

Drug courts

Evidence Brief

Drug courts exist in more than 20 countries around the world. There is clear international evidence that drug courts reduce crime. However, evidence is mixed about whether their benefits outweigh their costs.

OVERVIEW

- 'Drug courts' is a term used to describe courts that integrate treatment for alcohol and other drugs (AOD) dependency with judicial processes. In drug courts, specialist teams work together to decide on the best treatment plan for each offender. Judges oversee offenders' engagement with treatment programmes and rehabilitation support services.
 - In New Zealand, two AOD Treatment Courts are piloted from November 2012. Almost 300 offenders participated in these courts by mid-April 2016. Approximately a quarter of participants successfully finished the treatment programme while around one-third continue treatment.
 - The implementation and operation of New Zealand pilot drug courts were evaluated in 2014 and 2015¹. An outcome evaluation and cost-effectiveness analysis are planned for 2016/17.
 - In addition, a small AOD Treatment Youth Court is functioning in Christchurch from 2002. Twenty nine young offenders participated in this court in 2015.
 - International research shows that drug courts are effective at reducing reoffending, if they are well planned and implemented.
- In general, drug courts are more effective in reducing reoffending for adult participants, and if they exclude individuals with a history of non-compliance, violent offenders, or drug dealers.
 - The optimal length for a drug court programme is between eight and 18 months.
 - One meta-analysis found that drug courts were more effective when serving methamphetamine users, compared to participants with other forms of AOD abuse/dependency.
 - There is also evidence that drug courts focused on drink-drivers reduce reoffending, but this evidence is not as strong as for drug courts generally.

EVIDENCE BRIEF SUMMARY

Evidence rating:	Promising
Unit cost:	Unknown at date of publication; cost-effectiveness analysis planned for 2016/17
Effect size (number needed to treat):	On average, for every 8-14 participants who complete a drug court programme, one less will reoffend
Current spend:	Unknown at date of publication; cost-effectiveness analysis planned for 2016/17
Unmet demand:	Unknown

However, they are not necessarily cost-effective.

DO DRUG COURTS REDUCE CRIME?

Key components of drug courts

Most drug courts, including the New Zealand Alcohol and Other Drug Treatment Court (AODTC) pilot, are constructed around ten key components articulated by the National Association of Drug Court Professionals (NADCP)ⁱⁱ. These components are:

- drug courts integrate AOD treatment and justice system processes
- prosecution and defence counsel use a non-adversarial approach to promote public safety while protecting participants' due process rights
- eligible offenders are identified early and placed in the drug court programme
- drug courts provide access to a continuum of AOD and other related treatment and rehabilitation services
- abstinence is monitored by frequent AOD testing
- drug courts have a coordinated strategy that governs their responses to participants' compliance with the court's requirements
- there is ongoing judicial interaction with each drug court participant
- monitoring and evaluation measure the achievement of programme goals and effectiveness
- continuing interdisciplinary education promotes effective drug court planning, implementation and operations
- partnerships among drug courts, public agencies and community-based organisations generate local support and enhance drug court programme effectiveness.

International evidence

Most drug courts operate in the United States. This means that most meta-analyses are based

entirely, or predominantly, on studies of United States drug courts. There is little research from Commonwealth jurisdictions with similar legal systems and processes to New Zealand.

Nine meta-analyses have concluded that drug courts are effective in reducing reoffendingⁱⁱⁱ.

International evidence has shown that most of the offending that drug courts prevent is low-level and less likely to result in a custodial sentence upon conviction^{iv}.

A review of 154 drug court studies found five had produced harmful effects^v. These effects were attributed to failures in implementation.

New Zealand evidence

See Current investments in New Zealand section on p6.

Other considerations

Balancing collaboration with participants' due process rights

In the New Zealand pilot AOD Treatment Courts, the specialist drug court team works together to decide on the treatment plan for each court participant. This collaborative and collegial approach means that police prosecutors are privy to information from lawyers and treatment providers that they would not ordinarily have. These prosecutors acknowledged the need to think through the ethical implications of being privy to privileged information^{vi}. This is important as therapeutic jurisprudence is not intended to undermine participants' due process rights. More information on the New Zealand pilot AOD Treatment Courts see on p6.

Treatment model

Most drug courts, especially those based on the NADCP's ten key components, are built around treatment that requires complete abstinence from drugs and alcohol. Some offenders might

fail to complete a drug court programme because abstinence is not the most suitable approach to AOD dependency treatment for them^{vii}.

Indigenous participants

The inclusion of Māori cultural practices is one of the distinctive features of the New Zealand pilot AOD Treatment Courts. Litmus Ltd found that Māori were less likely than Europeans to graduate from the Court, but were unable to identify the reasons for this difference^{viii}.

None of the examined meta-analyses mentioned specific outcomes for indigenous participants.

WHAT MAKES DRUG COURTS EFFECTIVE IN REDUCING REOFFENDING?

Drug courts are based on therapeutic jurisprudence and behaviour modification.

Therapeutic jurisprudence uses legal processes to maximise therapeutic benefits while maintaining legal safeguards such as due process. In drug courts, therapeutic jurisprudence is based on the premise that helping participants to address their AOD addiction is likely to lead to reductions in reoffending, particularly in reoffending that is driven by AOD dependency. The effective application of therapeutic jurisprudence relies on drug courts holding participants accountable for their behaviour within this rehabilitative model^{ix}.

Drug courts incorporate behaviour modification through the use of graduated incentives and sanctions to change participants' behaviour.

Some experts question whether the same results could be achieved by using existing options such as supervision or intensive supervision with increased treatment service funding. This reflects that some treatment providers achieve similar positive outcomes

without going through the AOD Treatment Court. For example, the proportion of community-based offenders who started and completed rehabilitation programmes in New Zealand over 3 years to 30 June 2015 was between 59%-63%^x which in many cases is comparable or even exceeds the proportion of those successfully graduated from the AOD Treatment Courts' programmes.

However, other experts argue that the AOD Treatment Courts include some unique components such as frequent and mandatory sobriety testing, high percentage of the AOD Treatment Court participants who are employed or attend training programmes by the time of graduation, extensive local support of the AOD Treatment Courts participants due to a partnership between courts and multiple public agencies and community-based organisations.

Based on the above, supporters of an AOD Treatment Courts' model insist that this model is the best fit for the high risk/high needs offenders.

WHAT OTHER EFFECTS DO DRUG COURTS HAVE?

Research on the effectiveness of drug courts has focused on reoffending, so there is little information about any other benefits from drug courts.

One exception is a meta-analysis on the impact of adult drug courts on the use of incarceration. The results were mixed. They found that drug courts reduce the incidence of incarceration for individual drug court participants. However, they also found no evidence that drug courts reduce the overall burden on correctional facilities because participants who fail the programme tend to receive lengthy sentences^{xi}.

WHEN ARE DRUG COURTS MOST EFFECTIVE?

Drug courts differ in relation to:

- whether the drug court programme starts pre- or post-sentence; this affects potential outcomes for participants upon programme completion/exit
- the nature and use of sanctions and rewards during the drug court programme
- the extent of ancillary social services provided (e.g. educational/vocational training, housing assistance, other health treatment).

Meta-analyses have highlighted the following characteristics of drug courts as being key drivers of their effectiveness.

Programme length: the literature indicates that the optimal programme is longer than eight months but shorter than 1.5 years^{xii}. The therapeutic and deterrent effects of drug courts appear to drop off after this point.

Incentive: drug courts are more effective at reducing recidivism when participants can benefit from successful programme completion through having reduced or waived charges, or a reduced sentence^{xiii}.

Age: while drug courts have been shown to be effective for both adults and young offenders, two meta-analyses indicate that they are more effective for adult than juvenile participants^{xiv}.

Violent crime: larger reductions in recidivism were found in adult drug courts that only accept non-violent offenders^{xv}.

Drug dealers: drug courts that exclude drug dealers, or individuals with a history of non-compliance, were found to be more successful than those that accept these types of offenders^{xvi}.

Participant characteristics – risk level: given that over half of all serious violent crime in New Zealand is committed under the influence of alcohol and 65% of sentenced offenders have AOD abuse or dependency issues^{xvii}, it is important to target participants for whom drug court programmes can be most effective.

On pp.3-4 above we mentioned some reasons in favour of higher AOD Treatment Courts' effectiveness for high risk/high needs offenders.

The meta-analyses are split on whether drug courts are more effective for participants with a low or high risk of reoffending. One suggests that reductions in offending are greater when participants are high risk^{xviii}. Others indicate that drug courts are more effective for low risk participants^{xix}.

Drug court eligibility requirements affect the risk level of participants. One meta-analysis found that drug courts which required participants to find/maintain jobs were less effective than programmes that did not have this requirement. This could be because programmes that required participants to *gain* employment were less likely to take in those who already had a job, who may in turn be lower risk participants^{xx}.

Additional research about the risk level of participants is necessary and important for building an investment strategy. Findings that suggest drug courts are more effective for high risk participants might imply that more cost-effective means of treatment should be utilised for low risk participants. In contrast, results showing greater effectiveness for low risk participants could mean that drug courts are limited in their ability to address factors related to high risk offenders' likelihood to reoffend.

Type of drug use: one meta-analysis found that drug courts which serve methamphetamine users are more effective at reducing reoffending than those serving other types of drug users^{xxi}. The relationship between type of drug and rate

of reoffending was not explored in this meta-analysis.

Another meta-analysis found evidence that drug courts focused on drink-drivers reduce reoffending, but this evidence is not as strong as for drug courts generally. More randomised controlled trials are needed to demonstrate their effectiveness definitively^{xxii}.

Staff characteristics: one meta-analysis indicated that more effective drug courts have teams who meet weekly and attend conferences regularly. In contrast, formal training on the drug court model and AOD certification for all treatment staff were associated with reduced effect sizes. This does not mean that training and AOD certification are unimportant. Instead, it might indicate that the quality of these activities needs to improve^{xxiii}.

Treatment type: drug courts with treatment programmes that follow principles of Risk, Need and Responsivity (RNR) were more effective at reducing recidivism. These principles propose that an offender's risk level, criminal risk factors and personal characteristics should determine the level and type of treatment they receive^{xxiv}.

The literature is divided on whether drug courts that use a single treatment provider are more effective at reducing reoffending than drug courts with multiple providers. One meta-analysis suggested that single provider programmes have slightly larger effects because of their consistent approach to treatment, and they are more likely to provide cognitive-behavioural interventions that are effective in treating offenders^{xxv}. Another meta-analysis found that drug courts are moderately more effective when they use multiple treatment providers, as they are better able to provide treatment options tailored to participants' needs^{xxvi}.

One evaluation found that requiring participants to attend Alcoholics/Narcotics Anonymous

meetings was associated with reduced programme effectiveness^{xxvii}. No clear reason was provided for this.

Programme graduation: one meta-analysis found larger reductions in reoffending in adult drug courts that had high graduation rates^{xxviii}.

ARE DRUG COURTS COST-EFFECTIVE?

Drug courts are not a cheap investment and evidence is mixed about whether their benefits (measured as the monetary benefits of outcomes such as reduced reoffending) outweigh their costs.

A cost-benefit analysis^{xxix} of 23 drug courts and six comparison courts in the United States found that, overall, for every US\$1 invested about US\$1.50 was returned in savings. This difference was found to be not statistically significant once factors, such as victim costs, were accounted for. The results of this study also showed that if the few serious crimes were removed from the analysis then the benefits of the drug courts barely exceeded the cost.

A separate study of 57 drug court evaluations found that the average adult drug court programme returned US\$4,767 in benefits per participant^{xxx}. While the benefits of drug court participation were comparable to those of other programmes for adult offenders, marginal costs tended to be higher for drug courts.

The results from the two studies above suggest that drug courts need to divert enough high risk offenders from prison to significantly reduce custodial correctional costs if they are to be more cost-effective than other community-based AOD treatment programmes.

An economic analysis^{xxxi} found that the benefits to cost ratio for drug courts was US\$2.32 for every US\$1 in costs. They calculated that drug courts' benefits would exceed their costs 65% of

the time, while 35% of the time drug courts would not pay off.

The same analysis found that the benefits to cost ratio for intensive drug treatment in prison was US\$10.45 for every US\$1 in costs with a 100% chance that benefits would exceed costs, and the comparable figures for intensive drug treatment in the community were US\$1.38 and 52%.

CURRENT INVESTMENT IN NEW ZEALAND

The Christchurch Youth Drug Court

The Christchurch Youth Drug Court (CYDC) was established in 2002. The evaluation of the CYDC found that over a 12-month follow-up period, 21 out of 30 participants (70% of the treatment group) reoffended. These participants were as likely to reoffend as a Youth Court sample with similar attributes to the participants (65%) and a national Youth Court sample (68%). The small sample size means that it would have been difficult to statistically detect any effect on reoffending due to participation in the programme^{xxxii}.

The AOD Treatment Courts pilot

The AODTC pilot in Auckland and Waitakere District Courts began operating in November 2012. By mid-April 2016, almost 300 offenders participated in these courts. Approximately a quarter of participants successfully finished the treatment programme while around one-third continue treatment.

To be accepted into the AODTC, an offender needs to have pleaded guilty, face up to three years in prison and have a severe addiction or dependency problem.

The AODTC provides these offenders judicial oversight of their engagement with treatment

programmes and rehabilitation support services before they are sentenced^{xxxiii}.

Evaluations of the implementation and delivery of the AODTC found that: (a) it was implemented and is operating as intended in the original design, and (b) there is a broad level of support for the AODTC among participants, staff and stakeholders^{xxxiv}.

In 2011, Cabinet agreed to a \$10 million investment package for AOD assessments and interventions to enable better access to treatment.

This investment package included \$1.93 million per year for at least five years to support the pilot AODTC for adult offenders in Auckland. Additional funding has been provided. There was an expectation that agencies involved in the pilot would absorb additional operational costs.

AOD treatment in designated units

New Zealand provides AOD treatment within specially designated units at nine prisons. These programmes incorporate some principles of the therapeutic community model of treatment. Two formats (a 3- and 6-month programme) are matched with the severity of the offenders' AOD needs and their sentence length. The total investment in these programmes is \$5.8m per year, or \$5,155 per offender per programme, which is likely to be cheaper than related drug court programmes. For more information about Correctional AOD Treatment, see the evidence brief on this topic.

EVIDENCE RATING AND RECOMMENDATIONS

Each Evidence Brief provides an evidence rating between Harmful and Strong.

Harmful	Robust evidence that intervention increases crime
Poor	Robust evidence that intervention tends to have no effect
Inconclusive	Conflicting evidence that intervention can reduce crime
Fair	Some evidence that intervention can reduce crime
Promising	Robust international <i>or</i> local evidence that intervention tends to reduce crime
Strong	Robust international <i>and</i> local evidence that intervention tends to reduce crime

According to the standard criteria for all Evidence Briefs¹, the appropriate evidence rating for Drug Courts is Promising.

According to our standard interpretation, this means that:

- there is robust international or local evidence that interventions tend to reduce crime
- interventions may well reduce crime if implemented well; and
- further evaluation is desirable to confirm interventions are reducing crime and to support the fine-tuning of the intervention design.

The evidence shows that well planned and implemented drug courts, with targeted eligibility criteria, are effective at reducing reoffending.

In assessing cost-effectiveness of drug courts, their cost should be weighed against savings in

terms of reduced AOD abuse/dependency, improvements to general wellbeing, reduced reoffending and reduced reimprisonment.

An outcome evaluation and cost-effectiveness analysis of the New Zealand pilot AODTC are under way. Positive findings from these studies could raise the investment rating to Strong.

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FIND OUT MORE

Go to the website

www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

Email

whatworks@justice.govt.nz

¹ Available at www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

Recommended reading

Gutierrez, L., & Bourgon, G. (2009). *Drug Treatment Courts: A Quantitative Review of Study and Treatment Quality*. Ottawa: Public Safety Canada.

Shaffer, D. (2011). Looking Inside the Black Box of Drug Courts: A Meta-Analytic Review. *Justice Quarterly*, 28(3), 493-521.

Latimer, J., Morton-Bourgon, K., & Chrétien, J.-A. (2006). *A Meta-Analytic Examination of Drug Treatment Courts: Do They Reduce Recidivism?* Ottawa: Department of Justice.

Mitchell, O., Wilson, D. B., Eggers, A., & MacKenzie, D. L. (2012). *Drug Courts' Effects on Criminal Offending for Juveniles and Adults*. Oslo: The Campbell Collaboration.

Wilson, D. B., Mitchell, O., & MacKenzie, D. L. (2006). A systematic review of drug court effects on recidivism. *Journal of Experimental Criminology*, 2, 459-487.

Citations

ⁱ Litmus Ltd, 2014; Litmus Ltd, 2015

ⁱⁱ US department of Justice, 2004

ⁱⁱⁱ Aos et al, 2006; Downey & Roman, 2010; Shaffer, 2006; Shaffer, 2011; Latimer et al, 2006; Lowenkamp et al, 2005; Mitchell et al, 2012a; Wilson et al, 2006; Mackenzie, 2006

^{iv} Downey & Roman, 2010

^v Welsh & Rocque, 2014

^{vi} Litmus Ltd, 2014

^{vii} Noland, 2010

^{viii} Litmus Ltd, 2015

^{ix} Shaffer, 2011

^x Department of Corrections, 2015

^{xi} Sevigny et al, 2013

^{xii} Shaffer, 2006; Latimer et al, 2006

^{xiii} Wilson et al, 2006; Shaffer, 2006

^{xiv} Latimer et al, 2006; Mitchell et al, 2012a

^{xv} Mitchell et al, 2012b; Shaffer 2011

^{xvi} Shaffer, 2011

^{xvii} Justice Sector, 2013

^{xviii} Lowenkamp et al, 2005

^{xix} Mitchell et al, 2012a; Shaffer, 2011

^{xx} Shaffer, 2006

^{xxi} Shaffer, 2006

^{xxii} Mitchell et al, 2012a

^{xxiii} Shaffer, 2011

^{xxiv} Gutierrez & Bourgon, 2009

^{xxv} Wilson et al, 2006

^{xxvi} Shaffer, 2011

^{xxvii} Shaffer, 2006

^{xxviii} Mitchell et al, 2012b

^{xxix} Roman, 2013

^{xxx} Aos et al, 2006

^{xxxi} Washington State Institute for Public Policy, 2015

^{xxxii} Searle & Spier, 2006

^{xxxiii} Litmus Ltd, 2014

^{xxxiv} Litmus Ltd, 2014; Litmus Ltd, 2015

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SUMMARY OF EFFECT SIZES FROM META-ANALYSES

Drug court type	Meta-analysis	Reported average effect size on crime	Number of estimates meta-analysis based on	Percentage point reduction in offending (to prevent one person from reoffending)	Number needed to treat (to prevent one person from reoffending)
Adult	Mitchell et al 2012	OR = 1.66*	92	0.12	8
All	Wilson et al 2006	OR = 1.66*	55	0.12	8
Adult	Wilson et al 2006	OR = 1.63*	48	0.12	8
Driving While Intoxicated	Mitchell et al 2012	OR = 1.65*	28	0.12	8
All	MacKenzie 2006	OR = 1.55*	26	0.11	9
All	Latimer et al 2006	$\Phi = 0.13^*$	66	0.12	9
Juvenile	Wilson et al 2006	OR = 1.44	6	0.09	11
Adult	Shaffer 2006	$r = 0.10^*$	61	0.09	11
All	Shaffer 2006	$r = 0.09^*$	82	0.08	12
Juvenile	Mitchell et al 2012	OR = 1.37*	34	0.08	13
All	Lowenkamp et al 2005	$\ln(\text{OR}) = 0.29$	22	0.07	14
All	Shaffer 2011	$\Phi = 0.09^*$	82	0.06	16
Juvenile	Shaffer 2006	$r = 0.05$	21	0.05	22

* Statistically significant at a 95% threshold

OR=Odds ratio

$\ln(\text{OR})$ =log odds ratio

r =Pearson correlation coefficient

Φ =phi coefficient (variant of correlation coefficient)