**Reflections on 2017**

**Drug Court Performance**

The year in review was a year of great success. The total number of graduates increased from 71 to 88 for the year, and the number who were not required to be returned to custody at the end of the program increased to a record 57.09%. Bearing in mind the chaotic nature of the clientele, and the point they have reached in the justice system, the chart and graph below demonstrates the sustained improvements in results be attained by the Drug Court across several years. The number of graduates has increased each and every year, with a total increase of 167% across the five years since the Sydney Drug Court commenced.

**Measures of Success – All Drug Courts 2013 to 2017**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **Program entrants** | **Sentenced program completers** | **Graduates** | **Total Non Custody** | **Custody** | **% Non Custody** |
| 2013 | 336 | 248 | 33 | 109 | 139 | 43.95% |
| 2014 | 253 | 289 | 48 | 128 | 161 | 44.29% |
| 2015 | 299 | 271 | 56 | 135 | 136 | 49.82% |
| 2016 | 309 | 314 | 71 | 157 | 157 | 50.00% |
| 2017 | 300 | 289 | 88 | 165 | 124 | 57.09% |

**Demand for program**

The Drug Court has been embraced by the legal profession and the judiciary, and the level of demand for places has increased. Sadly, the use of “Ice” has devastated many communities, and that is inevitably reflected at the Drug Court.

The number of participants on the Drug Court program is defined by the resources provided by Government to the program and our partner agencies. So the resources required, be they counselling by the Health Services, Community Corrections supervision, legal representation, court room accommodation and judge time are defined by the number we can effectively manage at any one time. At Parramatta that is 170 participants, Sydney is 40, and the Hunter Drug Court can accommodate 80 participants.

The demand for places at the Parramatta Court has, for some years now, outstripped supply, and the graph below shows the ever increasing gap between referrals and placement on program.

The detrimental effect of this unmet demand is profound. To manage this level of demand fairly, if somewhat brutally, a computerised ballot is conducted, and so only some of the apparently eligible and appropriate offenders are successful in the ballot, and given a Drug Court opportunity. Those who are unsuccessful are, inevitably, simply sentenced to a gaol term.

In past years the Drug Court introduced a number of measures to try and increase and improve opportunities, however despite those ameliorating steps being taken, the gap between the number being given an opportunity to do the program, and the number of offenders being referred to the Drug Court continues to grow.

The inequity of the sentencing outcome is becoming more stark, as co-offenders or even life partners (who have committed crimes together) may have different outcomes in the ballot referred to above. So one of a pair may get a chance to stay out of custody and recover, and the co-offender or partner is imprisoned.

The cost to the community by NOT providing a Drug Court program is reflected in some analysis of the 2017 year. Ninety-six (96) apparently suitable offenders where unsuccessful in the ballots conducted. Between them they had committed 938 crimes.

So what happened to them? The 96 referred offenders who were unsuccessful in the ballot were sentenced in the Local Court, or the District Court (either at first instance or on appeal) to a total of **561 months** as their non-parole periods. Applying the average daily cost of adult incarceration of $172.80, those sentences cost the community **$2.91 million**. Additionally, 96 months of Intensive Corrections Orders were imposed in lieu of full-time custody, which carries an actual cost, on Corrective Services calculations, of $62,000.

There are many, many more costs involved. The Local Court and District Courts had to sentence all 96 offenders at least once, and a surprisingly high number (36 participants or 37.5%) of the offenders dealt with in the Local Court appealed the sentence, leading to a second sentencing task in District Court. So there are even duplicated costs regarding Judges and Magistrates, prosecutors and legal aid lawyers, registry and administration costs.

To finalise all matters also led to delay – to finalise all those matters took from two to ten months from the return to the referring court.

There is a second issue in relation to a Drug Court opportunity being denied. The 96 discussed above are additional to those declined “pre-ballot”, so they have been refused entry at what is described as “pre-ballot”. In this review last year I wrote:

*“The number returned (after the ballot) does not represent all who were denied an opportunity, as, almost invariably, if an offender has had a previous Drug Court program, they are excluded from even taking part in the ballot for a placement, and are similarly returned to the referring court. The Court seems it as more equitable to give a “fresh” referral a first Drug Court opportunity than a second opportunity to a previous participant. However treatment theory tells us very clearly, as would common sense, that a drug-addicted offender may well need more than one episode or opportunity to grasp recovery. It may be that the previous participant was young, chaotic and perhaps foolish on the last occasion, and desperately wants assistance now. So denying a second Drug Court program opportunity can be tragic for the offender and a poor result for the community”.*

Parramatta Drug Court alone returned 209 referrals to the originating court in 2017. There are many reasons for such a return, ranging from significant violence issues to not facing a full-time sentence for the referred offences. But of those 209, a significant number, 64, had received a previous Drug Court opportunity in the last 18 years, and were excluded on that basis.

**Appointments**

The Drug Court was pleased to welcome two new judges to this jurisdiction in June 2017. Her Honour Judge Jane Mottley and His Honour Judge Garry Still have been appointed. Judge Mottley continues to also fulfil her role as a Deputy Chief Magistrate, and Judge Still continues to be the Regional Co-ordinating Magistrate for the Parramatta complex in addition to managing the Sydney Drug Court each Thursday. There are now six judges holding a commission to sit in the Drug Court.

**Our dedicated professionals**

Some amazing professionals work with, and devote their time to, the Drug Court program. The greatest staffing challenge with our Corrective Services officers is finding placements for new officers, not filling vacancies. Our counsellors and registry staff work with clients with complex needs with compassion and great common sense. The Justice Health staff manage the complex flow of prisoners in such a way as to miraculously minimise the time needed for treatment plans to be prepared. Our partners in the residential rehabilitation services work so hard to make recovery possible. So my heartfelt thanks to all - our nurses, the judges, lawyers, treatment providers and the police officers who all contribute tirelessly to this very successful program.

Roger Dive

Senior Judge

24 August 2018

**Drug Court of NSW – Parramatta**

**Program activity by year from 2004 to 2017**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Program entrants** | **Sentenced program completers** | **Non Custody**  **(Graduates)\*** | **Custody** | **% Non Custody** |
| 2004 | 142 | 133 | 62 (20) | 71 | 47% |
| 2005 | 165 | 150 | 74 (36) | 76 | 49% |
| 2006 | 164 | 155 | 62 (33) | 93 | 40% |
| 2007 | 169 | 176 | 78 (28) | 98 | 44% |
| 2008 | 132 | 151 | 65 (29) | 86 | 43% |
| 2009 | 158 | 146 | 83 (42) | 63 | 57% |
| 2010 | 140 | 158 | 90 (42) | 68 | 56.6% |
| 2011 | 166 | 155 | 86 (30) | 69 | 55.8% |
| 2012 | 167 | 187 | 95 (37) | 92 | 51% |
| 2013 | 206 | 168 | 72 (24) | 96 | 43% |
| 2014 | 165 | 182 | 79 (24) | 103 | 43% |
| 2015 | 184 | 180 | 96 (35) | 84 | 53% |
| 2016 | 175 | 188 | 97 (48) | 91 | 51.5% |
| 2017 | 184 | 169 | 97 (54) | 72 | 57% |

**NB:** The number of those classed as program graduates shown in brackets.

**Drug Court of NSW – Hunter**

**Program activity by year from 2011 to 2017**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Program entrants** | **Sentenced program completers** | **Non Custody**  **(Graduates)\*** | **Custody** | **% Non Custody** |
| 2011 | 70 | 10 | 0 | 10 | 0 |
| 2012 | 61 | 43 | 20 (8) | 23 | 46.5% |
| 2013 | 68 | 66 | 36 (9) | 30 | 54.5% |
| 2014 | 44 | 65 | 33 (16) | 32 | 51% |
| 2015 | 61 | 48 | 26 (14) | 22 | 54% |
| 2016 | 76 | 69 | 38 (16) | 31 | 55% |
| 2017 | 65 | 67 | 51 (29) | 16 | 76% |

**NB:** The number of those classed as program graduates shown in brackets

**Drug Court of NSW – Sydney**

**Program activity by year from 2013 to 2017**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Program entrants** | **Sentenced program completers** | **Non Custody**  **(Graduates)\*** | **Custody** | **% Non Custody** |
| 2013 | 62 | 14 | 1 | 13 | 7% |
| 2014 | 44 | 42 | 16 (8) | 26 | 38% |
| 2015 | 54 | 43 | 13 (7) | 30 | 30% |
| 2016 | 58 | 57 | 22 (7) | 35 | 38.5% |
| 2017 | 51 | 53 | 17 (5) | 36 | 32% |

**NB:** The number of those classed as program graduates shown in brackets

**Parramatta Drug Court – Key Statistics 2017**

|  |  |
| --- | --- |
| **Program entry** | **Persons** |
| Total referred | 578 |
| Pre ballot exclusion | 209 |
| Placed in ballot | 369 |
| Accepted after ballot | 279 |
| Returned ineligible/not appropriate/unwilling/withdrawn | 15 |
|  |  |
| **Program progression** | **Participants** |
| Participants who entered Phase 1 in 2017 | 184 |
| Participants who progressed to Phase 2 in 2017 | 119 |
| Participants who progressed to Phase 3 in 2017 | 79 |
|  |  |
| Participants on program as at 31/12/17 | 159 |

|  |  |
| --- | --- |
| **Court Determinations** | **Participants** |
| Terminated after “potential to progress” hearing | 37 |
| Terminated after “risk to community” hearing | 12 |
| Retained after “Potential to progress” or “risk” hearing | 2 |

|  |  |
| --- | --- |
| **Programs Completed** | **Participants** |
| Graduated | 54 |
| Substantial Compliance | 0 |
| **Total Non custody** | 97 |
| Custody | 72 |
| **Total completions** | **169** |

# Hunter Drug Court – Key Statistics 2017

|  |  |
| --- | --- |
| **Program entry** | **Persons** |
| Total referred | 141 |
| Pre ballot exclusion | 49 |
| Placed in ballot | 92 |
| Accepted after ballot | 92 |
| Returned ineligible/not appropriate/unwilling/withdrawn | 19 |
|  |  |
| **Program progression** | **Participants** |
| Participants who entered Phase 1 in 2017 | 65 |
| Participants who progressed to Phase 2 in 2017 | 49 |
| Participants who progressed to Phase 3 in 2017 | 39 |
|  |  |
| Participants on program as at 31/12/17 | 67 |

|  |  |
| --- | --- |
| **Court Determinations** | **Participants** |
| Terminated after “potential to progress” hearing | 10 |
| Terminated after “risk to community” hearing | 6 |
| Retained after “Potential to progress” or “risk” hearing | 2 |

|  |  |
| --- | --- |
| **Programs Completed** | **Participants** |
| Graduated | 29 |
| Substantial Compliance | 4 |
| **Total Non custody** | 51 |
| Custody | 16 |
| **Total completions** | **67** |

**Sydney Drug Court – Key Statistics 2017**

|  |  |
| --- | --- |
| **Program entry** | **Persons** |
| Total referred | 103 |
| Pre ballot exclusion | 22 |
| Placed in ballot | 81 |
| Accepted after ballot | 68 |
| Returned ineligible/not appropriate/unwilling | 5 |
|  |  |
| **Program progression** | **Participants** |
| Participants who entered Phase 1 in 2017 | 51 |
| Participants who progressed to Phase 2 in 2017 | 36 |
| Participants who progressed to Phase 3 in 2017 | 20 |
|  |  |
| Participants on program as at 31/12/17 | 40 |

|  |  |
| --- | --- |
| **Court Determinations** | **Participants** |
| Terminated after “potential to progress” hearing | 5 |
| Terminated after “risk to community” hearing | 10 |
| Retained after “Potential to progress” or “risk” hearing | 3 |

|  |  |
| --- | --- |
| **Programs Completed** | **Participants** |
| Graduated | 5 |
| Substantial Compliance | 1 |
| **Total Non custody** | 17 |
| Custody | 36 |
| **Total completions** | **53** |

# Compulsory Drug Treatment Correctional Centre Key Statistics 2017

|  |  |
| --- | --- |
| **Pre Program** | **Persons** |
| Referral | 83 |
| Eligibility and Suitability Assessments | 59 |
| Ineligible | 41 |

|  |  |
| --- | --- |
| **Program progression** | **Participants** |
| Participants who entered Stage 1 in 2017 | 39 |
| Participants who progressed to Stage 2 in 2017 | 30 |
| Participants who progressed to Stage 3 in 2017 | 25 |
|  |  |
| Participants on program as at 31/12/17 | 65 |

|  |  |
| --- | --- |
| **Programs Completed** | **Participants** |
| Order Revoked \* | 22 |
| Order Expired | 3 |
| Parole Granted \*\* | 13 |

\* The revocation of the order usually, but not always, reflects a failure to comply with the program.

\*\*The granting of Parole can be regarded as a successful CDTO

**Visitors and Presentations**

**February**

* Ms Margaret Crawford, Auditor General
* Japanese delegation of professionals from medical, psychological, social work, residential rehabilitation and family support fields
* Judge Dive addressed trainees at the Corrective Services Academy
* Magistrate Tony Parsons of Victoria attended the Drug Court
* Drug Court of NSW Practitioner’s conference

**March**

* Japanese delegation UNAFEI (United Nations Asia and Far East Institute  for the Prevention of Crime and the Treatment of Offenders)
* Youth Koori Court Magistrate Susan Duncombe attended Drug Court
* Judge Myers of the Australian Law Reform Commission visited
* Judge Dive addressed students at the University of NSW Law School

**April**

* ACT Supreme Court Justice Burns and Registrar visited Drug Court

**May**

* Chief Justice of Victorian County Court, Peter Kidd visited

**June**

* Phillip Clark AM, Drug Misuse Trafficking Act Committee visited
* Judge Yoshitaka Uno, Tokyo District Court visited
* AOD Treatment Courts Clinical Manager, Sharlene Wong from Auckland NZ visited

**July**

* Robin Butterfield, Addiction Medicine Registrar at St Vincents Hospital visited

**August**

* Chief Justice Veerapol Tungasuan, President of the Supreme of Thailand attended, accompanied by ten Judges of the Supreme Court of Thailand
* Two graduates returned to Drug Court to mark ten years since their graduation!

**September**

* The Hon. David Elliott, MP, Member of the Legislative Assembly, Member for Baulkham Hills, Minister for Counter Terrorism, Minister for Corrections, Minister for Veteran Affairs visited.
* The Hon. Justice Ryan of the Family Court attended Drug Court.

**October**

* Judge Dive presented to trainees at the Corrective Services Academy

**November**

* General Manager and team from ACT Corrective Services, ACT visited
* NSW Police Commissioner Michael Fuller APM attended a graduation
* Judge Dive presented to the EBE Teachers Conference, Parliament House, Sydney.

**December**

* Attorney General of NSW, The Honourable Mark Speakman SC MP visit on 12 December 2017
* Judge Dive presented to trainees at the Corrective Services Academy