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DIVERSION I/81

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DRUG AND ALCOHOL COURT ASSESSMENT PROGRAMME
(DACAP)

INFORMATION AND PROGRESS REPORT ON THE
FIRST YEAR'S OPERATION
INITIAL FINDINGS
(DECEMBER, 1979 TO NOVEMBER, 1980)

PILOT PROJECT STAGE I
CENTRAL COURT OF PETTY SESSIONS

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"Diversion or pre-trial intervention has been seen by many persons deeply involved in observing the criminal justice system as one of the more innovative and progressive developments in the legal system to have evolved in recent years."

Roman Tomasic,
The Law Foundation of New
South Wales (1977)

"Diversion programs differ in many significant respects, but they have common features and share common goals. The expressed goals include the development of a more human approach to drug dependence by channelling convicted offenders out of the penal system and into the health care system."

Royal Commission Into Non-
Medical Use of Drugs,
South Australia, p. 262.

"I would not recommend the abandonment of the present drug diversion scheme administered by the Health Commission. But I would recommend that the decision be left to the Government, after ample opportunity has been given... to continue with a pilot scheme presently under consideration, with a view to ultimate introduction of a State-wide Drug Diversion Programme."

The Honourable Mr. Justice
Woodward, p. 1597, October,
1979.

HISTORICAL BACKGROUND TO DACAP

In 1977, at the request of the Attorney-General and the State Premier, a Drug Diversionary Programme (DDP) was initiated into the Judicial System in some Petty Sessions Courts with the intention of "Diverting" certain drug offenders into a "treatment" stream. An eight week remand period was allowed, during which time the offender attended a drug treatment centre, either statutory or voluntary, and was also referred to the Probation and Parole Service for a pre-sentence report.

Although no thorough research was ever published on DDP, it has been widely accepted both by the Legal, Health and Welfare professions that expectations were not realized. Mr. Justice Woodward in reviewing the scheme was critical of the lack of planning involved in setting it up (Royal Commission into Drug Trafficking, 1979). Some of the major problems encountered were mis-interpretations of roles of Probation Officers, health workers and the legal profession. Outcomes were often no better for "Divertees" than "non-divertees" and the ineffectiveness in reporting to courts on Treatments frustrated the sentencing process. Further, the eight week remand period provided to be impractical.

Experience with Diversion Schemes since has enabled us to identify some functions which are necessary to effect a more valuable Diversion Process. They are:-

1. Health Commission Community Health Provision of Staffing Stability and Diversion Policy Priority
Health Region Policy giving some priority of resources is essential. Determining Programme Objectives which list health criteria must also include criteria of the referrer. That is, the objectives of the court process should be included.
2. Petty Session Courts Liaison
Liaison, preferably through a Diversion Management group which encompasses the various parties in the Diversion process is important. The parties are Police, Magistrates, Solicitors, community health, Probation and Parole, and voluntary agencies. Such a group works to define the different functions of the diverse professions and co-ordinates them into a programme.
3. Legislation and Criminal Justice Process
The programme needs to identify clearly what part of the process of Criminal Justice it is diverting offenders from (e.g., pre-trial or pre-sentence diversion). The programme also needs to have the ability to adapt to changing legislation.
4. Impact of Research
Research designs need to appreciate the social context in which diversion takes place. The question, for example, "does it work" will demand different answers depending on whether the criteria used are legal or health in orientation. Control and Matched designs in the past have often failed to account for the social significance of Diversion in the Criminal Justice process itself and have focussed on a confusion of Health/Education interventions

5. Central Management Policy and Advisory Group

The complexity of Diversion both in principle and in practice necessitates a central co-ordinating reviewing and policy body which can develop an expertise in Diversion.

Mr. Justice Woodward recommended Diversion in principle, was critical of the old DDP and supported the development of a pilot project which attempted to overcome the initial failings.

METAMORPHOSIS OF DACAP

An understanding of some of the initial problems had emerged by 1979 and in response the DDP Steering Committee set up a working party under the Chairmanship of Dr. J. Rankin to develop a drug diversion scheme which began to answer some of the old inefficiencies.

The working party members were:

Mr. R. Baldwin	Team Leader, Bourke Street Drug Advisory Centre
Mr. C. Briese	Chief Stipendiary Magistrate
Superintendent Fryer (retired) Inspector Sweeny Inspector Naylor	Police Prosecution Branch
Mr. B. Stewart	Secretary, Drug and Alcohol Authority
Dr. A.J. Sutton	Director, Bureau of Crime and Research
Mr. R. Bush Mr. N. White	Probation and Parole officers
Various other research officers	

The concept of "diversion" was retained in a framework built on a systems approach developed by Dr. W. Glaser, from Toronto, Canada. DACAP was to be a "Pre-Sentence" Diversion.

1. Briefly

An offender is remanded for three weeks with a bail condition to attend the Bourke Street Clinic for assessment and report. Treatment was to become a post-sentence option. Urine samples are taken, a medical examination with necessary pathology or other tests ordered. The person is subject to a careful assessment of their background, present circumstances, drug use patterns and other relevant factors. A feedback session is held with the referred person and interventions options discussed and facilitated if accepted. A report is compiled for Court presentation, making clear recommendations whenever possible.

2. Mode of Referral

Solicitors, Magistrates and the duty Probation and Parole Officer are aware of the programme - the latter being first filter as to the offender's suitability for the programme.

3. Volunteers

The offenders' consent is sought and they then sign a Bail undertaking making it a condition of attendance for assessment.

4. Limits

At present only offenders appearing at Central Petty Sessions, charged with use, possess or supply a restricted or prohibited substance, other than marijuana products are eligible for DACAP.

5. Three Week Remand

Three weeks was considered sufficient time for assessment and entry into a treatment mode if required. A further remand can be requested.

6. Probation and Parole Officers

Four Probation and Parole Officers were granted to establishment on the basis of the DDP requirements. Two of these officers are on loan to the Bourke Street Drug Advisory Centre and function as Primary Care Workers, are involved in assessment. They also write and present the Court report. The standards of Pre-sentence work are maintained.

DACAP commenced operation on 10th December, 1979.

THE RESULTS

1. Figures relating to the numbers referred to DACAP.

How many Street Drug Offenders were referred by Central Petty Sessions Magistrates (Time period 10th December, 1979 to 9th December, 1980)?

Number referred in first year N = 117

Table 1 : The quarterly referral rate of drug offenders for Assessment and court report by Central Petty Sessions

Quarter	Total (N)	Accumulation (N)
Up to 9th March, 1980	32	32
9th June, 1980	29	61
9th September, 1980	25	86
9th December, 1980	31	117
Total		117

During DACAP's first year of operation approximately 10 street drug offenders per month were referred for assessment and report. The rate of referrals remained constant throughout the year which may well be an indicator of general satisfaction and willingness by the courts to use the programme.

An examination of court records during the first four months of the programme's operation showed that 37% (50/134) of all minor drug offenders sentenced during that period were referred to DACAP. In 31% of the remaining cases, the court records showed material such as a Probation Pre-Sentence report, reference from a treatment agency, or Psychiatrist, or other agency was available to the sentencing magistrate. In the remaining 32% of cases, there was no document on the Court Record.

It could be that DACAP provides a service to sentencers where offenders before the court present with few community resources at his/her immediate disposal.

Table 2 : The type of report on the drug offender presented to the court at the time of sentencing (%)

No Report on Court Papers	Other Information P.S.R. : Agency Reference	DACAP Report
32%	31%	37%

2. The First Objective: To provide information to the courts to assist in sentencing.

Services to Central Court of Petty Sessions

DACAP's first objective was to provide reports on drug offenders to assist the sentencing process. The inclusion of two experienced Probation and Parole officers into the assessment team ensured a quality of report to a standard set for Pre-Sentence Reports.

The relevance and realism of court reports was stressed and in their preparation the following information and guidelines were used:

- X - Results of Psychological Tests
- Results of social and drug history reports
- Any relevant medical and psychiatric information
- Information from home visits and other relevant community contacts where applicable
- Information from court papers
- Information from police
- Information from other voluntary and Government agencies (e.g., P.P.S.)
- The results of the Post Assessment Conference
- X - Arrangements for any referral to treatment agencies

The Primary Care worker (Probation Officer) organised the results of the assessment under the following headings:

(a) Significant Social Background

This included demographic details, family background, education, employment, additional features (i.e., cultural factors if of ethnic origin).

(b) Drug Situation

- Pattern of drug use
- Relationship between drug use and offence
- Problems resulting from drug use

(c) Medical/Psychiatric Findings

(Where applicable) such findings were expressed in non-therapeutic language.

(d) Assessment and Intervention Options

- likelihood of intervention plan being acceptable to person
- availability of intervention plan
- likely outcome

An assessment report presented a synthesis of the significant findings, not an exhaustive list of all data collected.

Table 3 : Service to Courts - Type of Court Assessment Report presented as a factor of the offenders compliance with the bail undertaking

	N	(%)
A Full Assessment with Recommended Interventions	73	(62)
A Partial Assessment (sometimes with Intervention Recommendations)	27	(23)
A Report indicating Non-Compliance with Bail Undertaking	17	(15)
Totals	117	100%

Not all drug offenders complied with the bail undertaking to attend for assessment and in the majority of these cases they also failed to re-appear at court for sentence. In 15% of cases, the drug offender did not appear at all and the assessment team were unable to locate them. In these cases, a report was written to the court indicating non-compliance with the bail undertaking. Where some information was available either by knowledge of the drug scene or through other agency reports, this was submitted to the court where it was judged as being useful. For example, that the offender had committed further offences and was now in custody or the offender was seriously ill in hospital and expected discharge could be on such and such a date.

The majority of drug offenders (62%) did, however, complete a full assessment and in these cases a report was presented to the court which included a planned course of future action. Usually the courts sentencing practice enabled such an intervention to take place.

3. The Second Objective: Service to the Drug User

A second objective of DACAP was to provide assessments to drug users about their drug taking behaviour so that they would be more able to improve their own social and psychological well being and to provide where applicable some intervention which seemed to best suit their personal characteristics and current needs.

Table 4.: The major recommended interventions offered to those fully and partially assessed (Multiple recommendations to some drug offenders accounts for excess of recommendation over number of offenders)

	(N)	(%)
1. Probation Supervision	29	(20)
2. Detoxification in a Hospital, Treatment Centre (or Short Methadone Withdrawal)	22	(15)
3. Did not attend for assessment (No recommendation)	17	(12)
4. Individual Counselling at Bourke Street Clinic	16	(11)
5. Long-term residential programme	15	(10)
6. Other outpatient community service	11	(7)
7. Short-term Residential programme (under six weeks)	10	(6)
8. Assessment Indicated No Intervention recommended	9	(6)
9. Group therapy at Bourke Street Clinic	5	(3)
10. AA or NA Groups (out patient)	4	(3)
11. Hospital Psychiatric Treatment	3	(2)
12. Methadone Maintenance Programme	3	(2)
13. Imprisonment for own safety	2	(2)
14. General Hospital Admission	1	(1)
Total	147	100

All drug offenders completing assessment would, through a round-table conference have discussed the following:

1. The extent of the dependence
2. Whether or not the dependence is physical
3. Recommendation on immediate care
4. Assessment of

social	vocational
family	legal
drug	medical
psychological	psychiatric
educational	

condition.

5. A recommended plan of action
6. The recommendations to the Sentencing Magistrate

(partially assessed person received varying amounts of the above).

In 20% of cases, the recommendation was for probation supervision. A primary consideration here was length of criminal record. The longer the record the more likely any diversion was to be from a custodial sentence, the more likely probation supervision appeared appropriate.

In 15% of cases, detoxification only was recommended. Here the assessment indicated both a physical dependence and a willingness to reduce that dependence but not to proceed to further treatment in a residential setting.

Residential Programmes, which also usually included detoxification, were recommended to 16% of offenders.

DACAP also had access to specialist pathology and psychiatric services which were useful to a small number of persons. Two per cent were found to be in need of residential psychiatric care and one per cent needed hospitalization for serious illnesses.

Outpatient services used in 7% of cases were roughly of two types. Either other community health centres or special programmes such as youth drop-in centres.

Comparison of Intervention Recommendation DACAP (1980) and DDP (1978)

There has been an increase in range of community resources in DACAP over DDP and an increase in frequency of referral to other agencies. It would seem, therefore, that an improvement in personalizing the intervention options may have taken place and in addition liaison between the statutory assessment centre (Burke Street) and other agencies has improved.

Table 5 : Comparative Proportions of Interventions offered on DDP
(1978) and DACAP (1980)

DDP (1978)		Intervention DACAP (1980)	
Bourke St. Counselling	.57	Bourke St. Counselling	.13
Psychodrama) Group therapy) Psychotherapy) Relaxation classes)	.27	Group therapy at Bourke Street	.04
Home Visits	.02	(done in assessment where applicable)	
Methadone Withdrawal	.08	Methadone Withdrawal	-
Methadone Maintenance	.03	Methadone Maintenance	.02
		Probation	.24
		Hospital detoxification	.18
		Long-term residential	.12
		Short-term residential	.07
		Hospital:	
		Psychiatric	.02
		General	.01
		Imprisonment	.02
		NA, AA Groups	.04
		Outpatients centre	.08
Other	.03	Other	.03

4. The Third Objective: To provide research to assist in the development of assessment and Diversion Schemes.

A more thorough investigation through research is the subject of a report in preparation. Some broad characteristics of the Drug Offenders referred are listed here. A profile is produced to assist the reader. However, it should be stressed that the individualization of the assessment process mitigates against accepting too concretely any stereotype image such a profile may project.

Profile:

The drug offender is likely to have adjusted to the street culture of Kings Cross over two to five years and during that time to have been arrested a number of times for drug offences. If male (23 years old), he will be unemployed and either living off the earnings of prostitution or supporting himself through minor criminal activities within the drug scene. If female (22 years), she is likely to be prostituting. Heroin will be the drug of choice but most will have also used Barbiturates and some will use any drug they can to remain "stoned". At the time of arrest, s/he is likely to be using intensively and/or compulsively and, therefore, to be physically dependent, in poor physical health and to be in a fairly desperate no-win situation. S/he may well have been to one or two treatment centres and not found it a useful experience. His/her major concern will be two-fold, to "sort out my head" and to get the "best deal at court".

Family ties and resources outside the "street scene" are quite often non-existent in terms of aid to a drug free lifestyle.

Table 6 : Some Characteristics of DACAP Referrals

Characteristic	Male %	Female %	Total %
Age:			
34 and over	2	0	1
32-34	2	2	2
29-31	11	5	8
26-28	24	16	20
23-25	23	31	27
20-22	23	34	29
17-19	15	13	14
	100%	100%	100%
Range (years)	18 - 29	16 - 34	16 - 34
Mean (years)	23.2	21.9	22.6
N	53	64	117

Table 6 (Cont.)

Characteristic	Male %	Female %	Total %
Employment:			
Employed	25	8	15
Unemployed	48	25	41
Welfare*	12	6	10
Prostitution	3	49	34
Not known	12	12	14
	100%	100%	100%
Type of Drug Used:			
Heroin	55	67	62
Barbiturate	23	19	21
Polydrug use	21	13	16
Not known	1	1	1
	100%	100%	100%
Extent of Drug Use:			
Experimental	2	3	3
Social/Recreational	13	13	13
Circumstantial	15	16	15
Intensive	13	26	21
Compulsive	36	33	34
Unknown	21	9	15
	100%	100%	100%
Criminal Record:			
Prior record			74
No prior record			18
Not known			8
			100%
Previous Treatment:			
Yes			48
No			41
Not known			11
			100%

* Welfare means, sickness benefits, invalid pensions, supporting, etc.

Table 6 (Cont.)

Characteristic	Male %	Female %	Total %
Self Reported Number of Years in Drug Scene**			
1 year			10
2-3 years			12
4-5 years			25
6-7 years			17
8-9 years			7
Plus 10 years			7
Unknown			22
			<u>100%</u>

** Based on 67 cases between May-December, 1980.

Three Case Studies

1. Jane

Jane arrived from New Zealand in September, 1980. She had been a heroin user for nine years, had three children who were in the care of her father. She began using heroin intensively shortly after arrival and was living in Kings Cross. On arrest she appeared as if in withdrawal; she pleaded guilty and was sent to DACAP.

At the initial assessment, heroin withdrawal, depression and possible blood poisoning and pneumonia was diagnosed and she was admitted to hospital. Welfare assistance was sought to collect her belongings in a house shared by other drug users.

Jane left hospital, against advice three days later. Became very ill and phoned the centre giving her whereabouts. The Primary Care Worker visited with two police officers. She agreed to return to hospital. Three weeks later she left hospital and went to live in a drug free house. She failed to appear at court but later returned to the centre, completed the assessment and a new remand date was arranged.

She has now been drug free for five months, has a "straight" boyfriend, plans marriage, and is doing a Cocktail Bar Waiting course at Technical College.

2. Paul

Paul has had a number of traumatic experiences during his life including his mother's death when he was 16 years of age and a serious motor bike accident. He has served two prison sentences for drug offences and his erratic behaviour causes concern to past Probation Officers and others. He is somewhat of an outcast even amongst his own group of drug users.

In assessment he was evasive and generally non-compliant but for reasons, perhaps of loneliness, he kept attending, completed the assessment and was placed on Methadone Maintenance. The court released him on a two year bond.

To date, he remains on Methadone, although on a couple of occasions his pick-up chemist has had to be changed because of disruptive behaviour. He remains an isolated individual, increasingly dependent upon the welfare services in the Kings Cross area.

3. Ian

Ian lived with his family, which in a material sense seemed secure. His parents could not understand his heroin use, while blaming themselves for his condition. He was arrested twice in 1979 for minor B.E.S., was on Probation, and on this occasion was before the court for possess and self administration of heroin.

While he claimed extensive use of heroin, his behaviour appeared more bravado than of a hard-core user!

He was unwilling to accept advice about going to a residential centre until on return to court it was put to him that imprisonment was a strong possibility.

He then accepted advice (under protest) and went for a trial period of two weeks at a centre on the north coast of New South Wales.

To date, he has been there five months and now talks positively about the future.

THE SENTENCING OF DACAP REFERRALS

The majority of offenders were placed on a recognizance (558). Proportionally, fewer persons received a probation condition on the recognizance in DACAP than in the DDP. There was less tendency to send referred persons to gaol in DACAP but a small increase in fining. In fact in some cases DACAP report recommended fining in cases where the offender had the capacity to pay and the likelihood of complying with a recognizance appeared remote.

Of concern is the increased failure of offenders to return to the court for sentence. However, it may be that such an increase is the result of accurate reporting to the courts on non-compliance with the bail condition, something not undertaken in the DDP.

Clearly, however, an improvement in selection of offenders to DACAP would be advantageous.

Table 7 : Sentences received by DACAP referrals (1980) and some comparisons with DDP referrals (1978)

Sentence	DACAP		DDP (P)
	N	(P)	
Recognizance (558, 556A)	18	.15)	.18
Recognizance with Treatment Condition	14	.12)	
Recognizance with Probation	19	.16)	.5
Recognizance + Probation + Treatment	11	.09)	
Fine	13	.11	.09
Imprisonment	4	.03)	.06
Periodic Detention	1	.01)	
Further offences on Bail	2	.02	
Deceased on Bail	1	.01	
Changed Plea	2	.02	
No Appearance, Bail forfeited	24	.21	.09
Long Remand not yet finalised	8	.07	

FUTURE DEVELOPMENT OF DACAP

The DACAP working party recommended the following action in March, 1981.

1. The continuation of DACAP at Central Court of Petty Sessions.
2. The expansion to Waverley and Redfern Courts.
3. A second pilot project to service the Western Suburbs Courts.
4. Close monitoring and research and a continued effort to improve the process.

END