

The treatment/punishment hybrid: selection and experimentation

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Alex Stevens, EISS, University of Kent

In this session, we are talking about the mixture of treatment and punishment as a 'hybrid approach'. So I want to start by making some general comment about hybrids. People make hybrids in order to produce an entity which has certain, desired characteristics. They aim to do this by selecting two species which have some of the elements they want, and then breeding them together to make a third type of animal. It is hoped that this new being has the good qualities of the parent species, but none of the weaknesses. But accidents can happen. If the two species cannot mix, or they are mixed in the wrong way, then you might end up with something that has all of the weaknesses, and none of the strengths. Creating hybrids is a dangerous business.

In order to control the risks of creating unsuccessful hybrids, you need to carefully select the elements that you put into the hybrid, and you need to do a lot of experimentation to see what you have created. If these processes of selection and experimentation are ignored, or rushed, then you are unlikely to create a successful hybrid.

In Europe, we are in the early days of experimentation in creating a hybrid to deal with drug dependent offenders. Even though some countries have been doing it for years, we still don't know what the effects are, and what elements of the parent systems (punishment and treatment) are replicated in the hybrid between them. However, some strong claims have been made about this hybrid; that it offers a viable alternative to imprisonment, that it can reduce both crime and incarceration, that it offers the prospect of reduced costs and fewer victims. These claims deserve further examination, and I want to tell you about some of the work that my partners and I have been doing on this in the QCT Europe project. In doing so, I hope to make three points:

1. We don't know if mixing treatment and punishment works.
2. There are risks to mixing treatment and punishment, which are often ignored.
3. Focusing resources and attention on treatment as punishment means diverting attention and resources from other issues that deserve closer attention.

The QCT Europe project is a six-country European study of quasi-compulsory treatment for drug dependent offenders [I will be using this acronym, QCT, to refer to the mixture of treatment and punishment for drug dependent offenders for the rest of this presentation]. The project is funded by the European Union 5th Framework Research programme. It aims to provide an evaluation of the use of QCT in five of our partner countries, and also to incorporate information from work that is already under way in the Netherlands. We are about half-way through this three year project. We have completed a literature review, of which a summary will soon be appearing in *Substance Use and Misuse* [1]. We have also published a description of the systems for QCT that operate in the project countries [2]. And we have completed the intake and six-month follow-up phase of quantitative and qualitative interviews with a sample of about 850 drug users in treatment. Half of them entered treatment on QCT. The other half entered treatment without legal pressure, and act as our comparison group.

The ideas I am presenting here are my own, as opposed to being a collective statement from the project partners, but they are based on the work that we have done together in creating the system description and literature review for the QCT Europe project.

As I have said, some countries have a relatively long history of mixing treatment and punishment. In some countries, like Italy, Germany and Austria, there have been legal provisions for entering drug treatment as an alternative to imprisonment for many years. It is newer development in other countries, such as the Netherlands and the UK, and much controversy has surrounded the introduction of measures such as the English “Drug Treatment and Testing Order” (DTTO) and the Dutch measures for the “Judicial Treatment of Addicts” (known under the acronym SOV).

The justification for introducing these systems has often been that they work. People who have criticised the use of QCT have been told, “we have to do something about drugs and crime, and here is something that works to reduce them.” But it’s worth taking a closer look at the evidence that has been selected to back these claims for the efficacy of mixing treatment and punishment.

When you look at the evidence that has been selected, you find a very positive image of QCT. This is mostly based on the research that has been done in America; much of it about drug courts. A recent report by Turning Point (which is the largest British provider on drug treatment services outside the National Health Service) cited Stephen Belenko, who is one of the most prominent American drug court researchers, in support of their claims that:

“Evaluations of the US drug courts have been very encouraging. A review of 30 courts concluded that they provided more comprehensive supervision and drug testing and monitoring than other forms of community supervision; drug use and offending are substantially reduced while offenders participate in the drug court programme; and drug courts generate cost savings as a result of reduced crime (Belenko 1998 and 2001)” [3]

This presents a vision of drug courts as providing a wonderful trinity of better supervision of offenders, reduced crime and reduced costs. Who wouldn’t want that in their criminal justice system?

Unfortunately, looking under the skin of the research is a little less encouraging and shows how important selection is in using evidence for policy innovation. The use of evidence on QCT is affected by selection in at least three ways:

1. The results of individual studies
2. The results of summaries of various studies
3. The uses to which these studies are put.

In individual studies of QCT, it could be said that selection bias is the norm, and not the exception. Drug using offenders tend to have high drop-out rates, both from treatments and from the evaluations of treatments. But many studies do not pay adequate attention to this and continue to make conclusions that are based only on those people who stay on the programme.

One example comes from Peters and Murrin’s evaluation of the Escambia drug court [4] . It is a bit unfair to single out this paper, as there are many which are similar, but this is one of the few that report the results in a way that allows comparison of *all* participants to the whole comparison group (even though the authors did not make this comparison).

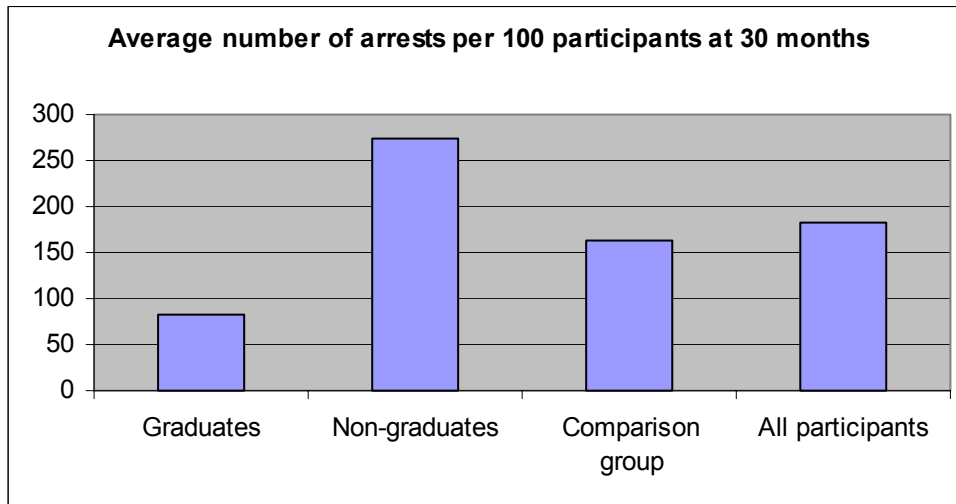


Figure 1: Recidivism measures reported for the Escambia drug court [4]

For their evaluation of the drug court, Peters and Murrin created a comparison group of offenders who started traditional probation who were matched to people who started the drug court programme. They found that people who completed the drug court programme (the ‘graduates’) were arrested at a much lower rate than people who did not (the ‘non-graduates’). The graduates were also less likely to be arrested than the comparison group of probationers. A figure that Peters and Murrin did not present is that the rate of arrests for all people who went through the drug court programme was actually higher than that of the matched comparison group (compare the ‘all participants’ column to the ‘comparison group’). As this is the group to whom the probationers were originally matched, it is this that is the appropriate comparison. To compare the people who succeeded on the programme to those who did not tells you very little about the programme, but much more about the different people who go through it. Some of them are likely to improve, and some of them to get worse, whether they go through the programme or not. Only by comparing *all* the participants to the comparison group can you see something about the programme itself. And, in this case, it suggests that the drug court had a *worse* outcome than traditional probation.

The frequency with which selection bias affects the results of QCT evaluations is compounded when several such evaluations are brought together in a research summary, or a meta-analysis, of the kind that is often used to inform policy development. Mark Lipsey [5] has shown how, in meta-analyses, *more rigorous* research designs, such as randomised controlled trials (RCTs), tend to produce *smaller effect sizes* than quasi-experimental designs. Such quasi-experimental designs are much more common than RCTs in research on drug courts and QCT.

Two papers that were presented at the Paris Conference of the International Societies of Criminology in May this year illustrate this point. David Wilson reported on his meta-analysis of 42 drug court evaluations [6], and, sure enough, he found that only four of them used randomised control groups. The effect sizes for these studies were smaller than those reported for non-randomised studies. And the confidence interval of the effect size for the randomised studies was wide enough to mean that the possibility that the drug courts involved actually increased reoffending could not be rejected. In a separate paper, Don Weatherburn reported an evaluation of a drug court programme in New South Wales, Australia [7]. This evaluation included both an “intention-to-treat” analysis of all those who started the programme, and a “termination” comparison of those who did or did not complete the programme. And again we saw that there was a high drop-out rate, that those who completed reoffended less than

those who did not, but that there was no overall effect on frequency of offending in the intention-to-treat analysis.

It is these sort of problems that lead to Stephen Belenko concluding - in a section of his work on drug courts, which was not cited by Turning Point - that the post-treatment effects and the overall outcome on drug-related offending are unclear and that “straight diversion may be less expensive and intrusive for low-risk offenders and achieve similar outcomes as drug courts” [8]. Two things should be noted in passing here. One is that this sort of quote is rarely seen in policy discussions of QCT. The other is that American drug courts tend to deal with much less serious offenders than those who are given QCT order in Europe. This challenges the assumption of comparability that has seen drug court research used to support the use of QCT in Europe.

When you look at the published European research on QCT (of which there is much less than in America), it suggests more negative results. German and Dutch research tends to show that the effect of QCT on crime is negligible. German researchers, Egg and Kurze, have questioned the effect of mixing coerced clients in with ‘volunteers’, as it risks damaging the treatment process for all of the clients in treatment [9]. Previous research by our partners at the Swiss Institut für Suchtforschung reflects American findings that coerced clients do no worse than ‘volunteers’ [10], although a different Swiss study found that people who enter treatment in QCT are less likely to be motivated than other treated clients [11]. In other countries, including Italy, systematic studies of QCT are very rare or non-existent, although I am told that a national, Italian research project on court-ordered treatment is getting under way.

The scarcity of research, and the lack of encouraging findings from Europe have not prevented European governments from introducing or maintaining their systems for QCT. It is the more encouraging and American research, which is itself often produced from methods that encourage selection bias, that is selected by policy makers and treatment providers to justify the use of QCT. It sometimes seems as if the results of experimentation with the treatment/punishment hybrid have already been selected, even before we know what it is that we have created.

To summarise this section of the presentation, I want to repeat that we don’t know if QCT works. We, and other research teams, are trying to find out about whether it works, and in what circumstances, with which people. But too often, these questions are often treated as though they have been answered, in the affirmative, by American research.

This would not matter so much if there were no risks attached to creating this hybrid. But there are risks, and they are often ignored. I want to be brief, so I will merely list some of them. The items on this list all come from concerns that have been mentioned to us in qualitative interviews with offenders, treatment workers, probation officers and judges:

1. Possibility that QCT acts as “an expensive precursor to imprisonment”, rather than an alternative to imprisonment.
2. Possibility of introducing perverse incentives to offend in order to get treatment.
3. Possibility of damaging the quality of treatment that is received by people who are not in QCT.
4. The greater expense of QCT, compared to ‘voluntary’ drug treatment.

Another problem with creating this hybrid of treatment and punishment is that it might divert our attentions from potentially more useful, more effective methods of reducing the damage done by drug use and crime.

We have heard in this session from Marianne van Ooyen about how few of the potential target group are reached by QCT measures. This means that the effect of QCT on general

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levels of crime is likely to be small, even if it does succeed for some individuals. If we accept that mainstream drug treatment is effective in reducing crime, we could concentrate on bringing larger numbers of drug users into treatment, not through coercion, but by increasing the capacity, quality and attractiveness of drug treatment services and centres (I accept that this point applies more to Britain than to some other European countries, which already have higher capacity in their drug treatment systems).

Another potential diversion is that involved in turning the drug treatment system away from health priorities towards crime. We know that drug treatment innovations and harm reduction efforts in the '80s and '90s were successful in containing the spread of HIV. Now drug users face another epidemic – Hepatitis C - which is estimated to affect between 40% and 90% of European injecting drug users [12]. Over half of these people are likely to develop life-threatening liver diseases. By focusing attention and resources on coercive approaches to treatment that are of unknown effectiveness, we are diverting resources from efforts to save lives by making sure that the successes in containing HIV among injecting drug users are repeated in the fight against Hepatitis C.

Finally, there is a wider context in the debate about drugs and crime, which cannot be affected by QCT. Both crime and dependent drug use are affected by high levels of social deprivation, which QCT cannot affect. And there are links between the operation of illegal drug markets and high levels of violent crime [13]. While we sit in this room discussing whether it makes sense to mix treatment and punishment, we are not spending our time trying to work out how to improve drug policies to reduce the links between drug sales and violent crime. And we are not working out how we can overcome barriers to research and policy innovation that are created by the United Nations agreements on drugs and the frankly ridiculous aim of ridding the world of illicit drugs by 2008.

To conclude: European research on the hybrid of punishment and treatment for drug dependent offenders is in its early years. We do not yet know if it is a generally effective approach. Personally, I have met several people who have told me that it has helped them to sort out their lives and stay away from drugs and crime, but I have met several others who have told me it is a waste of their time, and our money. If we are serious about reducing the damages done by crime and drugs, then we in Europe need to be more careful in our efforts to find out if and how QCT works, and less selective in making use of the evidence that comes out of this research.

References

1. Stevens, A.; Berto, D.; Heckmann, W.; Kersch, V.; Oeuvray, K.; Ooyen, M.v.; Steffan, E.; Uchtenhagen, A. Quasi-Compulsory Treatment of Drug Dependent Offenders: An International Literature Review. *Substance Use & Misuse* **Forthcoming**.
2. Werdenich, W.; Waidner, G.; Trinkl, B. Quasi-Compulsory Treatment of Drug Dependent Offenders - a Description of Existing Systems. *Verhaltenstherapie und Verhaltensmedizin* **2004**, *1* 71-78.
3. Turning Point, *Routes into Treatment: Drugs and Crime*. 2004, Turning Point: London.
4. Peters, R.; Murrin, M. Effectiveness of Treatment Based Drug Courts in Reducing Criminal Recidivism. *Criminal Justice and Behavior* **2000**, *27* 72-96.
5. Lipsey, M.W. Those Confounded Moderators in Meta-Analysis: Good, Bad and Ugly. *Annals of the American Academy* **2003**, *587* 69-81.
6. Wilson, D.B.; Mitchell, O.; MacKenzie, D.L. A Systematic Review of Drug Court Effects on Recidivism. In press (ask authors for details) **2004**.
7. Weatherburn, D.; Chen, S.; Donnelly, N.; Lind, B. *The Long-Term Effect of the New South Wales Drug Court on Recidivism*. in *Societies of Criminology 1st Key Issues Conference*. 2004. Paris.
8. Belenko, S., *Research on Drug Courts: A Critical Review 2001 Update*. 2001, National Centre on Addiction and Substance Abuse: New York.
9. Egg, R.; Kurze, M., *Drogentherapie in Staatlich Anerkannten Einrichtungen. Ergebnisse Einer Umfrage. Berichte, Materialien, Arbeitspapiere; Heft 3*. 1993, Kriminologische Zentralstelle: Wiesbaden.
10. Grichting, E.; Uchtenhagen, A.; Rehm, J. Modes and Impact of Coercive Inpatient Treatment for Drug-Related Conditions in Switzerland. *European Addiction Research* **2002**, *8* (78-83).
11. Maier, T.J., *Die Bedeutung Von Zwangsmassnahmen Für Die Rehabilitation Von Drogenabhängigen*. Med. Diss. Zürich: 1994.
12. EMCDDA, *Annual Report on the State of the Drugs Problem in the European Union and Norway, 2003*. Office for Official Publications of the European Communities. Luxembourg: 2003.
13. Goldstein, P. The Drugs-Violence Nexus; a Tripartite Framework. *Journal of Drug Issues* **1985**, (Fall), 493-506.