DISCUSSION PAPER

The Future of Court Support Services in Victorian Magistrates’ Courts

[DRAFT]

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² For a full list of participants refer to Appendix B
Executive Summary

Introduction

This discussion paper is intended to contribute to debate regarding the optimum method for ensuring that the benefits of a problem-oriented approach, and therapeutic jurisprudence, are more widely spread across all courts in Victoria.

Its general aims include:

- Considering the range of multi-disciplinary service delivery models for court participants currently operating in Victorian courts;
- Examining the issues, challenges and opportunities in the delivery of court support services to court participants, aimed at providing timely, specialist services which reduce re-offending by tackling the underlying causes of crime;
- Developing a general court support model for court participants that provides state-wide services across all Victorian Magistrates’ Courts at all its venues and across specialist lists and divisions.

Victoria has developed a number of innovative court based programs designed to reduce re-offending by providing timely and effective intervention seeking to tackle the underlying causes of crime.

Problem Oriented Courts, Therapeutic Jurisprudence and ‘Joined Up’ Service Delivery

Problem-oriented courts seek to use the authority of the courts to further therapeutic goals and enhance the performance of agencies involved in delivering court services. Therapeutic jurisprudence is concerned with the role of law and legal process as a therapeutic agent, acknowledging that the law can have a serious impact on the emotional and psychological wellbeing of those involved in legal processes.

Problem-oriented courts challenge the traditional adversarial paradigm, being more concerned with treatment and rehabilitation outcomes. Therapeutic jurisprudence philosophy influences problem-solving courts through a shift in focus away from the law and its implementation towards the resolution of complexly entrenched social, systemic and psychological matters. Problem-oriented courts and therapeutic jurisprudence both encourage a ‘joined-up’ approach to the delivery of court services.

Under a framework of judicial monitoring the court becomes the site for multi-disciplinary, collegiate styles of working that may bring together a diversity of experts, legal practitioners, court support services and/or community agencies. The judicial officer has a crucial role to play in managing and overseeing these processes.

Core Principles

This report sets out a number of core principles, based on a therapeutic jurisprudence approach, which could be employed as a guide to implementation for court support services across the state and provide benchmarks against which progress could be measured. The principles stress such factors as the need for early intervention, the co-location of services and the maximum feasible integration of services into the courts’ day-to-day practice. They also focus on the need to create
distinctive strategies and pathways for victims of crime as well ensure cultural security Koori participants.

**CISP and NJC: Good Practice**

Services such as CISP and NJC significantly contribute to court reform and represent models of best practice. They demonstrate the importance of a multi-disciplinary approach, the co-location of services and early intervention focused on a mix of issues such as mental health, cognitive impairment, drug and alcohol abuse and homelessness.

The approach encourages options such as judicial monitoring and review, as well as sound inter-agency dialogue. These initiatives, however, cannot be simply replicated in their entirety in other sites. Court may have to tailor elements of the CISP/NJC approach to suit local needs and available resources and infrastructure.

**Cultural, Infrastructural and Systemic Change**

A guided process of cultural change within courts, court services and agencies is required if the benefits of a problem-oriented approach, and therapeutic jurisprudence, are to be disseminated across all courts in Victoria. Investment is required in professional development and training for judicial officers and agencies focusing on judicial monitoring, cultural awareness and collaborative work.

More workspaces are needed in courts to enable innovatory processes such as problem-solving meetings, along with the creation of safe places for victims and vulnerable witnesses. There should be increased opportunities for ‘triage’ at the first point of contact with the court.

**Collaboration**

A consistent theme in consultations for this discussion paper concerned the need to expand upon the existing network of court support services through improved collaboration and coordination. Collaboration could be improved by establishing a statewide body to nurture greater inter-agency/inter-governmental collaboration on court support services.

Encouragement should be given to cross-sector collaboration, with courts playing a leading role, through strong judicial leadership. This should be supported by the construction of a statewide information database of statewide and local services available at all courts. Coordinated training for courts, agencies and community-based services is essential for this change process to occur. Collaborative arrangements between courts and external agencies could utilize a mix of partnership and brokerage arrangements and MOUs between court and local service providers, engagement with local government is especially encouraged.

**A Consistent Approach**

A more consistent and effective approach to service delivery may be achieved by employing shared services tools and approaches. A multi-disciplinary approach to case-management as exists with CISP and the NJC SART models may be of value along with other elements such as:

- The co-location of the court services team with other justice agencies where space permits in the court building (like the NJC)
Having a broad range of specialist services available, such as drug and alcohol, mental health, victims support and Koori workers

Encouraging a diversity of points of referral

Establishing weekly allocation meetings to ensure ongoing coordination of local service provision.

The creation of adequate screening and assessment instruments has greatly contributed to the success of CISP and the NJC. The CISP and NJC assessment instruments offer a useful template for a common assessment tool in that they provide a concise means of capturing key information on a client’s history and needs. They could be adopted for use across courts.

Court support services could be further strengthened by ensuring that there is supportive management for local court services provided by court services managers based in headquarter courts, along with shared information management tools and professional development kits to record updates on agreements and arrangements. There is also a need for an increased focus on coordinated training, clinical supervision, networking and feedback.

The Needs of Victims

The needs of victims of crime should be a core concern for court services. Victoria has a number of successful initiatives geared towards assisting victims to receive compensation, accommodation and counselling. There is a need to ensure that government and non-government organisations working with victims are embraced by the court community and seen as performing a vital service: victim support workers should have their own distinct brokerage funds and office space. Where court based specialist services are unavailable, courts should network with local victims services to provide victim support.

Service Delivery and Diversity

Given the diverse needs of courts in Victoria it is important that courts have a range of service delivery options available. Formulating modes of service delivery locally will require a needs analysis to determine local justice issues and client needs. Delivery of services will need to be subject to local availability of services and funding; there may be clients in rural areas in particular who remain difficult to reach.

Options include:

- Scope to extend CISP style court support services teams to the 12 headquarter courts
- Courts considering contracting specialist workers on a part-time basis from community agencies
- Courts establishing formal service linkages and agreements with local services
- Consideration given to establishing mobile teams for smaller ("satellite") courts on an "as needs" basis, based in the 12 headquarter courts
- Encouraging a flexible approach will be the key to making court services work on a local level.

Culturally Appropriate Services for Koori Victims and Accused

CISP is a popular option for Koori offenders but they cannot access support services through the Koori Court. Expanding CISP style support services should be underpinned by a process of local
research to ascertain the need and be coupled with specific cultural competency training for court support staff. Consultations and workshops fund support for a distinctive “Koori CISP” to support the Koori Courts. Any new initiatives in this area must line up with the Victorian Aboriginal Justice Agreement (AJA) which is premised upon increased Koori involvement in justice initiatives. Addressing the cultural needs of Koori Court participants requires a clear identification of what these needs are through research and community engagement.

**Culturally Appropriate Services for CALD Victims and Accused**

The provision of court support services to the CALD community in particular areas should begin with courts undertaking a community engagement process and some local research to map local community issues for the CALD.

**Options for Moving Forward**

In summary, the discussion paper makes suggestions for embedding therapeutic jurisprudence in practice in all courts by:

- Facilitating flexibility and local capacity building
- Promoting shared values and principles
- Encouraging a holistic, joined up approach
- Providing distinctive pathways for victim support
- Nurturing “hybrid” arrangements on a local level
- Developing appropriate forms of “triage” at the point of entry to the system
- Considering having mobile case management teams
- Learning from best practice to ensure a more consistent approach
- Ensuring cultural competency and cultural security
- Encouraging formal and informal partnerships with local government
- Engaging with community based agencies and organizations
- Undertaking consultative exercise to determine the needs specific to local communities and court participants.
Executive Summary

INTRODUCTION

1. THE CONTEXT OF INNOVATION IN VICTORIA
   1.1 Problem-oriented courts
   1.2 Therapeutic jurisprudence and problem-oriented courts
   1.3 Encouraging ‘joined up’ work
   1.4 Judicial monitoring and a collegiate approach
   1.5 Implications
   1.6 Limitations

2. AN OUTLINE OF CURRENT COURT SUPPORT SERVICES IN VICTORIA
   2.1 Victoria as a leader in court support service innovation
   2.2 Court support services: A policy context
   2.3 An overview of current reforms
   2.4 Summary of current court support services in Victoria
   2.5 Diagram: Court support services in Victoria

3. THE CONTRIBUTION OF COURT SUPPORT SERVICES TO BROADER COURT REFORM AND INNOVATIONS
   3.1 Key philosophy underpinning principles for court support services
   3.2 Key principles for court support services
   3.3 The generalist approach to court support services
   3.4 The Court Integrated Services Program (CISP)
   3.5 The Neighbourhood Justice Centre (NJC)
   3.6 Addressing culturally specific needs and victims in a court support services model
   3.7 Functional specialisation

4. PERSPECTIVES, ISSUES AND CHALLENGES IN DELIVERING SUPPORT SERVICES IN THE COURT SETTING
   4.1 An overview of issues raised in consultations and workshops
   4.2 Funding and resourcing
   4.3 Infrastructure and space related issues
   4.4 Equitable access to services
   4.5 The need for cultural change

5. COLLABORATIVE MANAGEMENT: INCREASING CO-OPERATION BETWEEN AGENCIES
   5.1 The need for increased collaboration
   5.2 Identifying potential sites of collaboration
   5.3 Key elements of collaboration
   5.4 Options for consistency in collaboration
   5.5 Barriers to collaborative management of court support services
   5.6 Benefits of increased collaboration

6. CONSISTENCY OF APPROACH: SHARED SERVICES, TOOLS AND APPROACHES
6.1 Intake processes
6.2 Case management: The need for a multi-disciplinary approach
6.3 The needs of victims

7. COURT SUPPORT SERVICES INFRASTRUCTURE
7.1 Management options for court support service delivery
7.2 Coordinated information management tools
7.3 Coordinated training, supervision, networking and feedback

8. MODES OF SERVICE DELIVERY: FLEXIBILITY AND LOCAL SENSITIVITY
8.1 Engaging different modes of service delivery: Options for courts
8.2 On-site service delivery: Towards building the structural capacity of the court
8.3 The referral model: Expanding networks
8.4 Cross sector service delivery: Collaboration and coordination
8.5 Mobile services and outreach: Addressing geographical issues
8.6 The benefits of different modes of service delivery

9. ACCESS TO SUPPORT SERVICES FOR ACCUSED AND VICTIMS
9.1 Purpose and description of the case studies
9.2 Court participant case studies
9.3 Culturally appropriate services for Koori victims and accused
9.4 Culturally appropriate services for Culturally and Linguistically Diverse victims and accused

10. SUMMARY OF FINDINGS AND OPTIONS FOR MODEL

Appendices
  Appendix A. Outline of Methodology
  Appendix B. List of Interviews, Consultations and Forums
Introduction

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Victoria has developed a number of innovative court based programs designed to reduce re-offending by providing timely and effective intervention seeking to tackle the underlying causes of crime. The Attorney-General’s Justice Statement 2 (JS2) focuses on the need for a fairer and more accessible justice system and prioritises the needs of disadvantaged and marginalised Victorians.

The JS2 acknowledges the role the justice system can play in reducing re-offending and reintegrating offenders, and makes special reference to the role of problem-solving courts, noting that problem-solving courts:

> [help] reduce re-offending and build stronger communities by tackling the causes of crime. Initiatives such as the Drug Court, Family Violence Courts, the Neighbourhood Justice Centre and the Koori Courts have put Victoria at the leading edge of addressing disadvantage in the criminal justice system. Most of these projects have been limited to a few venues of the Magistrates’ Court. The next challenge is to unify them into a comprehensive model for suburban and regional courts – and potentially other jurisdictions, such as the County Court.³

There are currently more than 20 programs and pilots in Victoria’s courts with a problem-oriented focus, including specialist courts and lists, a Neighbourhood Justice Centre (NJC), programs for offenders with complex needs and specifically crafted programs responding to the needs of victims.

Recent evaluations of the NJC and Court Integrated Services Program (CISP)⁴ suggest that these initiatives have been effective in encouraging social inclusion, involving local communities in the justice process, reducing re-offending and making justice more accessible for the accused and for victims. The innovations have also been successful in introducing therapeutic jurisprudence principles into the judicial process.

³ Attorney-General (2008), Justice Statement 2, Department of Justice: Melbourne
However, the fact that access to these programs is often limited by geographical area - what critics call ‘postcode justice’ or ‘justice by geography’ - raises concerns about equity of access. There are also, despite significant improvements in the design and delivery of programs over recent years, some remaining barriers to access to support services for some disadvantaged groups, such as Koori offenders and their families.

Unifying successful Victorian initiatives into a comprehensive model for suburban and regional courts raises challenges. There was broad agreement during consultations and workshops for this report that flagship initiatives such as CISP and the NJC are difficult to replicate in their entirety in other settings. There needs to be an approach to reform that extrapolates elements from these initiatives that are then tailored to fit local realities, rather than attempting to import them wholesale into other localities. Given the significant variations in local context, culture and structure it is essential that a flexible approach to reform be adopted - one that encourages cultural and systemic change while recognising that different localities and jurisdictions vary in their capacities to implement reforms. There should not be a ‘one fits all’ approach.
CHAPTER 1 – The context of innovation in Victoria

Prior to addressing the practical issues of delivering equitably available court support services, it is prudent to outline the philosophical underpinnings of the current approach in this area and detail the basic features of therapeutic jurisprudence and the problem-oriented approach to justice reform.

1.1 Problem-oriented courts

Problem-oriented courts seek to use the authority of the courts to further therapeutic goals and enhance the performance of agencies involved in delivering court services. Supporters of the problem-oriented approach maintain that the ‘crisis’ created by a court appearance can motivate offenders to face up to problems underpinning offending behavior, such as drug and alcohol addiction, entrenched homelessness, unemployment, social exclusion and family violence.

There are encouraging signs from existing programs in Victoria, such as the NJC, and bail support programs such as CREDIT/Bail and CISP, that locating service provision at the point of contact with the court system has led to the identification of issues previously over-looked, or at least under-estimated, in relation to their impact on offending behavior. For example, the high incidence of acquired brain injury (ABI) amongst offenders with long-term and repeated contact with the criminal justice system, identified through CISP and CREDIT/Bail, has highlighted the problems some offenders have in complying with court orders and has stimulated interventions designed to help them manage this problem.

Evidence suggests that contact with the criminal justice system does not have to be a negative experience for offenders or victims. It can provide an opportunity for access to targeted services and open pathways for support for difficult to reach individuals and families as well as offer early intervention. Involvement in the court system can provide an opportune moment to deal with a host of underlying issues.

Berman and Feinblatt define a problem-oriented court as a court seeking, ‘to use the authority of the courts to address the underlying problems of individual litigants, the structural problems of the justice system, and the social problems of communities.’ Freiberg sees the emergence of problem-oriented courts as a response to a changing social environment, exerting a range of new pressures on traditional courts, including increasing expectations that courts will run efficiently, work collaboratively with justice agencies, assess the quality of the services they provide to victims and

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5 The terms ‘problem-oriented’ and ‘problem-solving’ courts are employed interchangeably in the text as they are both in common usage in the relevant literature to describe the same practices. King et al prefer the term ‘solution-oriented’ to describe courts employing therapeutic jurisprudence philosophy and values. However, we have stuck with the better known terminology despite the obvious strengths of King et al’s construct. See King M., Freiberg A., Batagol B., and Hyams R. (2009) Non-Adversarial Justice. Federation Press: Sydney.
7 King et al op cit.
witnesses, and be open and transparent. Legal proceedings would be less concerned with ‘adjudicating past facts and legal issues to changing future behaviour of litigants and ensuring the future well-being of communities’. The problem-oriented court balances therapeutic and legal outcomes, promotes a collaborative rather than an adversarial approach within the court system, is people rather than case oriented, less formal, with the judge becoming a ‘mentor’ rather than an ‘arbiter’.

The diversity and scope of such courts in Australia has been competently sketched out by the Western Australia Law Reform Commission (WALRC) and King et al. The WALRC uses the term ‘court intervention’ to describe the work of problem-oriented courts, describing them as ‘programs that use the authority of the court in partnership with other agencies to address the underlying causes of offending behaviour and encourage rehabilitation.’

While acknowledging the diversity of courts falling under the heading of problem-oriented courts the WALRC identify some common themes:

[t]hey all use the authority of the court in partnership with other agencies to address the cause of offending behaviour and reduce re-offending...reducing crime is the primary objective of court intervention programs. However, court intervention programs have many other important aims including: improving compliance with court orders; reducing imprisonment; improving the wellbeing of participants; protecting victims and the community; and increasing public confidence in the criminal justice system. Ultimately, all of these aims seek to achieve the overall objective of crime reduction.

King et al use the term ‘non-adversarial’ to distinguish the problem-oriented approach from the traditionally adversarial and combative court arena – considered to be more intent on observing the law than dispensing justice. A key feature of the problem-oriented approach is its commitment, consistent with principles of therapeutic jurisprudence, to a collegiate or team approach to problem solving.

### 1.3 Therapeutic jurisprudence and problem-oriented courts

Therapeutic jurisprudence, according to Kay Pranis, is *not a specific program or set of programs, it is an innovative response to the problem of crime, a set of values that guides decisions on policy, programs and practice*. The philosophy of therapeutic jurisprudence has been influential in the development of problem-oriented courts. Therapeutic jurisprudence is concerned with the role of law and legal process as a therapeutic agent: it aims to ‘maximize therapeutic effects of the law and

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10 ibid, 126.

11 The Law Reform Commission of Western Australia, *Court Intervention Programs - Discussion paper (2008) and Final Report (2009)*

12 King et al, *op cit*.

13 ibid, 29.

14 King et al, *op cit*

15 cited in Ward, *op cit*.

minimise anti-therapeutic consequences of the law." It acknowledges that the law can have a serious impact on the emotional and psychological wellbeing of those involved in legal processes – that it can have both therapeutic and anti-therapeutic outcomes.

Therapeutic jurisprudence proposes the exploration of ways in which, consistent with principles of justice and other constitutional values, the knowledge, theories, and insights of the mental health and related disciplines can help shape the development of law. Therapeutic jurisprudence builds on the insight that the law itself can be seen to function as a kind of therapists or therapeutic agent.

Therapeutic jurisprudence has emerged in parallel with the philosophy of restorative justice, both have been influential in shaping the justice reform agenda in Australia and overseas. While the focus of this paper is on therapeutic jurisprudence and problem-oriented courts it may be of value to briefly describe salient differences and areas of convergence between the two philosophies.

**Therapeutic Jurisprudence and Restorative Justice**

There are areas of common ground between therapeutic jurisprudence and restorative justice. Both are concerned with improving outcomes for victims, offenders and the broader society by attempting to resolve underlying problems, rather than simply imposing the law. Restorative justice is concerned with drawing together all parties involved in an incident to decide the best way to deal with it and its consequences. Restorative justice has been particularly influential in the development of diversionary options that deliberately seek to minimize – where they cannot bypass altogether – court involvement. Restorative justice is concerned with a shift in authority and responsibility for the delivery of justice away from traditional sites such as courts and into the community, offering citizens an opportunity "to display valuable qualities such as compassion and understanding."

The development of problem-oriented courts, however, reveals that the court system can be flexible, adaptive and the site for innovative change.

Furthermore, courts can provide a conduit for restorative practices by developing diversionary mechanisms and, in the case of Neighbourhood Justice Centres model, provide a focal point for community based, restorative practices around neighbourhood disputes, conflict reduction, and school-based mediation. Therapeutic jurisprudence and restorative justice can be viewed as complimentary processes, sharing a concern with healing harms rather then simply imposing laws. Both perspectives raise questions about the capacity of the traditional, adversarial system of justice to fully meet the needs of victims and accused persons. It has also become increasingly clear that meaningful reform necessitates a fundamental shift in the ways key agencies working within and adjacent to the justice interact and liaise.

### 1.4 Encouraging ‘joined-up’ work

Successful problem-oriented courts are underpinned by a ‘joined-up’ agency approach. No single agency acting in isolation can hope to have the necessary resources, skills and organisational

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20 ibid, ix.
structure to intervene in the lives of people experiencing multiple and complex needs. The approach encourages judicial officers to take a proactive and overtly leading role in the creation of better, well coordinated, services for clients in order to transform the suite of causal factors driving offending. This orientation of the court is encapsulated in the notion of ‘forward looking’ as opposed to ‘backward looking’ forms of justice – that is, sentencing practices should be geared towards encouraging positive future behaviour rather then simply punishing past misdeeds.22

Supporters of problem-oriented courts maintain that they sit outside the traditional punishment paradigm, being more concerned with treatment and rehabilitation outcomes.23 Therapeutic jurisprudence philosophy influences problem-solving courts through a subtle shift in focus away from the law and its implementation towards the resolution of complexly entrenched social, systemic and psychological matters.

### 1.5 Judicial monitoring and a collegiate approach

Paradoxically perhaps, while the therapeutic jurisprudence enhances the role of the judicial officer through judicial monitoring of cases, it implicitly recognises the limits of legal expertise in the resolution of problems. It staked a claim for other forms of expertise (other than legal expertise) in bringing about change, stressing the need to develop creative, holistic, multi-disciplinary approaches to work with offenders and victims building on insights from areas such as health, mental health, social work and social policy.

The court becomes the site for multi-disciplinary, collegiate styles of working that may bring together a diversity of experts, legal practitioners, court support services and/or community agencies. The judicial officer has a crucial role to play in managing and overseeing these processes.24 However, he/she does not lay claim to any privileged status in terms of expertise on the issues. In this way courts, De Rosiers argues, ‘move from being magical “tellers of the truth” to becoming more process-oriented listeners, translators, educators and, if possible, facilitators.25 In this scenario the judicial officer spends time engaging directly with offenders (rather than relying on statute and precedence), and weighs up the written and verbal input of specialists (in mental health, addiction and treatment, cultural matters, victim advocacy, etc.) before making an informed assessment and ensuring, through judicial monitoring, that any ensuing undertakings are completed by the court participant.

### 1.6 Implications

The shift towards a problem-oriented approach, influenced by therapeutic jurisprudence, implies that agencies previously considered marginal and external to the work of the court become integral to the court’s day-to-day activities.

This has implications for how courts are configured and managed in the long term. Greater thought and planning is required to physical lay-out of courts in ways that makes it easier for clients to access services and for these services to liaise with one another. There is a need for different points of...

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of entry for accused and victims, safe and child-friendly waiting areas, as well as distinct meeting rooms where dispute resolution, assessments and brief interventions could take place and where on-site, community and outreach services can be housed.

King et al, envision a future court offering a ‘one-stop-shop’ promoting inter-disciplinary collaboration while affording: ‘space for use by community groups in a building that is welcoming, light, calming, user-friendly and that upholds the dignity of the justice process and that of the people engaged in it.’

1.7 Limitations

This scenario, it needs to be stressed, represents an ideal type of court, unencumbered by resource and structural constraints. In reality, there are limits to what can be achieved. Not all courts can, or should be made to, become ‘one-stop shops’, and there are limits to what is structurally feasible on a local level. Cultural and structural change will generally be incremental.

Farole et al, usefully distinguish between two sets of strategies: those that judges could adopt now, with minimal additional resources, and long-term solutions. Immediately realisable strategies, according to Farole et al include “‘triage’ (selecting only the most appropriate cases for a collaborative justice approach) and exerting courtroom leadership to encourage [lawyers] and other parties to change their practices’. Longer-term goals, they suggest, include ‘making the resources of collaborative justice courts available to all and instituting court-wide screening, assessment, and case management systems.’

There are significant resource implications for courts and the justice sector more broadly. Initiatives such as CISP and the NJC may not be sustainable or feasible as generic models. Decisions will need to be made about key priorities and hybrid arrangements negotiated on a local level, based on the matrix of existing court and locally based services.

OVERVIEW

The strength of the therapeutic jurisprudence philosophy lies in its commitment to a partnership approach where courts are able to draw creatively on the knowledge and expertise of a diversity of agencies. Put into practice on a local basis, this approach may harness the energies of local agencies and community groups. Therapeutic jurisprudence principles lay emphasis on the need for a creative mix of ‘top down’ and ‘bottom up’ processes.

Some courts may be well positioned to develop specialist expertise in particular areas of intervention (around Koori involvement, mental health work, access to employment and training through local councils and TAFEs, diversionary initiatives, for example), on the basis of experienced local services. On the other hand, other localities, where need is equally as strong, may require support and processes of capacity building to ensure services are developed and to avoid ‘post-code justice’.

It also needs to be borne in mind that not everyone will need to access support services and any tendency towards ‘net-widening’ through the over-prescription of services should be minimised through rigorous ‘gate-keeping’.

26 King et al, op cit.
CHAPTER 2 - An outline of current court support services in Victoria

This chapter provides an overview of the current operation of court support services in Victoria. Here, court support services are contextualised with reference to the historical tenets of services and the current policy guidelines that inform service provision in this state, highlighting the growing focus on expanding successful ventures. A brief description of key services is provided, focusing on best practice elements of each service. A court support diagram provides an overview of the key features of each of these programs.

2.1 Victoria as a leader in court support service innovation

As outlined in the Introduction of this paper, Victoria is viewed as a national leader in the provision of court support services and the adoption of problem-oriented approaches. The number and variety of pilots and programs available at different locations across the state is testament to a government commitment to establishing best practice responses. Current focus is on expanding and integrating these responses, creating more equitable access for court participants. In addition to aims concerning the reduction of recidivism and increasing access to justice, Victoria has a strong focus on creating a more efficient and sustainable problem-oriented approach to service delivery. This also involves enhancing community confidence in the justice process by striving to treat accused persons with dignity and respect.  

The court itself is viewed as particularly well placed to coordinate service delivery across a range of sectors and act as a site for intervention. Reviews of current operation of service delivery consistently demonstrate that the court has excellent capacity to respond to a range of complex issues experienced by court participants. It is important to understand the current operation of services in order to identify sites of expansion as opportunities to develop a more holistic response.

2.2 Court support services: a policy context

The innovations described in this chapter are necessarily informed and supported by a strong policy framework. Specifically, in the Victorian context the future direction of court support service is strengthened by the focus of social policy action plans (detailed below). A consistent theme in this policy context concerns a dual focus on expanding successful ventures and establishing equitable access to services.

- The Attorney General’s Justice Statement 2 (JS2) outlines a series of reforms dedicated to creating a fairer and more accessible system of justice in Victoria. It highlights Government commitment to addressing the underlying issues faced by offenders, and provide a more responsive system for victims. Specifically, JS2 provides the direction that:

  We will take the learnings from programs and pilot projects…to develop and integrated and comprehensive model for providing services throughout Victoria for defendants whose offending is associated with acute disadvantage or marginalization.  


29 Attorney General (2008), Justice Statement 2, Department of Justice: Melbourne
Aboriginal Justice Agreement 2 takes its focus on responding to over representation of the Koori community in the justice system through addressing the underlying causes of offending and reconnect Koori offenders with their community. Aboriginal Justice Agreement 2 builds upon the idea of expanding best practice models and takes focus on maximising the involvement of community input into government and non-government policies and practices. It highlights the need for community participation in successful ventures.

New Directions for the Magistrates’ Court 2008-11 policy statement focuses on modernising the courts, improving customer service delivery and business processes. This statement recognises the need to improve workforce planning and management and is encouraging of community partnerships.

Each of these policies has a guiding influence on the future of court support services in Victoria.

### 2.3 An overview of current reforms

Victoria has been at the forefront of creative initiatives in Australia designed to improve the quality of services provided through the courts. Innovations in the provision of court support services have contributed to court reform more generally by providing models of best practice and illustrating what can be achieved through the adoption of a problem-oriented approach. The suite of services provided through the Neighbourhood Justice Centre and CISP, in addition to its forerunner CREDIT/Bail, are of particular relevance in illustrating the potential for further reform.

It needs to be reiterated that these systems are not necessarily replicable in their current form to other localities given funding, structural, geographic, demographic factors. They do, however, offer a template of ideas and ‘test bed’ for adaption to other sites. Models such as the NJC and CISP provide an alternative to the focus of specialist courts, such as drug courts and family violence courts.

### 2.4 Summary: current court support services in Victoria

A non-exhaustive summary of the main current court support services in Victoria is as follows:

**The Assessment and Referral Court (ARC) List**

The ARC is a specialist court list that has been established (in April 2010) at Melbourne Magistrates’ Court to meet the particular needs of accused who have a mental illness and/or a cognitive impairment. The List combines a problem-oriented court approach with support for accused provided by court employed clinical advisors and case managers.

Clinical advisors employed by the court will assess each accused referred to the List and, if the accused is accepted onto the List, will develop an Individual Support Plan (ISP) in collaboration with them. The ISP may include a period of case management by the Court Integrated Services

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30 Department of Justice (2006), *Aboriginal Justice Agreement 2*, Department of Justice: Melbourne
31 Department of Justice (2008), *New Directions for the Magistrates’ Court of Victoria 2008-2001*, Department of Justice: Melbourne
Program (CISP) and referral to community based services. The plan will also require the accused to appear before the List Magistrate on a regular basis to discuss their progress.

All cases heard by the List will be pre-sentence, with the criminal proceedings being adjourned until the final stage of their involvement in the List. Participants will not be asked to enter a plea until the end of their involvement with the List. If an accused pleads guilty they will be sentenced within the List. If they plead not guilty, then their case will be returned to the “mainstream” court for a contest hearing. List participants will be involved with the List for between 3 and 12 months, with most being discharged from the List within 6 months. The ARC List is being trialed over a period of 3 years and four months and will be evaluated.

The Magistrates’ Court Amendment (Assessment and Referral Court List) Act 2010 has been passed by Parliament and received Royal Assent on 30 March 2010. The List will commence sitting weekly.

**Court Integrated Services Program (CISP)**

The CISP provides an integrated, coordinated, and multidisciplinary service. It began in 2006 as a successor to the CREDIT/Bail program as a 3 year pilot. It aims to address the over-representation in the criminal justice system of people from backgrounds of disadvantage and marginalisation. It also aims to reduce re-offending by providing a more streamlined risk-assessment to increase appropriate interventions for offenders and addressing offence related needs.

It is anticipated that the CISP will increase appropriate interventions, streamline processes and systems, and co-ordinate service delivery more efficiently and effectively for both the courts and accused persons.

Key aspects include:

- Central assessment process
- Priority access to treatment services
- Operates pre-plea, pre-sentence and pre-finding of guilt
- Stabilising accused persons throughout court process
- Eligibility based on risk of re-offending and offence related needs

**CREDIT/Bail Support Program**

The CREDIT/Bail Support Program aims to enhance the likelihood of an accused person being granted bail and successfully completing their bail period by providing early intervention and access to drug treatment, accommodation, material aid and support and supervision on a more limited basis than CISP. An accused person who is eligible to be admitted to a period of bail may be referred to the program. The outcomes of the program include a reduction in the number of accused persons remanded in custody due to a lack of accommodation or treatment/support, long term reduction in involvement of accused persons in the criminal justice system and successful placement of accused persons in drug treatment/ rehabilitative programs.

**Criminal Justice Diversion Program (CJDP)**

CJDP provides mainly first time offenders with the opportunity to avoid a criminal record by undertaking conditions that benefit the offender, victim and community as a whole. The CJDP was
designed to improve the efficient use of court resources by facilitating the development of an alternative and/or complementary procedure to normal court processes.

It provides the following benefits:

- Appropriate restitution is made to the victim of the offence and, when appropriate, the victim receives an apology
- Reduce the likelihood of re-offending
- Offenders avoid an accessible criminal record
- Assistance with the offender’s rehabilitation
- Offenders receive appropriate counselling and/or treatment
- Assistance towards local community projects with voluntary work and donations

Governed by section 128A of the *Magistrates’ Court Act* 1989, the following criteria must be met before a diversion can be recommended:

- The offence is triable summarily and not subject to a mandatory or fixed sentence or penalty (except demerit points)
- The accused person acknowledges responsibility for the offence
- There is sufficient evidence to gain a conviction
- The prosecution must consent and
- Diversion is appropriate in the circumstances.

Victims of offending are consulted throughout the process.

**Drug Court**

The Drug Court began in 2002 in Dandenong and is responsible for sentencing and supervising the treatment of offenders with drug or alcohol dependency, who have committed an offence under the influence of drugs or alcohol or to support a drug or alcohol habit. The court seeks to protect the community by focusing on the rehabilitation of offenders with the ultimate goal of bringing stability to offenders’ chaotic lifestyles and reintegrating them into the community.

An offender is sentenced to a 2 year Drug Treatment Order (DTO) which consists of a custodial part and a treatment and supervision part. The custodial part is suspended to allow for the treatment of the offender. The treatment and supervision will involve conditions being imposed to address the offender’s drug and alcohol dependency. Sanctions and rewards are used to address compliant behaviour and sanction non-compliant behaviour.

To be eligible for a DTO the following criteria must be met:

- The offender must not be subject to a Parole Order, CCTO or a sentencing order of the County or Supreme Court
- The offender must plead guilty
- The offender’s usual place of residence is within a postcode area for Dandenong Magistrates’ Court as specified in the Government Gazette
- The offence must be within the jurisdiction of the Magistrates’ Court and punishable upon conviction by imprisonment
- The offence must not be a sexual offence or an offence involving the infliction of actual bodily harm
On the balance of probabilities the drug court must be satisfied that:
The offender is dependant on drugs/alcohol and the offender’s dependency contributed to the commission of the offence
Upon conviction the Drug Court considers that a sentence of imprisonment is appropriate
The Drug Court considers that it would not have ordered that the sentence be served by way of intensive corrections in the community nor would it have suspended the sentence
The offender must be willing to consent to the order and
A Drug Treatment Order assessment report is provided.

**Enforcement Review Program (ERP)**

ERP was implemented in July 2002 to assist members of the community who have "special circumstances" and outstanding fines registered at the Infringements Court that are progressing to warrant stage;

Special circumstances matters are identified by section 65 of the Infringements Act 2006. An application in relation to "special circumstances" may include a diagnosed mental illness, neurological disorders, a severe physical disability, a serious addition to drugs, alcohol or a volatile substance or homelessness.

If a person suffers from any of the above and it is evident that their judgement was impaired at the time of the offences, an application can be made for revocation of the fines. Applications must be supported by medical evidence.

The decision to revoke a fine is determined by the Infringements Court. If the application is granted, the documentation is made available to the prosecution to consider whether the offence should be withdrawn. If not withdrawn the matter is listed before the court, which can consider an outcome relevant to the circumstances of the case.

**Family Violence Court Division and Specialist services**

The Specialist Family Violence Service (SFVS) began in 2005 and is designed to assist victims of family violence appearing before the Magistrates’ Court of Victoria at Sunshine, Frankston and Melbourne. The SFVS aims to simplify affected family members and affected children’s access to the justice system and enhance their safety. The program enhances services in place at Magistrates’ Court venues by providing a family violence applicant worker role, enhancing existing staffing resources at the three sites, providing specialist family violence training to these staff and where necessary, changing listing arrangements in order to provide additional courtroom time dedicated to family violence intervention order proceedings.

The Family Violence Court Division (FVCD) was established as a division of the Magistrates’ Court of Victoria through amending the *Magistrates’ Court Act 1989*. The FVCD operates at the Magistrates’ Court at Ballarat and Heidelberg. The aims of this Division are to:

- Make access to the Magistrates’ Court easier for persons who have experienced family violence
- Promote the safety of persons who have experienced family violence
- Increase accountability of people who have used violence and abuse against their partner and families
- Increase the protection of children exposed to family violence

The FVCD also aims to make the process of applying for an intervention order easier and less
intimidating, by having support services available at the court premises to improve safety and assist people in overcoming the trauma that is caused by family violence.

The Family Violence Court Intervention Project (FVCIP) established in 2005 aims to:

- Enhance the safety of women and children who have experienced family violence
- Increase the accountability of men who have used violence toward family members, through the provision of:
  - Counselling to male accused persons against whom an intervention order is made in response to their violence toward their (former) partner
  - Support programs and services to aggrieved family members who are the (former) partner of the accused person and any child of their family affected by the accused person’s violence.

Through the FVCIP at the Heidelberg and Ballarat Family Violence Courts the judicial officer can direct men against whom an intervention order has been made, to attend an eligibility assessment interview, and if assessed as eligible, to attend specialist counselling programs to prevent their use of violence and abuse against women and children in the future.

**Koori Courts**

The Koori Courts are an initiative of the Victorian Aboriginal Justice Agreement created under the *Magistrates’ Court (Koori Court) Act* 2002, (now incorporated into the *Magistrates’ Court Act* 1989). The key emphasis is on creating an informal atmosphere which allows greater Indigenous participation in the court and sentencing processes. For example, the Koori Court allows the *Aboriginal Elder or Respected Person*, the Koori Court Officer, Koori accused person and their families to contribute information during a hearing, thereby allowing the sentencing of Koori offenders to be delivered in a more culturally appropriate manner.

Criminal justice related aims are:

- To reduce Indigenous over-representation in the prison system
- To reduce the failure to appear rate at court
- To decrease the rates at which court orders are breached
- To reduce the rate of repeat offending
- To deter crime in the community generally and
- To increase community safety.

Community building related aims are:

- To increase Indigenous ownership of the administration of the law
- To increase positive participation by Koori offenders and community
- To increase accountability of the Koori community for Koori offenders and
- To promote and increase community awareness about community codes of conduct/standards of behaviour.

To achieve these goals, the Koori Court requires community involvement as well as coordination of services that help offenders, victims and the community.

All offences that can be heard in a Magistrates’ Court can be heard in the Koori Court, excluding certain family violence offences and all sexual offences. The Koori Court will only hear cases where the accused person has pleaded guilty to the offence(s) and, ideally, has shown an intention
to take responsibility for his or her actions. As in other courts, the final sentencing decision is made by the magistrate.

**Koori Liaison Officer Program**

The Koori Liaison Officer Program, also known as the Aboriginal Liaison Officer Program, began in 2002 as a result of the Aboriginal Justice Agreement No.1 and aims to increase the extent to which Koori offenders participate in mainstream court-related diversionary initiatives, such as CREDIT/Bail and the Criminal Justice Diversion Program. The Koori Liaison Officer sits alongside the CISP team at Melbourne Magistrates’ Court as part of the integrated service delivery model.

**Neighbourhood Justice Centre (NJC)**

The NJC was established in 2007 and includes a multi-jurisdictional court and offers a range of services to support victims, offenders, civil litigants and residents, including mediation, drug and alcohol services, employment and housing support and crime prevention activities. At the core of the NJC is a commitment to establishing partnerships and adopting problem-solving approaches. It also has a focus on restorative justice. The NJC will extend existing, and develop new, relationships between justice agencies, residents, traders, local council and local service providers.

The catchment area for the court is primarily those who live within the City of Yarra. As Australia’s first Neighbourhood Justice Centre, it draws its inspiration, in part, from the Red Hook Justice Center in Brooklyn and the North Liverpool Community Justice Centre.

**Sexual Offences List**

All sexual offence matters before the Magistrates’ and County Courts pass through dedicated Sexual Offence Lists making trials more efficient and more responsive to the needs of all participants, with particular attention paid to the needs of victims, especially vulnerable witnesses.

### 2.5 Diagram: court support services in Victoria

The diagram provided on the following pages provides an overview of court support services in Victoria and an outline of the services offered by specialist courts. A description of the main benefits to court participants is included, as well as information about the eligibility and current areas of operation.

The diagram does not include all of the court support services offered in Victoria. It is presented to provide a sense of the range of services available and the differing degrees to which these services engage with principles of therapeutic jurisprudence. The best practice elements of a number of these programs and services are explored in detail in Chapter 3 of this paper which contextualises current court support services within reform rationales and policy directions.
<table>
<thead>
<tr>
<th>Description of Service Provided</th>
<th>Eligibility</th>
<th>Benefits of Service for Court Users</th>
<th>Start Date</th>
<th>Locations of Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COURT SUPPORT SERVICES</strong></td>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>
| Provides case management up to 4 months in duration | Adults at medium to high risk of re-offending regardless of whether a plea has been entered | Demonstrated to reduce re-offending and addresses the underlying causes of offending | 2006 | Melbourne  
Sunshine  
La Trobe Valley |
| Facilitates referrals and linkages to support services including drug and alcohol treatment, accommodation, disability and mental health services | Available to any party of a proceeding by way of referral | Participants who complete the program are less likely to receive a custodial sentence |            |                        |
| Incorporates a Koori Liaison Officer | Multiple sources of referral | Improvement of health and wellbeing though access to support |            |                        |
| Provides case management up to 4 months in duration. | Adults eligible for bail, regardless of whether a plea has been entered | Reduces re-offending through addressing issues related to alcohol and drug use | CREDIT  
-1998  
BSP  
-2001  
Combined  
-2004 | Ballarat  
Broadmeadow  
Dandenong  
Frankston  
Heidelberg  
Ringwood  
Moorabbin  
Bendigo |
| Access to drug treatment accommodation, material aid, support and supervision | Multiple sources of referral | Reduces the number of defendants remanded due to a lack of accommodation or community support |            |                        |
| Referrals and linkages to support and treatment services | | Long term reduction in contact with the criminal justice system |            |                        |
| **CREDIT / Bail Support Program** |             |                                     |            |                        |
| **Criminal Justice Diversion Program (CJDP)** |             |                                     |            |                        |
| Undertaking of conditions to avoid a criminal record | First time adult offenders | Reduces re-offending through assistance with rehabilitation, appropriate counselling, treatment services | 1997 | Melbourne  
Broadmeadow  
Dandenong  
Frankston  
Heidelberg  
Ringwood  
Sunshine Geelong  
Latrobe  
Shepparton  
Werribee |
| Provides diversionary option for low risk and first time offenders | Offence triable summarily | May require involvement in community projects through voluntary work and donations |            |                        |
| Requires assessment of causes of offending behaviour | Offence not subject to minimum/fixed sentence/penalty | Reduces time spent in court |            |                        |
| Defendant acknowledges responsibility | | Restitution to victim where appropriate | | | |
| Provision of integrated client services | All court users referred to the team, with a focus on individuals with a mental illness or cognitive impairment | Provides initial screening to assess client needs | 2007 | NJC |
| Performs screening, assessment, case management and referral functions for court users | | Assessment conducted to determine the type and degree of service delivery needed by a client | | |
| Adopts a cross disciplinary approach to service provision | | Case management and referral to external organisations are required | | |
| **Screening and Assessment Referral Team (SART)** | | This program enables the court to improve outcomes by responding to individual circumstance. For instance, waiving large collections of fines where the accused person didn’t understand that they were incurring them | | |
| **Enforcement Review Program (ERP)** | | | 2002 | Melbourne |
| Assessment processes and possible revocation of fines | Offenders with ‘special circumstances’ including a diagnosed mental illness, neurological disorder, addiction to drugs and alcohol and homelessness | | | |
### The Future of Court Support Services in Victoria

**Assessment and Referral Court List (ARC)**
- **Assessment of participants and referrals to appropriate health, welfare and disability services**
- **Provides court participant with an Individual Support Plan**
  - Eligibility for accused with mental health issues or cognitive impairment that limits self care and social interaction/communication
  - Engagement is on a voluntary basis
  - Improves the health and well-being of the accused by facilitating access to treatment and other support services
  - Reduces the number of offenders with mental impairment in the prison system
  - Addresses the underlying factors that contribute to offending behaviour

**Specialist Courts**
- **Neighbourhood Justice Centre (NJC)**
  - **Hears criminal matters (excluding contested matters and sexual offences) and civil (VCAT) matters involving residential/tenancy disputes**
  - **Provides integrated service delivery, initiatives and client services. Includes SART and a referral response team**
  - **In criminal matters, intake encompasses all residents of the City of Yarra**
  - **Requires accused to have mental health issues or cognitive impairment that limits self-care and social interaction/communication**
  - **Engagement is on a voluntary basis**
  - **Improves the health and well-being of the accused by facilitating access to treatment and other support services**
  - **Reduces the number of offenders with mental impairment in the prison system**
  - **Addresses the underlying factors that contribute to offending behaviour**

- **Koori Court**
  - **Koori Court enhances participation of the Koori community in the court process through engaging in culturally sensitive practices**
  - **Referral to services is available through the Koori Court process**
  - **Koori offenders who live within or have been charged within the boundary of a Koori Court and who offer a plea of guilty**
  - **Available for all offences excluding family violence and sexual offences**
  - **Increases positive participation for Koori offenders**
  - **Insures cultural sensitivity in sentencing**
  - **Reduces the number of breached orders**
  - **Assists in addressing offending behaviours through increase accountability**

- **Drug Court**
  - **Administers sentencing and supervision of offenders with alcohol and drug dependencies**
  - **Adult offenders with a demonstrated alcohol or drug dependence, residing within postcode 3175**
  - **Offender must plea guilty**
  - **Provides an alternative to imprisonment by adopting a rehabilitative, therapeutic jurisprudence approach to serious drug dependent offenders**

- **Family Violence Court Division (FVCD)**
  - **Hears matters in the Magistrate jurisdiction including intervention orders, personal injury claims, family law and child support matters, summary criminal proceedings, committal proceeding, compensation and restitution cases**
  - **Includes a court liaison program capable of performing referrals in addition to defendant support services**
  - **Individuals who have experienced Family Violence**
  - **Increases accessibility of the court for victims/applicants and children**
  - **Assists in the application process and engages support services for victims/applicants**
  - **Cross sector referrals to address immediate and ongoing needs**
  - **Focus on victim safety**

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**The Future of Court Support Services in Victoria**

<table>
<thead>
<tr>
<th>LIAISON ROLES</th>
<th>Koori Liaison Officer Program</th>
<th>Provides advice and reports to magistrates and relevant court staff concerning appropriate courses of action for Indigenous court participant</th>
<th>Koori Offenders</th>
<th>Maximises chances of rehabilitation through culturally appropriate and sensitive intervention</th>
<th>2002</th>
<th>Melbourne (state wide service)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Court based psychiatric support service provider</td>
<td>Defendants referred through the court</td>
<td>Diverts offenders with mental health issues from the criminal justice system through facilitating access to treatment</td>
<td>1994</td>
<td>Melbourne Broadmeadows Frankston Heidelberg Ringwood Sunshine Ballarat, Bendigo Geelong, Morwell Shepparton</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Able to conduct assessment for the court and provide advice to Magistrates</td>
<td></td>
<td>Reduces recidivism rates and length and frequency of custodial remands through psychiatric assessment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| VICTIM FOCUSED INITIATIVES | Victims of Crime Assistance Tribunal (VOCAT) | Provides financial assistance to victims of crime for medical expenses, counselling and/or loss of income | Victims of crime | Provides victims of crime with a form of redress and assists in recovering monies paid toward medical bills, counselling and any loss of income | 1997 | State wide |
|                           |                                              | In special instances, VOCAT can provide urgent interim awards toward immediate expenses such as changing locks, counselling and emergency accommodation | Compensation is possible in circumstance where a criminal offence resulted in expenses |                                                                 |       |                             |
|                           | Koori Victims of Crime Assistance Tribunal   | As above for Koori victims of crime                                               | Koori victims of crime | As above for Koori victims of crime | 2006 | Melbourne (state wide service) |
|                           |                                              | Support service aimed at promoting safety within the court and providing information to victims | Compensation is possible in circumstance where a criminal offence resulted in expenses |                                                                 |       |                             |
|                           | Specialist Family Violence Services (SFVS)  | Victims of Family Violence                                                         | Specialist court service including Victim Assistance Program | Court matters that include one or more sexual offences | 2005 | Melbourne Ballarat Bendigo Geelong La Trobe Mildura Shepparton |
|                           |                                              | Provides specialist assistance to victims of family violence                       |                                                                 |                                                                 |       |                             |
|                           |                                              | Involves staff that possess specific training/knowledge in family violence matters |                                                                 |                                                                 |       |                             |
|                           |                                              | Staff experienced in addressing the needs of Koori and CALD victims                |                                                                 |                                                                 |       |                             |

Chapter 3 – Developing a court support model for application across the courts

Before looking at the elements of a good court support service model, it is important to consider the application of therapeutic jurisprudence philosophy to a court support services model. It is important to agree on a number of core principles that should be employed as a guide to implementation for court support services across the state and provide benchmarks against which progress could be measured.

3.1 Key philosophy underpinning court support services

The principles enunciated below draw on the philosophy of therapeutic jurisprudence. Therapeutic jurisprudence offers an innovative set of values to guide decision-making on policy, programs and practice.

Therapeutic jurisprudence philosophy stresses that involvement in the justice system can be a key motivating factor for offenders to deal with problems underpinning offending behaviour. Early intervention by integrated court support services should be geared towards ensuring that this window of opportunity is fully exploited through timely assessment and referral into appropriate services. Support services should be, as far as is possible, integrated seamlessly into the courts’ day-to-day practice, rather than being an ‘add on’.

3.2 Key principles for court support services

Court support services should, in line with principles of therapeutic jurisprudence:

1. Aim to maximise the potential of the justice process to work in a therapeutic manner and enhance the wellbeing of participants. Therapeutic jurisprudence is premised on the belief that the ‘best interests’ of participants are not always synonymous with, or reducible to, the ‘best legal outcome’. The aim of intervention should be to repair harm and enhance wellbeing rather than simply pursue legal outcomes that may have short term advantage but few long term benefits for clients and for society.

2. Provide an integrated, holistic and joined-up response to the needs of offenders, victims and families.

3. Participation by victims and accused should be voluntary.

4. Provide support to the court to achieve therapeutic jurisprudence outcomes by providing comprehensive and timely information and advice to assist the court to make decisions that are more informed.

5. Wherever possible, agencies should co-locate at the point of service delivery, and, as far as is feasible, realign their services to form a ‘joined-up’ service delivery model. There is evidence from the NJC, research conducted by the Centre for Court
Innovation in the USA\textsuperscript{32} and recent research on Community Courts in the UK\textsuperscript{33} to indicate that co-location yields significant benefits which are:

- More efficient use of resources
- Reduced requirement for clients to re-tell their story
- Speedy access to services and
- Fewer remands and adjournments.

6. Provide integrated and timely court support services which are available to as many offenders, victims and families as possible across jurisdictions. However, it is unrealistic to expect that all courts in all localities will be able to provide the same model of support. Initiatives need to be flexible, responsive to local needs and tailored to suit local realities, available infrastructure (like video conferencing facilities and appropriate space in courts) and local services.

7. Provide court support services which are tailored to support victims, as well as the families of offenders, as part of a court support services system model but which, in order to ensure confidentiality and safeguard security, provide structurally separate pathways to access this support. This could be achieved by, for example, using brokerage funds to refer vulnerable people to external specialist services.

8. Support and encourage courts, courts services and relevant agencies to creatively explore ‘hybrid’ arrangements, tapping into services offered locally by entities such as local government, DHS, and non-government sector. Services that could form part of a locally configured court support model include housing, Koori organisations, employment, mental health services and those designed to reduce social exclusion.

9. Develop integrated strategies through established best practice criteria and guidelines, MOU’s, joint training and information sharing initiatives. These should be strongly encouraged as a means of ensuring a sustainable, ‘joined-up’ approach and reducing the tendency for agencies to operate from within ‘silos’. It would significantly expand the quantum of knowledge regarding ‘what works’ in Victoria if courts were in close communication with central court administration to keep them informed and share and disseminate best practice ideas. Networking of this nature ensures consistency and sustainability, ensuring ‘evidence driven’ rather than ‘personality based’ initiatives.

10. Support creative initiatives that support therapeutic approaches (with best practice criteria and guidelines in place) and respond to local justice issues. These could include the trialing of problem-solving meetings and pre-trial meetings, establishing locally based diversionary strategies and victim-centred restorative justice processes as


acceptable and normal elements of court practices. To ensure sustainability MOUs would need to be established and utilised.

11. Be accessible. There should be no ‘wrong door’ into services. Sound processes of ‘triage’ at the point of contact with the court and robust ‘joined-up’ work with court-based support and local agencies should ensure that clients are linked with the appropriate service pathways irrespective of the entry point into the justice system.

12. Seek to stabilise people and work to connect them to local agencies, thereby minimising the duplication of services provided by mainstream organisations. Instead, court services should provide a pathway into services provided by mainstream agencies.

13. Ensure cultural competency and cultural security are part of a court support service model which is essential when working with Koori offenders and victims, as well as the culturally and linguistically diverse (CALD) communities. There needs to be sensitivity to any cultural barriers to services for CALD victims and offenders.

14. Develop in tandem with strategies designed to build community engagement and participatory mechanisms between courts and their communities. This will help to identify and work together to respond to the local needs of communities and resources and capacities of local agencies.

15. Achieve program sustainability. This will depend on establishing strong partnerships with local and centrally based agencies and support structures. A mix of ‘bottom up’ and ‘top down’ approaches and strategies may yield significant results on a local level. Government has a crucial role to play in enabling, resourcing and facilitating these initiatives.

3.3 The generalist approach to court support services

The development of CISP shows the value of having general court support programs to complement specialist programs. Offenders, and victims, may experience multiple problems, rather than a single issue. The Western Australia Law Reform Commission argues:

\[\text{[s]ome offenders may have substance abuse problems, but not to the level that requires a drug court intervention. Other offenders may have mental health issues but these are secondary to other problems such as gambling and homelessness. Further, specialist programs are impractical if there are insufficient numbers of potential participants to justify a separate program.}\]

The Law Reform Commission of Western Australia suggests that programs like CISP ‘maximise the opportunity for all offenders to participate in effective intervention programs’. General programs may also address underlying issues that lead people to offend but do not restrict their eligibility criteria to a specific group of offenders with one particular problem, they are potentially available in most courts.

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35 ibid.
3.4 Court Integrated Services Program (CISP)

Victoria’s Court Integrated Services Program (CISP) was developed in response to the Victorian Attorney General’s Justice Statement 1 in 2004 which, among other things, aimed to improve the justice system by addressing the offending behaviours of recidivist offenders who are mentally ill, intellectually disabled, drug-dependent or homeless. In 2005, $17.1 million was allocated for the development and implementation of the pilot program. CISP operates in three Magistrates’ Courts (Melbourne, Sunshine and Latrobe Valley) and aims to provide intensive broad based short-term support for accused persons who have not yet entered a plea (although, in fact, it has become a pre-sentence rather than pre-plea program).

The program builds on and extends other Victorian court intervention programs, including the Court Referral and Evaluation for Drug Treatment Program (CREDIT/Bail) which addresses drug-related offending.

Integration, co-location and coordination

CISP aims to bring support services together to work in an integrated and coordinated way, employing a multi-agency based approach and dealing with offenders in a holistic way. This has been achieved by:

- The co–location of the team (at each court)
- The determination of clear roles and responsibilities for each team member
- Regular team meetings and
- Shared information systems.

Accused people who have been charged and had some involvement with the Magistrates’ Court can receive up to four months of case management depending on the risk assessment conducted at the initial screening and the level of offending alleged. There are various referral points. For example, Victoria Police have been known to put “attendance at the CISP Office” as a condition of bail (although police referrals are generally lower than other sources). Participation in the CISP is voluntary and does not necessarily impact on the sentencing outcomes of the accused. It is fundamentally aimed at changing the behaviours that constantly return some offenders to the justice system.

Assessment for suitability for CISP occurs rapidly, often on the same day as a court appearance: this is a key dimension of CISP and illustrates how closely aligned the program is with key principles of therapeutic jurisprudence, in the sense of capitalising on the immediate ‘crisis’ created by involvement in the justice system to encourage entry into treatment. It is possible for a person to be referred in the morning by a magistrate, assessed for suitability and be back on court in the afternoon with a report set out before the magistrate, outlining the recommended support services for the accused. Brokerage funds are allocated for needs such as housing, material aids and pharmacotherapy. Progress reports are provided to magistrates’ from the accused’s case managers. Memoranda of Understanding exist between relevant support agencies to facilitate information sharing.
**CISP case management**

Case managers are positioned in each court location with experience in dealing with a wide range of issues, including: drug and alcohol abuse, mental health problems, welfare needs, acquired brain injury, housing and homelessness, and issues facing Indigenous people. In the Melbourne Magistrates’ Court, there are 14 case managers who work with offenders on the program including ‘team leaders’ who are also responsible for the day-to-day management of the program. The CISP has an overall program manager and a number of administrative staff attached to each court location. Most case managers are Department of Justice staff, however, the CISP has entered into contracts (following a tender process) with external agencies like Homeground, to provide case management services for participants with housing issues. Each offender is assigned a primary case manager, but other case managers may be involved in monitoring and assisting the offender on the program.

The CISP case management model places emphasis on individually tailored programs for participants. Furthermore, in contrast with many traditional pre-trial programs, case managers become involved in direct, therapeutic work with clients. The co-location of different disciplines within the team ensures that clients are matched with the appropriate professional. There are three levels of service response (Intensive, Intermediate and Community Referral), the assessment process identifies the level of support required in a particular case. A key aspect of CISP has been the creation of a diversity of service agreements involving housing (through the Justice Housing Support Program), acquired brain injury (through Arbias), and drug and alcohol services (through the Community Offenders Advice and Treatment Service (COATS)).

**The strengths of the CISP model**

The CISP model provides timely assistance for accused people with health and social needs prior to sentencing, providing a space to work on the causes of offending, giving priority access to treatment and community support services to reduce the likelihood of re-offending.

Many single focus specialist court intervention programs require a plea of guilty or at least an indication that the matter is not likely to be contested. General programs such as CISP are more flexible and do not require an admission of guilt, but rather a willingness to address one or more underlying problems.

This approach is possible with general programs because the intervention is not focused on a specific issue. The accused simply has to acknowledge that problems such as drug use and homelessness place him/her in a vulnerable position in terms of further offending. One attraction of this is that accused persons can begin treatment as soon as possible – the accused person can begin treatment soon after arrest without waiting for legal advice and other matters to be determined. Early intervention may reduce the likelihood of further offences being committed on bail. These features are firmly in line with the problem-oriented approach and consistent with principles of therapeutic jurisprudence as sketched out in earlier sections.
Support for CISP

Our consultations found considerable support for the CISP model and a desire for role out across courts in Victoria. Also, a recent evaluation of CISP \(^{36}\) found that it:

- Achieved or exceeded its targets for the engagement and retention of clients
- Was able to match the intensity of intervention to the risks and needs of clients
- Achieved a high rate of referral of clients to treatment and support services.

The study also found mental health improvements during the program period, magistrates and stakeholders showed a high level of support for the program and its outcomes and compared with offenders at other courts, offenders showed significantly lower rates of offending.

The NJC and CISP evaluations prove the effectiveness of these programs in responding to disadvantage and the complex needs of court participants. Key evaluation results for both include:

- Positive economic returns from both programs\(^{37}\)
- A 20% reduction in re-offending rates for CISP clients \(^{38}\)
- For those who did re-offend there was also a 30.4% drop in offending frequency \(^{39}\)
- 50% of CISP participants incurred no further charges \(^{40}\)
- A significant increase in mental and physical wellbeing of participants post their involvement with CISP \(^{41}\)
- $1.9 million per annum avoided costs of imprisonment as a result of the CISP program \(^{42}\) (CISP is currently available at only 3 sites where the cost saving to the community for every dollar spent is up to $5.90)
- Increases in offenders’ compliance with Community-Based Orders (approximately 10% higher than the state-wide average) \(^{43}\)
- Higher numbers of community work hours contributed by offenders (105 hours for NJC offenders compared with 68 hours for Victorian offenders in general) \(^{44}\)

The evaluations also recommend broader use of these models in Victoria \(^{45}\), in line with government commitments in JS2 to expand implementation of successful new approaches and share the benefits


\(^{37}\) Court Integrated Services Program – Tackling the causes of crime – Executive Summary Evaluation Report, Department of Justice, 8 June 2010, p.20 Snapshot 3 indicates a cost saving to the community for every dollar spent on the CISP between $1.70 and $5.90 is saved. For the NJC, Ross S., Halsey M., Bamford D., Cameron, N. and King A., Evaluation of the Neighbourhood Justice Centre, City of Yarra, Final Report, (November 2009), the benefit-cost analysis reports that for every $1 invested, the return is between $1.09 to $2.23 p.168

\(^{38}\) ibid p.19

\(^{39}\) ibid

\(^{40}\) ibid

\(^{41}\) ibid p.22

\(^{42}\) supra n.8

\(^{43}\) Ross S., Halsey M., Bamford D., Cameron, N. and King A., Evaluation of the Neighbourhood Justice Centre, City of Yarra, Final Report, (November 2009), p.149

\(^{44}\) ibid p.24
of these programs more widely across Victoria. Other states in Australia are carefully considering the establishment of similar holistic court support programs:

*The CISP is a useful model because it enables the program to target offenders who are at risk of re-offending without requiring a plea of guilty to the current charges. To participate in the CISP, the person must either have a history of offending or a pattern of current offending that suggests the person is likely to re-offend.*

Consultations and discussions with key stakeholders identified a number of factors which made the program successful from stakeholder perspectives. These included:

- The emphasis on individualised case management afforded by the initiative and a therapeutic advocacy approach
- The multi-disciplinary referral and assessment approach matches clients needs with skilled workers, bundling together previously isolated services
- The flexibility afforded by three level case management – intensive, intermediate and community referral
- The service agreements with housing agencies as part of the Justice Housing Support Program, and COATS (Community Offenders Advice and Treatment services).

Consultations stressed that a generic model like CISP needs to have the capacity for immediate support once the accused person comes to court (‘immediacy matters most’). As soon as the client is engaged and immediate needs are met, then planning for post-crisis intervention and engagement in longer-term services should commence. Several consultees stressed, however, that clients need incentives to move from court-brokered services into mainstream services.

**Issues with the CISP model**

*Housing and Accommodation*

Rolling out CISP style services across the state raises issues about housing capacity, particularly in rural areas. Housing and accommodation are key variables in terms of ensuring desistence from crime according to feedback in many consultations. It can take anywhere between 6 to 12 months to get housed and the current 15-20 transitional houses across Victoria which CISP has access to are used for long term needs rather than transition housing as was originally intended due to lack of housing stock.

*Duplicating existing services*

Some consultees noted a danger that DHS may withdraw from service delivery for offenders if it feels that CISP has become an alternative route for service delivery. There were also concerns that court support services should not duplicate existing mental health services, rather they should provide crisis management. Duplicating treatment services, it was said, can impede rather than enable access to long-term services.

*Workforce development and staff retention*

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45 supra n.16 Recommendations 6 and 7 about the courts and the justice system at p.14
47 This comment was posted on a returned survey distributed by the research team to participants at the workshops.
Issues here included included high staff turnover and concerns that knowledge and expertise were being ‘lost’ as a result. There were suggestions that the current grade (Level 3) should be reviewed and ways found to ensure that workers did not have to ‘move out, to move up’. Issues around career progression were identified in both the NJC and CISP evaluations. Some consultees said that CISP is very ‘office based’ – workers don’t move outside the HQ courts. It was said that some workers feel ‘stuck in court’ because courts ‘don’t see the value of outreach services’, and have inflated fears of worker’s safety.

It was suggested that there would be better staff retention/recruitment if there was an outreach component to the program. Some consultees saw value in CISP workers seeing clients off-site, others saw value in CISP workers getting out to other courts. The danger, however, is that this may lead to a dilution of focus as the concentration of case management services at the point of contact with the court and rapid access to assessment and services is one of the strengths of the CISP process.

During consultations it was noted by some court support staff that CISP has a challenging client group, where offending is mixed up with mental health, drug and alcohol issues. They emphasized the importance of regular supervision to manage issues associated with job stress, recommending that team leaders should not have a case management role but should be focused only on support, supervision and management.

3.5 The Neighbourhood Justice Centre

The Neighbourhood Justice Centre (NJC) has developed a sophisticated approach to the provision of court support services. The NJC in Collingwood, City of Yarra, houses the Magistrates’ Court and can hear all matters except sexual offences and contested matters. The NJC follows the trend established in other jurisdictions by having one magistrate hearing all matters at the centre. This is the distinguishing feature of the NJC in relation to other courts in Victoria. While the Collingwood NJC is unique in Australia, the NJC model has a number of counter-parts overseas, particularly in the USA and the UK. The NJC was developed to create an integrated, holistic and accessible system of justice through engagement with local communities and addressing the underlying causes of crime. The following discussion focuses on court support services. However, it should be borne in mind that these initiatives form only a part of the over-all fabric of the centre. Consultations with court personnel suggested that the community engagement aspect of centre’s work, including nurturing restorative justice process in the community, was a key element of its approach which contributes to the strength of its court based support services.

The NJC client court support services model

Existing Magistrates’ Courts cannot easily transform themselves into Neighborhood Justice Centers. However there are components of the NJC service delivery model and the generalist court support model of CISP (detailed below) that could lend themselves to incorporation into other sites in ways that might enhance the quality of court services and the engagement of communities with the courts. Of particular relevance in this regard are:

- The court building acting as the ‘front door’ into mental health services plus a ‘no wrong door’ approach to dealing with clients
- Direct communication between judicial officers and offenders
- The multi-disciplinary driven (as opposed to simply legally driven) basis for decision making
- Onsite co-location of agencies and service providers
- A commitment to inter-agency cooperation.

The Western Australian Law Reform Commission describes the Collingwood NJC has having all the hallmarks of a benchmark problem-oriented court, underpinned by principles of therapeutic jurisprudence and restorative justice, through:

> [i]nteragency collaboration; efficient access to services; personalised and direct communication between the judicial officer and the offender; and a holistic response to social problems that lead to crime. Importantly, the co-location of staff and service providers on-site is the ideal way to maximise the benefits of court supervised rehabilitation programs.⁴⁸

### Fulfilling key objectives

A recent evaluation of the NJC⁴⁹ found evidence that the NJC was fulfilling key objectives as follows:

- It is improving offender accountability while plugging offenders into appropriate services: the approach has achieved higher compliance rates with Community Based Orders
- There is evidence that participants are highly satisfied with the process and this is yielding more meaningful involvement
- It has achieved a balance between the smooth administration of justice and a therapeutic approach to dealing with participants
- There was clear evidence of reduced re-offending by offenders sentenced in the court compared to other courts.

The evaluation isolated a number of features of the NJC model which illustrate its potential as a model for other courts, including:

*integration of community engagement practices into the Centre’s operations; the application of therapeutic jurisprudence practices, and a client services model based on intensive clinical engagement with clients and the provision of services to the local community as well as offenders referred from the justice system. In addition, many of the distinctive elements of the NJC court procedure could be replicated in other courts. The physical location of defendants in the court [ie, the accused person being invited to come and sit at the bar table with the prosecution and the defence], the review of defendants on community based orders, stable staffing by prosecution and defence to foster relationships of trust and respect could be adopted elsewhere.*⁵⁰

The evaluation recommended extending core elements of the model to other sites, such as:

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⁴⁸ Law Reform Commission of Western Australia – Court Intervention Programs: Final Report (2009) p.27
⁴⁹ Ross S., Halsey M., Bamford D., Cameron and King A. (2009) Evaluation of the Neighbourhood Justice Centre, City of Yarra, Flinders University, Brotherhood of St Lawrence, University of Melbourne.
⁵⁰ Ross et al op cit, 9, emphasis added.
• A single magistrate having more multi-jurisdictional roles involving the same clients to allow for more continuity across court matters
• A multi-disciplinary client support service function
• A client support system based on intensive clinical engagement with clients and services to the community
• An emphasis on community engagement.

The Screening and Assessment and Referral Team (SART)

The NJC’s Screening and Assessment and Referral Team (SART) provides services for clients. It is comprised of specialists in mental health, drug and alcohol, Koori justice, general counseling and case work – they are not just a brokerage service but do hands on case management with clients. The mental health clinician is contracted from St.Vincent’s Hospital, and constitutes ‘the point of entry’ into St.Vincent’s services. According to consultees, this dual employment by the hospital and the NJC reduces layers of bureaucracy, reduces duplication for the client and the services and speeds up the process.

The team is supported by service agencies related to housing, victim support, chaplaincy, youth justice, employment and financial counselling. Clients referred from court, or self-referred, are assessed to identify the nature of issues, then assigned to a case manager drawn from an appropriate service area. As part of the significantly different community justice neighbourhood centre clients can attend the SART even if they do not have a matter before the court. The assessment tool employed is similar to that employed by the CISP team (see section 6.1 below) but it is a ‘hybrid’ as it can also include ‘cut and paste’ elements from a local mental health services provider, St. Vincent’s. Team members become involved in Problem-Solving Meetings and work closely with Community Corrections. The team is able to provide an intensive level of support for a considerable period of time (given that they have fewer cases than other comparable services such as CISP).

Representatives from most of these support service agencies are physically located in the NJC with the court paying the salaries for these positions from its own budget. Budgetary control has been important in enabling the NJC to respond directly to the needs of clients. The point was forcefully made during consultations that co-location has been crucial in relation to offender rehabilitation. It is also of enormous value to have workers who are able to perform a ‘cross-cutting’ role by being both co-located in the court services agency and have a desk and ‘identity’ in an off-site agency, such as a mental health agency.

Local mental health services are said to be notoriously difficult to access even for mental health professionals when they are not physically located in a mental health agency. Having an external mental health worker on-site with strong links to the mental health agency has given the NJC’s services local credibility and direct and speedy access to services, as the mental health worker, for example, becomes the ‘front door’ into the service. This has also been the case in other courts with a mental health court liaison officer role, such as Shepparton, Latrobe Valley, Ballarat, Bendigo and Geelong. The workers themselves experienced no identity or role conflict in having a ‘multiple-identity’, being both an employee of an outside agency and a worker in the court. Clients enjoy a clear and seamless pathway into services and do not need to repeatedly ‘go through the hoops’ by having to retell their story and undergo different assessment processes, one SART member said. In addition, staff have access to patient information when they are still employed by an external
service agency so there is continuity of case management and care when they are also clients of the NJC.

This model could be extremely valuable when adopting the learnings from the NJC, and other courts where there are mental health and similar liaison roles, for use in other sites. It is inherent in the therapeutic jurisprudence approach that, provided there is clear judicial leadership, the input of other disciplines is essential for good practice. It may expand and strengthen the knowledge pool of the court when it is able to draw upon the skills and experience of workers who maintain contact with their respective field, while remaining closely linked to the court. Experience strongly suggests that workers do not need to be direct court employees to work effectively and with accountability within the framework of the court. There may be positive outcomes in terms of delivering ‘cultural change’ in the court system by having ‘external’ professionals working in-house with the court.

Encouraging local creativity

The key principles of therapeutic jurisprudence encourage more ‘hybrid’ styles of working, and hybrid professional identities, as a positive, rather than negative, outcome of an integrated approach. Encouraging creative hybridity on a local level has assisted in reducing the tendency for agencies to operate from within discrete ‘silos’ and have an energising and synergetic impact on local practice. Courts have, subject to time and other constraints, played a leading role by acting as a focal point for initiatives, but this has been dependant on particular people in those courts driving the initiatives. This approach is consistent with therapeutic jurisprudence philosophy which stresses that judicial authority can have a galvanising impact on inter-agency initiatives in which the court plays a role. There is a clear need to encourage this kind of local ‘bottom up’ creativity across the state.

3.6 Addressing culturally specific needs and victims needs in a court support services model

Koori Specific Initiatives: structural and cultural issues

In relation to Koori clients there is widespread support for extending the CISP model across the state. The view from Koori workers is that CISP meets the needs of Koori people but there are a number of structural and cultural factors needing to be addressed if CISP style services were to be provided as part of a generic client services model across all courts.

Koori workers contacted also supported the NJC approach and were particularly impressed by three elements:

- Firstly, the comprehensive client assessment and management approach and the direct access it offered into services locally
- Secondly the consistency in judicial oversight through having one magistrate, and
- Thirdly, the emphasis on community engagement as a necessary component of work with the Koori community.

The key concern in relation to CISP and its relationship to the Koori Court, is ensuring that it could be both pre-plea and post-plea in order to pick up Koori offenders. Koori people using the Koori Courts had access to CISP only at La Trobe Valley. Currently, Kooris use CISP, but not through
Koori Court because of the requirement that the accused person must enter a plea of guilty to access the Koori Court and Koori Courts do not hear bail applications, they are just sentencing courts. Ultimately, as one observer in consultations said, ‘every court should be a Koori Court and every Koori Court should have a CISP’. There was also considerable support for a specifically developed Koori CISP that includes a greater emphasis on Koori issues and cultural security at the assessment and intervention phases; there would be a homologous emphasis on the recruitment of Koori workers.

Koori consultees stressed that access to CISP around the state would help more Aboriginal people get bail. Koori participants also stressed:

- The importance of Aboriginal liaison officer roles in court initiatives, to act as a link between clients, services and courts, but also provide links with the Koori community
- More resources for Aboriginal service providers to establish programs in the community, such as ‘healing centres’
- Strategies to encourage Aboriginal people to be employed in the court (‘we need to see more black faces in the registry’) and encourage displays of art works, cultural artifacts and relevant posters
- More brokerage money for Aboriginal health organisations to support CISP.

There is a perception that Koori Courts were under-resourced compared to other programs – and the lack of brokerage money attached to Koori Courts created problems: for example, existing workers got burnt out because they were expected to cover a huge area and organisations (like the Victorian Aboriginal Legal Service) became over-stretched.

CISP is a highly successful model of a general court services program and should be employed in any new court initiative. It is important, as in any new justice initiative, that the needs of Koori people be given special consideration. Any future reforms would need to acknowledge a Koori person's right to choose whether to become involved in ‘mainstream’ programs such as CISP or to access services such as a Koori CISP, or the Koori Court.

**CALD support**

There needs to be a clear commitment by government and the courts to ensuring all Victorians enjoy equal access to appropriate services to overcome barriers associated with low level of English proficiency and cultural marginalization. Court services should take into account the Victorian Government’s *Valuing Cultural Diversity* policy statement, outlining the core principles for promoting cultural diversity. Focus here should be on social inclusiveness and the reduction of any tendencies towards systemic racism and negative stereotyping of accused persons, victims and communities. This could be achieved by putting in place systems and procedures that reduce barriers to accessing, and participating in, services – for example, by ensuring that interpreter services are accessible where necessary, and that there are appropriate liaison initiatives designed to enhance communication between CALD communities and courts. Information about court services should be disseminated through culturally relevant media and other channels.  

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Victim Support

The needs of victims should be a key concern of court support services. Victims of family violence, in particular, require special safeguards given the historical tendency of the court system to neglect and even further traumatis family violence victims. Over recent years, Victoria has introduced a number of important reforms to the court’s response to victims, including initiatives such as the creation of specialist family violence lists, important changes to family violence legislation, and the creation of Respondent and Applicants worker positions in a number of courts as part of the Family Violence Division at two court sites, the Victims’ Charter (Victims’ Charter Act 2006), the creation of the Child Witness Service and VOCAT and Koori VOCAT.

Therapeutic jurisprudence philosophy stresses that the experience of the court system should be as therapeutic and positive as possible, and any potential negative experiences be minimized through an approach that is client focused. To achieve this, court services need to ensure that victims are given timely access to support services and that access is not delayed for purely legal reasons.

Victims should be given information at the earliest possible stage regarding services such as VOCAT and other relevant services. There should be family violence respondent and applicant workers in all headquarter Magistrates’ Courts with a potential for these workers to travel to other satellite courts. This could work well if, like in some existing courts, there were specific court days set aside to hear family violence cases. The work performed by those in these roles has been demonstrated to provide timely support, assessment and referral. These workers do not necessarily need to be based in the court and can be based at an outside agency. However, there is a strong sense that people are more motivated to access the services when it is proximate to the court appearance.

As in other areas involving vulnerable groups, there is a strong need for robust inter-agency dialogue involving the government and non-government sectors. The acceptance of support from outside agencies routinely working with, and advocating for, victims of family violence has proved successful in other societies.

3.7 Functional Specialisation

The CISP and NJC experiences illustrate the importance of developing functional specialization that can be applied across the range of court business streams and specialist list divisions. Therapeutic jurisprudence principles encourage the creation of client-focused instruments that are compatible across disciplines and professional boundaries, including information systems.

Case Management Meetings

Courts could be encouraged to consider using more pre-court case management meetings, involving all key players (bar the magistrate) before court sits. These meetings are currently being convened for the more specialist court responses such as the Family Violence Division and the Assessment

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53 For example CAADA (Coordinated Action Against Domestic Abuse) is a national UK charity providing court based advocacy for family violence victims. It has a strong multi-agency base and provides tools, training, guidance assurance and policies to support professionals and organizations working with domestic violence survivors. The aim is to protect highest risk victims and their children – at risk of serious harm, see http://www.caada.org.uk/
and Referral Court (ARC) List in Victoria. Meetings like this involving the magistrate are also held in the Drug Court and the Koori Court (with the elders, the magistrate and the Koori Court officer).

In a non-specialist court, the North Liverpool Justice Centre in the UK convenes a daily pre-court meeting with representatives from the key agencies to review the expected cases each day and ensure effective case management. This has helped to increase diversion of trivial cases, reduce delays and remands. This model has provided opportunities for disclosure and early diversion, streamlined court processes, and resulted in resource savings and better outcomes for offenders who are rapidly moved into support services.

Problem-solving meetings could also be encouraged as a means of ensuring that clients are placed into programs in a timely manner. Evidence from the NJC55 and in the UK56 also suggests that the co-location of criminal justice and other support agencies on-site has been a factor in making the process run more smoothly and, in line with therapeutic jurisprudence principles, breaking down some of the conflict and adversarialism inherent in the traditional justice system. While such arrangements may not be feasible in some courts in this particular form, the research reveals the positive outcomes that can be achieved by adopting an integrated, joined-up approach to case management.

**Overlap and Duplication**

A joined-up approach may reduce duplication and overlap between agencies and provide a means of identifying and plugging gaps in services. The precise mix of agencies needs to be, as far as possible, mapped and coordinated locally. Each locality manifests its own unique features, justice issues, cultures and structures. Reducing duplication and overlap can be achieved through:

- Robust inter-agency dialogue that involves local decision makers and gatekeepers: this should include Corrections, DHS, Department of Housing, Victoria Police, community based mental health and disability services and drug and alcohol agencies, job agencies and financial counselors
- Dialogue aimed at developing integrated strategies, practice guidelines and MOU’s. Opportunities for local research, joint training and information sharing would be vigorously pursued as a means of ensuring a sustainable, ‘joined-up’ approach
- While it would be desirable to develop service agreements with a number of agencies, it would need to be borne in mind that a number of services accessible in both the metro and regional areas of Victoria may be either non-existent or thin on the ground in a particular local area. Part of the local strategy would be to identify and jointly develop strategies from within local resources and/or approach government for resources
- Strong links with community groups through a community engagement strategy to identify and nurture community resources, including Aboriginal community ‘owned’ initiatives, including links with local structures established under the Victorian Aboriginal Justice Agreement and participatory structures such as Regional Justice Advisory Councils (RAJACs).
- Strong links with community groups through a community engagement strategy to identify CALD initiatives and specialist victim support services

55 Ross et al op cit.
Consideration of the establishment of Courts Consultative Councils to replace Court Users Groups meetings involving key players within the court as well as off-site service providers and representatives of the local community.

**The Neighborhood Justice Officer Role**

In relation to introducing elements of the NJC model into mainstream courts, Ross *et al* stress the importance of the Neighbourhood Justice Officer (NJO) role. The NJO plays an important role in providing information about an offender’s circumstances to the court and court services, as well as convening problem-solving meetings\(^5\) of key court services staff as an independent facilitator. The role has features in common with the Court Coordinator role in the British models, such as North Liverpool and Salford Community Courts. Posts such as NJOs might provide the ‘glue’ that binds together court support and off-site services together on a local basis.

It might also be desirable in some localities to create a position combining elements of the NJO role with engagement with the Koori community. The role here may include linking the court with AJA initiatives, facilitating diversion in healing for Koori clients and supporting the Koori Court side of court work.

**SUMMARY**

Services such as CISP and NJC significantly contribute to court reform and represent models of best practice. The quality of the services provided illustrate the strengths of a problem-oriented approach as it is informed by therapeutic jurisprudence. Options emerging from these initiatives include: the co-location of services and early intervention for a diversity of problems including mental health issues, cognitive impairment, drug and alcohol abuse, and homelessness. The approach encourages options such as judicial monitoring and review, as well as sound inter-agency dialogue.

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\(^5\) Problem-solving meetings aim to identify any issues that may be contributing to offending, such as drug or alcohol addiction and housing or debt issues. Agencies come together to clarify the problems and identify potential options for sentencing that will effectively address the underlying causes of the offending behavior. Meetings are held in an informal setting, away from the courtroom. The meetings are generally chaired by a court services worker (such as the NJO) and involve the offender, their defence solicitor, a friend or family member if appropriate, and the relevant services which might be able to help in addressing the offender’s particular problems. The co-location of agencies can ensure that meetings are speedily convened and thus avoid delays in sentencing.

According to McKenna (*op cit*, 147):

>The problem-solving meeting puts the offender at the heart of the process of devising solutions and sentencing options. This is different to the traditional court approach, where discussions about sentencing options tend to be routed through defence representatives.
Chapter 4 – Perspectives, issues and challenges in delivering support services in the court setting

This section provides a summary of the feedback from participants in consultations and workshops. Feedback from participants in consultations focused on existing and projected barriers to service provision. These consultations demonstrated significant realism in relation to what can be achieved in the short-term, given resource constraints, but also provided insights into what could occur over time with the necessary support from government.

4.1 An overview of issues raised in consultations and workshops

Issues raised included matters related to funding, infrastructure, available space, equitable access to services and the culture and hierarchies of the court system. There were also comments made about the role of non-judicial actors within the justice system, the problems confronted by Koori and CALD participants and victims, conflict between agencies and the limits of the therapeutic jurisprudence and problem-oriented approach.

There was broad and enthusiastic support for the major innovations of recent years, such as CISP, CEDIT/Bail and the NJC. These were viewed as best practice examples. There was also support for innovations such as specialist court lists and specialist courts as well as innovations in terms of court liaison roles for vulnerable clients. However, there were concerns that the benefits were not evenly distributed across the state.

4.2 Funding and resourcing

Significant funding has been allocated by government in the last eight years to innovative court reform. It is recognised that the implementation of many of the options for a statewide court support model posed in this paper are subject to the new and ongoing provision of funding. The two key aspects of resourcing problem-oriented approaches are the decision-making process by which these approaches are funded and the impact on current resourcing of such approaches. A starting point for decision making processes around resources to accommodate implementation of a collaborative model relate to the areas of increased staff training and the creation of specific professional development kits and shared information management tools. These are discussed further in Chapter 7 of this paper.

4.3 Infrastructure and space related issues

There were a number of issues raised in the consultations in relation to the limitations placed on a therapeutic approach by existing infrastructure, especially in the regions. There was a view that courts should attempt to provide more workstations for support services staff, based in, or near, the court, and that traditional courts were simply not designed to accommodate the needs of a modern justice system. A lack of suitable space for discussions with clients, and places where vulnerable witnesses and victims could be dealt with sensitively and confidentially, were raised as major barriers. Lack of appropriate accommodation also limited the scope for co-location of services on-site and opportunities for improved inter-agency dialogue that that brings.

58 Estimated to be around $137 million
4.4 Equitable access to services

There were concerns expressed regarding the difficulties certain groups had in accessing present buildings, such as victims and those with disabilities. There were ongoing concerns that victims and accused persons had to use the same entrance and sit in the same area of the court foyer. It was suggested that separate entrances for applicants in family violence cases and victims of sexual assault were required; along with separate waiting areas. There were also suggestions that specialist lists should be on a different day to criminal matters as a way of making the experience less traumatic for victims, rather than having their matter ‘sandwiched’ between other matters.

This was coupled by a view that women who needed to attend court and who had children were particularly disadvantaged. A number of people consulted suggested that each court should establish a child friendly area in the court. It was acknowledged that it is not realistic to provide a crèche on-site because of the regulations governing this type of service and that people may not wish to utilise a day care using coupons where their children do not know the staff. Court Network could be considered (as an agency already in court), which may be able to keep a toy box and children’s books available for when people have no option but to bring children to court.

Consultees recognised the importance of a ‘triage’ approach but there were some concerns that court registries are not well set up to undertake triage. There may need to be additional resources to train court staff to do this kind of work and to introduce more specialist court staff positions. Some did not think it was the work of court staff to be involved in identifying the needs, health/mental health of clients. There were concerns regarding poor communication between parts of the court – particularly between court staff and lawyers. Some consultees stressed that ‘triage’ does not need to be a complex process but simply involve registry and other staff suggesting to those they know to have had a history of contact with the court, that they consider contacting CISP, and perhaps assisting them to do so. In cases where a person has the option of several problem-oriented approaches available in the one court (e.g. CISP, Koori Court and ARC List), court staff can have pre-court discussions about the options with the person and they can consult their lawyer for advice (if they have one).

There was a view that more could be done to provide clear information for court participants when they first arrive at court and before the court process begins. Having someone (‘a reassuring face’) to assist when a person arrives at court may reduce stress, such as ‘information pods’ staffed by Court Network staff. Consultees also saw a need to encourage the appointment of staff from diverse cultural backgrounds as well as having more interpreter services accessible (by phone if necessary).

There was wide support for the co-location of services – even if this was nearby off-site. There was support for employing more Koori justice workers and adopting problem-solving approaches through holding problem-solving meetings (refer to Section 3.4 above). There is a need to spread the message from existing good practice, such as the CISP assessment tool as the basic assessment

59 The Neighbourhood Justice Officer role used at the NJC is able to fulfill this function and could be considered for application to mainstream court registries as a more broad ‘Justice Services Officer’ who has responsibility for providing information about an offender’s circumstances to the court and court services, as well as convening problem-solving meeting as an independent facilitator and knowing about the community agencies which may be relevant to a particular client.
mechanism for clients and encouraging judicial monitoring, problem-solving meetings, pre-court discussions and diversion, as routine aspects of court work.

### 4.5 The need for cultural change

There was a widely held belief that there needed to be an attitudinal change on behalf of some judicial officers and agencies, to bring current practice into line with the philosophy of therapeutic jurisprudence. Many judicial officers have championed therapeutic jurisprudence in the courts but to make this more systematically accepted and applied, judicial officers should receive training on how to use the ‘tools’ of therapeutic jurisprudence. That is: how to interact more effectively in relation to judicial monitoring of cases, talking directly to the accused, and dealing with the needs of victims. Agencies need to be ‘trained together in order to work together’. There should be a focus on local training, including cultural awareness training by appropriate bodies. The process will require decisive change management. As part of their contract with the court, an agency needs to be charged with overseeing and facilitating the cultural and institutional change processes, run workshops and broker training.

### SUMMARY

There is a need for a process of cultural and attitudinal change in courts, court services and agencies to work more therapeutically. Investment is needed in professional development and training for judicial officers and agencies focusing on judicial monitoring, cultural awareness and working collaboratively. More work spaces are needed in courts to enable processes such as problem-solving meetings, along with creating safe places for victims and vulnerable witnesses. There should be opportunity for triage at the first point of contact with the court, such as the front counter, and a continued commitment to diversion where appropriate. Co-location, represents a long-term goal and should be encouraged, along with the increased employment of Koori staff in a liaison role as part of a court support service model across the state. More can be done to improve the quality and accessibility of information on local services possibly by way of a dedicated role in the registry which provides a dedicated triage role combined with a detailed knowledge of, and relationships with, court support services and external support agencies.
A consistent theme in consultations concerned the need to expand upon the existing network of court support services through collaboration and coordination. Recognising that court support services operate within a complex organisational structure, it is important to address the issue of collaboration at a number of levels. Enhancing formal and informal partnerships across and between sectors, government departments, levels of government, services and agencies requires extensive consideration of the appropriate sites and methods of collaboration, consistency in approach and management of relationships between court-based and non court-based service provision.

5.1 The need for increased collaboration: The views of workshop participants

Issues regarding coordination and the need for a joined up approach featured prominently in workshops. Workshop participants encouraged the creation of links with local mental health service providers to provide clinical services and develop a relevant local client assessment tool. One problem was that courts were not always aware of what was available in the locality. One suggestion was that a ‘user friendly’ database of support services be developed in each locality so that magistrates and clients can connect better with the community.

Links with Department of Human Services and local government services were viewed as crucial for the evolution of court services, in terms of referring offenders, victims and families on to longer term support services, and identifying opportunities for employment (or, in some cases ‘volunteer’ work as part of restorative justice). However, there was some uncertainty on how to develop links, and who’s task this should be or whether it would be seen as ‘core business’. Salvation Army workers were viewed as good at creating these links and suggestions were made that there could be a formalised arrangement where the Salvation Army broker arrangements with entities such as local government. Increased community engagement strategies for courts and a Courts Consultative Council which involves local agencies, could also enhance the courts knowledge of, and referral to, these services.

Inconsistencies in service delivery across courts was raised as an issue, and with it, concerns that some court buildings in the regions were literally ‘falling down’. Lack of housing in rural areas was raised as an issue in workshops, with concerns that the stock of available housing was very limited and dwindling. There were also consistent concerns that many courts were struggling with workloads, were finding it difficult to complete assessments on the same day and that family violence cases were stretching resources to the maximum. More services were needed to support early intervention initiatives on a local level, diverted from the court.

There should be opportunities for more adult diversion programs, especially for young adults with drug and alcohol issues and those with a history of being victims of family violence (such as young Koori women). Diversionary initiatives mentioned by workshop participants as models were initiatives such as Cool Heads (although not court specific, the court is a partner in the initiative).

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60 This scheme was initiated by Shepparton Police together with RoadSafe Victoria, and the Greater Shepparton Community Safety Committee. It targets learner permit holders and drivers aged 16 to 19 who have had their licenses for less than 12 months. Local magistrates have included compulsory attendance at the Cool Heads program as a sentencing condition for several young drivers. (Victoria Police Media Release, Cool Heads for young drivers, 2nd of April 2008)
ROPES in the Children’s Court (Victoria Police initiative) and the Sister’s Day Out initiative (Victorian Aboriginal Family Violence Prevention Legal Services initiative). There was consistent and widespread support for services provided by organisations such as the Drug and Alcohol clinician provided by Salvation Army at Ringwood Magistrates’ Court, which complements CREDIT/Bail and is a reasonable substitute for CISP at the court.

As outlined in Chapter 2, court-based services are an essential element of the court structure. However, many of these services are time and resource intensive in addition to being necessarily geographically limited. Opportunities remain for courts to engage with external services to a greater degree and with greater consistency than is currently occurring across the state. This provides a method of increasing equitable access to services state wide and reducing gaps and duplication in service provision. Additionally, given the complex nature of issues that are presented to courts, appropriate redress is not often achievable through a single government department, organisation or agency. Enhanced coordination between these ‘tiers’ of service providers will improve the court’s ability to effectively respond to the diverse issues experienced by court participants.

Furthermore, local court services may not be able to provide intensive, long-term contact with clients, there has to be an end date when clients become the concern of mainstream agencies. This raises issues of sound and robust inter-agency dialogue to ensure timely take up by other agencies with clarity regarding the nature of the clients problems and the services to be provided for transition. We heard of instances in consultations, for example, where clients were being transitioned from a court support service to long-term support by a community based mental health agency where the agency changed the diagnosis and treatment regime without contacting the court support service. These, however, were tied to bail conditions. A multi-disciplinary approach requires ongoing dialogue between court-based and external agencies involved with clients.

### 5.2 Identifying potential sites of collaboration

Many consultees identified under-utilised resources that have the potential to enhance the consistency and equality in access to services by court participants across the state. The following provides a description of a number of these potential sites of collaboration and discusses a number of current examples where collaboration exists in some form.

#### Government departments

While many formal agreements exist between government departments and the courts, there is scope for increasing collaboration between relevant parts of government. Improved information sharing between departments would enhance service provision and minimise overlap of services. It is imperative that the expansion of networks linking courts to government departments and external service providers is overseen at this level. This process would also help to embed court-based services within a broader network of service provision and social policy.
Encouraging cross-departmental communication is a key feature of government. With reference to support service provision through the courts, the development of a state-wide Advisory Committee inclusive of departmental representatives from DHS and the Department of Justice is strongly encouraged. Formal processes for information sharing needs to be negotiated at this level. This is also seen to create more opportunities for joint funding arrangements.

**Local Government**

Local government remains an under-utilised resource of information and community liaison. Collaboration with appropriate sectors of local government has the potential to increase court knowledge of local communities. Formal partnerships with local government also create opportunities to explore additional funding options and embed court support services into the community.

**Community-based agencies and organisations**

Community-based agencies and organisations provide a resource to the court for referral and ongoing case management. Engagement with community-based agencies is seen as a method of relieving the high volume of demand placed on court-based services. While expansion of the community-based resources available to courts would require extensive canvassing and information gathering, the benefits of formal collaborative engagement are immense. It is important that these relationships be governed by ongoing communication.

**5.3 Key elements of collaboration**

Cross-sector collaboration of this kind necessarily requires consideration of strategies to establish, guide and maintain the collaboration process. The development of a court support service network, supported by the aforementioned Advisory Committee, that operates across government departments, and utilises local and community services, must produce a clear framework that addresses issues of leadership, role definition, guidance, access to information/data, and training. There is opportunity for this network to build upon or utilise already established Court User Groups or develop new groups which are more broadly representative of the local community like the the Community Justice Advisory Group at the Neighbourhood Justice Centre.
While any model of collaboration in service provision must be necessarily flexible, Casey and Hewitt suggest a number of key overarching strategies to guide this process. These strategies echo many points raised by consultees and a number of these suggested strategies are summarised below.61

- Judicial leadership is viewed as the best method of providing consistent support to court support service initiatives. In addition to taking leadership in the coordination role, the judiciary is often best placed for sourcing and maintaining relationships with agencies in order to make services sustainable. Consultees suggested that although the availability of funding was subject to government budgetary processes, the judiciary has a sound history of successfully lobbying to obtain funding for programs and initiatives of merit.

- It is important to recognise the role of the court as the central point of support service co-ordination while a person is involved with the court and/or participating in a court program such as CISP. Policy development needs to reflect that the court is central to the coordination of court-based services and outline clear expectations of this central role, identifying the court as the centre of multi-agency coordination. It is imperative that the court engage the expertise of community and government-based agencies, including Victoria Police, which have a sound history of engaging in multi-agency work to assist in this role.

- Statewide Advisory Committees and locally based Court Users or Reference Groups comprised of key stakeholders are essential to facilitate the discussion of opportunities, reduce service gaps and duplication of services. At a statewide level an Advisory Committee inclusive of representatives of relevant government departments such as the Department of Justice and the Department of Human Services, Magistrates’ Court management and state wide/multiple site service providers would help ensure a cohesive approach to collaboration across all court support programs. At a local level, using Courts Users/Reference Groups with a broader membership, this would maximise opportunities for the court and local services to discuss local sensitivities and needs, identify service gaps and create a forum for staff to provide feedback. Consultees commented that the Court Users Groups conducted at a number of court localities were successful in achieving some of these goals but in some locations were not inclusive of community organisations, were not regularly held or were only about process issues in the court.

- In addition to frequent meetings, access to information about both statewide and local services needs to be centrally organised and easily accessible to court staff and court support services staff. Basic information about available services should be easily accessible and frequently updated. This database could be maintained at a state-wide level and updated locally as needed. Consultees advised that this process existed in different forms at a number of localities however, it does not exist currently in a centrally organised and locally accessible form.

- It was acknowledged in consultations that coordinated training between court support services and external agencies that provide services to the court would be an essential component of increased collaboration.62 Coordinated training would not only enhance

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61 These points have been summarised from Casey and Hewitt (2001), Models of Effective Court Based Delivery for Children and Their Families as cited in Ward, L. Consulting Services (2009) Court Based Family Support: A Service Model for the Melbourne Magistrates Court, prepared for VACRO and the Legal Services Board of Victoria, p. 24

62 This point is explored in greater detail in Chapter 7 of this paper.
network development but provide staff with a clear and comprehensive understanding of collaborating organisations. Consultees consistently identified a ‘knowledge gap’ in relation to operation and practices of services engaged by the court. Coordinated training would represent one method of cross-sector promotion. An additional aim should be the consolidation or harmonisation of policies and practices of involved agencies. The development of a ‘common language’ and shared basic processes would facilitate referral practices and assist in complex cases.

Essentially, there is a need to allow for local sensitivities in the collaboration process. However, the process itself must operate as an integrated system.

### 5.4 Options for consistency in collaboration

It is important under any court support service model to establish defined service delivery agreements and clear roles and obligations of all parties involved. It is also imperative that any agreement reflects the input of both the court and the external agency. Collaboration can take a number of forms and it is essential that a number of options be available to the court. While it is not within the scope of this paper to detail the specifics of agreements made between courts and external agencies, a number of models of collaboration are broadly explored here.

**A partnerships model**

A partnerships model of collaboration can involve a range of formal engagements between and across sectors and services. Partnerships should be established on an ‘as needs’ basis at court localities. A partnerships model can be adopted at a number of levels of service provision. As noted above there is considerable value in further formalising and expanding the use of cross-sector partnerships involving appropriate government departments, including sections of the Department of Justice and the Department of Human Services, and Magistrates’ Court management. Consideration should also be given to partnerships between government departments and key service providers and funding bodies. Strengthening cross sector communication in this way would enhance equitable access to services through discussion at a state level.

It is suggested here that courts will be able to engage services on a local, ‘as needed’ basis. Formal partnerships between the court and services should involve the clarification of roles and service delivery pathways. Partnerships at this level would require regular meetings to ensure up-to-date information and allow for feedback from staff involved. Consideration should be given to a formalised liaison process at a local level to determine appropriate partnerships.

**A brokerage model**

Another method of affecting an increase in access to support services as suggested in this paper is the brokerage model of service provision. A brokerage model involves purchasing services from community or other agencies such as hospitals or doctors directly on a one-off basis if necessary. This model allows flexibility for a case manager to purchase services for a particular client where the expertise lies outside the court support team (e.g. obtaining neuropsychological assessments quickly, or accessing a psychologist with expertise in arson). This model has been adopted at various localities across Victoria at present, however there exists the opportunity to have a greater level of uniformity across the state. Key elements of the expansion of this practice include an acknowledgement that services and treatment providers utilised through the court need to be supported by the court in efforts to secure and maintain staff. Investment in ‘resourcing down the
chain’ and access to court-based support structures will assist brokered agencies in continuing to provide services. In addition, the engagement of local services through the brokerage model can have the added benefit of increasing community agency involvement with the court. Continued promotion of this model to, and liaison with, local services, agencies and programs, beyond the implementation phase will contribute to the longevity of collaboration.

**Contracts with local governments**

Local government has consistently been identified as an under utilised resource. There remains opportunity for formal agreements between local councils and courts in relation to community engagement and service provision. One option available to the court is the formation of contracts with local government in relation to information sharing and community liaison. Local governments are central points of information gathering relating to the availability of services. Courts are well placed to access this information, ensuring that extensive and current data relating to local services is easily available to the court. Many local governments employ liaison officers, selected on the basis of local needs. A formal arrangement between courts and local councils in relation to these employees could offer an effective way of keeping abreast of what services are available in the community and increasing community liaison with particular groups coming to the courts.

**Memorandums of understanding with local service agencies**

Memorandums of Understanding between courts and local services offer a method of formalising information sharing practices, managing intake and providing clearly defined arrangements. Contact arrangements can be formalised through this process and prioritised entry mechanisms agreed upon. Agreements of this kind would add to mutual understanding and collaboration between the court and external services, and assist with the clear definition of procedures and roles. It is imperative that local service agencies meet a set of agreed criteria based on best practice elements, that provide clarity of roles and define the support to be provided, in order to be considered for collaborative agreements.

These models represent a range of options for increasing collaboration available to courts both at a state and local level. While the options presented here are necessarily brief, they allow for the creative and skilled input of the judiciary and local staff.

**5.5 Barriers to collaborative management of court support services**

It needs to be recognised that an increase in cross-sector and cross-organisational collaboration brings with it issues and challenges. Consultees identified specific issues regarding judicial and court staff acceptance of outside agencies coming into the court, the changing roles of court support workers, difficulty in maintaining boundaries between agencies and the limited funding and resources available at present to implement this change.

**Acceptance of service providers by judicial officers and court staff**

Leadership by magistrates and senior court staff is essential in establishing and maintaining successful court-based programs. Similarly, engaging services external to the court requires creativity by magistrates and court staff and a commitment to be supportive of the ideas and practices of external agencies. This needs to be carried out at a local level through relationship building and maintained on an ongoing process.
It is envisioned that specialised training and clear guidelines will promote consistency within the judiciary. Respect for court support services staff should also be a focus of judicial officers and court staff induction and training. Court support staff should have clearly defined accountabilities and obligations to the court, their client and their employer (which may be the court or an external employer). Judicial officers and court staff were seen in consultations as essential in promoting this relationship and making it work.

The implementation of an enhanced collaboration will require a degree of magistrate and court staff training. Templates for many aspects of this training are already in existence. Given the therapeutic jurisprudential principles underpinning this approach, training in this area is essential, particularly in relation to the cultural change required within the court. Additional points of focus include:

- magistrates and all relevant staff possessing a comprehensive understanding of the roles and limitations of their own position and roles and limitations of court support staff and local agencies that they interact with and
- magistrates and court staff having an improved knowledge of the court’s local area, services and communities.

**Defining and maintaining workers roles and boundaries**

Increased collaboration brings court staff into more frequent contact with those in external sectors and services. While infrastructure assisting this process is discussed in greater detail in Chapter 7, it is important to acknowledge that this may lead to confusion about roles and responsibilities in relation to court support service provision. Clear definitions of these should be enshrined in any form of collaborative agreement. A clear management structure would also form part of any agreement to provide a source of clarification to staff. This clarification is also required for justice agencies working with court support staff and the court e.g. lawyers and prosecutors. Regular case management meetings, mentioned above in Part 3.7 of this paper, may provide an additional space for clarification.

The modes of collaboration here have the potential to increase staff contact with, and involvement in, the lives of court participants. It is important that this issue is addressed through increased specialist training and the maintenance of a strong support/management structure within the court. The suggestion that the position of court support service Managers and/or Neighbourhood Justice Officer type roles could be created at each headquarter court, would also assist in this process. These additional requirements need to be factored into any consideration of workloads. It is clear that this issue needs to be central to the implementation of collaborative arrangements and additional resources in the form of professional development and increased frequency of management meetings should form part of this implementation.

### 5.6 Benefits of increased collaboration

A number of benefits are likely to flow on from the options of collaboration provided here. These include:

- Flexibility in methods of engaging with a variety of services and sectors allows for services to be tailored to local community needs. Courts are able to engage with services available in

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63 For example, it needs to be made clear when defence lawyers can have access to clinical reports prepared by court support staff to inform the courts decisions about bail or sentence.
their locality and build upon pre-existing infrastructure. This has the potential to lessen the resource demands placed on the courts to some extent

- These options reflect an increased engagement with community. Community support and engagement is essential to the success of court support service provision. As evidenced by the Neighbourhood Justice Centre, a sense of community ownership can greatly enhance many aspects of the court process and court participant experience. Engagement with a range of local services enhances the sustainability of these services at a local level and increases the likelihood that services will continue to be available to the court. This is a mutually beneficial process as it increases options for resource allocation

- The increase in understanding between and across courts and agencies that forms a necessary element of a collaborative model has the potential to facilitate cultural shifts in agency and service provision practice. The level of awareness regarding the practices, pressures and successes of other agencies, in addition to the location of various agencies and services within a broader network should foster improved working relationships

- Collaboration with services external to the court is seen to provide a more holistic response to court participants and increase community confidence in the court system. Over time, these relationships have the potential to engender systemic change at both a local and statewide level

**SUMMARY OF OPTIONS PROVIDED**

This chapter has sought to explore options for collaboration between and across levels of service provision and the courts. Options include:

- The creation of a statewide Advisory Committee to provide greater inter-agency/inter-governmental collaboration on court support services
- Creating formal processes of information sharing
- Closer collaboration with local government
- Engaging with local community services as part of a broader community engagement strategy

Encouragement should be given to cross-sector collaboration, with courts playing a leading role, through:

- Strong judicial leadership
- Placing courts at the heart of support service coordination
- Nurturing central and locally nested User or Reference/Community Consultative Councils (see VCAT discussion paper May 2010) of stakeholders to manage change
- Creating a statewide information database of statewide and local services available at all courts or using existing infrastructure such as the courts Wiki to make that available
- Coordinated training for courts, agencies and community based services

Consistency of collaboration between courts and external agencies is important. A number of models for collaboration exist, including:

- A partnership model that can involve a range of formal arrangements on a local level. Courts would be able to engage services on a local needs basis with government departments, such as DHS
- A brokerage model that allows for support services, assessments or reports to be purchased on an ‘as needs’ basis to allow for tailored services to be purchased for specific clients
- Contact with local government in areas such as local services information and community engagement activities
- MOUs between court and local service providers leading to formal working relationships and information sharing practices

There were a number of barriers to collaborative management identified through the consultation process. These included problems associated with the court culture and
problems accepting the role of ‘outside’ agencies in the court, maintenance of boundaries between agencies and resource issues. Options for moving ahead include, training for participants, focused on:

- Encouraging understanding and mutual respect for respective roles and boundaries
- Enhancing knowledge of therapeutic jurisprudence principles, the shifting nature of court work, the benefits of judicial monitoring and the multi-disciplinary approach

Increased collaboration of this kind necessitates ongoing dialogue between courts and agencies. It places emphasis on the need for strong management from within the court and leadership from senior staff and judicial officers, particularly in headquarter Magistrates’ Courts.
Chapter 6 - Consistency of approach: shared services, tools and approaches

The evidence from consultations and workshops suggests that flagship initiatives in Victoria, such as CISP, the NJC and Koori Courts, are contributing to the continuing development of therapeutic jurisprudence across Victoria and providing best practice examples for future innovation, as recommended in the evaluation of CISP.\(^\text{64}\) Through these initiatives, Victoria is assembling a general body of clinical knowledge, common techniques and case management, support and other court-based functions, in line with the principles of therapeutic jurisprudence. There is broad awareness of the need to disseminate these practices more broadly.

6.1 Intake processes

This paper has already noted the key dynamics of CISP and the strengths of the program; based on a multi-disciplinary approach, co-location of the team, the functional specialists within each team (drug and alcohol, mental health, Koori worker, etc.) with clear roles and responsibilities for each team member and shared information systems.

The CISP process provides a valuable template for the intake and assessment processes. There was considerable support for this amongst consultees and workshop participants. Intake would be triggered when a person is charged with criminal offences. A person may be in custody awaiting a bail hearing, already on bail, or summoned to appear and still access the CISP court support service. However, there may also be scope for broadening the eligibility criteria to include self-referral from clients not currently engaged in the criminal justice system, as occurs in the NJC and in the UK community courts.

A broadly based court support program modeled on CISP should, as a minimum, encourage referrals from a broad range of sources including legal representatives, police, other treatment or support programs, court staff including the judiciary, family and friends, or significant members of the community (e.g. Elders in the case of Koori people) or self-referrals.

There should be a basic ‘triage’ process by a court-based worker, to determine whether the person should be assessed for CISP via the screening assessment process.

A common assessment tool

There are a number of fundamental elements that should be present in any assessment tool, particularly in relation to Indigenous/non-Indigenous status, legal status, offence history and current involvement in the justice system, socio-economic status, use of drugs and alcohol, health/mental health issues and risk assessment.

The current CISP assessment instrument offers the basic elements of a client assessment tool that could be transported to other court settings. It should convey basic information on the client’s history, involvement in the justice system, health related issues, and include a risk assessment.

\(^{64}\) Ross, S. Evaluation of Court Integrated Services Program, Final Report, (December 2009) p.14
Basic features of the instrument include sections on:

1. **Basic information**: whether the client is in custody and has legal representation; whether the client has previously been on CREDIT or Bail programs; Indigenous/cultural background.

2. **Legal Details/Criminal History**, including such matters as: when bail was granted (for clients not in custody); pending court appearances; offence details; plea; what, if any, court orders are active, and what kind; whether there is a breach of any current order conditions; any past court orders; breaches of previous court orders; any history of violent offending or sex offending; outstanding legal matters.

3. **Social and economic support needs**, such as: employment status and whether the client receives Centrelink support or disability pension; problems associated with gambling; educational level; accommodation; living arrangements and accommodation status; family support if any; identity documentation; links with social services.

4. **Drug and alcohol**: use of illicit drugs; history of drug use; use of alcohol; extent to which offending is linked to drugs and alcohol; treatment history; use of pharmacotherapy; any particularly ‘risky’ drug use (overdose, injecting).

5. **Mental and physical health needs**: whether the client is receiving treatment for mental health problems; whether there is evidence of physical disability; whether the client has any medical problems that may impact on participation in programs; whether there is evidence of an intellectual disability or acquired brain injury and what, if any, guardianship arrangements are in place.

6. **Risk assessment issues**, including: the risks to the safety of the client, including any history of suicide attempts; the degree of risk to the safety of others, such as family members or workers in the justice system; the risk to the community in general, including offence history, untreated mental health problem etc. The risk assessment tool should offer a primary risk classification indicating whether the client is of high, medium of low risk to him/herself, others/community.

The CISP instrument had been strengthened by the inclusion of more information regarding risk (6 above) – in line with the recommendations of the recent evaluation. Post-assessment, the client may return to court where involvement in a program may be attached to a Bail Order.

Judicial monitoring represents an important feature of the problem-oriented approach to justice. However, it is not always feasible to have one consistent judicial officer able to sit and hear all matters for a specific case or person. This places more pressure on the court services team to ensure a seamless approach and capacity to provide judicial officers with concise and up to date information on a client’s progress through treatment.
The CISP evaluation found that the CISP client group exhibits a high prevalence of drug, alcohol and mental health problems known to be a common feature of offender populations. It also identified a high prevalence of acquired brain injury. Ross notes:

CISP is a complex model. The program provides a wide range of services to clients and the courts (assessment, referral, reporting, supervision, and direct support) across a variety of service sectors (mental health, ABI [Acquired Brain Injury], alcohol and drug, accommodation, employment, social support) each of which has its own distinctive referral and service delivery processes.65

In relation to complex cases, such as mental health screening, an option may be to follow the NJC example of developing a screening tool with additional ‘cut and paste’ elements from the assessment tool used by local mental health providers. For example, under 5 below, the instrument may be enhanced should the client disclose a history of mental health issues (diagnosed or undiagnosed), the client may be referred on for assessment by a mental health worker who is either linked to the court or working within a local mental health agency. This ensures that clients are seamlessly connected with local services.

6.2 Case management: The need for a multi-disciplinary approach

Therapeutic jurisprudence places an emphasis on individualised case management rather than simple ‘referral on’ to other agencies before there is a thorough assessment made. As noted earlier in this paper, it may not always be possible to have the degree of case management provided through CISP or NJC court support services.

The multi-disciplinary based team approach is the primary feature of successful case management approaches in CISP, the NJC and initiatives in the USA and UK, with staff carrying out a range of assessment, compliance, reporting, support and referral functions. The capacity to do this will be more limited in small satellite courts. One option would be to have regionally based teams at headquarter courts with a mobile capacity to travel to satellite courts on certain days, supported and supplemented by local agencies.

Case managers need to be able to work in a ‘cross-cutting’ manner. Case managers may have to deal with issues as diverse as drugs and alcohol, mental health, homelessness and family violence. CISP is able to provide a range of direct services, with drug, alcohol, ABI and accommodation service interventions delivered by contracted service providers who have expertise in these areas. Consultations indicate that the expertise required for good case managers who can deal with such diverse issues and appropriate service providers may be hard to source in some areas of the state.

A networked coordination approach

A flexible, local approach might involve the mobile regional CISP team nurturing a network of service providers in each locality. The network would act as a constituency for contracting and case management services, such as mental health, from local service providers, and entering into brokerage arrangements, rather than attempting to provide services themselves. Funds could be made available for a diversity of time limited treatment and support services including emergency accommodation, pharmacotherapy assessment or treatment, education, employment or other programs. Although the aim would be to ensure that mainstream agencies such as DHS provide

65 Ross, op cit
longer term support.

This kind of networked approach would require a consistent and sustained commitment to inter-agency dialogue. The weekly allocation meetings involving CISP team leaders, case managers and contracted services provide a possible tool for ensuring ongoing coordination of local service provision. The meetings would ensure a collaborative approach was maintained to the management of clients. These meetings would assist in ensuring consistency of case management and sharing knowledge and expertise. Case management in the court might also be enhanced by the use of pre-court meetings, as sketched out earlier. There may be scope for greater use of courts technology like video-link for regionally based court services to remain in close contact with metropolitan court-based services.

Case management might be enhanced by the creation of a manual based on the Policy and Procedures Manual currently employed by CISP, which outlines relevant organisational arrangements for the program, eligibility requirements and necessary case management procedures. This could be supplemented by relevant information from local service providers. Regular training across the court support service teams on Magistrates’ Court conference days and discussion at case coordination meetings would assist in making sure the Policy and Procedures Manual is relevant, up-to-date and utilised by court support staff.

6.3 The needs of victims

Victoria has developed a range of services for victims of crime, including initiatives such as the Victims Assistance and Counselling Program (VACP), the Victims Charter and innovations such as the Child Witness Service, as part of a network of services operating throughout Victoria. These services provide victims, their families or anyone affected by violent crime with access to information and practical support. Victoria also provides a Witness Assistance Service available to all victims of crime and witnesses involved in cases being handled by the Office of Public Prosecutions, an option for victims to present a Victim Impact Statement to judges and magistrates and, through the Victims of Crime Assistance Tribunal (VOCAT), victims may be given financial assistance to cover medical, funeral and counseling expenses or loss of income.

Victoria has also been active in developing initiatives for victims of family violence through specialist lists and services at court in some locations, as well as establishing applicant (and respondent) workers as part of the Family Violence Division in two courts. The needs of some victims of crime have also been met through the Criminal Justice Diversion Program which can provide for offenders to write a letter of apology and pay financial restitution to victims.

Workshop participants and consultees were generally supportive of initiatives in Victoria designed to support victims of crime. Although there were concerns, expressed by community-based workers and court staff, that victims were still often neglected by a system very much focused on managing offenders. There were issues raised about victims not being informed properly by police informants or the Office of Public Prosecutions about the progress of cases involving them and of having to wait in waiting areas with the offender. There were also concerns expressed that victim support services were not an accepted part of the court structure and applicant workers were often ‘on the fringe’ of the court, not ‘part of the team’ and enjoying no clear link with the court registry, so they struggle to access support for victims.

Best practice approaches to work with victims of crime stress the importance of ensuring that victims are kept informed, treated with dignity, respected and listened to and provided with timely
and appropriate services (such as counseling, practical material aid, housing and other support services). International best practice leans towards courts welcoming the participation of non-government organisations as participants in the court and partners in court services as a means of ensuring that the needs of victims (particularly of family and domestic violence) are not forgotten in the justice process. The example of Coordinated Action Against Domestic Abuse (CAADA) in the UK (see Chapter 3 above) demonstrates the benefits of having direct victim support in the court. Workshop participants and some consultees viewed best practice in terms of greater information sharing between agencies and overcoming the tendency to work in silos. There needs to be a greater focus on education and training, inclusive of judicial officers and courts staff, to understand their appropriate roles under the Family Violence Act (Vic) year? with stakeholder groups in relation to family violence service provision. Victim support officers need to be seen as integral parts of the court support services model.

The creation of local networks for victim support is essential where specialist victim services are unavailable. Court networking should be geared towards identifying and developing working partnerships with groups and services in the community capable of supporting crime victims.

SUMMARY OF OPTIONS PROVIDED

This chapter discussed the options for a more consistent approach employing shared services, tools and approaches. Useful options include:

- A multi-disciplinary approach to case-management as exists with CISP and the NJC SART model
- Co-location of the court services team with other justice agencies where space permits in the court building (like the NJC)
- A breadth of functional specialisations available, such as drug and alcohol, mental health, victims support and Koori workers
- A broad range of points of referral
- Holding weekly allocation meetings to ensure ongoing coordination of local service provision.
- Case management enhanced by the creation of a manual based on the Policy and Procedures Manual currently employed by CISP.

The success of CISP and NJC has been achieved through careful screening and assessment. The CISP and NJC assessment instruments offer a useful template for a common assessment tool in that they provide a concise means of capturing key information on a client’s history and needs.

The needs of victims of crime should be a core concern for court services. Victoria has a number of successful initiatives geared towards assisting victims to receive compensation, accommodation and counselling. In relation to court services there is a need to:

- Ensure that government and non-government organisations working with victims are integrated into the court community and seen as performing a vital service
- Consider the role of a Victims Support Officer as part of the court support services model but with separate brokerage funds and office space
- Creating networks with local victims services where court based specialist services are unavailable.
CHAPTER 7: Court support services infrastructure

The purpose of this Chapter is to summarise and clarify resources required to strengthen court support services infrastructure and enhance consistency, collaboration and continued professional development for all staff involved in service delivery. The increased collaboration and coordination across sectors and services being suggested here requires consideration of appropriate management options, development of shared information tools and a strong focus on professional development, including ongoing training, supervision and network development.

7.1 Management options for court support service delivery

A robust infrastructure to support staff and encourage collaboration is required by the options provided in this paper. The cross-sector coordination of services requires formal dialogue between sectors, service providers and staff. Consistency at the sector level could be achieved through the formation of a central Steering Committee (as detailed in Chapter 5 of this paper).

At the service delivery level consultees emphasised the need for strong and supportive management of staff. One option provided in forums was to have court support service managers based at headquarter courts. It was noted however, that these managers would need to be mobile and capable of on-site consultation at smaller courts within the region. At sites without a CISP team available, these managers should be able to determine the appropriate form of case management on an as needs basis, including whether case management can be provided by regional CISP Teams, managed through external services or supplied by the Manager themselves. While it was suggested by consultees that the caseload of these Managers should be kept to a minimum, the provision of services to these smaller courts could be a priority for these individuals in appropriate circumstances.

7.2 Coordinated information management tools

In addition to common assessment and screening tools, those involved in the provision of court support services should be working toward developing shared information management tools. The increased collaboration suggested in this paper requires an information management system that can be utilised by the court and relevant agencies.

A coordinated information management system would also allow the court to maintain reliable data on the level of access to services by court participants. This information would be essential in informing decisions regarding network expansion, resourcing and funding. This could also assist in identifying problems and gaps in service delivery.

One aspect that promotes consistency in this context is the streamlining of the database used by courts. Court link data provided by the new ICMS system has ‘person profile’ which allows viewing of all relevant information on an individual. The effectiveness of this approach is evidenced by practice at the Neighbourhood Justice Centre, where a database system of client information has been developed. This database provides staff with all information on any given client and facilitates the support process through consolidating information and providing a complete picture of an individual’s history and current situation. This has the potential to enhance the quality of data used by the court. However, as a measurement tool or a device that could be used

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66 Refer to Chapter 6 for a detailed discussion of the need for Common Assessment Tools.
to ‘track’ individual progress this system does not have ability to interface with other data systems at present. Nonetheless, it is possible for this system to be adapted after consultation with other sectors and agencies to provide a consistent and easily accessible method of case management between the court and external agencies.

At the court level, a database of service provider agencies for each court location would enhance the networking abilities of court staff. At a local level this database could be utilised to record frequent updates on the agreements/arrangements between courts and external agencies and the availability of options across locations.

7.3 Coordinated training, clinical supervision, networking and feedback

Increased focus on collaboration and networking raises the issue of coordinated training. Cross-sector training already exists within the Magistrates’ Court to varying degrees, with the inclusion of local service providers encouraged by court staff at many locations. The options provided in this paper would require an expansion of this practice. It is important that ongoing training of court based support service staff continues, and that training incorporating external services is increased as networks are established and formal agreements made. Additionally, regular information sessions held with court and external staff would ensure that cross-sector knowledge remains current. While many elements of this training would need to remain flexible to cater to local needs, it is imperative that information regarding management practices, defined roles and the promotion of collaborative arrangements be central to this training. Training of this kind should also provide space for feedback from staff regarding local trends and needs, in addition to discussion of issues or barriers faced by staff.

In addition to ongoing professional development and training it is imperative for staff involved in the provision of court support services to operate in an environment that is conducive to, and encouraging of, the cultural changes that may be necessitated by implementation. While ongoing training assists in this organisational shift, it is important that staff are supported throughout this process. Clear debriefing mechanisms are a necessary element of this support. Other key elements of this support include:

- shared goals and accountabilities in relation to new and different practices/processes
- the existence of supportive and approachable management. Court support services, the inclusion of a team manager at headquarter courts and statewide coordinator in the structure of the teams is seen to provide this.
- the identification of appropriate career pathways including ‘up skilling’ and the scaling of wages. It is essential to promote the provision of support services as a career in and of itself, rather than a ‘stepping stone’ to another field of employment.

SUMMARY OF OPTIONS PROVIDED

This chapter summarised and clarified the resources required to strengthen court support services infrastructure. Options here include:

- Supportive management for local court services provided by court services managers based in headquarter courts
- Shared information management tools
- Professional development kits to record updates on agreements and arrangements
- Increased focus on coordinated training, clinical supervision, networking and feedback
Every jurisdiction differs in the range and intensity of treatment services it provides, depending on the number and nature of clients, their problems and backgrounds and the resources available to the courts. Though resource issues are always a problem, and it is often said that problem-oriented courts divert resources from mainstream agencies, the point remains that if any form of correctional intervention is to have a chance of succeeding, it must provide adequate treatment service.67

This chapter explores the various modes of service delivery that could be available to the court under the court support service model offered here. Given the diverse nature, capacity and needs of courts across Victoria it is imperative that courts have a range of service delivery options available to them. Here the benefits of service delivery on-site, by way of referral, through cross-sector collaboration and utilising mobile/outreach services are discussed. This discussion is anchored in the knowledge that modes of service delivery should be established and coordinated centrally by the court and tailored to the needs of a given locality.

8.1 Engaging different modes of service delivery: options for courts

The modes of service delivery discussed here are not designed to be prescriptive. These modes are discussed with an understanding that:

- The needs of a community in each court locality are diverse and the determination of appropriate services would require an evidence-based understanding of the needs and requirements of each locality.
- The availability of services differs across court localities. The delivery of court-based service delivery is subject to the availability and allocation of funding. Levels of engagement with external services are dependent on the location and capacity of these services.
- The locations of clients can represent a barrier to service delivery, particularly in rural areas.

As such, the purpose of this section is to outline options available to courts that are flexible and can be engaged with to varying degrees depending on the circumstances and capacity of any given court. It is acknowledged that some of the options provided here would involve extensive resourcing and a lengthy implementation process. For this reason, options are discussed that reflect varying levels of engagement with each mode of service delivery.

8.2 On site service delivery: towards building the structural capacity of the court

Co-location of court support services represents an ideal scenario for service delivery in many cases. Co-location is seen to strengthen relationships with Court User Groups and facilitates the process of linking court participants with appropriate services. For this reason, the promotion of adequate court expansion should occur as a long-term goal. All courts should have the capacity to accommodate the sitting of specialist courts (Koori, mental impairment, drug and alcohol and family violence courts) in the near future. However, the increased funding and time consuming

processes required to actualise these goals are acknowledged here. Nevertheless, it is important to identify both the immediate needs and relatively achievable structural requirements of on-site service delivery.

- Initially, all courts should attempt to provide more workstations for support services staff, based in or near the courthouse. Should CISP teams be located at headquarter courts, consideration needs to be given to providing a workspace for these teams within the court.

**OPTION: Expanding court support services teams to headquarter courts**

Court support service teams, such as those utilised by CISP, represent sound examples of the types of service provision ideally offered on-site at courts. With the limitations of court capacity in mind, the expansion of this court-based team model could be considered for the 12 headquarter courts that service the State of Victoria. While this option is resource intensive, it should remain the subject of future policy discussions. Given the best practice elements of these teams outlined in Chapter 3 of this paper, further consideration and evaluation of the viability of this option should be the focus of future discussions.

- The brokerage model discussed in Chapter 5 of this paper opens up the possibility of co-location with community services and justice agencies such as Victoria Police, Victoria Legal Aid, Corrections and Sheriffs. This co-location will improve agencies/services ability to work together and decrease instances of confusion over responsibilities to individual clients.
- The option of providing access to a broader range of services through cross-sector coordination could be extended to on-site service delivery at headquarter courts. In particular, easy access to housing services, financial counselling and material aid (beyond that already offered by the Salvation Army) at the court could be explored in cross-sector discussions.
- The option of providing community legal centres and/or Victoria Legal Aid with permanent office space, (rather than just an interview room for the day) at headquarter courts should also be explored. This practice already occurs in some areas. For instance, the Moorabbin Justice Centre and the Neighbourhood Justice Centre provide permanent work spaces for Legal Aid and Community Legal Centres.
- Regardless of court size, efforts should be made to provide private spaces for discussions with clients and/or a space for court participants who are feeling stressed.

### 8.3 Referral model: expanding networks

Referral to court support services can take many forms. Building on the collaborative management models discussed in Chapter 5 of this paper, it is clear that referral pathways must remain flexible and varied. The focus of the court should include enhancing referral pathways and establishing clearly defined protocols with internal and external agencies. The expansion of formal networks and promotion of shared information tools, in addition to coordinated training suggested here is seen to aid the referral process. Formal agreements and coordinated contracting of staff represents an ideal model for streamlining the referral process.

**OPTION: Contracting specialist workers on a part time basis**

A current example of service provision that provides an easy referral pathway is the co-contracting of Mental Health Court Liaison Officers at a number of regional courts across the State (funded by DHS). These workers are contracted to attend court for a specified number of days per week. The remaining time is spent at a local area mental health service. This role facilitates easy referral to appropriate services in the local area. Expansion of this model of service delivery, necessarily based on the availability of services and staff in addition to court resources, is strongly encouraged.
8.4 Cross sector service delivery: collaboration and coordination

Cross-sector and cross-agency service delivery requires court-based facilitation of linkages. The emphasis of these linkages should be on increased communication and cooperation and defined roles/agreements between agencies and service providers. Resources required for this task include increased coordinated training and the maintenance of a database of agreements and linkages. Agreements need to be made on a multi-level basis and include government departments, Magistrates’ Court management and local councils, in addition to state and local services and agencies.

OPTION: Establishing formal service linkages and agreements

The formalisation of these linkages is necessarily court-based and driven. It is imperative that a canvassing exercise be carried out to provide courts with information on the programs and services available to them. Implementation of a formal network is a time intensive process. For this reason, current court staff cannot be expected to carry out this initial phase. It is strongly suggested that resources be provided to facilitate this. Additionally, once implementation begins, care must be taken to ensure that a centralised and easily accessible database of these linkages be available. Again, it is imagined that this will require additional resourcing through the courts.

8.5 Mobile services and outreach: addressing geographical issues

A consistent theme of consultations concerned the lack of service availability in rural areas. The location of court and court participants presents a barrier to service provision at many locations. Future investment in court resources should focus on addressing this issue and enhancing equitable access. While an increased collaborative approach represents a step towards achieving this goal, options that facilitate mobile services and outreach need to be considered.

OPTION: Mobilising court support service teams

One option for increasing access to court support services involves mobilising court support service teams on an ‘as needs’ basis. Following on from the suggestion that these teams be based at the 12 headquarter Magistrates’ Courts across Victoria, resource allocation could allow for travel by these court support teams to smaller courts in the court region. Coordination of this process would be overseen by the team managers in the court region. The possibility of this model could be trialed or demonstrated by the Court rIntegrated Services Program team in the sole regional location - La Trobe Valley - if the team has access to adequate transport and sufficient caseload capacity.

8.6 The benefits of different modes of service delivery

These options are not designed to be prescriptive. There is great benefit with providing courts with a range of options that reflect differences in capacity, resourcing and geography. Given these differences, courts must be flexible in their approach to service delivery. Any model utilised would need to accommodate the innovations and creativity of court-based staff.

SUMMARY OF OPTIONS PROVIDED

Given the diverse needs of courts in Victoria it is important that courts have a range of service delivery options available. Formulating modes of service delivery locally will require a needs analysis to determine local justice issues and client needs. Delivery of services will need to be subject to local availability of services and funding and there may be clients in rural areas in particular who remain difficult to reach.

Options include:
- Scope to extend CISP style court support services teams to the 12 headquarter courts
- Courts could consider contracting specialist workers on a part-time basis from community agencies – Mental Health Court Liaison Officers in country courts constitute a good example of how this can work
- Courts might establish formal service linkages and agreements with local services, as outlined in chapter 5
- Consideration should be given to establishing mobile teams for smaller (“satellite”) courts on an ‘as needs’ basis based in the 12 headquarter courts
- Encouraging a flexible approach will be the key to making court services work on a local level
CHAPTER 9 - Access to court support services for accused and victims

This chapter utilises hypothetical case studies to explore the potential pathways of court support services across different localities. The focus of these case studies is the court participant experience across areas with varying degrees of resources and with differing modes of service provision. Additionally, the provision of culturally appropriate services for both Koori and CALD court participants is explored in further detail.

9.1 Purpose and description of the case studies

The purpose of these case studies is to provide a practical understanding of the options provided in this paper. Given the increased focus on cross-sector collaboration and employing diverse modes of service delivery suggested here, it is important to explore how an emphasis on equitable access to services will affect the court participant experience.

These three case studies explore common scenarios involving court participants requiring access to court support services. For each case, a brief description is provided. The delivery of court support services is then explored for each case at three different court locations. These locations represent three courts with varying access to resources and capacity. The first concerns a large headquarter court, offering a diverse range of services based both within and external to the court. The second concerns a suburban court, with limited capacity for court-based services, but a well developed local network of partnership based referrals. The final location concerns a smaller rural court, with limited court-based service and minimal local services. It is important to note that these case studies are based on the adoption of increased collaboration and access to different modes of service delivery detailed in Chapters 5 and 8 of this paper.
### 9.2 Case studies

<table>
<thead>
<tr>
<th>CASE STUDY</th>
<th>HEADQUARTER COURT</th>
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<tbody>
<tr>
<td>Male client in mid 20’s has multiple appearances for theft, theft of a motor vehicle, and burglary. CISP assessment finds history of poly-drug use and risky life style. He experiences vision loss and unstable moods.</td>
<td>This case is identified at a pre-court meeting and he is referred for assessment. Assessment by CISP teams leads to:</td>
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<td></td>
<td>• Referral to drug counselling with a residential component to stabilise the client, assessment finds a history of amphetamine, methamphetamine and cannabis use</td>
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<td>• Referral to GP for liver function test</td>
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<td></td>
<td>• Screening for potential Acquired Brain Injury</td>
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<td></td>
<td>• Anger management – he discloses violence towards partner</td>
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<td></td>
<td>• He also discloses issues associated with anxiety and depression brought about by leaving home early and living for some time on the street</td>
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<td></td>
<td>• Judicial monitoring to ensure ongoing involvement in drug treatment program</td>
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<tr>
<td>SUBURBAN COURT</td>
<td></td>
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<tr>
<td>The case is referred by a lawyer.</td>
<td>The case is referred by a lawyer.</td>
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<tr>
<td>• Assessment by mobile CISP team</td>
<td>• Assessment by mobile CISP team</td>
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<tr>
<td>• Referral made to GP for assessment for treatment for anxiety and depression</td>
<td>• Referral made to GP for assessment for treatment for anxiety and depression</td>
</tr>
<tr>
<td>• Brokerage funds used to purchase support services from community based drug and alcohol services. The service is able to provide some limited counseling services</td>
<td>• Brokerage funds used to purchase support services from community based drug and alcohol services. The service is able to provide some limited counseling services</td>
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<tr>
<td>• Case manager encourages participation in local Men’s Group to reduce social isolations, identified through local information database</td>
<td>• Case manager encourages participation in local Men’s Group to reduce social isolations, identified through local information database</td>
</tr>
<tr>
<td>• Some specialist health needs are met through a brokerage arrangement which allows client to travel for services</td>
<td>• Some specialist health needs are met through a brokerage arrangement which allows client to travel for services</td>
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<tr>
<td>• Judicial monitoring with ongoing support from community based service</td>
<td>• Judicial monitoring with ongoing support from community based service</td>
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<tr>
<th>CASE STUDY</th>
<th>RURAL COURT</th>
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<tr>
<td>A client accused of assault presents to the court with a range of issues including: Illicit substance abuse; alcohol abuse; suspected Acquired Brain Injury; long term unemployment and an extensive history of contact with the criminal justice system.</td>
<td>The case is referred by police officer who knows the young person from the locality</td>
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<td></td>
<td>• Referred for assessment by mobile CISP case manager:</td>
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<td></td>
<td>• Brokerage deal made with local community based health service and a local generalist counselor with experience in drug issues</td>
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<td></td>
<td>• Brokerage monies are used to transport client to metro area of specialist counseling and support services</td>
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<td></td>
<td>• The court considers an alternative to custody through an intensive order and judicial monitoring</td>
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<tr>
<th>HEADQUARTER COURT</th>
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<tbody>
<tr>
<td>• The client is screened using the CISP Assessment Tool</td>
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<tr>
<td>• A clear support plan is developed in consultation with the client and a range of potential support mechanisms are identified</td>
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<tr>
<td>• A drug and alcohol assessment through CISP recommends drug and alcohol counselling in addition to rehabilitation</td>
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<tr>
<td>• The client is referred to the Job Network Agency</td>
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<tr>
<td>• An Acquired Brain Injury diagnosis is made</td>
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<td>• Support is received from the CISP case manager</td>
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<td>• The court considers an alternative to custody through an intensive order and judicial monitoring</td>
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<tr>
<th>SUBURBAN COURT</th>
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<tbody>
<tr>
<td>• The client is referred to the mobile team following referral by his lawyer</td>
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<tr>
<td>• The mobile team screens the case</td>
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<tr>
<td>• Brokerage model facilitates the part-time employment of a mental health nurse, to which this client is referred</td>
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<tr>
<td>• Partnership arrangements with local services provide priority entrance into mental health and employment services, such as Centrelink</td>
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<tr>
<td>• Case management occurs between the court and local services with support from the area court support manager</td>
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<tr>
<td>• The court considers an alternative to custody through and intensive order and judicial monitoring</td>
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<tr>
<th>RURAL COURT</th>
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<tbody>
<tr>
<td>• Client is referred to the mobile team</td>
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<tr>
<td>• Partnerships with local services assist in providing interim support</td>
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<tr>
<td>• Client travels to the region’s headquarter court or a large rural court for services not available locally</td>
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<tr>
<td>• Judicial monitoring facilitates case management</td>
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<tr>
<td>CASE STUDY</td>
<td>A Koori victim of Family Violence presents to the court seeking assistance with obtaining an Intervention Order. This victim also requires facilitation to access crisis accommodation for herself and her children.</td>
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| **Headquarter Court** | - The Victim is greeted by an applicant or victim court support worker who is able to provide clear information about the court and the options available. This can occur prior to the victim seeing a Registrar.  
- There is a safe space available for the victim to wait, away from the foyer of the court  
- Registrar has received training and professional development in Family Violence matters  
- An applicant or victim court support worker assists the victim with the Intervention Order  
- A Koori Liaison Officer is available to assist with links to culturally competent agencies for support  
- Accommodation is facilitated through services with formal linkages to the court |
| **Suburban Court** | - Court staff are trained in responding to Family Violence matters and a Family Violence Resource Kit is used at the court  
- Crisis accommodation is facilitated through local services within the courts network  
- Longer term assistance with housing is coordinated by a support worker contracted to work at the court  
- Koori Liaison Officer is able to travel from the nearest headquarter court for Family violence matters. |
| **Rural Court** | - Information relating to the application for an intervention order is easily accessible at the court  
- Court staff are trained in responding to Family Violence matters and a Family Violence Resource Kit is used at the court  
- Local services are engaged to assist with crisis accommodation  
- Assistance with longer term housing is sourced through inter-departmental dialogue |
9.3 Culturally appropriate services for Koori victims and accused

The Koori Court is a sentencing court. Few Koori court participants access CISP and there was a pervasive view from consultations that the system is struggling to provide support services. CISP is a popular option for Koori offenders but they cannot access support services through the Koori Court. Expanding CISP style support services should be underpinned by a process of local research to ascertain the need and be coupled with specific cultural competency training for court support staff. The NJC model of court support was established on the basis of examination of local need and is a good example of how courts can capably identify needs of different groups within their local community. The lessons from this could be applied to the canvassing of Koori specific needs in each locality.

It is clear from reviews of the court and from workshops and consultations that many of the services provided by CISP, around drug and alcohol, mental health, ABI and housing, are relevant to many Koori offenders. However, these need to be delivered within culturally secure environments through Koori organisations, as far as is feasible. Any new initiatives in this area must line up with the Victorian Aboriginal Justice Agreement (AJA) which is premised upon increased Koori involvement in justice initiatives. Furthermore, Indigenous practices are themselves evolving over time. For example, there is currently an emerging interest in the need for a ‘healing’ approach to be taken when working with Koori clients, families and communities. Addressing the cultural needs of Koori Court participants requires a clear identification of what these needs are through research and community engagement.

9.4 Culturally appropriate services for CALD victims and accused

The provision of court support services to the CALD community in particular areas should begin with courts undertaking a community engagement process and some local research to map local community issues for the CALD. Identifying and negotiating with community leaders may elicit information regarding the needs of the community, important cultural factors which may have a bearing on capacity to engage with services, standards of English literacy, the demographics of the community, levels of employment (and what kind), housing and tenancy, and what CALD community organisations exist in the community. There may be a need to improve access to interpreter services in some parts of Victoria and/or build a network of contacts for improved communication with the CALD community and the court.

SUMMARY

This chapter has endeavored to provide a practical understanding of the court participant experience at a number of court locations. The case studies outlined here engage with a number of different court participant issues and show how their experiences would be altered by the adoption of some of the options provided in this paper.

These examples demonstrate the increase in equitable access to justice offered by these options, in addition to an improved response to the needs of victims. A key feature of this discussion is an acknowledgement that the court participant experience will vary based on locality. However, the options provided here are seen to improve the quality of this experience across the state.

We have also suggested areas of consideration for Koori and CALD court participants. At the core of the suggestions made here is the notion that court’s community engagement needs to be increased to properly inform decisions made at a local level. As with many other aspects of the directions suggested in this paper, a canvassing exercise is required to determine when Koori and CALD programs and services are most beneficial.
Chapter 10 - Summary of findings and options for court support services model

This report has built upon research findings from Victoria showing that innovations such as CISP and the NJC have been effective in terms of reducing re-offending and making justice more accessible for the accused and for victims. These innovations have also been successful in introducing therapeutic jurisprudence principles into the judicial process. Workshops and consultations undertaken as part of the research process confirmed, however, that access to these programs is often limited by geographical area - what critics call ‘postcode justice’ or ‘justice by geography’ - raising concern about equity of access. There are challenges involved in making these services available across courts.

Facilitate flexibility and local capacity building

This report proposes an approach to reform that takes elements from these initiatives and tailors them to fit local realities, rather than attempting to import them wholesale. Given the significant variations in local context, culture and structure, it is essential that a flexible approach to reform be adopted - one that encourages cultural and systemic change while recognising that different localities and jurisdictions vary in their capacities to implement reforms. Courts should be encouraged to undertake increased local research and community engagement processes, as well as increased nurturing of multi-agency networks. These would offer opportunities for improved joined-up work locally and create options for court services to integrate offenders and victims into community based networks of care and support.

Promote shared values and principles

Therapeutic jurisprudence provides an overarching philosophy for the creation of court support services. A key insight of therapeutic jurisprudence is that involvement in the justice system can motivate offenders to tackle problem behaviors. Therapeutic jurisprudence is less concerned with dictating operational procedures and practices than enshrining the appropriate *processes, principles and values* to guide practice. In line with this philosophy, the report has enunciated a set of principles to inform the development of court support services. These principles will, it is hoped, assist courts in defining the parameters of action, clarify aims and objectives, establishing a vision or ethos, and providing a rationale for joined up work.

Based on these principles, the models of service delivery we sketch out are based upon encouraging a holistic, multi-disciplinary approach to work with offenders and victims; recognising that the insights of a diversity of disciplines (health, mental health, social policy, social work, as well as law) all have value. It is important that court support services should not be seen as marginal to the court process but integral parts of the court system, and that short-term legal outcomes do not trump the potential for longer term rehabilitation.

Encourage a holistic, joined up approach

Based on therapeutic jurisprudence principles, the report proposes that court support services should, wherever possible, co-locate at the point of service delivery, and, as far as is feasible, realign their services to form an integrated, ‘joined-up’ service delivery model. It also acknowledges, however, that not all courts in all localities will be able to provide the same model of support. Initiatives need to be flexible, responsive to local needs, and tailored to suit local realities, available infrastructure and local services. The approach rests on the establishment of strong
partnerships with locally and centrally based agencies and support structures. A judicious mix of ‘bottom up’ and ‘top down’ approaches and strategies may yield significant results on a local level.

**Provide distinctive pathways for victim support**

It is desirable that court support services are tailored to support victims and the families and dependents of offenders, as part of a court support services system model. There should be a distinct Victim Support Officer within court services teams. It is particularly important, here, to ensure confidentiality and safeguard security by provide structurally separate pathways to access this support. The needs of victims should be considered when reviewing the lay-out of courts with places set aside for them, their supporters and support services. Applicant and Respondent workers for family violence matters should be placed in all headquarter courts, and accepted as integral parts of the team.

**Nurture ‘hybrid’ arrangements on a local level**

Courts should be encouraged, and supported, to creatively explore ‘hybrid’ arrangements, tapping into services offered locally by entities such as local government and DHS, as well as the non-government sector. Services that could form part of a locally configured court support model could include housing, Koori organisations, employment, mental health services and those designed to reduce social exclusion. The focus would be on establishing best practice criteria and guidelines, MOU’s and joint training and information sharing initiatives. These would reduce the tendency for agencies involved in providing court support services to operate from within ‘silos’.

It is not anticipated that all courts will develop services in the same way, according to an agreed template. Courts might come to develop specialisations in particular kinds of service delivery, depending on the matrix of local services available and/or composition of the local community.

**Develop appropriate forms of ‘triage’ at the point of entry to the system**

It is important that clients are linked into the appropriate level and intensity of service. ‘Triage’ should be encouraged at the point of contact. This should be coupled by a ‘no wrong door’ approach, ensuring that whatever the entry point, clients are seamlessly channeled into the appropriate level and intensity of service. There should be discussion concerning the precise moment, or moments, at which triage should take place and who is best positioned to undertake the process.

**Consider having mobile case management teams**

Limitations of services being available in rural and regional areas of the state might be overcome by the creation of regionally based mobile teams to cover a number of courts. The mobile teams would have more of a brokerage than clinical role; the main function would be in relation to triage and assessment using the existing CISP assessment instrument (with some regionally specific information). The team would need to develop MOUs and agreements with mental health providers and other relevant agencies to undertake secondary assessments in the case of complex cases and facilitate treatment. The team would rely on the local knowledge of the service provider in relation to services. There would be a focus on flexibility of service provision. While offering flexibility and extending the reach of court services, the mobile team would incur costs associated with transportation.
Learn from best practice to ensure a more consistent approach

Victoria leads the way in terms of the quality of services provided by entities such as CISP and the NJC. A consistent system across courts, based on this experience, might:

- Encourage referrals from a diversity of sources
- Adopt an assessment tool based on that employed by CISP (with capacity to ‘cut and paste’ elements of local service providers where appropriate – as occurs with the NJC)
- Explore a multi-disciplinary style of case management; perhaps employing a regionally based team approach to support local courts
- Ensure that all participants in the court process are valued. A therapeutic jurisprudence approach both encourages increased judicial monitoring and oversight and places a high value on the insights and input of other disciplines than law to create a team approach

An option here would be to ensure that there is an investment in joint training for judicial officers and relevant agencies to embed these ideas in practice.

Ensure cultural competency and cultural security

Any new initiatives should ensure cultural competency and cultural security as essential components of work with Koori offenders and victims. Therefore, court support services reforms should develop in tandem with strategies designed to build community engagement and participatory mechanisms between courts and their communities as well as ensure that Koori people are employed in key roles.

Encourage formal and informal partnerships with local government

Links with local government, both formal and informal, could open opportunities to access untapped services for victims and offenders and enhance contact with communities. Local government should be invited to participate in a type of Community Consultative Council or an equivalent court reference groups.

Engage with community based agencies and organisations

Engagement with community based organisations should be encouraged as a source for referrals and ongoing case management. The NJC and other Magistrates’ Court processes in existence should be studied as examples of positive engagement.

Undertake a canvassing exercise to determine the needs specific to local communities and court participants

While establishing more networks and increasing collaboration can begin in some form in many courts today, further analysis of local specificities is required to gauge appropriate resource allocation and availability. Considerations pertaining to the types of information that would be useful for the court include:

- Utilising cross-departmental, police and local government data to assess the demographics and local justice issues of communities in a given court locality. The court could be involved in compiling this information by engaging with the development of community safety plans and strategies already produced at a local level by Victoria Police. Where this is not
practical, courts should at least get access to locally sourced data compiled by local government and other relevant agencies

- Compiling information on support services at a state and local level
- Accessing court data to assess the services most utilised by court participants at a local level, determining current levels of coverage, who is utilising these services and where
- Using court data in conjunction with workload and caseload data of services currently provided to predict the likely increase in workloads should options be adopted

This data will be useful in indicating whether adherence to the court support services guiding principles will involve a significant increase in workload and the need for extra resources.

**Looking beyond the Magistrates’ Court**

Increasingly options should be explored for offering court support services beyond a four-month time limit for CISP clients. Court support case management should be able to remain in place where possible when a person is committed for trial and their case moves from the Magistrates’ Court to the County Court. While it is acknowledged that the implementation of this practice would require further consideration than exists within the scope of this paper, it is suggested here that the Department of Justice and the courts seek to explore alternative options to the current practice of severing access once a client’s matter is moved to the County Court.
Appendix A. Outline of methodology

In addition to a targeted literature and policy review, production of this report required a number of methods of research. This included:

**Individual consultations**

Individual consultations were carried out in order to gain a range of in-depth perspectives. These consultations were conducted with individuals working internally and externally to the court and included the authors of a number of evaluations.  

**Workshops**

Workshops to inform the Discussion paper were held on Friday the 26th of February 2010 at the Melbourne Magistrates’ Court and Friday the 19th of March 2010 at the Neighbourhood Justice Centre. These were attended by employees of the Magistrates’ Court, court support services staff, Department of Justice staff, legal practitioners, community legal services and non-government organisations. Participants in these workshops undertook discussions invaluable to this paper.

**Surveys**

Participants in workshops completed a three-page survey relating to current court support services and providing suggestions for future directions of service provision.

Each of these methods produced data that contributed significantly to this discussion paper.

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68 For a full list of Individual Consultations see Appendix B
## Appendix B. List of Interviews, Consultations and Forums

The production of this paper involved extensive consultation with individuals working in and alongside the Magistrates’ Court system. The following is a list of individuals who provided insight through individual consultations.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title/Role</th>
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<tbody>
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<td>Arie Freiberg</td>
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<td>Cameron Wallace</td>
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<td>Charlotte Stockwell</td>
<td>Chief Executive Officer, Magistrates’ Court of Victoria</td>
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<td>Clare Allison</td>
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<td>David Fanning</td>
<td>Magistrate, Neighbourhood Justice Centre, Magistrates’ Court of Victoria</td>
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<td>Deb Nicolson</td>
<td>Manager, Family Violence Initiatives Unit, Magistrates’ Court of Victoria</td>
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<tr>
<td>Elissa Buggy</td>
<td>Program Registrar, Drug Court of Victoria</td>
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<tr>
<td>Erin Davis</td>
<td>Senior Policy Officer, Family Violence Initiatives, PSB, CTU, Department of Justice</td>
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<tr>
<td>Frank Guivarra</td>
<td>Chief Executive Officer, Victorian Aboriginal Legal Service</td>
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<tr>
<td>Graeme Chergwin</td>
<td>Manager, Specialist Courts and Support Services, Magistrates Court of Victoria</td>
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<tr>
<td>Janice Watt</td>
<td>Manager, Sexual Assault Reform Unit, PSB, CTU, Department of Justice</td>
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<tr>
<td>Jill Prior</td>
<td>Executive Officer of Legal Practice, Victorian Aboriginal Legal Service</td>
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<td>Jo Beckett</td>
<td>Coordinator, CREDIT/Bail Program, Magistrates’ Court of Victoria</td>
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<td>Joseph Shields</td>
<td>Manager, Court Integrated Services Program, Magistrates’ Court of Victoria</td>
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<tr>
<td>Julian Thomas</td>
<td>Manager Policy, Strategic Services and Planning, Justice Health Unit, Department of Justice</td>
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<tr>
<td>Larissa Douglas</td>
<td>Manager, Criminal Justice Diversion Program, Magistrates’ Court of Victoria</td>
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<tr>
<td>Mason Atkinson</td>
<td>Manager, Koori Court, Koori Initiatives Team, Magistrates’ Court of Victoria</td>
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<td>Peter Lamb</td>
<td>Manager, Complex Cases, Courts and Tribunals Unit, Department of Justice</td>
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<tr>
<td>Rosie Smith</td>
<td>Manager, Koori Initiatives, Programs and Strategies Branch, Department of Justice</td>
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<tr>
<td>Samantha Adrichem</td>
<td>Principal Registrar, Victims of Crime Assistance Tribunal</td>
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<tr>
<td>Sharon Lang</td>
<td>Senior Policy Advisor, Family Violence Initiatives, Programs and Strategies Branch, Department of Justice</td>
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<tr>
<td>Stuart Ross</td>
<td>School of Social and Political Sciences, The University of Melbourne</td>
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