

Court Intervention Programs

Consultation Paper

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Law Reform
Commission of
Western Australia

The Law Reform Commission of Western Australia

Commissioners

Chair: Ms AG Braddock SC, BA in Law (Cambridge)

Members: Ms ID Petersen, BJuris, LLB (Western Australia)
Ms MA Kenny, BJuris, LLB (Hons) (Western Australia), LLM (Iowa)
Mr Robert Mitchell SC, BJuris (Hons), LLB, LLM

Executive Officer Ms HJ Kay, LLB, LLM (Western Australia)

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Law Reform Commission of Western Australia
Level 3, BGC Centre
28 The Esplanade
Perth WA 6000
Australia

Telephone: 011+61+8+9321 4833
Facsimile: 011+61+8+9321 5833

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Foreword

At the present time, the criminal justice system in Western Australia is grappling with many issues which impact on crime, with a view to try to reduce the incidence of offending. Some of these issues are perennial and of long standing and others are of more recent origin. In that context the courts and individual judicial officers have been seeking to find methods, beyond traditional approaches to sentencing, by which the processes of the courts may be effectively used to reduce offending behaviour.

Over the last decade various jurisdictions have adopted programs which seek to address specific problems, whether they be drugs, alcohol, homelessness or other issues, which are perceived to underlie or cause offending. In tandem with these developments, a theoretical basis for such approaches has emerged. This is seen in the literature dealing with therapeutic jurisprudence and problem-solving courts and appears to be very much a 'work in progress'.

This Consultation Paper investigates and describes these programs in Western Australia, Australia and internationally, on the basis that it is necessary to know and understand what is occurring on the ground before practical recommendations can be considered. However, as set out in the Introduction to this Consultation Paper, the area is fraught with definitional issues: well illustrated in the academic writings discussed. The Commission outlines these issues but has focused on the practical details of what is being done, in what areas and to what effect. This approach has underpinned our use of the term 'court intervention programs' in this reference.

The question really is how law reform can facilitate and foster the best of current innovations to the benefit of the people of Western Australia. The Consultation Paper proceeds from certain guiding principles including the need for appropriate legislative reforms, resourcing, variety and proper legal and procedural safeguards, coupled with independent evaluation. Then we have looked at specific areas, such as drugs and alcohol, domestic violence and mental impairment, but do not see that intervention should be limited to these 'catchment areas'. What has emerged already is the need for further empirical research and evaluation.

In keeping with an area that is almost developing faster than it can be described, the Consultation Paper poses numerous questions and raises broad issues for comment. The Law Reform Commission hopes that this will engage our readers and stimulate response to the consultation questions and the proposals we have ventured to make at this stage.

This is a fascinating and challenging project, which would not have come this far without the many people who have given the Commission the benefit of their experience and advice. I would like to thank them all for their contributions – their names appear in Appendix C.

Gillian Braddock SC
Chair

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Acknowledgements

Authors:

Victoria Williams LLB, LLM (UWA)
(Chapters 1, 2, 5 & 6)

Dr Tatum Hands LLB (UNSW), PhD (UWA)
(Chapter 3)

Danielle Davies BA, LLB (UWA)
(Chapter 4)

Technical Editor:

Cheryl MacFarlane

Executive Assistant:

Sharne Cranston

Researchers:

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Cassandra Ellis
Rachel Joseph
Andrew Kirk
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