



Submission 22.1

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Committee Secretary
House of Representatives
Standing Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

Inquiry into Crime in the Community: Victims, Offenders and Fear of Crime

I refer to the submission I made to the committee in relation to the above inquiry and to the evidence that I gave to the committee during its Geraldton hearing on 18 November 2002.

I refer the committee to the paper I delivered to the conference of the Australian Institute of Judicial Administration in Fremantle in September that contains an update on the results of the Geraldton Alternative Sentencing Regime discussed in my submission. The paper may be accessed via a link at <http://www.ajja.org.au/ac03/program.htm>. It is necessary to scroll down the page to access the link.

The committee will have noted from my submission that one of the treatment modalities that has benefited offenders in the Geraldton Alternative Sentencing Regime is the stress reduction and self-development technique, Transcendental Meditation (TM).

I enclose a copy of the recently published volume 36 of the Journal of Offender Rehabilitation that is devoted to research on the use of the technique in crime prevention and rehabilitation. The highlights of this volume include studies finding:

- Decreased risk of recidivism (by 43.5%) over 15 years after release in former maximum-security inmates who learned TM in Californian prisons as compared to controls. The pattern of reduced recidivism for the TM group was maintained when controlling for background variables associated with recidivism. The effect of TM was enhanced when used along with group therapy.
- Proportionate decrease in reincarceration rate for new convictions (by 47%) and proportionate decrease in return to prison (by 33%) and proportionate decrease in return to prison/warrant for arrest outcomes (by 27%) over 30 months in a Massachusetts TM prison group as compared to counselling,

Therapeutic jurisprudence (TJ) asserts that legal processes can impact the wellbeing of participants, including their satisfaction and compliance with the justice system and aspects of psychological functioning relevant to the resolution of a party's legal problem. An implication is that court processes can be designed to promote wellbeing while at the same time furthering other justice system goals. TJ has become the theoretical basis of problem solving courts such as drug courts and domestic violence courts and is increasingly applied by courts around the world. Geraldton Magistrate's Court applies TJ in its criminal and restraining order jurisdictions and will soon apply it in child welfare proceedings. It is seeking a more comprehensive resolution of legal problems in suitable cases by taking a holistic, multi-disciplinary, interagency and team based approach. Outcomes include improved psychological and physical health, decreased substance abuse, greater respect for court processes and decreased offending. Additional resources and longitudinal quantitative evaluation of the project are needed.

Social problems such as crime, family breakdown and domestic violence are of enduring concern for the community. They often involve justice, health, psychological, educational and welfare issues. The development and refinement of prevention and treatment programs based on experience and research as to what works has been an important means by which society endeavours to resolve these problems. A critical aspect of such an approach is the development of an understanding of human behaviour and its modification.

Often the management and resolution of social problems will involve a court, whether it is through a criminal charge being laid, an application made for a child to be made a ward of the state, or an application made for a violence restraining order. One of the values commonly seen to be a part of the resolution of the legal problem is the need to promote healing, whether it is through the rehabilitation of offenders, the protection of children and normalisation of family relations or the addressing of underlying issues that lead to violence in a relationship.

Do court procedures promote this healing process or do they inhibit it? Do courts contribute to the resolution of the problem leading to the court appearance or do they exacerbate it? Such are the questions asked by *therapeutic jurisprudence (TJ)*. A Geraldton study found that some defendants in criminal matters see the role of the court as being simply to punish.¹ Yet a prime goal of the sentencing process is rehabilitation. The defendants' views may be jaundiced but may they also be the result of bad experiences in court through the use of inadequate procedures? One of the outcomes of defendants going through the Geraldton Alternative Sentencing

* Paper presented to the 21st Annual Conference of the Australian Institute of Judicial Administration, "New Challenges, Fresh Solutions" Fremantle, 20 September 2003.

¹ M King and W Duguid, *Geraldton Alternative Sentencing Regime: First Year Self-Evaluation*. Curtin University School of Business Law Working Paper 03:01, 2003, para 5.4.

Regime (GASR) that applies therapeutic jurisprudence is that they see themselves as a part of a caring network for the first time in their lives. They see the court as a part of the healing process.

This paper examines three Geraldton Court programs that apply TJ: GASR, Roads to Healing Program (Roads)² and Family Care Program (FCP). GASR began on 2 August 2001, Roads recently commenced and FCP will begin in November 2003.

GASR aims to promote offender rehabilitation and is available in suitable cases presentence or prior to determination of guilt. It has been used in a range of cases including drug related, drink driving, domestic violence and dishonesty offences. GASR consists of two tracks: the Court Supervision Regime (CSR) and the Brief Intervention Regime (BIR). A community corrections officer or juvenile justice officer must assess a person as suitable for admission to the CSR. Participation in the CSR consists of the participant's signing of a behavioural contract, their supervision by a court team and their involvement in a range of programs designed to promote the ability to live a constructive and fulfilling life in the community without offending. The BIR generally involves those defendants on less serious charges. They sign a behavioural contract to participate in a range of rehabilitation programs relating to their offending for a period of approximately three months, appear in court for review half way through the period and then for sentencing at the end of it. Those admitted to either track pending sentencing by the magistrate are offered the incentive of a lesser sentence – such as a suspended term of imprisonment rather than an actual term

Roads seeks to provide perpetrators and victims of violence and other misconduct with the means of addressing underlying issues. Domestic violence support agencies in Geraldton provide victims with a copy of the Roads to Healing information pamphlet. In addition, a police officer serves a copy of the pamphlet on the respondent to each restraining order issued by the Geraldton court. Applicants and respondents to restraining order applications are thereby advised of the range of treatment and support programs available and are invited to take part in Roads. Parties can take part in Roads without the matter coming back before the court. If an objection to interim order is made, then when the matter comes before the court the parties will have the option of participating in Roads with regular review by the court.

FCP seeks to address underlying issues in relation to children in need of care and protection, to strengthen the family unit and to obviate the need for children to be made wards. It is envisaged that an FCP pamphlet will be served along with each application for care and protection issued by the Geraldton Children's Court. If assessed as suitable, the court can admit a case to the FCP and a final order hearing postponed pending the outcome.

Common to each program are the use of therapeutic court processes – behavioural contracts, supervision by the court and positive interaction between magistrate and participant – taking a holistic approach to the resolution of the problem and the use of a multi-disciplinary team in its establishment and ongoing management.

² M King, "Roads to Healing: Therapeutic Jurisprudence, Domestic Violence and Restraining Order Applications" (2003) 30(7) Brief 14.

Therapeutic Jurisprudence and Therapeutic Court Processes Used in Geraldton
TJ asserts that legal processes can impact upon the wellbeing of those participating in them. The scope of TJ is broad. It studies the impact of legal processes on all participants including judges, magistrates, lawyers, victims, witnesses, jurors, litigants, court staff and other justice system professionals. TJ has expanded from its original application to mental health law to embrace all aspects of law including health law, criminal law, family law, civil litigation, international law, child welfare law, industrial law, coronial law and the conduct of the legal profession.³

According to the founders of TJ, Professors David Wexler and Bruce Winick:

The law consists of legal rules, legal procedures and the roles and behaviours of legal actors, like lawyers and judges. Therapeutic jurisprudence proposes that we use the tools of the behavioural sciences to study the therapeutic and anti-therapeutic impact of the law, and that we think creatively about improving the therapeutic functioning of the law without violating other important values.⁴

Therapeutic jurisprudence therefore recognises that the understanding of human behaviour and its optimisation is an enterprise that involves professionals from diverse disciplines and that the law can learn from the theory and research of such disciplines in determining the procedures it uses in resolving legal problems.

Why should the therapeutic impact of the law be of interest to judges and lawyers? One aspect of wellbeing studied by TJ is the impact of court processes on litigant satisfaction. Research suggests that if a litigant believes the court process to have been fair, then they are more likely to respect the outcome.⁵ That is, this aspect of wellbeing relates to the level of compliance with court orders, a matter of direct concern to a court, whether a specialist problem solving court or otherwise. The fairness of court procedures not only impacts upon litigants' perception but also on the public's perception of the integrity of the justice system.⁶ A therapeutic approach has the potential to increase public confidence in the justice system.

Many parties coming before a court have significant dysfunction directly relating to their legal problem and its resolution. Offenders, perpetrators of domestic violence and parents of children at risk often have substance abuse problems and underlying psychological problems such as the effects of past trauma. They may have a low self-concept. TJ suggests that court processes, including the way a judicial officer interacts with a party, can aggravate the problem or, conversely, contribute to resolving it.

³ See generally the website of the International Network on Therapeutic Jurisprudence: www.therapeuticjurisprudence.org and D Wexler and B Winick (eds), *Law in a Therapeutic Key* (Carolina Academic Press, 1996); D Stolle, D Wexler and B Winick (eds), *Practicing Therapeutic Jurisprudence: Law as a Helping Profession* (Carolina Academic Press, 2000).

⁴ B Winick and D Wexler (eds), *Judging in a Therapeutic Key* (Carolina Academic Press, 2003), p 7.

⁵ T Tyler, "The Psychological Consequences of Judicial Procedures: Implications for Civil Commitment Hearings" in Wexler and Winick, above, n 3, pp.3-15; R Hunter, "Through the Looking Glass: Clients' Perceptions and Experiences of Family Law Litigation" (2002) 16 *Australian Journal of Family Law* 7.

⁶ R Warren, "Public Trust and Procedural Justice" (2000) 37(3) *Court Review* 12. Available at: <http://aja.ncsc.dni.us/courtrv/review.html>.

These aspects of wellbeing are not mutually exclusive. For example, if a court has used processes to assist the parties to resolve underlying issues that contributed to their legal problem, then they are likely to be satisfied with the process.

TJ has become the underlying theory behind problem solving courts. Problem solving courts specialise in the resolution of problems giving rise to the need to resort to a court. Drug courts mainly address the resolution of substance abuse problems that contribute to offending. There are also drug courts in the United States that assist substance abusing parents whose children are at risk and who are likely to be made wards of the state.⁷ Domestic violence courts assist in the resolution of problems causing perpetrators to commit violent personal offences. These courts have developed processes aimed at minimising anti-therapeutic effects and maximising therapeutic effects of court processes on participant wellbeing.

While problem solving courts are an obvious area of application of TJ, its significance in relation to justice system goals such as satisfaction with the system and resolution of legal problems means it is of relevance to all judicial officers.⁸ By taking into account therapeutic factors in the development and application of court procedure, every judicial officer has the ability to promote a more creative and comprehensive resolution of a legal problem while limiting any negative effect of court processes on participants including the parties, witnesses, jurors, court staff and counsel.

Although the Geraldton court is not a problem solving court as such, GASR, Roads and FCP are special programs that are using or are to use therapeutic court processes similar to those used in problem solving courts. While metropolitan areas have the population and resources to set up specialist courts to deal with problems such as drug abuse and domestic violence, limited population and resource levels of regional courts mean that it may be preferable to establish special therapeutic court programs within existing structures rather than establish specialist courts.⁹

In an article on the role of a judge in problem solving courts, Winick emphasises the importance of internal motivation to change in the process of healing:

Judges should be aware of the psychological value of choice. Self-determination is an essential aspect of psychological health, and people who make their own choices, if perceived by them as non-coerced, function more effectively and with greater satisfaction. People who feel coerced, by contrast, may respond with a negative psychological reactance, and may experience various other psychological difficulties.¹⁰

At first glance, it may seem strange that in the apparently coercive environment of a criminal court and the criminal justice system defendants can make non-coercive decisions as to their future. However, Winick argues that *defendants are in the system*

⁷ L Edwards, "The Juvenile Dependency Drug Treatment Court of Santa Clara County, California" in Winick and Wexler, above, n 4, pp 39-42.

⁸ Winick and Wexler, above n 4; M King, "Applying Therapeutic Jurisprudence From the Bench: Challenges and Opportunities" (2003) 28(4) *Alternative Law Journal* 172.

⁹ M King, "Applying Therapeutic Jurisprudence in Regional Areas: The Western Australian Experience" (2003) 10(2) *E Law* Available at:

<http://www.murdoch.edu.au/elaw/issues/v10n2/king102.html>

¹⁰ B Winick, "The Judge's Role in Encouraging Motivation for Change" in Winick and Wexler, above, n 4, 181, 182.

because of their own actions and that although they may face hard choices, offering a therapeutic alternative such as a rehabilitation program is not of itself coercive.¹¹

Like drug courts, the Geraldton projects are based on the premise that the crisis of being brought before a court can bring about motivation to resolve the underlying issues that brought the person to court.¹² It presents the justice system with an opportunity to support and encourage that motivation through a care-based approach. While judicial officers should not be precluded from expressing their own views as to a party's best interests, it is important that they present the options to the party and allow the party to make the choice.

Thus, in relation to GASR, Roads and FCP, parties are presented with the option to participate in the program in appropriate cases. As to post conviction, presentence placement in GASR, defendants are also told of the sentence they would receive if they did not participate in or were removed from the program for breach and the sentence they would receive if they fulfilled program requirements. Ultimately the choice is theirs. While most defendants take up the opportunity to participate, a few have also chosen to have their participation in the program terminated shortly after admittance even though in one case the only alternative open was imprisonment.

According to TJ, critical elements of the therapeutic approach include the according of respect to the participant, allowing them to express their position in relation to matters affecting them, validating that response and actively involving them in decision-making processes.¹³ The Geraldton projects endeavour to apply these principles. The therapeutic processes used in Geraldton include the use of behavioural contracts, supervision of the participant by a court team, positive interaction between the magistrate and participant and graduation ceremonies.

As Winick points out, behavioural contracts are a behavioural psychology technique to promote compliance with a treatment regime and to discourage breaches.¹⁴ For example, in GASR participants are assessed as to their rehabilitation needs and provide input into the formulation of the treatment agenda. They then sign a contract undertaking to the court to participate in the treatment regime. In FCP, parents will similarly have input into deciding which rehabilitation programs they are to undertake and in appropriate cases the nature and extent of contact with the children the subject of the proceedings will be according to the attainment of agreed behavioural goals. In all of these programs, by consent of the court team and the participant, the program conditions can be varied. By involving a participant in the formulation of program conditions such as the rehabilitation regime and its components the court and its team give the participant voice, validation and respect. The participant is empowered in relation to directing his or her own rehabilitation.

¹¹ Winick, above, n 10, 183.

¹² P Hora, W Schma and J Rosenthal, "The Importance of Timing" in Winick and Wexler, above, n 4, pp 178-179; M Clark, "Ascertaining and Encouraging Change" in Winick and Wexler, above, n 4, pp 179-180.

¹³ Winick and Wexler, above, n 4, pp 129-131.

¹⁴ B Winick, "How Judges can use Behavioural Contracting" in Winick and Wexler, above, n 4, pp 227-230

Defendants remanded to appear in the more intensive track of GASR, the CSR, are given a task: to formulate the goals they wish to achieve through their participation in the program and to advise the court of their goals on their next court appearance. Goals of GASR participants have included becoming free from alcohol and illicit substance abuse, greater contact with their children, getting out of debt, engaging in further education and training and obtaining employment. The court team then works with participants to promote the achievement of their goals.

An important element of the Geraldton programs is regular review by the court. When the party comes before the court on the review day, participants have the opportunity of telling the court about their progress and expressing their concerns and wishes in relation to amendments to their program and the magistrate has the opportunity of seeing how the party is progressing. As to Roads and FCP, it is anticipated that the court will receive reports from relevant program providers and the Department of Community Development respectively as to the level of compliance with the program.

As to GASR participants, the court receives a report from a community corrections officer or juvenile justice officer as to the participant's compliance with the program. In court, the magistrate expresses interest in participants by asking them questions as to their progress since the last appearance. Progress is met with praise and in some cases applause from the court. If there has been a low level of compliance, the magistrate explores the reasons with the participant and sees whether remedial action is required. Such action may include words of encouragement to do better, adjournments and adjustments to the program following input from the participant.

Many GASR participants have had limited positive attention from authority figures in the past. The positive attention by the magistrate and other members of the court team seems to have a positive impact in promoting compliance with program conditions.

A Team Based Approach

A team-based approach is an important aspect of the day-to-day operation of FCP and the CSR track of GASR and the development of GASR, Roads and FCP. The thinking behind such an approach is that a purely adversarial process may not provide the best environment in which to promote healing. As to child welfare cases, the Department of Community Development has a particular challenge: not only is it responsible for the apprehension of children in need of care and protection and the filing of care and protection applications, it is also the agency that endeavours to assist the rehabilitation of respondent parents to such applications. In a sense it is seeking to act both as prosecutor and community corrections officer. Given the pattern over generations of removal of children of certain families by the department, there can also be an entrenched negative view as to its intentions and ability to assist.

FCP aims at mitigating the effects of such factors by promoting a caring environment, not only by actively involving parents in the design of program agenda and other decision making processes concerning their family but also by having a team, comprising the magistrate, department officer and duty lawyer or Aboriginal Legal Service (ALS) lawyer or field officer supporting them.

A team comprising the magistrate, community corrections officer, police prosecutor and duty lawyer or ALS lawyer or field officer manages participants in the CSR track

of GASR. Rather than pitting one side against another, the team works together with the defendant to achieve a common goal: the participant's rehabilitation and cessation of offending behaviour. The Geraldton ALS office commented:

Clients observe and then become part of a network of support as it coalesces around them. Barriers, often generational in nature, begin to break down between clients, the police and the institution of the court. Clients, often for the first time, begin to identify that they are being looked at in a positive light and they want to return the trust that is being placed in them by the GASR support network.¹⁵

This does not mean that the adversarial system is completely discarded. In the CSR, it is one of the roles of the police prosecutor to help promote compliance with the program; it is the prosecutor who applies to have someone removed from the program for serious breach of program conditions or for other enforcement measures, such as the deduction of program points, to be taken. Also, when a case is removed from the CSR or FCP it is treated like any other case and listed for hearing as required. If need be, the hearing can be conducted by a different magistrate than the one who presided when the case proceeded through the CSR or FCP.

Each of the Geraldton programs has been team based in its development, with the court working with local agencies in its design and implementation. Thus, GASR resulted from the court, police, legal profession, Community Justice Services and local treatment agencies working together. The court, local offices of the Department for Community Development and ALS and the Geraldton Community Legal Centre developed FCP. Roads' establishment involved the court, police, Geraldton Regional Domestic Violence Project and local treatment and support agencies. This collaboration gives agencies co-ownership of the projects and a commitment to making them work. Further, a team-based approach helps promote a central theme of these projects: taking a holistic approach to wellbeing and rehabilitation.

Towards a Holistic Approach towards Participant Wellbeing

There is a growing appreciation of the need to broaden our understanding of what is required to resolve a law-related problem and, in that context, what constitutes offender rehabilitation.¹⁶ Thus, in GASR, offender rehabilitation is seen as more than the absence of offending, embracing the ability to lead a constructive and fulfilling life in the community.

Often people coming before a court have problems in multiple domains of their life that contribute to their legal problem. For example, in relation to care and protection matters, a parent may have unresolved abuse issues from the past, a substance abuse problem and an inability to properly support a family due to chronic unemployment. They may require the assistance of professionals in different disciplines in order to comprehensively address these problems. Hence, the FCP Practice Direction states:

The diverse aspects of the life of a parent or child can impact on their wellbeing and ability to function in a healthy manner. When dealing with dysfunction it is important to take a holistic approach. Accordingly a range of

¹⁵ In King and Duguid, above, n 1, para 5.5.1.

¹⁶ M King, "Deterrence, Rehabilitation and Human Nature: The Need for a Holistic Approach to Offenders" (2000) 24 Criminal Law Journal 335; King, above, n 9, para 30-36.

programs targeting these aspects should be used according to the needs of the family unit and its members

In relation to GASR, Roads and FCP, diverse programs are used or are to be used to promote the overall wellbeing of the participant. In GASR programs and services have included: substance abuse programs, psychological counselling, anger management programs, vocational guidance, further education and training programs, financial planning, accommodation support, recreation programs and participation in programs offered by the Geraldton Sexual Assault Referral Centre.

An important part of GASR's approach to promoting a holistic approach to offender rehabilitation has been stress reduction and self-development. There is growing evidence of the adverse effects of stress on physiological and psychological functioning.¹⁷ Traumatic events such as child abuse, relationship breakdown, illness, loss of employment and financial crisis can produce physiological changes in the different systems of the body, including the brain, resulting in a range of disorders. Research suggests stress contributes to substance abuse and offending.¹⁸ Yet the problem of stress has not been adequately addressed by the criminal justice system.

Stress reduction techniques vary greatly in their effectiveness in promoting health outcomes.¹⁹ The stress reduction and self-development technique, Transcendental Meditation (TM), has been used to reduce substance abuse²⁰ and in criminal justice systems around the world, principally in the United States²¹ It has been used as an integral element of GASR. This is consistent with recommendation 28 of the Western Australian Community Drug Summit that there be trials of meditation in the treatment of substance abuse. Research has found substantial decreases in recidivism and significant psychological development in offenders practising the Transcendental Meditation technique. A study of offenders who learned the technique in Californian maximum-security institutions found they had 43% fewer new convictions than controls 15 years following their release. It has also been found to produce a positive impact on adolescents' school absenteeism, rule infraction and suspension rates.²²

Transcendental Meditation is a simple, natural, mental technique practised for twenty minutes twice a day sitting easily in a chair with the eyes closed. It is easy to learn and practice and requires no change in lifestyle or beliefs.

The theory underlying its use is that by producing a unique state of restful alertness in mind and body the Transcendental Meditation technique activates the natural healing

¹⁷ R Sapolsky, "Why Stress is Bad for your Brain" (1996) 273 *Science* 749; W Lovallo, *Stress and health: Biological and psychological interactions* (Sage, 1997).

¹⁸ See for example: National Institute on Drug Abuse, *Stress and Drug Abuse*. Available at: <http://www.drugabuse.gov/DrugPages/Stress.html>; King, above, n 16.

¹⁹ D Orme-Johnson and K Walton, "All Approaches to Preventing or Reversing Effects of Stress are not the Same" (1998) 12 *American Journal of Health Promotion* 297.

²⁰ D O'Connell and C Alexander (eds), *Self-Recovery* (Haworth Press, 1994).

²¹ King, above n 16; C Alexander, K Walton, D Orme-Johnson, R Goodman and N Pallone (eds), *Transcendental Meditation in Criminal Rehabilitation and Crime Prevention* (Haworth Press, 2003). See also the website of The Enlightened Sentencing Project: www.tesp.org.

²² V Barnes, L Bauza and F Treiber, "Impact of Stress Reduction on Negative School Behaviour in Adolescents" (2003) 1(10) *Health and Quality of Life Outcomes*. Available at: <http://www.hqlo.com/content/1/1/10>.

mechanisms of the body, releasing stress and promoting the normalisation of functioning in mind and body. Indeed, research suggests that the psycho-physiological attributes of the state of restful alertness – reduced heart and respiration rates, increased skin resistance, decreased cortisol levels and improved neurophysiological functioning – are the opposite of those of highly stressed states.²³

Forty-three GASR participants (including adults and juveniles) and 11 community corrections, juvenile justice and program officers have learned the Transcendental Meditation technique. Geraldton community corrections and juvenile justice officers have observed that GASR participants practising it are calmer, less anxious, have better thinking and decision making ability and more readily engage in other rehabilitation programs and with their officer than before starting the practice.

A participating agency commented: “Clients report that TM has been valuable in increasing/developing self-esteem, sense of self and increasing/developing spirituality, focus and self-control”.²⁴

The Geraldton ALS office stated:

The use of TM, the clients report, allows them to clarify issues, to focus and deal with stress in a much more positive fashion. Interestingly, we have noticed our participating clients have physically changed, they are fitter and softer in the face. For many of our clients violence and aggression is a normal and first option response to stressful situations; they accept this as the norm. Clients say that TM allows them to structure their days [and to] communicate and function more effectively within their own family unit and the wider community²⁵

Many of the Aboriginal participants come from families subjected to social stress and dysfunction over generations. Results from the use of TM in GASR suggest it may have a more general application in helping to address stress related problems facing Aboriginal people. Given the health related benefits of the practice found by research – including decreased hypertension, smoking and other substance abuse and decreased incidence of disease²⁶ – a positive side effect of GASR may be the promotion of the long term health of the participants.

GASR Results

GASR is in its third year of operation. It presently does not receive funding – although some local agencies have received additional funding to assist in providing services to GASR participants. The Geraldton court in conjunction with agencies involved conducted an evaluation of GASR following its first year of operation.²⁷ This evaluation included the administration of surveys to agencies and CSR graduates as well as a review of data relating to participant performance in the project.

²³ R Jevning, R Wallace and M Biedebach, “The Physiology of Meditation: A Review. A Wakeful Hypometabolic Integrated Response” (1992) 16 *Neuroscience and Biobehavioural Reviews* 415.

²⁴ King and Duguid, above, n 1, para 5.3.3.

²⁵ King and Duguid, above, n 1, para 5.3.2.

²⁶ M King, T Carr and C D’Cruz, “Transcendental Meditation, Hypertension and Heart Disease” (2002)

31 *Australian Family Physician* 164.

²⁷ King and Duguid, above, n 1.

According to the first year self-evaluation, participants found the following benefits from participating in GASR: increased motivation to stop offending, improved physical and mental health, decreased substance abuse, decreased anxiety and depression, increased motivation to work or study and improved relationships. Participants also found the role of the court to be helpful particularly in relation to motivation and self-esteem. One participant stated: "my eating disorder is now a lot better by the helpful pressure I was under by the court".²⁸

Agencies also reported observing significant improvement in diverse aspects of GASR clients' lives. There was a high level of agency support for GASR as a useful program in promoting offender rehabilitation. For example, ALS commented: "We believe that the skills learned, disciplines acquired and raised self-esteem have the potential to break intergenerational offending behaviour".²⁹

There has also been a review of the performance of GASR at the end of its second year of operation.³⁰ This review found that 67 people had participated in the Brief Intervention Regime, with 46 successful completions, 13 current participants and 2 outstanding warrants for the arrest of the participant. Of the successful completions, 67% have not returned to court for new offences.

There have been 38 participants in the Court Supervision Regime, including 15 Aboriginal people. Four of the participants have been juveniles. Six people are currently participating in the program. Seven participants were removed from the program for significant re-offending or for serious breaches of program conditions. Two people requested and were granted early removal from the program. One person was dealt with in another court following their arrest for failing to appear in court and there is one arrest warrant outstanding. There have been 23 successful completions, with 60% of those not having come back to court for new offences. Given that most of those participating in the CSR track have entrenched patterns of offending and substance abuse, these results are encouraging.

These results are not the product of a controlled study. Resource limitations precluded such a study. It is desirable that longitudinal quantitative research be conducted in relation to GASR and the other Geraldton projects. Research should evaluate the potential therapeutic impact of the various components of the program, including the court process. However, for a GASR evaluation to be comprehensive, the stress reduction component of GASR, the Transcendental Meditation program should be included in the programs available to GASR participants included in the study.

Conclusion

A TJ based approach to court procedure seeks to minimise negative effects on court participants. It also seeks to enhance participant wellbeing, thereby promoting justice system goals such as offender rehabilitation, the reduction of violence, child welfare and participant and public satisfaction with the justice system. It challenges judicial officers, lawyers and other justice system professionals to reflect on the processes

²⁸ King and Duguid, above, n 1, para 2.8.3.

²⁹ King and Duguid, above, n 1, para 5.5.2.

³⁰ K Wilson, "Geraldton Alternative Sentencing Regime" Paper presented to the Midwest Justices of the Peace Annual Conference, Geraldton, 15 August 2003.

they use to see whether they can be modified to better promote justice system outcomes.³¹

The Geraldton court and local government and community agencies developed TJ based projects to meet local need in three important areas of the court's work: criminal justice, child welfare and the prevention of violence and certain other misconduct. Results from GASR generally support the value of a therapeutic approach in terms of the promotion of the overall wellbeing of participants and reduced offending. The results are particularly noteworthy given that they come from a project that largely depends on local initiative and without the substantial resources available to court projects in metropolitan areas. Further, they have inspired another regional magistrates' court to work towards implementing an ASR.

Private donations and a one off Safer WA grant facilitated teaching of the Transcendental Meditation technique in GASR. Although the positive results including decreased substance abuse, clearer decision-making ability, improved self-control and reduced anxiety are anecdotal, they are in accord with published research.

However, a lack of funding has prevented this important stress reduction aspect of GASR from continuing. This has had particular implications for Aboriginal participants in GASR. The Geraldton office of ALS noted that the Transcendental Meditation technique provided much needed stress reduction for their clients, enabling them to deal with GASR requirements and life challenges in a balanced and constructive manner. Now that the Transcendental Meditation technique is not available, ALS has more clients who are experiencing difficulty in maintaining progress, do not have the skills to cope and drop out of the program. It is vital that funding be urgently provided to rectify this situation.

³¹ Stolle, Wexler and Winick, above n 3; King, above, n 8 and 9.