification.

Table 14 presents the findings of an analysis of sentencing outcomes for program participants, participants who were terminated from the program and offenders who were referred to the SCCDP but were assessed as ineligible. Those offenders terminated from the program or assessed as ineligible were sentenced in a mainstream Magistrates Court. These results show that the most common principal sentence type among those offenders who completed the program and were sentenced in the Special Circumstances Court was other non-custodial orders (65%) (includes good behaviour bonds), followed by monetary orders (15%) and community supervision or work orders (12%) (includes probation and community service orders). Seven percent of offenders received a custodial order as their principal sentence, including two offenders who received a custodial sentence and another four who received a custodial sentence with an immediate parole release date. Ninety-three percent of offenders received a non-custodial order as their principal sentence.

There were a number of differences between sentences given to offenders who completed the program, those who were terminated from the program and those who were ineligible for the program:

- offenders who completed the program (1%) were far less likely than those terminated from the program (15%) and those ineligible for the program (10%) to receive a term of actual imprisonment;
- nearly half of program terminators (44%) and one quarter of offenders ineligible for the program (25%) received some form of custodial order as their principal sentence, which was much higher than program completers (7%);
- the proportion of offenders sentenced in the Special Circumstances Court that received a non-custodial order (93%) as their principal sentence was substantially higher than for program terminators (56%) and offenders not accepted into the program (75%); and
- twice as many offenders not accepted into the program (32%) received a monetary order as their principal offence when compared to program completers (15%) and program terminators (16%).

Similar patterns were observed in all sentence orders for these three groups (Table 15). The differences between program completers and program terminators are not surprising, given that offenders who were remitted to Arrest Court were remitted because they were not complying with the conditions of their participation in the program (such as attending court hearings) and were therefore unlikely to receive a mitigation in penalty. Similarly, offenders who were ineligible

for the program were sentenced in a mainstream Magistrates Court, had more referring charges on average, were more likely to be charged with a breach offence (including breaches of previous sentence orders) and were more likely to have a violence offence as their most serious prior offence. These factors may have contributed to a more serious penalty.

Table 14: Principal sentence for offenders referred to the SCCDP, by program status

	Completed program		Terminated from program		Ineligible for program	
	n	%	n	%	n	%
Custody in correctional institution	2	1	8	15	7	10
Immediate parole release date	4	2	2	4	4	6
Custody in the community	0	0	1	2	0	0
Fully suspended sentence	11	4	13	24	7	10
Total custodial orders	17	7	24	44	18	25
Community supervision or work orders	31	12	9	16	10	14
Monetary orders	38	15	9	16	23	32
Other non-custodial orders	163	65	13	24	20	28
Total non-custodial orders	232	93	31	56	53	75
Total (n)	249	100	55	100	71	100

Includes only those offenders referred to the SCCDP whose matters were fully finalised between June 2009 and December 2011

Excludes those offenders whose matter was finalised but who committed to a higher court or who were resentenced for a matter finalised during a previous court episode

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Table 15: Sentence orders for offenders referred to the SCCDP, by program status

	Program participants		Terminated from program		Ineligible for program	
	n	%	n	%	n	%
Custody in correctional institution	2	1	8	15	7	10
Immediate parole release date	4	2	4	7	5	7
Custody in the community	0	0	1	2	0	0
Fully suspended sentence	13	5	15	27	9	13
Total custodial orders	17	7	24	44	18	25
Community supervision or work orders	36	14	13	24	12	17
Monetary orders	49	20	23	42	39	55
Other non-custodial orders	214	86	39	71	35	49
Total non-custodial orders	246	99	50	91	68	96
Total	249	-	55	-	71	-

Includes only those offenders referred to the SCCDP whose matters were fully finalised between June 2009 and December 2011

Excludes those offenders whose matter was finalised but who committed to a higher court or who were resentenced for a matter finalised during a previous court episode

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Table 16 presents a breakdown of principal sentence types for offenders who completed the program and were sentenced in the Special Circumstances Court, by sex and MSO. These results show that:

- females (13%) were more likely than males (5%) to receive some type of custodial order as their principal sentence, whereas males were more likely to receive a non-custodial order (95% compared with 87% of females);

- offenders with a violence offence as their MSO (15%) were more likely than offenders with a property offence (2%) or some other offence type (6%) to receive some type of custodial order as their principal sentence;
- around one third of property offenders (29%) received some form of monetary order as their principal sentence, compared with four percent of violent offenders and 11 percent of offenders with some other offence type as their MSO; and
- offenders with some other type of offence as their MSO (77%) were more likely to receive other non-custodial orders as their principal sentence type, compared with violent offenders (62%) and property offenders (52%).

Table 16: Principal sentence for SCCDP participants, by sex and MSO (%)

	Sex		Most serious offence		
	Male	Female	Violence	Property	Other
Custody in correctional institution	1	0	2	0	1
Immediate parole release date	2	2	4	1	1
Fully suspended sentence	2	11	9	1	4
Total custodial orders	5	13	15	2	6
Community supervision or work orders	14	8	19	17	6
Monetary orders	17	10	4	29	11
Other non-custodial orders	64	69	62	52	77
Total non-custodial orders	95	87	85	98	94
Total (n)	187	62	53	83	113

Includes only those SCCDP participants whose matters were finalised and whose charges were finalised in Special Circumstances Court between June 2009 and December 2011

Excludes those offenders whose matter was committed to a higher court or who were resentenced

Table 17 provides a comparison of principal sentence types for SCCDP participants sentenced in the Special Circumstances Court and the matched group of offenders sentenced in a mainstream Magistrates Court. These results indicated that there were a number of differences in the sentence orders imposed in Special Circumstances Court compared with those imposed in a normal Magistrates Court.

- Seven percent of offenders sentenced in the Special Circumstances Court received some form of custodial order as their principal sentence, compared with 16 percent of offenders sentenced in a normal Magistrates Court.
- One percent of offenders sentenced in the Special Circumstances Court received a custodial sentence (ie an imprisonment order for which the offender was required to spend time in a correctional institution) compared with eight percent of adults in the comparison group.
- Offenders sentenced in the Special Circumstances Court (93%) were more likely to receive a non-custodial order as their principal sentence than a matched group of offenders sentenced in a mainstream Magistrates Court (84%).
- Offenders in the comparison group were nearly four times more likely (56%) than SCCDP participants (15%) to receive a monetary order as their principal sentence. Conversely, SCCDP participants (64%) were three times more likely than offenders in the comparison group (22%) to receive some other non-custodial orders, which include good behaviour bonds.
- SCCDP participants sentenced in the Special Circumstances Court (13%) were twice as likely as offenders in the comparison group (6%) to receive a community supervision or work order as their principal sentence type, which include community service and probation orders.

Table 18 provides a summary of all sentence orders imposed for offenders in the SCCDP and comparison groups. This shows that the results were relatively consistent across both principal

sentence types and sentence orders overall. These results confirm the feedback from stakeholders involved in the program, and also reflect the approach adopted by the SCCDP to sentencing offenders with a MI, ID and/or who are homeless.

Table 17: Principal sentence for offenders sentenced in Special Circumstances Court and Magistrates Court

	SCCDP		Comparison	
	n	%	n	%
Custody in correctional institution	2	1	18	8
Immediate parole release date	3	1	7	3
Fully suspended sentence	11	5	9	4
Total custodial orders	16	7	34	16
Community supervision or work orders	29	13	13	6
Monetary orders	33	15	119	56
Other non-custodial orders	140	64	47	22
Total non-custodial orders	202	93	179	84
Total (n)	218	100	213	100

Includes only those SCCDP participants whose matters were finalised and whose charges were finalised in Special Circumstances Court between June 2009 and December 2011

Excludes those offenders whose matter was committed to a higher court or who were resentenced

Table 18: Sentence orders for offenders sentenced in Special Circumstances Court and Magistrates Court

	SCCDP		Comparison	
	n	%	n	%
Custody in correctional institution	2	1	18	8
Immediate parole release date	3	1	7	3
Fully suspended sentence	13	6	11	5
Total custodial orders	16	7	34	16
Community supervision or work orders	33	15	15	7
Monetary orders	44	20	137	64
Other non-custodial orders	186	85	93	44
Total non-custodial orders	215	99	202	95
Total (n)	218	100	213	100

Includes only those SCCDP participants whose matters were finalised and whose charges were finalised in Special Circumstances Court between June 2009 and December 2011

Excludes those offenders whose matter was committed to a higher court or who were resentenced

The principal sentence for offenders in the SCCDP sentenced in the Special Circumstances Court and a matched group of offenders sentenced in a mainstream Magistrates Court have also been disaggregated by both sex (Table 19) and MSO (Table 20). While the trends in sentence outcomes were relatively consistent with those described above, there were some differences between males and females and between the different MSO types:

- While males in the comparison group (15%) were three times more likely than males in the SCCDP (5%) to receive some form of custodial order as their principal sentence, there was no difference for females between the two groups (18% and 17% respectively).
- Property offenders and violent offenders sentenced in the Special Circumstances Court were less likely to receive a custodial order than offenders in the matched comparison group, although there was no difference for offenders with some other offence type as their MSO.
- The difference between the two groups in terms of the proportion of offenders that received a monetary order as their principal sentence was greater among violent offenders and offenders with some other offence as their MSO.

Table 19: Principal sentence for offenders sentenced in Special Circumstances Court and Magistrates Court, by sex (%)

	Male		Female	
	SCCDP	Comparison	SCCDP	Comparison
Custody in correctional institution	1	8	0	9
Immediate parole release date	1	3	2	5
Fully suspended sentence	2	4	15	5
Total custodial orders	5	15	17	18
Community supervision or work orders	14	5	11	9
Monetary orders	17	59	9	43
Other non-custodial orders	65	20	63	30
Total non-custodial orders	95	85	83	82
Total (n)	172	169	46	44

Includes only those SCCDP participants whose matters were finalised and whose charges were finalised in Special Circumstances Court between June 2009 and December 2011

Excludes those offenders whose matter was committed to a higher court or who were resentenced

Table 20: Principal sentence for offenders sentenced in Special Circumstances Court and Magistrates Court, by MSO (%)

	Violence		Property		Other	
	SCCDP	Comparison	SCCDP	Comparison	SCCDP	Comparison
Custody in correctional institution	2	13	0	14	1	2
Immediate parole release date	4	7	1	4	0	1
Fully suspended sentence	10	4	1	3	5	5
Total custodial orders	16	24	3	21	6	8
Community supervision or work orders	20	11	17	10	7	1
Monetary orders	4	33	31	56	9	67
Other non-custodial orders	60	33	49	13	77	24
Total non-custodial orders	84	76	97	79	94	92
Total (n)	50	46	71	70	97	97

Includes only those SCCDP participants whose matters were finalised and whose charges were finalised in Special Circumstances Court between June 2009 and December 2011

Excludes those offenders whose matter was committed to a higher court or who were resentenced

Court appearance rates

This component of the evaluation compares the rate of non-attendance of offenders appearing in the Special Circumstances Court with a matched group of offenders in mainstream Magistrate Courts to determine whether SCCDP participants are less likely than offenders in other courts to fail to appear at their scheduled court dates. While this was not an explicit objective of the program, stakeholders interviewed as part of the evaluation suggested that SCCDP participants were more likely to turn up to the Special Circumstances Court because of the additional support offered to them and because they could see benefits associated with their participation in the program. Further, the modification of court proceedings to better suit this group of offenders was thought to be resulting in a higher level of engagement with the court process. Conversely, some stakeholders felt that the rate of attendance was no better than in mainstream Magistrates Courts, and that this was due to the lack of clearly defined terms of participation and consistent application of sanctions for participants who do not meet the requirements of the program.

The limitations of the QWIC database in terms of recording every instance in which an offender fails to appear before a court were explained in the AIC's evaluation of the Queensland Murri Court (Morgan & Louis 2010), and will therefore not be described in detail in this report. There was little evidence that instances where a court appearance event had been adjourned, and the adjournment reason recorded indicated that this was because the offender had failed to appear, are being recorded on a consistent basis. Instances of failure to appear which do not result in a warrant being issued are not routinely recorded in QWIC by court staff.

This evaluation (as in the evaluation of the Queensland Murri Court) therefore relies on an alternative measure of court appearance rates. This involved calculating the number and proportion of court appearance events that result in a warrant being issued. This alternative measure, the number of warrants issued by the Magistrate in Special Circumstances Court compared with other courts, is recorded on a routine basis, but still requires careful interpretation. In those instances where the participant fails to appear in the Special Circumstances Court as scheduled, the Magistrate may issue a warrant for their arrest. However, they may also adjourn the matter to a later date and request that the offender's lawyer, service providers or the Court Case Coordinator make contact with the offender and encourage them to attend subsequent hearings. Stakeholders involved in the program recognised the need to allow some degree of flexibility to offenders with a MI, ID and/or who are homeless, because these conditions pose certain barriers to complying with court orders and participation in the program.

Further, participants in the program who receive a good behaviour bond (a significant proportion, as has already been described) that requires them to continue to report to the court, may have a warrant issued for their arrest if they do not comply with the conditions of the order (ie reporting to the court registry). When there are reporting conditions, the offender is still regarded as a participant in the program such that court appearance events in the Special Circumstances Court that result in a warrant being issued may actually be hearings that take place post-sentence resulting from non-compliance with the order, rather than from the offender not attending scheduled court appearances.

Differences in the proportion of offenders issued with a warrant or court appearance events resulting in a warrant being issued may reflect, at least in part, procedural differences rather than actual differences in the rate at which offenders fail to appear in court. The number of warrants issued in the Special Circumstances Court may underestimate the rate at which offenders actually fail to appear in court (especially as some stakeholders reported that the reporting conditions for good behaviour bonds were difficult to monitor and failure to comply did not often result in a warrant being issued).

Limitations aside, the present study uses the issuing of warrants as the primary indicator of court appearance rates. This includes:

- the number and proportion of offenders who abscond on at least one occasion during their reference court episode and where a warrant has been issued for their arrest; and
- the number and proportion of court appearance events during the reference court episode which result in a warrant being ordered.

This second measure controls for the differences between groups in the number of court appearances; the higher the number of court appearance events, the greater the opportunity for an offender to abscond.

The results from an analysis of the number of offenders who abscond subject to warrant and the number of court appearance events that resulted in a warrant being ordered, are presented for program completers, program terminates and offenders that were ineligible for the program in Table 21. Overall, 15 percent of program completers absconded on at least one occasion during their reference court episode, compared with 47 percent of program terminates and 28 percent of offenders not accepted into the program. The proportion of court appearance events that resulted in a warrant being issued was also lower among those participants who completed the program

Table 21: Warrants ordered for offenders referred to the SCCDP, by program status

	Offenders	Events	Offenders w/ warrants	Events w/ warrants	Offenders (%)	Events (%)
Completed program	249	2486	37	55	15	2
Terminated from program	55	861	26	57	47	7
Ineligible for program	72	528	20	27	28	5

These figures relate to each offender's first referral (reference court episode) to the SCCDP during the evaluation period. Limited to those offenders whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised). Excludes defendants who were referred to the SCCDP for charges that had previously been finalised (ie resented).

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

However, and as this report has already identified, a significant proportion of offenders referred to the SCCDP appear numerous times in a Magistrates Court prior to appearing in the Special Circumstances Court, while a smaller proportion (program terminates) are remitted back to a mainstream Magistrates Court for sentencing after their SCCDP episode. Therefore, it is necessary to distinguish between those warrants that were issued within the Special Circumstances Court and those issued to SCCDP participants appearing in a normal Magistrates Court.

The proportion of offenders who absconded subject to warrant on at least one occasion while in Special Circumstances Court (12%) was only marginally lower than the proportion who absconded from court appearances prior to referral to the SCCDP (15%). The proportion of court appearance events in Special Circumstances Court that result in a warrant being issued was also marginally lower than for court appearance events prior to referral.

Table 22: Warrants ordered for Special Circumstances Court Participants, by episode phase (%)

	Court appearance events pre-Special Circumstances Court		Court appearance events in Special Circumstances Court		Court appearance events post-Special Circumstances Court		All court appearance events	
	Offenders	Events	Offenders	Events	Offenders	Events	Offenders	Events
Sex								
Male	14	6	11	3	13	4	19	3
Female	15	4	13	2	0	0	24	3
Most serious offence								
Violence	26	7	12	3	14	3	28	4
Property	14	5	14	3	4	1	22	4
Other	8	4	9	2	13	4	14	2
SCCDP status								
Program completed	11	4	8	2	n/a	n/a	15	2
Terminated from program	33	9	29	7	9	3	49	7
Total	15	5	12	3	9	3	20	3

n=number of offenders with court appearance events. These figures relate to each offender's first referral (reference court episode) to the SCCDP during the evaluation period. Limited to those offenders who were accepted into the program and whose matter was fully finalised as at December 2011 (ie all referring charges fully finalised). Excludes offenders whose episode phases were incorrectly specified or who were referred to the SCCDP for charges that had previously been finalised (ie resented).

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

However, as shown in Table 22, there are some important differences between offenders who completed the program and those who were terminated, as well as between the different MSO types. While the proportion of offenders who absconded subject to warrant on at least one occasion only declined slightly between the court appearance events pre-Special Circumstances Court and those occurring in Special Circumstances Court for both groups, the proportion of offenders who absconded on at least one occasion prior to being referred to the program and went on to be terminated from the program (33%) was substantially higher than for program completers (11%). This suggests that having had a warrant issued prior to referral to the program is an important indicator for identifying offenders who may go on to abscond during their participation in the SCCDP. This suggests that this group of offenders might either not be suitable for the program or will require additional supervision (or potentially additional bail conditions). However, it should be noted that not all of those offenders who absconded during their time in the program had absconded prior to being referred to the program.

The other notable pattern that emerged from the data is the decline among violent offenders who absconded on at least one occasion prior to being referred to the program (26%) and then during their participation in the program (12%). This suggests that the additional support and supervision provided by the program may have a more positive impact on the level of compliance among violent offenders (bringing them back to the average for other offence types).

The findings from a comparison of SCCDP participants with a matched group of offenders in the comparison group are presented in Table 23. Overall, the total proportion of offenders who have absconded subject to warrant on at least one occasion is higher among SCCDP participants (15%) than among those offenders whose matter is heard and finalised in a normal Magistrates Court (5%). This finding is consistent across males and females and across the different MSO types.

This report has already shown that, on average, reference court episodes for SCCDP participants take considerably longer and involve a much higher number of court appearances

than the comparison group. The opportunity to abscond is therefore greater among participants in the SCCDP. The proportion of events resulting in a warrant being issued is the same (2%) for both the SCCDP and comparison group. This suggests that the overall rate with which warrants are issued is relatively similar across the two groups, taking into consideration the number of court appearance events.

Table 23: Warrants ordered for Special Circumstances Court and comparison group participants, by episode phase (%)

	SCCDP						Comparison group	
	Court appearance events pre-Special Circumstances Court		Court appearance events in Special Circumstances Court		All court appearance events		All court appearance events	
	Offenders	Events	Offenders	Events	Offenders	Events	Offenders	Events
Sex								
Male	13	5	9	2	16	3	5	2
Female	11	3	7	1	13	1	4	2
MSO								
Violence	26	7	8	1	22	3	10	2
Property	9	3	10	3	17	3	7	3
Other	6	3	7	1	10	1	1	1
Total	12	4	8	2	15	2	5	2

Note: Limited to those offenders whose reference court episode was finalised between June 2009 and December 2011. These figures relate to each offender's first episode (reference court episode) in SCCDP during the evaluation period.

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Furthermore, these figures refer to SCCDP participants' entire reference court episode, not just their time in the program appearing before the Special Circumstances Court. For court appearance events within Special Circumstances Court, the proportion of offenders for whom a warrant was ordered (8%) was only slightly higher than the comparison group (with the exception of violent offenders, for which it was lower), and the proportion of court appearance events that resulted in a warrant being issued was still the same (2%). These figures suggest that the propensity to abscond subject to warrant was greater among SCCDP participants prior to referral than among the comparison group.

Reducing the number of court appearance events required to refer a matter to the SCCDP and, to a lesser extent, during an offender's participation in the program, may help to reduce proportion of offenders who abscond subject to warrant without necessarily requiring changes in the propensity of Magistrates to issue warrants. The finding that the proportion of events resulting in a warrant being issued is roughly the same between SCCDP participants and non-participants, but that the proportion of offenders who abscond subject to warrant on at least one occasion is much higher, suggests that the increased opportunity to abscond is resulting in a higher number of offenders absconding subject to warrant on at least one occasion. This is particularly true among those offenders who are eligible for the program and have a violent offence as their MSO, who appear to benefit most from the additional support and supervision provided by the program.

Reducing the opportunity to abscond, especially prior to referral, has several important potential benefits. For the CJS, an offender failing to appear for their scheduled court appearance creates additional work for criminal justice agencies in determining the whereabouts and apprehending offenders (Sarre & Sparrow 2004). There are also negative outcomes for the offenders, insofar as it increases the likelihood that bail will be refused, participation in the program terminated and the offender remanded in custody (Sarre & Sparrow 2004).

Addressing the needs of offenders in the SCCDP

A range of government and non-government organisations provide rehabilitative and treatment services to offenders in the SCCDP. This may occur as part of an offender's participation in the bail program or as a condition of a community-based order. The participation of these service providers and the services they make available to participants involved in the SCCDP are central to the program.

There is a high degree of support among stakeholders involved in the program for the SCCDP as an initiative to reduce reoffending among offenders with MI, ID and/or who are homeless by referring defendants to various services that can address the factors that contribute to their offending behaviour. As demonstrated in this section of the report, the program has been successful in achieving a high degree of coordination between criminal justice agencies and government and non-government service providers to establish referral pathways and provide a high level of support for offenders.

Referrals to service providers

As part of the assessment and case planning process, the Court Case Coordinator will identify service needs and appropriate referral options for the consideration of the Court. Participants may also be referred to a range of different service providers over the course of their contact with the program, as new issues are identified or barriers to accessing certain services emerge. There is considerable variability in the nature and extent of support and assistance provided to participants involved in the SCCDP. This reflects the flexible model of service delivery, which enables the program to respond to the specific characteristics and often complex needs of offenders and to adapt the nature, duration and intensity of support and assistance intervention accordingly.

Support may include assistance with relatively simple administrative issues (such as obtaining a copy of a birth certificate) as well as assistance and encouragement to attend assessment interviews that will enable the participant to access important services (Case study 1). For this reason, the brokerage funding has been an invaluable resource to assist the Court in supporting participants while they are involved in the program. The support and assistance to participants may extend beyond the current episode and involve helping participants to comply with and complete existing sentence orders.

Findings from an analysis of data recorded on the number and proportion of SCCDP participants (reference court episode only) referred to the various service providers involved in SCCDP (directly or indirectly) are presented in Table 24. Among the core group of stakeholders involved in the program, MICAH received the highest number of referrals from the SCCDP, with one quarter of all participants (for which data was recorded) being referred to MICAH during their first episode in the program. A further 26 percent of all participants were referred to a

health service provider (besides the drug treatment providers identified in Table 24), and another 25 percent were referred to a range of community-based service providers.

Case study 1

Gender: Male
Age: 24
Charges: Shoplifting; fraud
Time with program: Not recorded

This participant was referred to the SCCDP on charges of shoplifting and fraud. However, during his time in the program he was also charged with breaching a pre-existing probation order that was also referred to the Special Circumstances Court. At time of first referral, the participant had experienced periods of homelessness during the preceding three years. Sometimes he was able to live with his Mother but their relationship was tense so staying with her was not always an option. Despite these issues, he was receiving good support from his mother and younger sister. The participant disclosed that he had been diagnosed with ADHD when he was in high school for which he was no longer taking medication. He also presented with some cognitive impairment, although the participant was not sure if he had an intellectual disability. He was not engaging with any mental health services. The participant was also dealing with a number of recurring medical problems, particularly with his teeth.

During his time with the program the Special Circumstances Court provided a number of financial and administrative supports to the participant. These included:

- food and phone cards;
- a copy of his birth certificate;
- a diary to keep track of appointments;
- information on local psychologists that could be accessed through Medicare; and
- a referral letter so the participant could access private mental health treatment.

Further, as time progressed it became apparent that the participant was struggling to deal with competing priorities. In particular, his medical problems would often distract him from developing a mental health plan with his GP. To help the participant to develop a mental health plan, the court made an appointment for him with a local GP, provided him with a referral letter to help with the development of a mental health plan and also identified a suitable local psychologist. As a result the participant was placed on anti-depressants, which appeared to elevate his mood. However after a few months he stopped taking his medication without medical advice.

The court also referred the participant for formal assessment with a psychiatrist. The report submitted by the psychiatrist suggested that the participant's numeracy and literacy issues were contributing to his offending and he was suffering from diminished verbal comprehension, processing speed, working memory and verbal executive functioning. The participant was also referred to the Court 2 Home program which helped him attend his probation meetings and provided transport so he could view properties to rent.

The participant's ability to complete his community service order was limited by his ill health. The court urged him to talk to his probation officer about his problems so he would not be found in breach. At time of last review, the participant had completed half his community service order.

Table 24: Number and proportion of SCCDP participants referred to service providers during their first episode

	n	%
MICAH	73	26
Brisbane BIALA Drug and Alcohol Service	33	12
Brisbane Drug Arm	28	10
Salvation Army (includes Positive Lifestyles program)	27	10
Brisbane HART	24	9
Sister's Inside	17	6
Brisbane Youth Service	10	4
Other health service provider	72	26
Other community based service providers	69	25
Government organisation	42	15
Other	1	0
Total participants (with recorded data on referrals)	280	100

Participants may be referred to more than one service provider during an episode

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

There were more than 100 different service providers listed as having received a referral from SCCDP between June 2009 and October 2011. These include drug and alcohol rehabilitation,

housing assistance, personal development programs (counselling, life skills etc), mental health services, GPs, employment agencies, training providers and a range of other services. Further, while this data is not recorded in CIPES, service providers reported that they themselves had then referred participants from SCCDP on to other organisations via their established service networks. Taken as a whole this data suggests that SCCDP has established important referral pathways with a number of community-based organisations delivering a range of rehabilitative, treatment and support services across the Brisbane metropolitan area.

Accessibility of services for offenders with MI, ID or who are homeless

A key finding from the evaluation of the HPCDP was that, while there were a large number of agencies that supported the program, problems relating to the accessibility of accommodation and other services posed a significant challenge to the successful implementation of the program (Creative Sparks 2007). Not surprisingly, there are still issues relating to the availability of services for SCCDP participants in the community. The availability and accessibility of services in the community remains a significant challenge for the SCCDP. However court partners, in particular Court Case Coordinators, continue to take steps to identify and engage new services in the program.

Some of the specific issues raised by interview participants include:

- the lack of services for offenders with acquired brain injury (ABI);
- difficulties in obtaining funding from Disability Services Queensland (DSQ) to support defendants with ID generally;
- the long waiting times for public housing;
- availability of places in residential drug and alcohol rehabilitation facilities;
- limited number of bulk-billing medical practitioners;
- the availability of public mental health services, compared with the perceived unreliability of some private services; and
- practical and logistical barriers that prevent defendants from being able to access the services that are available (such as transport problems, the lack of phone credit to contact providers, the inability to contact support services outside of normal working hours).

Case study 2

Gender: Male
Age: 31
Charges: Breach of probation; Shoplifting
Time with program: Four months

At time of first appearance, this participant had stable accommodation with his parents, although his mother had recently been diagnosed with Parkinson's disease which was placing the entire family under significant stress. He had been unemployed for a number of years and was trying to pay off a substantial SPER debt. The primary concern identified for to this participant was his behaviour management skills and lack of impulse control. An accident that had occurred years previously had left him with a serious ABI. The offender had made a number of attempts to gain access to behaviour management services to address these issues but had found this difficult to achieve. In particular, some services would only take on clients that were receiving DSQ financial assistance, which this offender was not.

The court identified the participant's engagement in behaviour management training as a primary goal. To this end, the participant was provided with a DSQ financial assistance application and was assisted by the court in completing and submitting the form. However, due to a lack of resources, it was several months before the participant could be scheduled for an intake interview with DSQ. During this waiting period, the court identified a number of suitable courses that would assist the participant to develop better behaviour management and job skills. For example, the participant completed a course provided by the ABI Outreach Service and was referred to the Salvation Army Positive Lifestyles Program. Although he also began attending a job skills program, the participant was asked not to return due to his behavioural problems.

The participant was eventually sentenced to 40 hours of community service which he was required to complete within 12 months.

The SCCDP is recognised by those stakeholders involved in the management and delivery of the program as an important mechanism for engaging a hard to reach client group in support services and rehabilitative and treatment programs. Individuals that participate in the SCCDP, particularly those who are homeless, experience a great number of challenges in accessing the various services that are available in the community, not limited to the availability of these services. They require additional support to assist them to first engage and then participate in services to address issues relating to their homelessness, MI and/or ID.

Case studies 2 and 3 highlight some of the challenges that are encountered when attempting to refer and engage SCCDP participants in therapeutic programs to address issues underlying their offending behaviour. These case studies also demonstrate the ability of court partners and service providers to develop effective strategies to assist participants overcome these barriers, with some success.

Case study 3

Gender: Female
Age: 46
Charges: Stealing; Unlawful possession of stolen property
Time with program: One month

At time of referral to the program the participant was homeless and had a significant SPER and Centrelink debt. Also, despite a diagnosis of Post-traumatic stress disorder, the participant was not engaging in any mental health services. Although the participant had partially completed a Diploma in Welfare Work and been involved in volunteer work with St Vincent's, she had been unemployed for a number of years. During her time in the program the participant expressed a desire to complete a Certificate III in Aged Care. The Court encouraged this goal although they noted that securing stable accommodation and mental health assistance was their main priorities.

The first priority for the participant and the court was to secure suitable accommodation for the participant. However, although the court referred the participant to MICA, there were no vacancies. To assist the participant while she was waiting for a placement, the court wrote a referral letter to the Department of Housing (DoH) requesting a placement and paid for her to stay in a motel. As a consequence, two weeks later the participant had secured a DoH apartment and a car.

Further, to ensure that the participant could access mental health support services, the court referred her for assessment by the court psychologist. The court psychologist referred the participant to a GP who could develop a mental health plan with her, and a local counselling service. As a consequence the participant began attending counselling sessions on a regular basis.

A number of stakeholders indicated that referrals from the Special Circumstances Court are being given priority among service providers (particularly government sponsored services), and that this improves the capacity of defendants to gain access to services. The relationship between criminal justice agencies and service providers was also reportedly leading to new services being established in response to needs identified by the program. Further, service providers noted a substantial improvement in terms of the referral pathways between the court and community-based services, compared with how the program used to operate as part of HPCDP. This was due largely to the strong relationships and high level of communication between the service providers and the Court Case Coordinators. Service providers also support the program by sourcing interventions for defendants external to the SCCDP. Therefore defendants are able to access additional services via the extensive service networks that exist between community-based service providers, rather than relying entirely on direct referrals from the Court.

The support provided by service providers to the program is largely contingent on the funding they receive. For example, Brisbane Youth Service is no longer funded to support the program and as such is unable to regularly attend court. Service providers that were involved in the HPCDP noted that the mental health team and drug and alcohol services that routinely attended the court are no longer attending Court, although they are still involved in the program (ie accept referrals). Other service providers reported that they received funding from other government agencies not directly involved in the SCCDP for programs that support SCCDP participants.

This was reported as presenting some challenges in terms of the allocation of resources to support the program

Those services that are involved are generally supportive of the SCCDP (despite acknowledging some implementation problems), and aim to regularly attend Special Circumstances Court hearings to support defendants. This helps to ensure immediate referrals to and contact with the services offered by these organisations. However, service providers involved in the program and, to a lesser extent, some court partners, argued that the longer term sustainability of these arrangements required that service providers responsible for supporting large numbers of SCCDP participants should be contracted by DJAG to provide these services (similar to the CISP model in Victoria). There may be scope to improve funding arrangements for those service providers that receive government funding for programs that support SCCDP participants by funding them directly for their involvement in the program. This would be in addition to a formal memorandum of understanding between the Department and core service providers (where they do not already exist) that clearly sets out the nature of the services to be provided, the role of the service provider in the court and any other requirements (eg information sharing).

Challenges associated with offenders with complex needs

SCCDP participants are a complex group with significant and entrenched issues. While the program makes a considerable effort to address these issues, the limits of its capacity to deliver significant changes to a defendant's personal circumstances in the relatively short period of time that they have contact with the program should be acknowledged, both in terms of defining the scope and operation of the program and assessing whether the program has been effective.

'A large number of people who appear at the court are not service savvy...so going to the court is a way of getting them the services they need. We have not had any contact with a lot of these people before now. This is a major strength of the court' (service provider personal communication)

A common issue highlighted by stakeholders was that the majority of defendants coming before the program have complex needs and problems, with long histories of a range of problems that increase their risk of coming into contact with the CJS. While many do not have extensive or serious criminal histories, they have often experienced a range of problems related to their MI, ID and/or homelessness, including drug and alcohol abuse, unemployment, debt, limited education, family instability and health problems. Where they have had contact with the CJS, they often have negative attitudes towards the process and a high level of distrust for criminal justice agencies.

Stakeholders highlighted key differences between many of the defendants that are referred to the program, in terms of their motivation to change, willingness to participate in the program and the level of support that they require from the program. From these observations it was possible to identify:

- defendants who are motivated to change, enthusiastic about participating in the program and the services offered and who require less support from the court, Court Case Coordinator or service providers;
- defendants who are motivated to change, enthusiastic about participating in the program and the services offered and who require considerably more support from and supervision by the court, Court Case Coordinator or service providers;

- defendants who are less motivated to change, not as enthusiastic about participating in the program and the services offered but who require little support from the court, Court Case Coordinator or service providers; and
- defendants who are less motivated to change, not as enthusiastic about participating in the program and the services offered and who require considerably more support from and supervision by the court, Court Case Coordinator or service providers;

This last group of defendants present a considerable challenge for the SCCDP and court partners, and there were examples of the court dedicating considerable resources to a small number of problematic clients, potentially at the expense of others. Some stakeholders suggested that, as part of the process of considering the eligibility and suitability of defendants for the program, there could be some attempt to identify those individuals who may require greater supervision and support from court partners (similar to the model that was adopted in CISP).

Those stakeholders interviewed by the AIC did note an improvement in the proportion of defendants coming before the Special Circumstances Court that were genuinely motivated to change their behaviour, suggesting that existing screening processes (including the assessment by Coordinators and the first contact between the Magistrate and the defendant) were being used to identify unsuitable referrals.

Case study 4

Gender: Male

Age: 25

Charges: Stealing; failure to take care; evade fare

Time with program: Five months

The participant first came before the Special Circumstances Court on a stealing charge. At the time of referral, the participant had only recently been released from prison and was sleeping rough and couch-surfing. Further, the participant was also on a post-release Subutex program, paying off a substantial (over \$10,000) SPER and Centrelink debt and on anti-anxiety and anti-psychotic medications to deal with his mental health issues. However, the participant had also been engaging with MICAHA for a number of years and participated in art therapy classes.

In order to address the participant's accommodation, employment and mental health issues, the Court referred the participant to Open Minds, PCYC and MICAHA Projects. However, the Open Minds caseworker experienced difficulty making contact with the participant, despite the Court repeatedly encouraging him to engage with the service. The participant also appeared to be unwilling to become a member of PCYC. The MICAHA accommodation service referral also proved to be problematic, although this was due to a lack of suitable accommodation.

Towards the end of his engagement with the SCCDP, the participant advised the court that he and his partner had secured steady accommodation. Further, an assessment conducted by the court psychologist found that aside from some anxiety issues, the participant did not have a mental illness. Shortly after the assessment the court was advised that the participant had been taken off his anti-psychotic medication.

After being with the SCCDP for approximately 4 months, the prosecution made an application to exit the participant from the program. The basis for the application was that the participant had demonstrated an unwillingness to engage in services identified by the court, and had been charged with two additional offences (failure to take care and evade fare) during his time on the program. As a result, the court stated that all subsequent charges would be referred to a normal Magistrates Court. After the application, the participant was charged with six subsequent offences, five of which were dealt with in the Magistrates Court.

Case study 4 highlights the importance of participants being willing and able to engage in services identified by the Court in order for a positive change to occur in their personal circumstances. In this matter, the Court referred the participant to a range of housing and mental health services, but he was eventually remitted back to Arrest Court due to his demonstrated unwillingness (or inability) to engage in the services to which he had been referred.

Case studies 5 and 6 demonstrates that engagement in the SCCDP can deliver a range of positive outcomes for clients in terms of facilitating access to services, when the participant is willing to engage in referrals made by the Court. In this matter, the participant made contact with two housing services identified by the Court, which resulted in him securing stable housing within a relatively short period of time.

Case study 5

Gender: Male
Age: 52
Charges: Driving an uninsured vehicle; Offences involving registration certificate (2); Vehicle on road must be insured; Drive without license repeat offender

Time with program: Two months

The participant's first appearance in the Special Circumstances Court was in relation to five charges. At the time of this first appearance he was homeless and had been on and off drugs for the previous ten years. The participant had previously been diagnosed with suicidal depression and anxiety for which he had been in counselling and been prescribed medication. However, he was not taking his medication or engaging in any mental health services when he was first referred to the program.

The court referred the participant to MICAH to help him find stable and suitable accommodation. He also met with the Salvation Army to discuss his housing options. Consequently within a few weeks the participant had received a DoH property.

The participant also demonstrated a willingness to engage in counselling services for his mental health and substance abuse problems. The court referred him to the court psychologist and, in the meantime, provided him with information about a free counselling service he could engage with. The participant attended one session and made an appointment for another. The court also scheduled an appointment for him to meet a lecturer at his local TAFE so he could enrol in a literacy and numeracy class.

Case study 6

Gender: Female
Age: 39
Charges: Stealing; Fraud
Time with program: Three months

At time of referral, this participant was living in a boarding house. The boarding house management staff were providing her with significant support, but she was seeking new accommodation due to ongoing issues with other tenants.

However, the participant had an outstanding DoH debt which she was trying to clear so she could apply for new housing. The participant had significant mental health issues and had been diagnosed with PTSD, psychosis, paranoia and borderline personality disorder. She was engaging in a range of mental health support services at time of referral, attended regular counselling sessions and was taking her prescription medication. The participant also admitted to low level cannabis and alcohol use, although she did not feel she was dependant.

The main work the court did with this participant was to address her long term unemployment. Although she regularly did volunteer work, the participant found it stressful looking for work and her options were limited due to her fear of public spaces and using public transport. The court encouraged her to explore volunteering opportunities in her area which she did. After a number of inquiries, the participant found work as a gardener which she thoroughly enjoyed. The court talked to manager of the facility she was working at about the possibility of combining the volunteer work with a community service order, to help increase the likelihood that the participant would comply with the order imposed by the court which the manager agreed to.

Measuring the impact of the SCCDP on the health and wellbeing of offenders

Information on each client referred to SCCDP (as well as all other Queensland speciality court programs) is recorded in CIPES, including demographic information, court appearance data, prior criminal history and referrals to relevant programs and services. CIPES also records information obtained through an assessment process administered by DJAG Court Case Coordinators. The assessment includes a series of questions across a broad range of issues that are asked of SCCDP participants prior to their participation in the SCCDP (at the time of referral), and then again at the completion of the program. Questions relate to areas such as living arrangements, family circumstances, education and employment, recent stressors, drug and alcohol use, physical and mental health, income and expenditure and attitudes towards the CJS and (in the follow up profile) towards the SCCDP.

The primary purpose of this information is to inform SCCDP court partners as to the current circumstances and specific service needs of clients coming before the program. The assessment interview can also be used to:

- measure the longitudinal impact of participation in the SCCDP on defendants who are homeless or suffer from impaired decision-making capacity;

- help to explain variance across key outcome measures, such as reoffending, for SCCDP participants;
- assess the extent to which the various rehabilitative, treatment, support and diversionary services and programs available to SCCDP participants adequately meet the needs of participants and address priority risk factors for reoffending; and/or
- establish an evidence base to support changes to the SCCDP or to support funding submissions to address identified gaps in service delivery for a specific client population.

The AIC worked closely with DJAG in the early stages of the evaluation period to recommend screening tools for mental illness and intellectual disability and to assist with the redevelopment of the assessment tool administered to SCCDP participants at referral and again at the completion of the program. An important component of the assessment interview involves screening for mental illness and ID, to determine whether a defendant appearing before the Special Circumstances Court requires referral to the court psychologist for further assessment, to mental health services or to other specialist support services.

The findings outlined in this section are based on the assessment interviews that have been completed at the time of referral and (where applicable) at follow up for participants' first episode during the evaluation period (their reference episode). Some caution needs to be taken in generalising the results from the follow up questionnaires to the entire population of defendants that have participated in the SCCDP, given the relatively low response rate (around one in four defendants that were accepted into the program on their first referral). Further, the results presented in this section of the summary report are based on data directly inputted into CIPES during the evaluation period and provided in an extract to the AIC in November 2011.

Homelessness

For the purposes of admission into the SCCDP, the program relies upon the definition of homeless used by the ABS. According to this definition, there are three categories of homelessness:

- primary homeless (sleeping rough): people without conventional accommodation;
- secondary homeless (stop-gap housing): people who move from one temporary shelter to another; and
- tertiary homeless (boarding house residents): people living in boarding houses on a medium to long-term basis.

Table 25: Main living arrangement in last month at referral

	n	%
Sleeping rough	89	23
Short term crisis accommodation (eg refuge, shelter etc)	73	19
Medium/long term inadequate (13 weeks or more with no accommodation of their own)	120	31
Adequate	100	26
No response	3	1
Not assessment at commencement of first episode	46	-
Average number of days homeless in last month	19.6	-

46 defendants did not complete an assessment at the time of being referred to their first episode in the program (or that assessment data has not been entered into CIPES)

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

In addition, this definition includes defendants who are assessed as being at imminent risk of being homeless. According to the assessment interview completed at the time of referral:

- around three quarters of all participants admitted into the program were homeless at the time of being referred to their first episode in the program;
- one in four (26%) reported that their living arrangement could be described as adequate; and
- the average number of days in the last month that participants reported being homeless was 20 (Table 25).

Table 26: Number of days defendant was homeless in last month, at referral and at follow up

	n	%
All SCCDP participants that completed a follow up assessment (n=107)		
Number of days homeless decreased	34	32
Number of days homeless stayed the same	67	63
Number of days homeless increased	6	6
Average number of days homeless at referral	19.4	
Average number of days homeless at follow up	12.0	
SCCDP participants that reported being homeless for at least one day in the initial assessment (n=71)		
Number of days homeless decreased	34	48
Number of days homeless stayed the same	35	49
Number of days homeless increased	2	3
Average number of days homeless at referral	29.2	
Average number of days homeless at follow up	16.5	

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

The results from a comparison between the self-reported living arrangements of SCCDP participants at referral and at follow up are presented in Table 26 and 27. Key findings from the analysis of this data are as follows:

- Thirty-two percent of participants reported that they were homeless for fewer days at follow up than at the time of referral. This increased to 48 percent when only those participants that reported being homeless for at least one day at the time of referral.
- The average number of days homeless for all participants that completed a follow up assessment at the completion of their first episode in the program fell from 19.4 days to 12 days. Among those participants who had reported being homeless at the time of referral for at least one day, the average number of days decreased from 29.2 to 16.5.
- The proportion of participants that reported sleeping rough or in stop-gap housing (primary and secondary homeless) fell substantially, while the proportion that reported their living arrangement as adequate increased from 27 percent to 48 percent (Table 6).

Table 27: Main living arrangement in last month at referral and at follow up (n=107)

	At referral		At follow up	
	n	%	n	%
Sleeping rough	23	22	3	3
Short term crisis accommodation (eg refuge, shelter etc)	20	19	7	7
Medium/long term inadequate (13 weeks or more with no accommodation of their own)	35	33	39	36
Adequate	29	27	51	48
No response	0	0	7	7

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

These results suggest that the SCCDP is having a positive impact in terms of improving the living circumstances of defendants and finding stable accommodation for those participants who do not have adequate housing, at least in the short-term. This finding is consistent with the views of most stakeholders involved in the program, and is also consistent with the findings recently reported by Walsh (2011) based on qualitative interviews with defendants. This is an

important outcome, as it was widely acknowledged by those stakeholders involved in the delivery of the program that being homeless significantly increases the likelihood that a person will be charged with public disorder (or similar) offences, by virtue of their being more visible in public spaces (especially those people who are sleeping rough).

Employment status

Responses to questions in the assessment interview on employment status at the time of referral are presented in Table 28. These figures show that the vast majority of participants involved in the SCCDP were not employed (94% of all respondents). Less than one third of participants (28%) reported having used an employment service in the previous three months, and less than one in five (17%) indicated that they would consider using employment services to help look for work or get a job.

	n	%
Working full time	2	1
Working part time or casual	19	5
Not working, but studying	14	4
Not working or laid off and looking for work	83	22
Not working and not studying and not looking for work	126	33
No response	140	37
Used employment services in the past three months to help look for work or get a job	107	28
Would consider using employment services to help look for work or get a job	67	17
Total	384	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

	At referral		At follow up	
	n	%	n	%
Working full time	1	1	4	4
Working part time or casual	7	7	8	8
Not working, but studying	6	6	11	10
Not working or laid off and looking for work	19	18	24	22
Not working and not studying and not looking for work	47	44	55	51
No response	27	25	5	5
Used employment services in the past three months to help look for work or get a job	33	31	40	37
Would consider using employment services to help look for work or get a job	27	25	23	22

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

The results from a comparison between the self-reported employment status of SCCDP participants at referral and at follow up are presented in Table 29. This suggests that there was a slight improvement in the employment status of participants surveyed, taking into account the decrease in the proportion of participants whose employment status is unknown (which may explain the small increase in other categories). This is not altogether surprising, with stakeholders reporting that there are significant challenges associated with SCCDP participants obtaining stable employment in the short-term. There is a range of issues that impact on participant's capacity to engage in meaningful employment, including their prior criminal history,

the availability of suitable employment options, mental illness and intellectual disability and the range of other complex issues (such as substance use) that need to be addressed prior to participants getting paid employment.

Drug and alcohol use

Responses to questions in the assessment interview on alcohol and other drug use at the time of referral are presented in Tables 30 and 31. According to the assessment interview completed at the time of referral:

- Forty-three percent of all participants admitted into the program had consumed alcohol at least once a week in the three months leading up to the episode, and one in five (20%) reported consuming alcohol daily. Nineteen percent of participants reported feeling like they needed or were dependent on alcohol, and one in ten (9%) had sought or received treatment in the previous three months.
- The most commonly reported drug used by participants was cannabis, and 38 percent of participants reported using cannabis at least weekly.
- Half of all SCCDP participants reported having ever used amphetamines, and nearly one in five (18%) reported having used amphetamines at least monthly in the previous three months. Similarly, nearly one in five participants also reported using heroin at least once or twice a month in the period leading up to their referral to SCCDP.
- Sixty-one percent of participants reported using at least one drug in the previous three months, and 46 percent reported using at least one drug on a weekly basis or more.
- Twenty-nine percent of participants reported feeling that they needed or were dependent on at least one drug (other than alcohol) at the time of referral, and 21 percent had tried to get in or had been in treatment in the previous three months.

Table 30: Self-reported drug and alcohol use at referral (percentage, n=384)

	Alcohol	Cannabis	Ampheta mines	Inhalants	Heroin	Illegal Morphine or other opiates	Other
Ever used	76	73	51	11	40	24	17
Average age when first used (min/max)	14.8 (4/44)	15.9 (4/50)	15.1 (8/50)	19.2 (10/50)	20.0 (10/42)	22.6 (12/50)	24.5 (14/50)
Frequency of drug use in the previous three months							
Almost every day	22	20	2	1	4	2	3
About once or twice a week	22	18	4	1	3	3	4
About once or twice a month	19	17	12	1	10	3	3
Not at all	36	42	78	92	80	88	87
No response	2	4	4	6	4	3	3
Dependency and treatment							
Felt that they needed or were dependent on drug in the previous three months	19	17	7	1	9	5	0
Tried to get in or been in treatment for use of drugs in previous three months	9	6	6	0	13	4	3

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

The results from a comparison between the responses of SCCDP participants to questions in the assessment interview at referral and then again at follow up (Table 32) show that:

- the proportion of participants that reported using alcohol on at least a weekly basis declined from 37 percent to 25 percent, and the proportion that reported not having used alcohol increased from 36 percent to 51 percent;
- the proportion of participants that reported using any drug (besides alcohol) on at least a weekly basis decreased from 40 percent to 25 percent, and the proportion that reported not having used drugs at all nearly doubled, increasing from 30 percent to 59 percent;
- the proportion of participants that reported feeling that they needed or were dependent on alcohol fell from 16 percent to nine percent;
- the proportion of participants that reported feeling that they needed or were dependent on any drug (besides alcohol) decreased significantly from 33 percent to eight percent; and
- the proportion of participants that tried to get in or had been in treatment for the use of drugs in the previous three months also decreased from 26 percent to seven percent.

These results suggest that the SCCDP has been successful in helping this group of defendants to address their problematic drug use and dependency issues. Walsh (2011) recently reported similar findings based on qualitative interviews with defendants who had participated in the SCCDP and who attributed their reduction in drug use to their involvement in the program.

Table 31: Self-reported alcohol and other drug use at referral

	n	%
Alcohol		
Ever used	290	76
Used at least weekly	166	43
Haven't used in the previous three months	140	36
Felt that they needed or were dependent on drug in the previous three months	73	19
Tried to get in or been in treatment for use of drugs in previous three months	34	9
Other drugs		
Ever used	335	87
Used at least weekly	178	46
Haven't used in the previous three months	150	39
Felt that they needed or were dependent on drug in the previous three months	112	29
Tried to get in or been in treatment for use of drugs in previous three months	82	21
Total respondents	384	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Table 32: Self-reported alcohol and other drug use in the previous three months (n=105)

	At referral		At follow up	
	n	%	n	%
Alcohol				
Used at least weekly	39	37	26	25
Haven't used in the previous three months	38	36	54	51
Felt that they needed or were dependent on alcohol in the previous three months	17	16	9	9
Tried to get in or been in treatment for use of alcohol in previous three months	9	9	5	5
Other drugs				
Used at least weekly	42	40	26	25
Haven't used in the previous three months	32	30	62	59
Felt that they needed or were dependent on drugs in the previous three months	35	33	8	8
Tried to get in or been in treatment for use of drugs in previous three months	27	26	7	7

Physical and mental health

Responses to questions in the assessment interview on self-reported health at the time of referral are presented in Table 33. These results show that:

- half of all SCCDP participants (53%) assessed their health as fair or poor at the time of referral;
- one third of all participants (29%) reported that their health had deteriorated, compared to three months ago;
- fifty-four percent of respondents reported currently suffering from a diagnosed mental illness, and one third (29%) currently had contact with a mental health service provider (indicating a significant unmet need);
- one in ten (12%) of respondents reported having a cognitive or intellectual impairment; and
- forty-three percent of SCCDP participants didn't go to the doctor, hospital or other health service in the previous three months on at least one occasion when they needed attention.

Table 33: Self-reported health at referral

	n	%
Self-assessment of health		
Excellent	6	3
Very good	12	5
Good	93	40
Fair	72	31
Poor	52	22
Self-assessment of health compared to three months ago		
Better now	90	38
About the same	78	33
Worse now	67	29
Self-report mental illness or intellectual disability		
Currently suffering from a diagnosed mental illness	128	54
Currently have contact with local mental health service providers	68	29
Previously had contact with local mental health service providers	109	46
Has a cognitive or intellectual impairment	28	12
Currently access services for disability support	4	2
Currently prescribed medication	41	17
Didn't go to doctor, hospital or other health service in the previous three months on at least one occasion when needed attention	102	43
Total respondents	235	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

The results from a comparison between the self-reported health of SCCDP participants at referral and at follow up are presented in Table 34. Key findings from the analysis are as follows:

- the proportion of participants who reported their health as being good or better increased from 49 percent to 70 percent;
- the proportion of participants who reported their health as being better now than three months ago increased from 30 percent to 58 percent, and the proportion who reported their health as being worse now declined from 36 percent to 15 percent;

- the proportion of participants who currently have contact with local mental health service providers increased from 33 percent to 42 percent; and
- the proportion of participants who didn't go to the doctor, hospital or other health service in the previous three months on at least one occasion when they needed attention fell from 47 percent to 19 percent.

Table 34: Self-reported health at referral and at follow up (n=73)

	At referral		At follow up	
	n	%	n	%
Self-assessment of health				
Excellent	1	1	2	3
Very good	3	4	9	12
Good	32	44	40	55
Fair	21	29	9	12
Poor	16	22	13	18
Self-assessment of health compared to three months ago				
Better now	22	30	42	58
About the same	25	34	20	27
Worse now	26	36	11	15
Self-report mental illness or intellectual disability				
Currently suffering from a diagnosed mental illness	43	59	40	55
Currently have contact with local mental health service providers	24	33	31	42
Previously had contact with local mental health service providers	37	51	34	47
Has a cognitive or intellectual impairment	9	12	0	0
Currently access services for disability support	1	1	2	3
Currently prescribed medication	48	66	45	62
Didn't go to doctor, hospital or other health service in the previous three months on at least one occasion when needed attention	34	47	14	19

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Changes in the mental health of SCCDP participants are measured through the use of a mental health screening instrument, the DASS 21. Screening instruments are brief, generally designed to be administered by non-clinical staff (laypersons) with minimal training and to provide explicit decision criteria (i.e. some form of scoring system). Their primary purpose is to screen large numbers of people quickly to identify those who require referral for a comprehensive clinical assessment

The DASS 21 is a 21 item self-report questionnaire designed to measure the severity of a range of symptoms common to depression, anxiety and stress. The DASS 21 has been validated as a screening tool in clinical studies, and has been demonstrated to accurately identify the same people who are later identified as having a mental illness based on more comprehensive clinical diagnostic tools (Henry & Crawford 2005). In completing the DASS, the individual is required to indicate the presence of a symptom over the previous week. Each item is scored from 0 (did not apply to me at all over the last week) to 3 (applied to me very much or most of the time over the past week). Scores for depression, anxiety and stress are calculated by summing the scores for the relevant items.

Since the commencement of the court psychologist in March 2010 (and introduction of the new assessment tool that included the DASS 21), 222 participants had completed the DASS 21 at the time of being referred to the SCCDP. The results, and the action taken in response to the DASS screen, are presented in Tables 35 and 36. These results show that:

- around one quarter of participants recorded scores for depression and anxiety that fell within the normal range (27% and 24% respectively), and around one third (34%) recorded a score within the normal range for stress; and
- forty-seven percent of participants recorded scores within the severe or extremely severe range for depression symptoms, 56 percent for anxiety and 41 percent for stress.

Overall, these results suggest that a significant proportion of SCCDP participants show symptoms of depression, anxiety and/or stress at the time of being referred to the program. Importantly, these results also show that more than half (57%) of those participants that completed the DASS screen were subsequently referred to the court psychologist for further assessment.

Table 35: DASS severity ratings at time of referral (n=222)

	Depression		Anxiety		Stress	
	n	%	n	%	n	%
Normal	59	27	53	24	76	34
Mild	20	9	11	5	28	13
Moderate	38	17	34	15	27	12
Severe	23	10	22	10	47	21
Extremely severe	82	37	102	46	44	20

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Table 36: Action taken in response to DASS screen

	n	%
Referred to court psychologist (or alternative) for mental health assessment	127	57
Not referred for further assessment	95	43
Total	222	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Court Case Coordinators were not the only source of referrals to the court psychologist. Between March 2010 and October 2011, the court psychologist completed a total of 340 assessments involving 215 program participants (Table 37). A third of all participants assessed by the psychologist were assessed on more than one occasion. The involvement of a dedicated court psychologist ensured that the program was responsive to the mental health needs of participants and had reportedly significantly improved access to mental health services for participants.

Table 37: Assessments completed by the court psychologist

	n	%
Number of assessments per person		
One	144	67
Two	45	21
Three	16	7
Four	5	2
Five or more	5	2
Total number of SCCDP participants assessed	215	
Total number of assessments completed	340	

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

The DASS 21 also provides a means by which an individual's response to treatment can also be measured over time on the three dimensions of depression, anxiety and stress. The results in Table 38 and 39 demonstrate that:

- the proportion of participants who recorded scores that fell within the normal range increased significantly for depression, anxiety and stress;

- the proportion of participants who recorded scores that fell within the extremely severe range decreased significantly for depression, anxiety and stress; and
- around three quarters (74% of respondents for depression, 79% for anxiety and stress) of all participants that completed the screen at referral and again at follow up recorded a lower score at the completion of their episode.

In interpreting these results, it is important to consider the potential influence of environmental factors. Screening tools for mental illness may detect distress that is related to contact with the CJS. It is likely that participants experience greater distress associated with attending court at the commencement of their episode. This may serve to overestimate the positive impact of the SCCDP on participants' mental health.

Table 38: DASS severity ratings at time of referral and at follow up (percent, n=62)

	Depression		Anxiety		Stress	
	At referral	At follow up	At referral	At follow up	At referral	At follow up
Normal	19	45	18	44	26	55
Mild	7	16	3	8	11	8
Moderate	21	19	11	19	15	21
Severe	15	11	16	13	23	7
Extremely severe	39	8	52	16	26	10

Sixty-two respondents completed DASS21 at referral and again at follow up (reference episode only). Of these, 38 (61%) were referred to the court psychologist (at referral).

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Table 39: Comparison between DASS severity scores at time of referral and at follow up (n=62)

	Depression		Anxiety		Stress	
	n	%	n	%	n	%
DASS severity score decreased	46	74	49	79	49	79
DASS severity score remained the same	2	3	3	5	1	2
DASS severity score increased	14	23	10	16	12	19

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Recent stressors

Stakeholders involved in the delivery of the SCCDP reported that the high level of support provided to defendants involved in the program assists them to avoid stressful events and, where they can't be avoided, minimise the negative impact on their behaviour. Table 40 shows that at the time of being referred to the program, the most common stressors reported as having been experienced by defendants or their family or friends were trouble with police (79%), drug problems (44%), trouble with family or family pressures (41%), witnessing fights or people being assaulted (40%) and not being able to get a job (35%). Almost all of the defendants (98%) were able to identify at least one stressful event that they had experienced within the last three months.

Table 40: Recent stressors experience by defendants, their family or friends in previous three months (at referral)

	n	%
Trouble with police	186	79
Drug problems	103	44
Trouble with family/family pressures	96	41
Seeing fights, or seeing people beaten up	93	40
Not able to get a job	85	36
Somebody very sick or disabled	73	31
Alcohol problems	70	30
Trouble with partner	69	29
Abuse or violent crime	57	24
Death of a family member or close friend	51	22
Divorce or separation	28	12
Too many people living in one house	25	11
A bad accident	24	10
Member of family sent to jail or in jail	18	8
Got the sack	13	6
Gambling problem	9	4
Trouble with school	7	3
Other	15	6
None of these	5	2
Total respondents	235	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Table 41: Recent stressors experience by defendants, their family or friends in previous three months (n=71)

	At referral		At follow up	
	n	%	n	%
Trouble with police	59	83	34	48
Drug problems	37	52	14	20
Trouble with family/family pressures	31	44	15	21
Seeing fights, or seeing people beaten up	26	37	16	23
Not able to get a job	25	35	13	18
Somebody very sick or disabled	21	30	13	18
Abuse or violent crime	18	25	8	11
Alcohol problems	18	25	9	13
Trouble with partner	18	25	12	17
Too many people living in one house	13	18	7	10
Death of a family member or close friend	12	17	12	17
A bad accident	9	13	3	4
Divorce or separation	7	10	2	3
Got the sack	5	7	3	4
Member of family sent to jail or in jail	4	6	5	7
Gambling problem	3	4	1	1
Trouble with school	4	6	0	0
Other	4	6	5	7
None of these	2	3	13	18

The results from a comparison between the recent stressors reported as having been experienced by defendants, their family and friends in the previous three months at both referral and at follow up are presented in Table 41. Key findings from the analysis indicate substantial declines in the proportion of participants that reported various stressors, most notably:

- trouble with police (83% at referral down to 48% at follow up);
- drug problems (52% down to 20%);
- trouble with family and family pressures (44% down to 21%);
- seeing fights or people getting beaten up (37% down to 23%); and
- not being able to get a job (35% down to 18%).

Further, the proportion of participants that did not report any of these recent stressful events (or identifying others) increased from three percent to 18 percent. This suggests that the prevalence of these events may have reduced, possibly due to the additional supports received as a result of participating in the SCCDP. Alternatively, it may suggest that people were better able to cope with these events and therefore didn't regard them as being stressful.

Attitudes towards the criminal justice system

Recent research by Walsh (2011) involving qualitative interviews with SCCDP participants highlighted the mistrust and negative perceptions of the CJS. An important aim of the program is therefore to increase participants' perceptions of the court process and procedural fairness. The responses of SCCDP participants to questions around their attitudes towards the CJS at the time of being referred to the program are presented in Table 42. More than one third of all SCCDP participants (38%) felt that they were treated like a number not a person the last few times they were in court (ie prior to being referred to the program), and nearly half (43%) disagreed with the statement that the courts treat everyone equally.

The results from a comparison between the attitudes towards the CJS among SCCDP participants at both referral and at follow up are presented in Table 43. The proportion of SCCDP participants that agreed or strongly agreed with the statement 'the Special Circumstances Court makes a difference to people like me' increased significantly, perhaps not surprisingly, from 22 percent at referral to 88 percent at follow up. Interestingly, there appears to be little change in more general attitudes towards the court process and outcomes, with the exception of those who felt they received enough support to help them through the court process, which increased from 73 percent to 87 percent.

Table 42: Attitudes towards the criminal justice system at the time of referral (n=230)

	Strongly agree or agree		Strongly disagree or disagree	
	n	%	n	%
The last few times I was in court I was treated like a number not a person	88	38	112	49
The last few times I was in court the penalties I received were generally fair	164	71	49	21
The courts treat everyone equally	100	44	98	43
I understand the court process	171	74	37	16
The Special Circumstances Court makes a difference to people like me	63	27	6	3
The police treat everyone equally	40	17	171	74
I receive enough support to help me through the court process	162	70	46	20

Table 43: Number and proportion of Special Circumstances Court participants that 'strongly agreed' or 'agreed' with the following statements (n=69)

	At referral		At follow up	
	n	%	n	%
The last few times I was in court I was treated like a number not a person	26	38	30	44
The last few times I was in court the penalties I received were generally fair	49	71	47	68
The courts treat everyone equally	32	46	33	48
I understand the court process	47	68	50	73
The Special Circumstances Court makes a difference to people like me	15	22	61	88
The police treat everyone equally	15	22	13	19
I receive enough support to help me through the court process	50	73	60	87

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

Participants were also asked a number of questions about their experience within the SCCDP at the completion of their episode. Feedback from participants at the end of their first episode in SCCDP shows a high rate of satisfaction with the program across all measures (Table 44). This suggests that those participants who completed an assessment interview at the completion of their episode were overwhelmingly positive about the experience and the support and benefits it provides.

Table 44: Attitudes towards the Special Circumstances Court

	n	%
Had a clear idea about what Special Circumstances Court involved before appearing	28	29
Felt comfortable having their case heard in Special Circumstances Court	96	99
Felt that Special Circumstances Court was a more suitable option than mainstream court	95	98
Was able to have their say and tell people their story in Special Circumstances Court	94	97
Thought that the Magistrate listened to what they had to say in the Special Circumstances Court	97	100
Felt that the Special Circumstances Court provided access to the services they needed	93	96
Felt supported and/or had enough support through the Special Circumstances Court	95	98
Participating in the Special Circumstances Court had a positive influence on their life	97	100
Participating in the Special Circumstances Court helped them to overcome problems in their life	92	95
Made the right choice to go to the Special Circumstances Court	96	99
Total respondents	97	100

Source: DJAG CIPES database June 2009 - October 2011 [AIC computer file]

It is worth noting that less than one third of participants reported having a clear idea about what Special Circumstances Court involved before appearing before the court. This may highlight the need for greater awareness of the program and what it involves, and communicating this information to referral sources so that they may pass it on to potential participants.

Impact of the SCCDP on reoffending

The final component of the evaluation involved an assessment of the impact of the SCCDP on reoffending among program participants. This represents an important objective of the program; by addressing the factors that are related to their offending, the program aims to reduce the level of offending among offenders who have a MI, ID and/or who are homeless.

To determine whether the SCCDP has had a measurable impact on reoffending among those offenders who participated in the program, this component of the evaluation has examined whether:

- offenders who participated in the SCCDP and were sentenced in the Special Circumstances Court took longer to reoffend than a matched group of offenders who were sentenced in a mainstream Magistrates Court;
- among those that *did* reoffend, SCCDP participants committed more or less serious offences than a similar group of offenders dealt with in mainstream Magistrates Courts;
- the frequency of offending by SCCDP participants after the completion of their episode within the SCCDP was lower than for a matched group of offenders in mainstream Magistrates Courts; and
- among those offenders that did reoffend, SCCDP participants were more or less likely to commit a breach offence.

The statistical methods used in this evaluation are similar to the methods used in the evaluation of the Queensland Murri Court (Morgan & Louis 2010). As with that evaluation, the assessment of reoffending among SCCDP participants required that three key methodological elements were considered; the indicator of recidivism, the sample selection parameters and the observation period (Payne 2007). For the purposes of this evaluation, a recidivism event was defined as at least one proven offence committed after an individual had completed their episode in the SCCDP and, in the case of the comparison group, had been fully finalised in a mainstream Magistrates Court.

The sample selection parameters determine the sample of offenders included in the analysis. To determine the impact of participating in the SCCDP on reoffending (a comparison between SCCDP participants and non-participants), only those offenders whose reference court episode was fully finalised during the evaluation period and who were finalised in the Special Circumstances Court (ie program completers) were included in this analysis. Offenders who were not terminated from the program were excluded. The comparison group included offenders who were fully finalised in a Magistrates Court during the evaluation period. Additional results for program completers, program terminates and offenders who were not accepted into the program have been presented separately where appropriate.

It was not possible to follow (observe) SCCDP participants and those offenders in the comparison group who were sentenced in a mainstream Magistrates Court for an equivalent period of time to determine the difference in the rate of reoffending between the two groups.

The final data extract with criminal history and court appearance data was provided to the AIC in December for all offenders who were referred to the court between June 2009 and December 2011. Offenders may have been sentenced at any time during this two-year period. Some offenders were followed for as little as one month and others who were observed for more than two years. The observation period used in this study to monitor reoffending therefore varies between participants and, on average, varied between the two groups (as demonstrated in Table 1). Further, some offenders had spent time in custody; either on remand or while sentenced, prior to, or as a result of, their reference court episode. This limited their capacity to offend during this period and therefore had to be considered when measuring reoffending as a function of free time.

Time taken to reoffend

The first stage in this analysis examined whether, controlling for other factors, offenders who participated in the SCCDP took longer to reoffend than those dealt with through mainstream Magistrate Court processes. The time taken to offend is a measure of the extent to which an intervention has postponed an offender's return to criminal activity. Longer periods of abstinence from offending indicate a greater intervention effect.

Total desistance from offending, while ideal, is not a realistic outcome for offenders who participate in the SCCDP. The complex factors that influence the behaviour of those offenders who find themselves in the SCCDP, including MI, ID and a range of social and economic issues means that, even with intensive support and supervision, stopping offending entirely is highly improbable. Prolonging an offender's re-contact with the CJS can result in significant financial and social benefits for the CJS and broader community (Payne 2007). Similarly, reducing an offender's contact with the CJS has obvious benefits for the individual themselves.

The follow up period of SCCDP participants began at the episode end date for SCCDP participants (the end of their contact with the program) and the last date of finalisation for referring charges for the comparison group. This takes into consideration the fact that some charges will be finalised before others and that a matter is not fully finalised until all charges relating to a person's reference court episode have been finalised.

The time taken to reoffend is based on the offence date of the individual's first subsequent proven offence, not the date that the matter was finalised in court. This is important, as the length of time taken to finalise charges varies between offenders. Many of those SCCDP participants who went on to reoffend re-entered the SCCDP for a subsequent episode. As this report has already demonstrated, it takes substantially longer to finalise a matter in the SCCDP than in a normal Magistrates Court. Using the date the matter was finalised in court would therefore artificially increase the time taken to reoffend for those offenders who were dealt with in the SCCDP.

Survival analysis was used to measure the occurrence of a reoffending event as a function of the time an individual was available to reoffend. Survival analysis is a statistical technique used for a range of 'time to event' data. It measures the time taken to reoffend to provide information about the comparative recidivism risk between groups. Survival analysis is especially useful in cases where the length of time under observation varies between the groups being observed and takes into consideration not only the variable length of follow-up period for different offenders, but also any time spent in custody during the follow-up period.

The advantage of using survival analysis is that it allows for the rate of reoffending to be estimated at points in time when not all individuals included in the sample have complete data. Survival analysis controls for variations in observation times so that valid estimates of reoffending can be generated at six and 12 months, even though not all offenders have been

observed for that length of time. In this study, survival analysis has been used to model the number of days to the first offence from the day the offender receives their final sentence (or the completion of all reporting requirements for SCCDP participants that receive an order requiring them to report to the court for a specified period of time).

Using survival analysis, it is possible to plot reoffending as a function of time, the benefit of which is to illustrate how long it took, on average, for offenders sentenced in the Special Circumstances Court and those sentenced in a mainstream Magistrates Court to reoffend. This analysis is undertaken by constructing a life table, which calculates the period-by-period probability of reoffending. Plotting these values over time is then used to illustrate the percentage of offenders who did not reoffend or, conversely, the percentage who did.

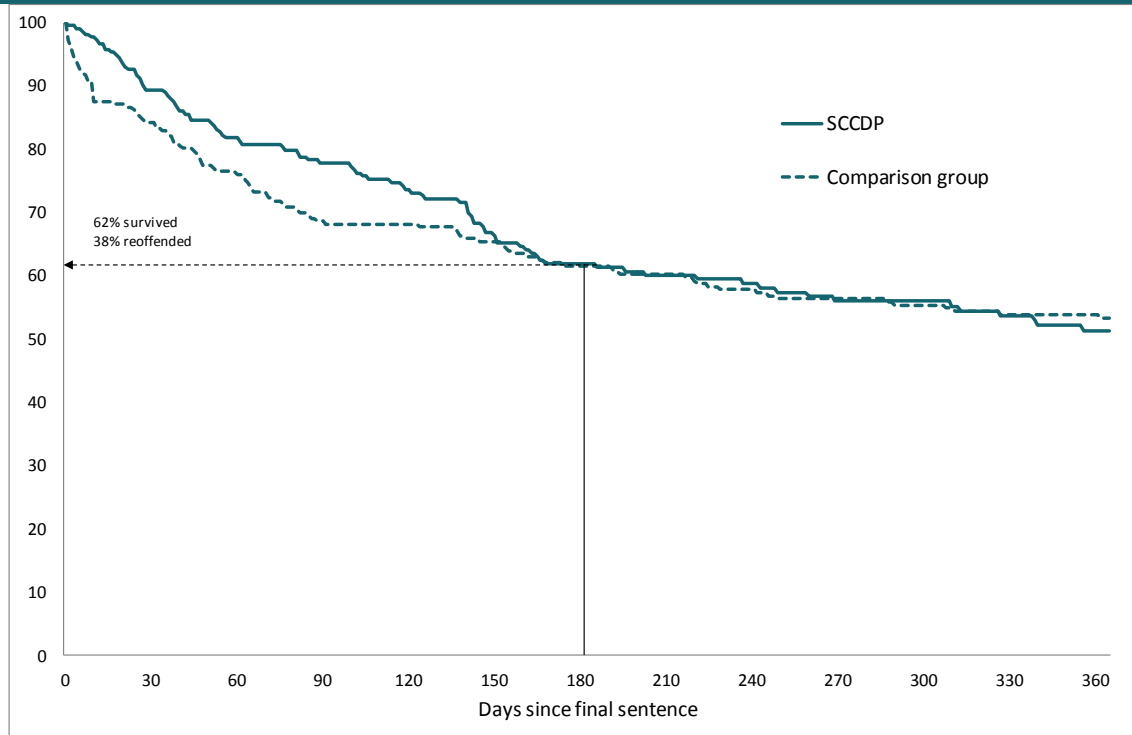
Figure 4 presents the survival curve of the time to the first proven offence for offenders in the SCCDP and comparison group. The survival curves begin at 100 on the y-axis, which indicates that at zero days (the day of sentencing), 100 percent of individuals in each sample had survived. The curves indicate the percentage of individuals within each sample who have survived at any given time point and these points are shown on the x-axis.

For illustrative purposes, the survival rate at 180 days has been highlighted to illustrate how reoffending rates have been calculated. A vertical line at 180 days on the x-axis meets each survival curve to provide a corresponding survival percentage on the y-axis. The value of the survival percentage indicates the proportion of each group who had survived (ie not reoffended) within 180 days of receiving a final sentence. The alternative value (100 minus the survival value) indicates the percentage of offenders who did not survive and had therefore reoffended. These estimates are derived from a mathematical calculation from within the statistical model.

In the example for adult offenders presented in Figure 4, 62 percent of adult offenders from both the SCCDP and comparison groups had survived 180 days (6 months) after being sentenced. This means that the estimated rate of reoffending for both groups at six months was 38 percent. As is evident from Figure 4, the difference between the estimated rate of reoffending of each group appears to vary over the 12 month follow up period (participants were followed for longer than 12 months, which is not shown in this figure). Therefore it is necessary to test the difference between the two groups at different points.

Tests of significance are used to determine whether the differences observed are the result of an actual difference in the survival rates between the SCCDP and comparison groups. The value of a statistical test (the *p* value, which varies between 0 and 1) indicates the probability that the observed differences between two groups are due to chance or error. Conventionally, the maximum probability level for determining a significant difference between two groups is set at $p=0.05$ (DeVaus 2002). If the value of a statistical test is more than 0.05, there is a greater than five percent chance that the difference between two groups is due to error or chance rather than a real difference between the groups. The closer the value gets to 1, the greater the probability that the result is due to error.

For the present survival analyses, two tests of significance are used—the Log Rank Test of Equality and the Wilcoxon Statistic. The Log Rank test weights the survival data to the end of the survival curve, while the Wilcoxon Statistic weights closer to the beginning (Hosmer & Lemeshow 1999). The Log Rank test will, if significant at $p<0.05$, indicate that the differences in the final lifetime survival rate between the two groups are significant. Alternatively, the Wilcoxon statistic will indicate whether the initial survival experience between both groups is significantly different, despite the possibility that the final lifetime survival rate may not be.

Figure 4: Time to first offence post finalisation (% survived)

Note: Log-rank test of equality: Total ($\chi^2=0.13$, $df=1$, $p=.720$). Wilcoxon statistic: Total ($\chi^2=0.52$, $df=1$, $p=.471$)

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

For the time to first offence data for offenders presented in Figure 4, neither test is significant, which means that it is not possible on the basis of this analysis to conclude with any confidence that the survival experience of SCCDP participants was better (or worse) than the offenders within the comparison group. In other words, there was no difference in the time taken to reoffend between the SCCDP and comparison groups.

Table 45: Offending for any offence in the six and twelve months post sentence

	Reoffended within six months						Reoffended within twelve months					
	SCCDP			Comparison group			SCCDP			Comparison group		
	%	95% CI lower - upper		%	95% CI lower - upper		%	95% CI lower - upper		%	95% CI lower - upper	
Sex												
Male	39	31	47	39	32	47	50	42	58	48	40	56
Female	37	24	54	37	25	53	43	30	62	43	31	59
MSO												
Violent offence	45	31	61	36	25	51	64	47	81	41	29	57
Property offence	42	31	55	39	29	51	52	40	65	48	37	60
Other offence	33	25	43	39	30	50	41	31	52	49	39	59
Total	38	32	45	38	32	45	49	42	56	47	40	54

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Using the same methods described above, a life table may be constructed for each sub-category of interest. Table 45 provides the reoffending estimates generated from survival analysis for offenders who participated in the SCCDP between June 2009 and December 2011, compared with the comparison group of similar offenders sentenced in a Magistrates Court during the same period. Estimates of reoffending are provided at two time points—six and 12 months. Separate estimates are provided for males, females and the different MSO types.

Comparable estimates for non-SCCDP participants are also provided. The results presented in this Table show that the estimated rate of reoffending at six and 12 months is similar for both males and females, but that the propensity to reoffend is higher among SCCDP participants than the comparison group for violent and property offenders and lower for participants with some other offence as their MSO. However, these differences were not statistically significant.

Table 46 provides the reoffending estimates generated from survival analysis for program completers, program terminates and offenders who were not accepted into the program. Estimates of reoffending are provided at two time points—six and 12 months. Using the same statistical tests as before, it is possible to determine whether the differences between the survival rates of the groups are significant. As shown in Table 46, both the Log-rank test of equality and the Wilcoxon statistic were not significant when program completers were compared with offenders who were ineligible for the program. They were however both significant ($p < .05$) when program completers were compared with program terminates, suggesting that program terminates took less time to reoffend than those participants who went on to complete the program.

Table 46: Offending for any offence in the six and twelve months post sentence, by program status						
	Reoffending within six months			Reoffending within twelve months		
	%	95% CI (lower)	95% CI (upper)	%	95% CI (lower)	95% CI (upper)
Completed program	38	32	45	48	41	55
Terminated from program	53	40	67	69	56	81
Ineligible for program	41	30	54	55	43	68

Terminated vs Completed: Log-rank test of equality: Total ($c2=4.79$, $df=1$, $p=.0029$). Wilcoxon statistic: Total ($c2=5.32$, $df=1$, $p=.0021$)

Ineligible vs Completed: Log-rank test of equality: Total ($c2=1.80$, $df=1$, $p=.180$). Wilcoxon statistic: Total ($c2=2.96$, $df=1$, $p=.085$)

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Returning to the results from a comparison between SCCDP and non-SCCDP participants, additional analyses were conducted to determine what factors influence the time taken to reoffend. The bivariate analyses already presented (Table 45) do not account for the possibility of confounding effects. The differences in the time to reoffend, or in this case the lack of a significant difference between two groups, may be due to the confounding effects of other covariates – including variables that were not included in the matching criteria when the comparison group was selected,

Multivariate Cox regression analysis was used. Cox regression analysis is a statistical method used to examine the independent effect of a single factor, controlling for the sum of the effect of all other factors. The Cox regression model is an extension of the survival analysis already conducted, but each factor is determined as having either a positive or negative effect on the hazard (or risk) of reoffending. For example, the hazard in the case of participation in the SCCDP is interpreted as the probability (or relative risk) that, at any point in time, offenders who had been sentenced in the Special Circumstances Court would be more or less likely than offenders who were sentenced in a normal Magistrates Court to commit an offence. Where hazard is above the value of 1, non-SCCDP participants are less likely than SCCDP participants to reoffend. Where the hazard is below the value of 1, those offenders sentenced in the Special Circumstances Court are less likely to reoffend.

As a statistical model, Cox regression has a number of underlying assumptions. The most important assumption is that of proportionality. A Cox regression model will estimate the effect of a particular factor (in this case, in terms of its impact on reoffending) and assume that this affect will remain consistent over the course of the analysis. Should this not be the case, the proportionality assumption would be violated and the statistical model rendered invalid. For the purpose of this report, the AIC examined violations of the proportionality assumption. Both

global and individual factor analyses were undertaken. Based on the results, a time-varying covariate (for participation in SCCDP) was therefore included in the model to account for non-proportional hazards.

Another assumption underlying the Cox Regression is that the process that generates the outcome variable isn't affected by any other variable. In health research, where this methodology originated, the outcome variable is not dependent on any other variable—the health status for the person being monitored is immediately identifiable at the time the event occurs (ie death). This assumption does not necessarily hold true for the CJS. Whether a person is identified as having reoffended is dependent upon the time taken to process a subsequent offence through the court process. Where there is a difference in the length of time a person is monitored, there is the potential for there to be a difference in the outcome variable, in this case time to reoffend, being observed. To counteract this issue, the model described below includes a variable (not shown) controlling for the amount of time each person is observed, to account for the impact of the differential follow-up period for the SCCDP and comparison group. This variable was a significant predictor of post-sentence reoffending—demonstrating that the longer a person was 'followed', the more likely it would be that they would be found to reoffend at any time point.

The Cox Regression model was estimated using demographic, offending and prior criminal history characteristics (Table 47). These factors were included on the basis that bivariate analyses showed that they were, on their own, significant predictors of the time to reoffend. These factors have also been demonstrated to have an impact on reoffending (Payne 2007). Overall, the statistical model was significant, which means that the set of factors included in the model was better at predicting reoffending than a model that controls for none of these factors.

Table 47: Cox regression predicting reoffending (any offence) among adult offenders

	hr	95% CI (lower)	95% CI (upper)	p
Participation in the SCCDP	0.79	0.53	1.16	0.23
Prior imprisonment	0.88	0.56	1.33	0.54
Breach offence	1.11	0.74	1.68	0.61
17-20 years (vs 36 years and older)	1.77	1.06	2.94	0.03
21-25 (vs 36 years and older)	1.23	0.81	1.85	0.33
26-30 (vs 36 years and older)	1.00	0.68	1.49	0.98
31-35 (vs 36 years and older)	0.88	0.59	1.31	0.52
2-3 offences (vs a single offence)	1.08	0.77	1.52	0.66
4 or more offences (vs a single offence)	1.29	0.89	1.86	0.17
Violent offence as most serious prior offence (vs other offence)	1.42	0.96	2.11	0.08
Property offence as most serious prior offence (vs other offence)	1.24	0.79	1.96	0.35
No prior offences (vs more than 30 prior offences)	0.29	0.13	0.64	0.00
1-10 prior offences (vs more than 30 prior offences)	0.42	0.25	0.70	0.00
11-30 prior offences (vs more than 30 prior offences)	0.50	0.34	0.73	0.00
Model chi square	71.42			
Log likelihood	-1153.27			
p	0.00			
n	435			

Note: Includes a variable controlling for follow up time (not shown) and time-varying covariate (for participation in SCCDP) to account for non-proportional hazards

The hazard ratios presented in Table 47 indicate the proportional difference in risk at each time point between offenders in the SCCDP and the comparison group. Those with higher

proportional risk have higher recidivism probabilities. Those factors with a p value <0.05 are significant predictors of reoffending, controlling for other factors. The model suggests that age and prior offending are significant predictors of post-sentence recidivism. Offenders who were aged 17 to 20 years of age were 77 percent ($hr=1.77$) more likely to reoffend than offenders aged 36 years and older. Offenders with no prior offences ($hr=0.29$), one to ten prior offences ($hr=0.42$) and 11-20 prior offences ($hr=0.50$) were all less likely than those offenders with more than 30 prior offences to reoffend. Controlling for all other factors, participation in the SCCDP did not significantly increase or decrease the risk that an individual would reoffend at any point in time.

Taken as a whole, the findings from this analysis suggest that there was no significant difference between offenders who participated in the SCCDP and those sentenced in mainstream courts in terms of the time taken to reoffend. Calculated estimates of survival (ie proportion of offenders that have not reoffended) were relatively consistent for both groups over time and this pattern appears to remain consistent across the different categories. Finally, the fact that participation in the SCCDP was not a significant predictor in the Cox Regression model suggests that it had little impact on the time taken to reoffend.

Seriousness of offending

The second measure of recidivism used in this evaluation was the change in offence seriousness among those offenders who had a further proven offence post-sentence. Changes in the seriousness of offending refer to the relative seriousness of the first proven offence after the reference court episode was finalised compared with the principal offence (MSO) for the reference court episode. Recall that charges relating to each individual's reference court episode were classified according to the ASOC classification (ABS 2009). The principal offence for each offender was identified and refers to the MSO according to the NOI, a seriousness ranking contained within ASOC. The NOI for proven offences committed post-sentence was also determined.

The change in offence seriousness for those offenders who had reoffended during the observation period was calculated by comparing the NOI of the principal offence for the reference court episode with the NOI of the first subsequent proven offence committed post-sentence. Where multiple offences were recorded on this date, the NOI of the MSO was used. For those offenders who had reoffended, the proportion whose next offence was less serious than their principal offence for their reference court episode was calculated. The statistical significance of any differences observed between the relative proportions of offenders within the SCCDP and comparison groups who had committed a less serious offence was analysed using chi-square tests or Fisher's exact test.

The results of this analysis for program completers, program terminates and offenders not accepted into the program are presented in Table 48. This shows that of the 112 offenders who were sentenced in the Special Circumstances Court and who had reoffended during the observation period, 58 percent committed a less serious offence as their first subsequent offence. This was compared with 69 percent of the 36 offenders who were terminated from the program and had reoffended during the same period, and 76 percent of the 37 offenders who were not accepted into the program. These differences were not significant, nor do they account for any differences between the two groups (such as the seriousness of the principal offence among offenders who reoffended).

Table 48: Change in offence seriousness among offenders who were referred to the SCCDP and who reoffended

	Completed program	Terminated from program	Ineligible for program
Total (n)	238	54	65
Reoffended (n)	112	36	37
Less serious (%)	58	69	76
More serious or the same (%)	42	31	24

Program completed vs ineligible $p=0.055$

Program completed vs terminates $p=0.223$

Change in offence seriousness refers to the relative seriousness of the next offence after reference court episode is finalised for which the offender has been convicted. Where multiple offences are recorded on this date most serious offence is used.

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Table 49: Change in offence seriousness among offenders sentenced in the Special Circumstances Court and Magistrates Court

	SCCDP				Comparison group				
	Total (n)	Reoffended (n)	Less serious (%)	More serious or the same (%)	Total (n)	Reoffended (n)	Less serious (%)	More serious or the same (%)	p
Sex									
Male	172	85	62	38	172	88	57	43	0.46
Female	46	19	53	47	46	22	59	41	0.68
Most serious offence									
Violent offence	50	26	81	19	50	22	95	5	0.20
Property offence	71	38	68	32	71	38	71	29	0.80
Other offence	97	40	40	60	97	50	30	70	0.32
Total	218	104	61	39	218	110	57	43	0.62

Change in offence seriousness refers to the relative seriousness of the next offence after reference court episode is finalised for which the offender has been convicted. Where multiple offences are recorded on this date most serious offence is used.

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The results of this same analysis for SCCDP and non-SCCDP participants are presented in Table 49. This shows that of the 104 offenders who were sentenced in the Special Circumstances Court and who had reoffended during the observation period, 61 percent committed a less serious offence as their first subsequent offence. This was compared with 57 percent of the 110 offenders who were sentenced in a normal Magistrates court and had reoffended during the same period. This difference was not significant. A comparison between groups according to sex and offence type (MSO for the reference court episode) suggests that there were no significant differences between the groups when disaggregated by these characteristics. However, these bivariate analyses do not account for the potential influence of other confounding variables.

While the proportion of offenders who committed a less serious offence appears to be the same among the SCCDP and comparison groups, there are a number of factors that may contribute to the likelihood that the seriousness of offending will change. Developing a logistic regression model makes it possible to determine the relative contribution of various factors to the likelihood that an offender will commit a less serious offence. This helps to verify that the finding of no difference is not the result of some bias resulting from some other difference between the two groups.

Table 50 reports the estimated parameters for a logistic regression model that includes the same explanatory variables relating to demographic characteristics of the offender, the reference court episode and prior criminal history previously identified as having an impact of the time to reoffend. The dependant variable is whether an offender committed a less serious offence. The model only includes those offenders in both the SCCDP and comparison group who had at least one proven offence after their reference court episode.

Table 50: Logistic regression model predicting less serious offence (limited to those offenders with at least one subsequent proven offence)

	Coefficient	Standard error	Odds Ratio	95% CI (lower)	95% CI (upper)
Participation in SCCDP	-0.20	0.29	0.94	0.51	1.73
Prior imprisonment	0.62	0.61	1.33	0.54	3.27
Breach offence	-0.19	0.44	0.91	0.35	2.36
17-20 years (vs 36 years and older)	1.51	1.33	2.35	0.77	7.15
21-25 (vs 36 years and older)*	2.32	1.36	2.94	1.18	7.30
26-30 (vs 36 years and older)	1.04	0.65	1.55	0.68	3.55
31-35 (vs 36 years and older)	1.89	1.01	2.30	0.97	5.43
2-3 offences (vs a single offence)*	3.12	1.18	3.19	1.54	6.60
4 or more offences (vs a single offence)*	4.16	2.31	5.59	2.49	12.58
Violent offence as most serious prior offence (vs other offence)	1.04	0.67	1.56	0.67	3.60
Property offence as most serious prior offence (vs other offence)	0.88	0.79	1.56	0.58	4.23
No prior offences (vs more than 30 prior offences)	0.21	1.00	1.19	0.23	6.15
1-10 prior offences (vs more than 30 prior offences)	0.25	0.63	1.15	0.39	3.36
11-30 prior offences (vs more than 30 prior offences)	-0.89	0.29	0.68	0.30	1.58
Model chi square	33.20				
df	14				
p	0.00				
n	214				

* statistically significant at $p < 0.05$

Change in offence seriousness refers to the relative seriousness of the next offence after reference court episode is finalised for which the offender has been convicted. Where multiple offences are recorded on this date most serious offence is used.

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The model shows that there are two variables that predict whether an offender committed a less serious offence:

- Offenders who were aged between 21 and 25 years of age were more likely (odds ratio (or)=2.94) to commit a less serious offence than those offenders aged 36 years and older.
- Having concurrent offences (ie 2 or more charges) as part of the reference court episode was associated with an increased likelihood of committing a less serious offence, compared to those offenders charged with just one offence.

Most importantly, holding all other variables constant, the model demonstrates that offenders participating in the SCCDP were still not significantly more likely than offenders sentenced in a normal Magistrates Court to commit a less serious offence.

Frequency of offending

The next step involved comparing the frequency of offending between the SCCDP and comparison groups in the period following each offender's reference court episode. The issues associated with comparing the frequency of offending between two groups with different follow up periods were explained at length in the report on the evaluation of the Queensland Murri Court (Morgan & Louis 2010) and will not be repeated here.

The first step involved comparing the frequency of offending before and after the SCCDP or court episode. This was achieved by calculating the number of offences per 365 free days for an equivalent period before and after the reference court episode. This was the number of unique proven offences committed by each offender, divided by the number of days for which they were observed (minus time spent in custody) and multiplied by 365.

For offenders participating in the SCCDP, the observation period post-sentence was the number of days from the episode end date until the end of the observation period (the date on which the data was extracted). The number of days an offender spent in custody was subtracted from this total. SCCDP participants were observed for an equivalent period (free days only) up to the date on which they were referred to the program (ie the episode start date). For offenders within the comparison group, the post-sentence period commenced on the date of finalisation in a Magistrates Court. The same group of offenders were observed for an equivalent period (free days only) up to the first date of their reference court episode. Each offender was observed for a different period of time, but an equivalent period of time before and after their reference court episode.

Offenders were then categorised according to whether their offending frequency increased or decreased between the two periods. The significance of any differences observed between the relative proportions of offenders who had offended less frequently was analysed using chi-square tests. Given that a large proportion of offenders in both groups (but particularly the SCCDP group) had an offending frequency of zero in the pre-episode period (due either to the delay between the date of the offence and bringing the matter before the court or, in the case of offenders referred to the SCCDP, the length of time until the matter was referred to the program), offenders were categorised according to whether their offending frequency had declined/remained constant or whether they had increased in frequency. This was because the offending frequency of those offenders who had a frequency of zero offences per 365 days in the pre-intervention period could not decline – at best, it could remain constant.

The results from a comparison between program completers, program terminates and offenders who were not accepted into the program are presented in Table 51. This shows that the proportion of offenders who offending more frequently (a negative result) in the period after their episode in SCCDP ended (or for program terminates and those not accepted into the program, the date of finalisation) was lower among program completers than among the other two groups. Only the difference between program terminates and completers was statistically significant.

Table 51: Comparison in offending frequency among offenders referred to the SCCDP before and after court episode (based on number of offences per 365 free days)

	n	Less frequent or the same (%)	More frequent (%)	p ^a
Completed program	238	72	28	
Terminated from program	54	52	48	0.00
Ineligible for program	65	65	35	0.23

a: When compared to the frequency of offending among program participants

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The results from this same analysis for SCCDP participants and the comparison group, by sex and MSO, are presented in Table 52. These results show that there was little difference between the two groups in terms of the proportion of offenders who went on to offend more frequently, across any of the categories. Where there was a difference, this difference was not statistically significant.

Table 52: Comparison in offending frequency among offenders before and after court episode (based on number of offences per 365 free days)

	SCCDP			Comparison group			p
	n	Less frequent or the same	More frequent	n	Less frequent or the same	More frequent	
Sex							
Male	172	73	27	172	77	23	0.38
Female	46	67	33	46	74	26	0.49
MSO							
Violent offence	50	68	32	50	76	24	0.37
Property offence	71	73	27	71	79	21	0.43
Other offence	97	73	27	97	75	25	0.74
Total	218	72	28	218	77	23	0.27

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

These results do not, on their own, present a complete picture of the impact of the SCCDP on the frequency of offending. To determine whether participation in the SCCDP was associated with a lower frequency of offending post-sentence, controlling for other factors, a zero-inflated negative binomial regression was used. Negative binomial regression was chosen for this analysis because the dependant variable, frequency of offending, is a count variable (ie number of charges per 365 free days). A zero-inflated negative binomial regression was used because of the large proportion of offenders who did not commit any offences in the follow up period (therefore they had an offending frequency of zero). The suitability of this model was confirmed through appropriate model fit diagnostics.

Table 53 reports the estimated parameters for the zero-inflated negative binomial regression model that includes the same explanatory variables relating to demographic characteristics of the offender, the reference court episode and prior criminal history included in previous models. The model was statistically significant in predicting the frequency of offending among offenders from the SCCDP and comparison groups, and the predictor of the excess zeros in the distribution, post time follow up period, was also statistically significant ($p < .001$). Based on the incident rate ratios (IRR) presented in Table 53, it is possible to conclude that the following variables were associated with a higher frequency of offending:

- The frequency of offending among those offenders aged 17-20 years was 2.48 times higher than those offenders aged 36 years and older.
- The frequency of offending among those offenders aged 21-25 years was also 2.12 times higher than those offenders aged 36 years and older.
- The frequency of offending among those offenders with no prior offences was significantly lower than among those offenders with more than 30 prior offences.

Most importantly, holding all other variables constant, the model demonstrates that the frequency of offending in the follow up period was 34 percent lower for offenders who participated in the SCCDP (IRR=0.66) than offenders sentenced in a normal Magistrates Court. This finding is consistent with the views of stakeholders involved in the program, who reported

that, while participants continued to reoffend, the SCCDP had led to a reduction in the level and of offending among the target group.

Table 53: Zero-inflated negative binomial regression predicting frequency of offending				
	IRR	95% CI (lower)	95% CI (upper)	p
Participation in SCCDP	0.66	0.47	0.93	0.02
Prior imprisonment	0.86	0.53	1.41	0.56
Breach offence	1.14	0.71	1.85	0.58
17-20 years (vs 36 years and older)	2.48	1.36	4.52	0.00
21-25 (vs 36 years and older)	2.12	1.30	3.44	0.00
26-30 (vs 36 years and older)	1.42	0.89	2.26	0.14
31-35 (vs 36 years and older)	0.85	0.54	1.36	0.50
2-3 offences (vs a single offence)	1.05	0.82	0.70	1.56
4 or more offences (vs a single offence)	1.80	0.01	1.17	2.76
Violent offence as most serious prior offence (vs other offence)	0.88	0.55	1.42	0.61
Property offence as most serious prior offence (vs other offence)	0.89	0.52	1.54	0.68
No prior offences (vs more than 30 prior offences)	0.27	0.12	0.61	0.00
1-10 prior offences (vs more than 30 prior offences)	0.16	0.00	0.09	0.29
11-30 prior offences (vs more than 30 prior offences)	0.28	0.00	0.18	0.44
Model chi square	93.02			
df	14.00			
p	0.00			
n	436			

The predictor of the excess zeros in the distribution, post time follow up period, was also statistically significant ($p < .001$)

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Breaches of court orders

In addition to reducing the rate of recidivism among offenders with a MI, ID and/or who are homeless, the SCCDP also aims to reduce the proportion of offenders who breach sentence orders imposed by the court (ie improve compliance with court orders). It is not possible using the data within CIPES (extracted from QWIC) to link specific breach offences with the sentence orders to which they might relate. Instead, it was necessary to use the proportion of offenders with at least one subsequent proven offence who had committed a breach offence as one of those offences. Breach offences may relate to existing court orders that were imposed prior to the court episode in question, and they may also relate to breaches not related to sentence orders (eg breach of bail, breach of domestic violence order). Nevertheless, it represents an important measure of the level of compliance with orders made by the court.

Two measures are used; the proportion of offenders who reoffended and committed a breach offence as their first proven offence, and the proportion of offenders who reoffended and committed a breach offence at any point during the follow up period. The first measure is arguably the better indicator of the impact of the SCCDP on compliance, as it is more likely to relate directly to orders imposed on SCCDP participants during their participation in the program. The types of orders that are imposed in SCCDP compared to a mainstream Magistrates Court will also influence the likelihood that a breach offence will be committed. Failing to comply with some orders (such as a good behaviour bond) does not result in an

additional breach offence, and there has been a concerted attempt to impose sentences that are less likely to be breached by SCCDP participants.

Further, there is some chance that the longer average follow up time for the comparison group may increase the opportunity for the offender to commit a breach offence (eg longer follow up time means more opportunity to breach an existing court order or more time to return to the court and receive an additional order that may be breached). Finally, by including all breach offences committed during the follow up period, breaches of bail for subsequent court episodes are also being counted. In the event that a person returns to the SCCDP because they have reoffended and are accepted back into the program, the failure to abide by this condition under section 11(9) of the Bail Act 1980 does not constitute an offence. This does not apply to normal bail conditions, which would be more common for those offenders returning to a normal Magistrates Court.

Table 54 presents the results for program completers, program terminates and offenders not accepted into the program. They show that the proportion of offenders who reoffended and committed a breach offence as their first proven offence was significantly higher among offenders who were ineligible for the SCCDP (33%) than among SCCDP participants (12%). The proportion of offenders who committed a breach offence at any point during the follow up period was significantly higher for both the program terminate group (50%) and offenders who were ineligible for the program (57%) than program completers (27%)

Table 54: Number and proportion of offenders who committed a breach offence (limited to those offenders with at least one subsequent proven offence), by program status

	Breach offence as first proven offence			Breach offence as any subsequent offence		
	n	%	p ^a	n	%	p ^a
Completed program	13	12	-	30	27	-
Terminated from program	3	8	0.58	18	50	0.01
Ineligible for program	12	33	0.00	21	57	0.00

a: when compared to those offenders who completed the program

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

The results comparing the SCCDP and comparison groups are presented in Table 55. These figures show that the proportion of SCCDP participants who had reoffended and who had committed a breach offence as their first proven offence (12%) was lower than in the comparison group (19%), but that this difference was not statistically significant. There was however a significant difference between the proportion of SCCDP participants who committed a breach offence at any point during the follow up period (27%) and the comparison group (55%).

Table 55: Number and proportion of offenders who committed a breach offence (limited to those offenders with at least one subsequent proven offence)

	SCCDP		Comparison		p
	n	%	n	%	
Breach offence as first offence	12	12	21	19	0.13
Breach offence as any subsequent offence	28	27	61	55	0.00

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

There is a range of variables that might account for this difference. Table 56 reports the estimated parameters for a logistic regression model that includes the same explanatory

variables relating to demographic characteristics of the offender, the reference court episode and prior criminal history used in previous models. The dependant variable is whether an offender committed a breach offence, and the model only includes those offenders in both the SCCDP and comparison group who had at least one proven offence after their reference court episode. The model shows that there were a number of variables that predicted whether an offender committed a breach offence:

- Being charged with a breach offence as part of the reference court episode was associated with an increased likelihood (or=2.84) of committing a breach offence in the period post-finalisation.
- Offenders who were aged between 17 and 20 years of age (or=4.58) and 21 and 25 years of age (or=3.22) were more likely to commit a breach offence than those offenders aged 36 years and older.
- Having four or more charges as part of the reference court episode was associated with a lower likelihood of committing a breach offence (or=0.83) compared to those offenders charged with just one offence.

Table 56: Logistic regression model predicting breach offence (limited to those offenders with at least one subsequent proven offence)

	Coefficient	Standard error	Odds Ratio	95% CI (lower)	95% CI (upper)
Participation in SCCDP*	-4.30	0.08	0.24	0.13	0.46
Prior imprisonment	0.05	0.49	1.02	0.40	2.59
Breach offence*	2.14	1.38	2.84	1.09	7.36
17-20 years (vs 36 years and older)*	2.59	2.69	4.58	1.45	14.49
21-25 (vs 36 years and older)*	2.49	1.51	3.22	1.28	8.07
26-30 (vs 36 years and older)	1.79	0.99	2.22	0.93	5.32
31-35 (vs 36 years and older)	0.85	0.66	1.47	0.61	3.56
2-3 offences (vs a single offence)	-0.09	0.37	0.96	0.45	2.06
4 or more offences (vs a single offence)*	-0.45	0.34	0.83	0.38	1.85
Violent offence as most serious prior offence (vs other offence)	0.13	0.47	1.06	0.44	2.52
Property offence as most serious prior offence (vs other offence)	-0.92	0.33	0.61	0.21	1.76
No prior offences (vs more than 30 prior offences)	-0.34	0.66	0.74	0.13	4.23
1-10 prior offences (vs more than 30 prior offences)	-1.86	0.20	0.34	0.11	1.06
11-30 prior offences (vs more than 30 prior offences)	-0.61	0.33	0.77	0.33	1.79
Model chi square	46.08				
Log likelihood	-122.25				
p	0.00				
n	214				

* statistically significant at p<0.05

Includes those offenders who reoffended after the finalisation date of their first court episode during the evaluation period

Limited to those SCCDP participants whose reference court episode was fully finalised in the Special Circumstances Court

Source: AIC, Queensland Special Circumstances Court Diversion Program database [computer file]

Most importantly, holding all other variables constant, the model demonstrates that offenders participating in the SCCDP and who had reoffended post-sentence were significantly less likely (or=0.24) than offenders sentenced in a normal Magistrates Court to commit a breach offence during the follow up period. Overall, these results suggest that offenders who participated in the SCCDP and committed at least one proven offence during the follow up period were less likely

to commit a breach offence than participants terminated from the program, offenders who were not accepted into the program and the matched comparison group.

Draft: not for release

Conclusion and recommendations

This report has presented the findings from the AIC's process and outcome evaluation of the SCCDP. There were a number of positive findings from this evaluation, as well as several areas where improvements could be made to both the design and implementation of the SCCDP. Positive findings from a review of the implementation and operation of the SCCDP include:

- The recommendations from the evaluation of the HPCDP (Guthrie et al. 2007) have been implemented, and this has led to improvements in the operation of the program.
- There is a high degree of support among stakeholders involved in the program for the SCCDP as an initiative to reduce reoffending among offenders with a mental illness, intellectual disability or who are homeless.
- The SCCDP is recognised as an important mechanism for engaging a hard to reach client group in support services and rehabilitative and treatment programs.
- There is a core group of stakeholders involved in the implementation of the SCCDP and, for the most part, these stakeholders have demonstrated a high level of commitment to the program, invest significant resources and have established effective working relationships.
- The program has effectively engaged and maintained the involvement of a large number of service providers that deliver a range of important rehabilitative, treatment and support services to SCCDP participants.
- The high level of supervision provided to participants by the court was viewed by many stakeholders as contributing to the success of the program in assisting offenders to address the issues contributing to their offending behaviour. In particular, the authority of the court and the structure and accountability it provides to defendants are viewed as important catalysts for behavioural change.
- The literature review highlighted 11 principles that underpin effective mental health court and diversion programs. The SCCDP is consistent with the majority of these principles, although there is scope to more clearly define the terms of participation for participants.

The SCCDP has also delivered a range of positive outcomes for program participants and stakeholders involved in the management and delivery of the program:

- There was evidence that the sentences imposed in the Special Circumstances Court offer greater opportunity to supervise offenders post-sentence (either by the court or QCS), are more likely to require offenders to continue to participate in programs to address their offending behaviour, and reduce the financial burden on offenders who do not have the capacity to pay fines.
- There appeared to be a decline in the propensity to abscond subject to warrant among SCCDP participants once they had been referred to the Special Circumstances Court, particularly among offenders with a violent offence as their MSO.
- Service providers noted a substantial improvement in terms of the referral pathways between the court and community-based services, compared with how the program used to operate as

part of HPCDP. The appointment of the court psychologist to the program improved the capacity of the SCCDP to support defendants with a mental illness.

- There was some evidence that SCCDP has improved the health and wellbeing of participants (at least those that completed a follow up survey at the completion of their first episode), finding stable accommodation for those defendants who do not have adequate housing, helping defendants to address their problematic drug use and dependency issues, and helping to address the mental health problems (and health more broadly) of participants.
- While the program did not appear to have an impact on the time taken to reoffend or the seriousness of offending among program participants, SCCDP participants offended less frequently in the follow up period than similar offenders sentenced in a normal Magistrates Court.
- SCCDP participants were less likely to breach court orders. Offenders who participated in the SCCDP and committed at least one proven offence during the follow up period were less likely to commit a breach offence than participants terminated from the program, offenders who were not accepted into the program and the matched comparison group.

The evidence presented in this report demonstrates that the SCCDP is delivering a number of important outcomes, including for offenders with MI, ID and/or who are homeless, court partners and service providers involved in the program, and for the CJS more broadly. Overall, the program is operating reasonably well and is generally well supported by those involved.

However, there are some issues that were identified through the evaluation that have impacted upon the operation of the program and the capacity of the SCCDP to deliver positive outcomes for participants. These issues need to be addressed and include:

- defining the objectives of the program, practice and procedures, the roles and responsibilities of stakeholders, terms of participation and program completion (while maintaining flexibility to adapt the program to the needs of participants), whether that be through legislation or an endorsed PPM;
- embedding more consistent processes for the first identification of potential participants in the Arrest Court to ensure that eligible defendants are provided the opportunity to participate in the program;
- addressing barriers to the sharing of information to monitor participants progress as part of the program, without comprising the confidentiality of participants;
- maintaining the authority of the court and the structure and accountability it provides to continue to encourage participants to attend and engage in services to address the factors underlying their offending behaviour, required as part of their participation in the program;
- addressing perceived inconsistencies in the way that the court responds to participants who continue to reoffend, do not attend court or do not actively participate in programs;
- developing appropriate exit strategies and transition plans for defendants once they complete the program;
- clarifying the responsibility for case managing participants involved in the program, which may be impacting upon the level of individual support provided to defendants; and
- continuing to take steps to identify and engage community-based services in the program and improve the availability of services.

There are different views as to the model that should be adopted in the future for responding to defendants within the court process who are homeless or suffer from impaired decision-making capacity. However, stakeholders involved in the management and delivery of the program support the continuation of a court-based response to address the needs of offenders who are homeless or suffer from impaired decision-making capacity.

Recommendations

This report ends by making a number of recommendations to improve the operation and effectiveness of the SCCDP.

Recommendation 1

There should continue to be a court-based program operating in the Brisbane Magistrates Court that addresses the needs of offenders who are homeless or suffer from impaired decision-making and that incorporates the key features of the SCCDP model described in this report.

Recommendation 2

A PPM needs to be developed and endorsed by all stakeholders involved in the management and delivery of the program. The PPM should describe the objectives of the program, the roles and responsibilities of key stakeholders involved in the program, protocols to guide the sharing of information and the operation of each stage in the program. The development of this PPM should be led by the SCCDP program manager (DJAG), but should be developed in consultation with the various partners.

Recommendation 3

The objectives of the SCCDP need to be agreed and defined in relevant program documentation (ie the PPM), as these will serve to guide the operation of the program and decisions about any changes that should be made to the program. These objectives should reflect the outcomes measured as part of the evaluation. Specifically, improving access to therapeutic programs and support services for offenders with a MI, ID and/or who are homeless; addressing the causes of offending among SCCDP participants; improving compliance with court orders (bail and sentence) and reducing reoffending among offenders with a MI, ID and/or who are homeless.

Recommendation 4

The Steering Group should meet on a more regular and consistent basis (bi-monthly or quarterly) to discuss issues relating to the operation of the program. There should be representation from the service providers involved in the program on this Steering Group.

Recommendation 5

Court partners involved in the SCCDP need to be funded for their involvement in the program to ensure their continued support and participation. This includes the Magistrates Court, DJAG, QPS, QCS and LAQ. Brokerage funding should also be provided to support participants involved in the program.

Recommendation 6

Funding needs to be provided to support the reintroduction of a dedicated court psychologist with expertise in forensic and general psychological assessment to conduct assessments of potential participants, develop diversion plans and provide expert advice to the court.

Recommendation 7

Consideration should be given to whether service providers responsible for supporting large numbers of SCCDP participants could be contracted by DJAG to provide these services (similar to the CISP model in Victoria).

Recommendation 8

Where they do not already exist or are not up to date (and where there is not financial arrangement in place), a formal memorandum of understanding should be established between the Department and key service providers that clearly sets out the nature of the services to be

provided, the role of the service provider in the court and any other requirements (eg information sharing).

Recommendation 9

Stakeholders involved in the management and delivery of the SCCDP should be supported by an ongoing program of training and professional development. This includes training to assist court partners to develop a better understanding of the client population, of the services that are available for defendants and (for service providers) of the legal process.

Recommendation 10

There is a need to continue to build awareness of the SCCDP among referral sources, including non-government service providers, boarding houses and operational police through the distribution of information materials (posters, brochures etc) and by actively promoting the program to potential referral sources.

Recommendation 11

A more consistent process should be established for the first identification of potential participants in Arrest Court to ensure that eligible defendants are provided the opportunity to participate in the program. This could involve the introduction of a referral form that can be completed for potential participants and considered by the Magistrate prior to ordering the Court Case Coordinator to complete an eligibility assessment.

Recommendation 12

Where possible, and without compromising the necessary steps involved in referring eligible offenders, there should be a genuine attempt to minimise the number of court appearance events and time taken to refer offenders to the SCCDP.

Recommendation 13

As part of the assessment of participants completed prior to their acceptance in the program, the report prepared by the Court Case Coordinator should also outline the recommended length, duration and intensity of supervision required for each participant. This should take into consideration their current circumstances, previous performance in complying with court orders (eg breaches of bail or sentence orders) and their motivation and willingness to address their offending behaviour.

Recommendation 14

Formal assessment interviews should be completed for all participants at the completion of their involvement in the program and prior to being sentenced by the Magistrate. This information (and how it compares to the assessment interview at the commencement of the episode) should be reported to the Court to assist in sentencing (and any decisions about post-sentence supervision).

Recommendation 15

A review of the case planning tools and processes used in other locations for similar programs should be undertaken to identify where improvements can be made, in terms of developing individual case plans, monitoring progress against these case plans and reporting on performance in a more systematic way. There is a need for better integration of the assessment interview data in CIPES with case planning processes to minimise duplication of data collection.

Recommendation 16

The Steering Group should develop protocols around the sharing of information between service providers (including Queensland Health) and the Court to assist with the monitoring of participants' progress while under supervision. These protocols should be based on input from

all parties and reflect a balance between adequate information being available to effectively monitor performance while also maintaining appropriate levels of confidentiality. These protocols should be incorporated into the participant consent form and communicated to all participants prior to their consenting to participate in the program.

Recommendation 17

Court partners should agree on clearly defined terms for participation in the program. These should state that the participant is required to turn up to their scheduled court appearances, attend and participate in referred services and not reoffend while under supervision. This should include some agreement on what constitutes non-participation, which should enable the Court to retain some flexibility and discretion in responding to participants. These terms of participation should be reflected in relevant program guidelines and, potentially, relevant legislation (such as the Bail (Prescribed Programs) Regulation 2006). They should be communicated to each participant and the time of seeking/being referred to the program and again at the commencement of their episode.

Recommendation 18

Court partners should agree on a general policy regarding the use of normal bail conditions alongside conditions under section 11(9) of the Bail Act for SCCDP participants under pre-sentence supervision, and this should be described in the PPM.

Recommendation 19

The terms of participation and policy on the use of bail conditions available to the Court should be supported by a policy that articulates the response to participants who do not comply with these terms and conditions. This policy should be developed in consultation with and endorsed by all court partners, and recognise and acknowledge the challenges that SCCDP participants can face in complying with court orders.

Recommendation 20

There is a need to better define the nature and extent of case management provided in the SCCDP, and to clarify the responsibility for the case management of SCCDP participants. This could be achieved through clarifying the role of stakeholders involved in the program in the PPM.

Recommendation 21

The development of a transition plan that clearly describes who has responsibility for supporting the defendant after their participation in the SCCDP has ended should be embedded as part of the management of offenders within the program. It should be a requirement that all offenders have a clear plan in place prior to the completion of their episode in the SCCDP (ie before being sentenced).

Recommendation 22

When information of a sensitive nature is being discussed the Special Circumstances Court should operate as a closed court. This decision should be made by the Magistrate when a request is put forward by either court partners or service providers.

Recommendation 23

There should be clear guidelines set out in the PPM that describes what constitutes program completion. Program completion should be linked to the goals set out in each defendant's individual case plan, which should be realistic and achievable for that defendant within the 24 week period that they are in contact with the SCCDP.

Recommendation 24

The PPM should outline a clear policy stating that participation in the program may be taken into account when sentencing participants and that this will require the defendant to meet the terms of participation set out in the PPM. This should be clearly communicated to participants both at the commencement and then regularly throughout their involvement in the program.

Recommendation 25

QCS should identify additional options in terms of the range of community service projects that can be attached to community service orders, including projects that are more suitable for offenders with an MI, ID or who are homeless and with organisations that cater specifically for these types of offenders.

Recommendation 26

Court partners, especially Court Case Coordinators, should continue to take steps to identify, document and engage services available in the community to support participants involved in the SCCDP. Stakeholders involved in the court also perform an important role in identifying service gaps and advocating for the establishment of new services to fill those gaps.

Recommendation 27

DJAG should continue to take steps to improve the recording of information about program participants and address the issues that have been identified in this report. Specifically, ensuring the consistent application of the phase structure within the database and encouraging the recording of adjournment reasons (especially failure to appear).

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