# THE FIRST STEP LEGAL SERVICE

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# FIRST STEP LEGAL SERVICE DEVELOPMENT PROJECT REVISED REPORT (JULY 2014)


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# Content

# Executive Summary

1. In 2012 the First Step Legal Service (FSLS) was provided with a grant from the Ian Potter Foundation which enabled a detailed study of the First Step Program (FSP) and the FSLS. The project is titled the First Step Legal Service Development Project (FSLS Development Project). The initial study took twelve months to complete (1/9/12-31/10/13). A further study was conducted over the subsequent 6 months. This report details the findings from both the initial and extended studies.

2. The purposes of the inquiry were to understand the outcomes regarding recidivism rates for people who accessed the FSP and FSLS, to use these findings to develop and improve the services and to advocate for law reform and changes to policy in this area.

3. To set this work in context, the project has included a brief investigation into the current statistics in relation to substance abuse, addiction issues and the manner and method by which the criminal justice system responds to these issues.

4. There is undoubtedly a cycle which repeatedly traps persons affected by these issues. The story regularly heard in criminal courts often commences with family and personal dysfunction too frequently born from disadvantage and child abuse, flowing onto substance abuse and manifestations of addiction, supported by proceeds of crime, ultimately resulting in homelessness and eventual incarceration. Upon release, the cycle continues, further entrenching the dysfunction.

5. The underlying purpose of the FSP and FSLS is to break this cycle of offending, redirecting resources, where possible, into the recovery process in order to restore lives rather than compound the overall dysfunction. Thus, sparing the costs associated with incarceration (or re-incarceration), criminal justice, policing and the systemic impact on the families and broader communities.

6. There is very limited empirical research on recidivism rates for people with similar characteristics to those of the FSP and FSLS clients. This lack of empirical evidence motivated the analysis of the data, in order to consider the effectiveness of the FSP intervention. Effectiveness refers to nexus between the rehabilitative treatments and supports that the client receives from the FSP and the recidivism rates over the relevant periods, or lack thereof. Ideally this study would also have included a control group; however, at this point, a simple analysis and comparison of empirical data was a useful starting point.

7. With assumptions acknowledged, the findings from the FSLS Development Project indicate positive outcomes for clients of the FSLS both in relation to reduced recidivism and overall effectiveness of treatment. On this basis, it is recommended that a further more comprehensive study be done to better understand what practices are most effective to break paradigms of offending behaviour and address underlying issues.

8. This present report provides:
   - 8.1 A general overview of the current problems experienced by people with substance abuse and addiction issues within the criminal justice system (The Problem and Relevant Issues).
   - 8.2 Details of the FSP model and the benefits of this type of advocacy health alliance (A Potential Solution).
   - 8.3 The results of the study within the context of recidivism rates, including challenges experienced during the course of the study and recommendations to improve current FSP processes for future studies (The Study).
   - 8.4 The study produced additional findings which fall outside of the immediate inquiry but provided interesting insights into the FSLS (Additional Information).
   - 8.5 The report concludes with a summary of conclusions (Conclusions)

# The Problem & Relevant Issues

9. The Victorian prison system is in crisis with occupancy at 100% and an overflow of 300 people remanded in police cells. Victoria now has a record number of prisoners in care – there has been a 48 per cent growth in prisoner numbers over the last decade and the current rate of imprisonment has not been seen in Victoria since the late 19th Century[i].

10. Over $1 billion has been committed to 1000 new prison beds in the last three Victorian State Government budgets. The recurrent costs of policing, courts and prisons will rise by an unsustainable 19% in 2013. The recurrent cost of the prison system alone is rising at three times the rate of inflation[ii].

11. However, it is not just the financial cost that is burdening the state – the recidivism rate in Victoria is around 35-40% (estimated 60% in the case of young offenders)[iii]. Of the people currently in jail, about 60% have been previously incarcerated. [iv]. The growth of prisons, recent changes to sentencing laws and the lack of a performance culture and benchmarks in the Corrections Service are likely to exacerbate recidivism rather than reduce it. As a result, instead of breaking a cycle of crime through rehabilitative mechanisms, current policy may expose more Victorians to increased criminal activity and bulging prison costs.

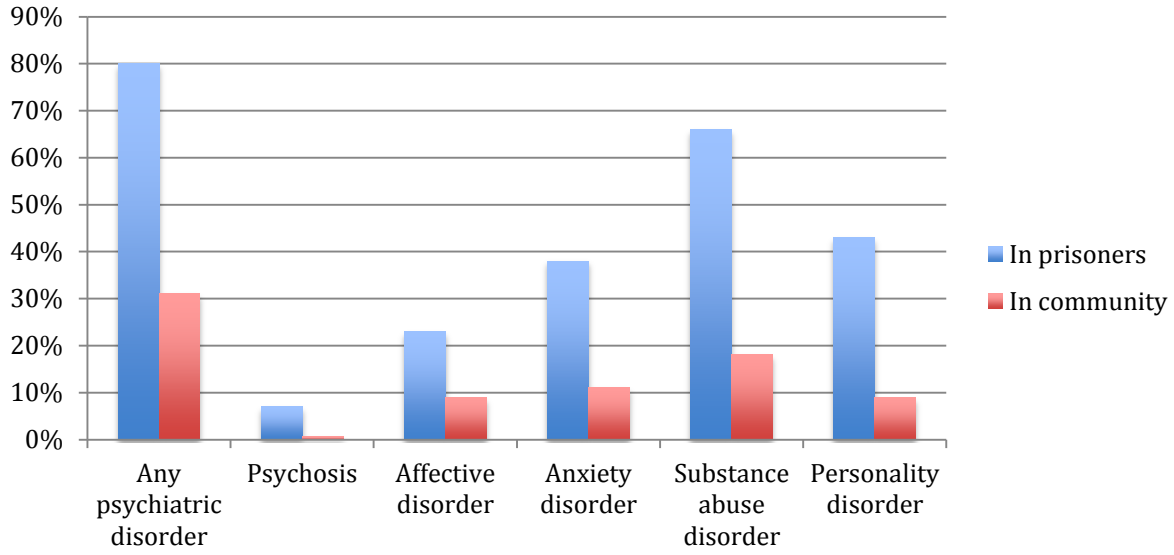
12. Regarding crime directly related to illicit drugs, the government's approach has generally been prohibitionist[v], that is, use, possession and trafficking are criminalised. There is an emphasis on retribution which manifests itself in immediate jail terms and high rates of incarceration. Changes to Victorian sentencing legislation have included the introduction of mandatory sentencing and the withdrawal of home detention; changes to parole have seen the denial rate of parole increase by 44%, revoked parole increased by 41% and the number of people on parole down by 22%[vi]. In 2010, 10.2% of sentenced prisoners had a drug defined crime as the most serious offence for which they were imprisoned (up from 9.2% in 1992). Before entering prison up to 80% of inmates are estimated to be dependent on alcohol, cannabis or amphetamine[vii]. In the 2009 NSW Inmate Health Survey, some 86% of prisoners reported using illicit drugs in the twelve months prior to incarceration, 44% reported using illicit drugs on a daily basis prior to imprisonment, 43% reported using illicit drugs in prison[viii] and 62% of people arrested by police tested positive to illicit drugs in 2010[ix].

13. The Australian government spends 75% of the funds allocated to preventing and responding to illicit drugs on law enforcement[x], (this includes prisons, policing and, criminal proceedings et al) and yet there is little evidence to suggest that the spending reduces crime and illegal drug related activity. In contrast, only 7% of the funding for illicit drugs rehabilitation is directed towards substance abuse treatment[xi].

14. In general, in correctional facilities Australia wide, few resources are devoted to evaluation of program effectiveness. Data availability, quality and consistency are poor. Prison records are not shared between states nor between juvenile and adult systems within states. There is limited cross-over in data collection and availability between other government services; for example police, courts, health and social services. There is no tracking of prisoners through the system and post release, other than if they are re-imprisoned. Despite the importance that recidivism has on high imprisonment rates, the measurements that policy makers apply often bear little resemblance to what researchers measure[xii].

15. High rates of mental illness, mental impairment and disability are found in prisons. More than one third of people in prison face mental health issues with this figure rising to 80% in the juvenile justice system.[xiii] 42% of people in prison have acquired brain injury compared to 2% of the general population[xiv]

**Figure 4 - Comparative prevalence of psychiatric disorders of people in prison and in the community (NSW) [xv]**




16. Recidivism rates indicate that incarceration is an ineffective long term rehabilitative solution; evidence shows that the recovery programs within the prison systems are generally underfunded and inappropriate to the diverse range of prisoner needs[xvi]. A disproportionately high number of those returning to prison report substance abuse and addiction issues. 80% of male and 90% of female recidivists report that they have a pre-existing drug problem[xvii]. Two thirds of all first time offenders entering the Victorian Criminal Justice System reported 'a history of substance use that is directly related to their offending behaviour'[xviii].

17. As indicated above, incarceration is expensive – current daily rates in juvenile justice are reaching $500; annual containment for a male prisoner is approximately $100,000 and for a female the annual rate is even greater.[xix] A potentially more effective strategy would be to redirect these financial resources to programs that address the underlying causes of offending including substance abuse and addiction issues which, in turn, have the potential to reduce recidivism rates.

18. Rehabilitation and recovery programs are crucial components in reducing (and ultimately ending) the cycle of substance abuse and addiction related issues. Addressing underlying social and economic factors that contribute to current recidivism rates is critical. Correlation between imprisonment rates, low socio economic background, family dysfunction and poor education illustrate that any solution invariably entails a multifaceted approach.

# A Potential Solution

19. The FSP model of care provides a multidisciplinary approach to rehabilitation and recovery. The model represents a justice reinvestment strategy[xx] whereby monies are directed into rehabilitative treatments and relapse prevention strategies. The objective is to reduce recidivism and associated costs of policing, court proceedings and incarceration.

## THE FSP MODEL

20. The FSP is reflective of a contemporary movement towards the development of a partnership between medical/health programs and legal services which is receiving growing international recognition. The movement recognises that effective legal advocacy has a positive impact on improving the health status of socially disadvantaged people[xxi].

21. Addressing mental health, substance abuse and addiction issues from both a legal and heath perspective acknowledges the complexity of clients' lives; that their problems are not single entities or even linear progressions[xxii] rather they are interconnected and complex. Anecdotal evidence shows effective legal representation reduces the stress and anxiety of criminal proceedings enabling a person to focus on their socio-medical treatment[xxiii].

22. The scope of the essential components of the FSP is broad and extends beyond the medico-legal elements to include psychological, social, mental health nursing and employment services.

23. The strength of the FSP's model comes from its comprehensive and multifaceted approach and the potential to create long term cost savings[xxiv] by reducing risk of re-lapse and re-offending. The not-for-profit component has enabled the development of the services to be driven by demand and need.

24. By seeking to improve the chances of successful clinical rehabilitative treatment of substance abusers, the FSLS aligns with the National Drug Strategy 2010-2015[xxv]. This strategy has as one of its pillars, Demand Reduction. Within this pillar it specifies objectives to: (i) support people to recover from dependence and reconnect with the community; and (ii) support the efforts to promote social inclusion and resilient individuals, families and communities[xxvi].

## THE FIRST STEP LEGAL SERVICE

25. The FSLS provides pro bono criminal law representation and operates as one of the many services within the FSP. To qualify for assistance FSLS clients must be:
    - 25.1 facing criminal proceedings
    - 25.2 intending to plead guilty to the offence
    - 25.3 currently engaged in rehabilitative treatment with the FSP

26. For people grappling with substance abuse issues, crime can become a way of funding their dependence. Substance abuse, mental health issues, disenfranchisement from family and community coupled with a lack of consequential thinking, often results in people feeling that they have little choice but to break the law. The crime they subsequently commit not only has an impact on the victim and the community but also on the offender as it is likely that their relationships, employment and health will suffer.

27. If a person receives appropriate support then they have the potential to successfully rehabilitate and a custodial sentence can often be avoided. If the process of rehabilitation is disrupted by criminal proceedings and under resourced legal representation, then the consequential increased stress levels and mental health issues may result in relapse and/or re-offending thus derailing the process of rehabilitation.

28. The underlying philosophy of the FSLS is to ensure that the process of rehabilitation is not impeded by incarceration. The aim is to break the cycle of substance abuse, crime and recidivism. The methodology of practice ensures that the clients are well informed and empowered by the process through a

triangular conferencing process between the lawyer, client and treating professional. The FSLS lawyers work closely with the FSP treating professionals (within the appropriate professional parameters pertaining to confidentiality and privacy). This has a number of benefits including:

28.1 enabling the lawyers to fully understand the process of rehabilitation

28.2 ensuring that the treating professionals are aware of the legal proceedings and the forthcoming hearing dates in order to provide additional support to the client if required

28.3 providing sufficient time for the preparation of reports and evidence to support sentencing submissions

**THE TOLL SECOND STEP PROGRAM**

29. The Toll Second Step Program (Toll SSP) is an employment program designed to provide opportunities to people who experience barriers to employment. This may include prior criminal offending, long-term unemployment, or history of addiction and substance abuse.

30. Several years ago Toll was approached by the FSP to provide financial support. However, both organisations soon realised that the partnership would also benefit from a comprehensive employment program. The result was that the Toll SSP was created.

31. The Toll SSP aims to assist the transition back into employment by providing:

31.1 real jobs,

31.2 access to support services to further rehabilitation,

31.3 mentoring,

31.4 flexibility to enable the time to re-engage with the 'normal' working world,

31.5 development or re-establishment of routines, habits and relationships to enable individuals to function and flourish in this environment,

31.6 acknowledgement and accommodation of past undesirable history, focusing on the participant's potential rather than their past,

31.7 establishment of partnerships with rehabilitation programs who have the expertise and experience to provide specific care and support required beyond the work place (eg FSP).

32. The Toll SSP draws on the expertise of the various partner programs (such as FSP) and community agencies to ensure that the participant has access to all necessary supports. Thus, the employer is in a position to concentrate on work related issues with the knowledge that the other components are being effectively managed. The interaction between employer and the partner program significantly reduces the risk of 'surprise issues' (such as relapse) and ensures effective case management, which, in turn, maximizes the potential for successful outcomes.

**33.** The Toll SSP currently assists approximately 45 people who are working in various jobs throughout Australia. The program has been operating for over 10 years and has been very successful to date.

# Does It Work? The Study

## BACKGROUND TO THE STUDY

34. In 2012 the FSLS undertook a survey of past clients to ascertain how many re-offended after their criminal law proceedings concluded. This was measured over a 12 month period from the final court hearing date sentencing outcome (FCHD) and again over a 24 month period. The further study reviewed these findings and included investigations over 36 and 48 months post the FCHD.

35. The theory of change was that providing legal services that included representation and legal advice in tandem with multidisciplinary rehabilitative treatment program would result in lower recidivism rates than would normally be expected in a group with similar characteristics.

## STUDY GROUP

36. As at the point of commencing the study, there were over 100 files opened by the FSLS since its inception in 2008. 74 cases were identified as relevant to the initial study group but this was later narrowed down to 67 cases involving 45 clients.

37. Of the remaining 67 cases, 56 cases involve clients with prior criminal histories and only 4 clients were not receiving treatment for mental health, psychological and/or social issues during the relevant period of the study.

38. The study did not include a control group.

## AIMS

39. The objectives of the evaluation were:

    Enquiry A: Compare recidivism rates for FSLP clients with rates of similar cohort.

    Enquiry B: Compare the treatment regime of the FSLS non recidivists with the FSLS recidivists to determine any patterns regarding levels and intensity of treatment.

    Enquiry C: Compare the levels of rehabilitative treatment of the FSLS recidivists to determine whether there are any changes in the treatment regime at the time of re-offending.

## ENQUIRY A: COMPARE RECIDIVISM RATES FOR FSLP CLIENTS WITH SIMILAR COHORT.

### METHOD
### (What we intended to do)

### Stage 1

40. Access all past files and record details of FSLS clients under the specified headings. Record the following data on the FSLS Development Project Longitudinal Statistics:
    - 40.1 Charges - the criminal charges relating to the relevant client.
    - 40.2 Priors - whether or not that client had been convicted of any prior offences and if so whether the nature and/or frequency of that offending made it minor, significant or extensive.
    - 40.3 Treatment - the number of rehabilitative treatment sessions the client engaged in over the 12 months preceding and following their FCHD and for the 24 month period following their FCHD. These columns are broken down into a further four columns relating to the professionals that they engaged with (social worker, psychologist, doctor and mental health nurse). The next column under the treatment heading is whether or not the client was engaged in rehabilitative treatment with an external clinician.
    - 40.4 Exceptional Circumstances - whether or not an application for Exceptional Circumstances was made and, if so, whether or not the application was accepted.
    - 40.5 Employment - whether or not the client was engaged in the Second Step Program and, if so,

whether or not they completed the program successfully.

40.6 Court Outcome - the sentencing disposition that was imposed by the court. The following are classifications of the sentencing outcomes.
a. Immediate Incarceration
b. Intensive Corrections Order
c. Community Corrections Order
d. Drug Treatment Order
e. Suspended Sentence
f. Young Offender Order
g. Community Based Order
h. Fine
i. Adjourned Undertaking with Conditions
j. Adjourned Undertaking without Conditions
k. Dismissal
l. Other

**Stage 2**

41. Attempt to contact all past clients and interview them in relation to specific issues (listed below) and record the data on the FSLS Development Project Longitudinal Table:
    - 41.1 Accommodation - with whom the client is living and whether or not this is stable.
    - 41.2 Financial Circumstances - whether the client has enough money to make ends meet and whether they are in any debt.
    - 41.3 Current Treatment - whether or not the client is receiving any rehabilitative treatment.
    - 41.4 Recidivism - whether or not the client re-offended after the FCHD and, if so, on what date/s.
    - 41.5 Employment - whether or not the client is employed and, if so, full time or part time.

**Stage 3**

42. Research recidivism rates for a similar category of offenders experiencing a combination of mental health and substance abuse/addiction issues.

**DEVELOPMENT PROJECT IMPLEMENTATION**
**(What we actually did)**

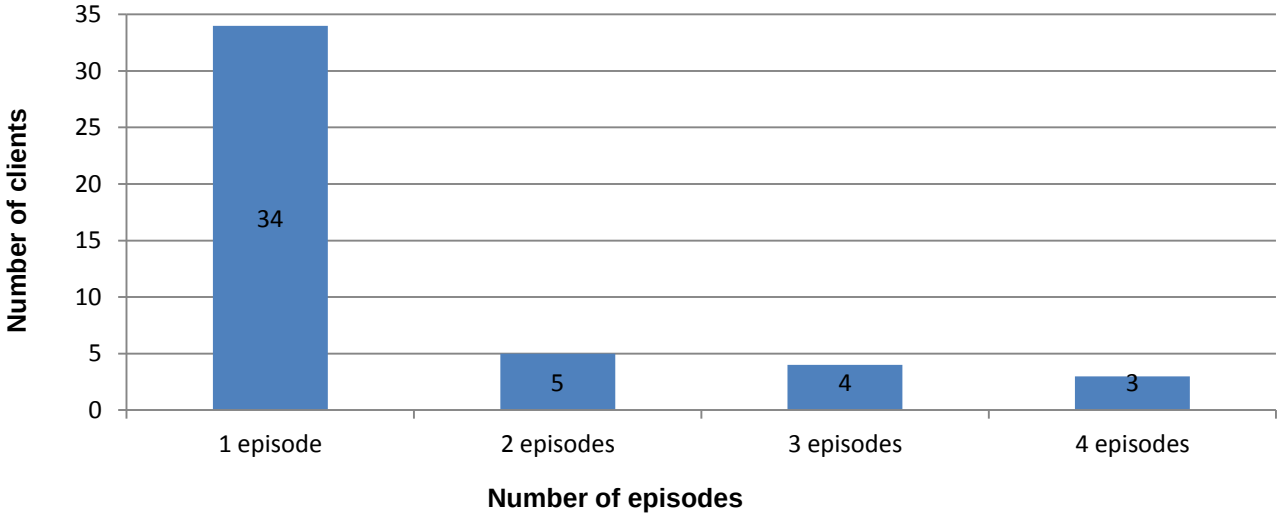
**Stage 1:**

43. The project commenced with location of all files stored in archive boxes. The maintenance of FSLS files complies with the requirements and standards determined by the National Association of Community Legal Centre (NACLC) National Accreditation Scheme and the NACLC Risk Management Guide (resulting in top tier accreditation for the FSLS). As a result, most information specified in Stage 1 of the Method was obtained and recorded on the FSLS Development Project Longitudinal Table. In certain cases, missing information was obtained through consultation with FSP treating professionals and the Toll Second Step Program Coordinator.

44. Many of the FSLS clients had only one episode of contact with the legal service. An episode is defined as a criminal law proceeding (or quasi criminal law proceeding such as an infringement matter or crimes family violence matter) in which the matter concludes with a final court hearing in the Victorian Courts (Magistrates' and County).

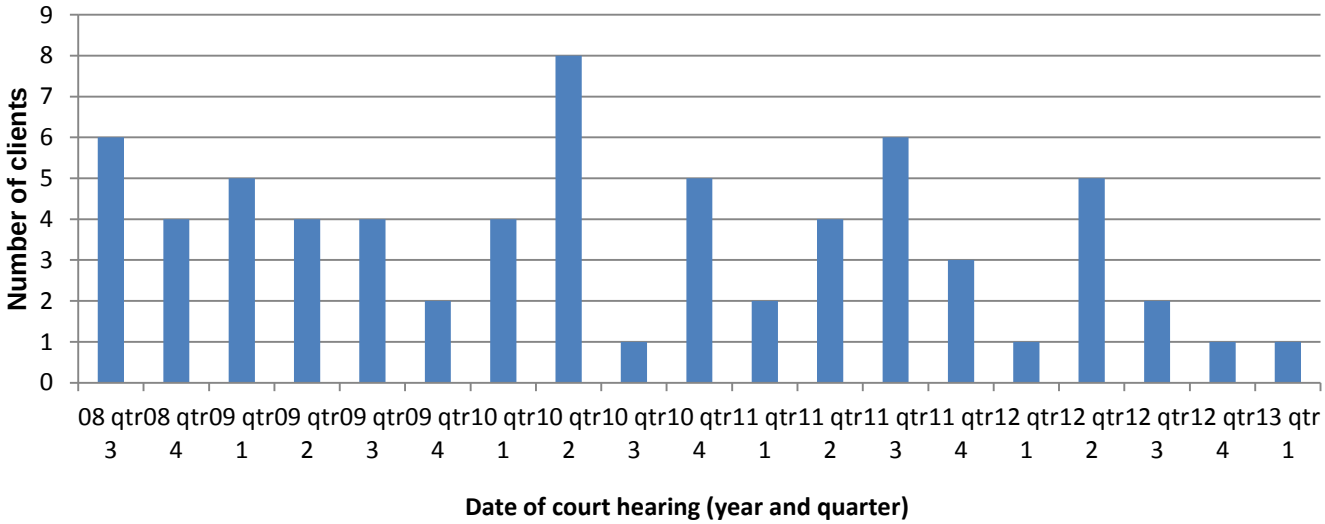
45. Figure 1 illustrates the number of clients of the FSLS that received 1-4 episodes of legal assistance. Most clients received one episode of assistance; however some have received up to 4.

**Figure 1: Distribution of number of episodes with FSLS**




46. The intake each year and episodes of contact have been relatively evenly distributed across time since the commencement of the FSLS in 2008. Approximately 15-20 clients have received legal assistance each year. The distribution of the FCHD for each client is shown in Figure 2.

**Figure 2: Distribution of final court dates for FSLS clients**

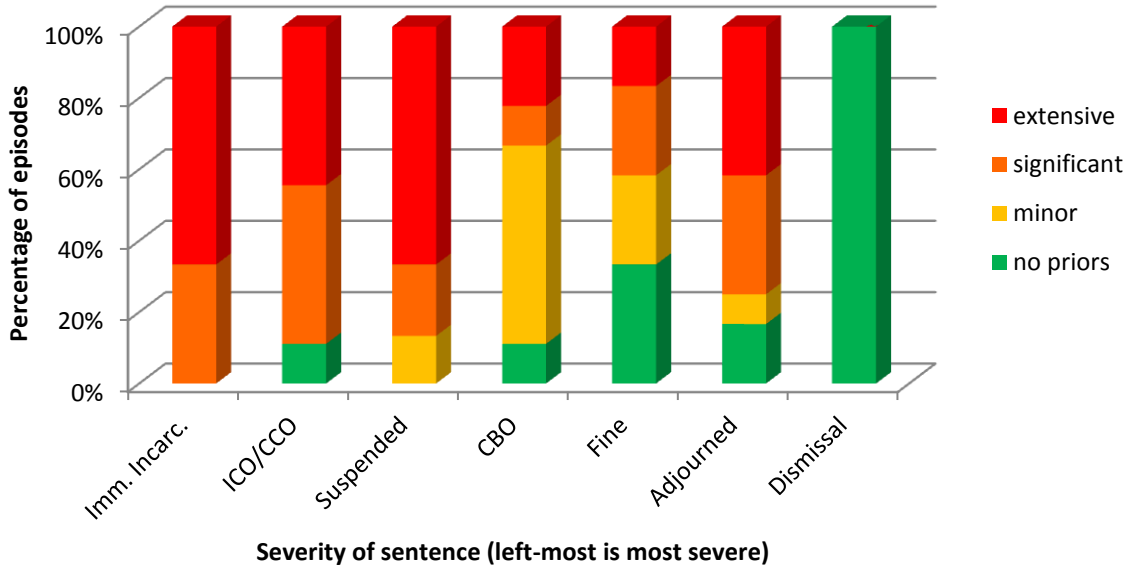



47. Given the general nature of the FSLS client demographic, it is not surprising that many of the clients have a relatively high number of priors. About 40% of the sample had five or more prior convictions, 60% had three or more prior convictions and only 20% had no priors at the time of presentation. Figure 3 shows a summary of the prior convictions. It is important to note that the table does not consider the severity of priors, thus priors may vary significantly in severity and therefore significance to the study.

**Figure 3: Court outcomes by extent of priors of FSLS clients (percentages) table**

| | | Extent of priors | | | | |
|---|---|---|---|---|---|---|
| | | no priors | Minor | significant | extensive | TOTAL |
| Sentence | Immediate incarceration | - | - | 33% | 67% | 100% |
| | ICO/CCO | 12% | - | 44% | 44% | 100% |
| | Suspended sentence | - | 13% | 20% | 67% | 100% |
| | Community Based Order | 11% | 56% | 11% | 22% | 100% |
| | Fine | 33% | 25% | 25% | 17% | 100% |
| | Adjourned undertaking | 17% | 8% | 33% | 42% | 100% |
| | Dismissal | 100% | - | - | - | 100% |
| | Other | 40% | - | 20% | 40% | 100% |

**Figure. 4 Court outcomes by extent of priors of FSLS clients chart**




48. Figure 4 presents the same information as figure 3, but in a visual format. Severity of sentence is a subjective scale from immediate *incarceration* (most severe) to *dismissal* (least severe). Through its use of colour grading (red equals extensive priors through to green equalling no priors) the graph shows a concentration of red and orange at the severe sentencing end (left) of the x-axis through to 100% green at the least severe sentencing end of the x-axis. This highlights a practically (if not statistically) significant positive correlation between extent of priors and severity of sentence. Such a correlation is to be expected.

**Stage 2:**

49. An attempt was made to contact all former and current FSLS clients to gather the information specified in Stage 2 of the Method. This process is referred to as the 'Client Follow up Program'. Whilst this was a new initiative for the purposes of the FSLS Development Project, it is a process that is considered valuable to the overall successful service provision of the FSP. It enables the collection of useful data. More importantly, it enables the FSLS to monitor the individual rehabilitative progress of each client periodically redirecting the clients back into rehabilitative treatment if they are struggling with relapse prevention. Alternatively, if clients are progressing well, their ongoing abstinence and successful rehabilitation can be celebrated.

50. A precedent was created to guide the interviewer regarding appropriate questions for the interview process. This precedent was deemed suitable after review by a select panel of FSP treating professionals.

51. From a total of 74 (Group A) successful contact was made with clients relating to 67 cases (Group B) (the study group – paragraphs 36-38). The data collected and collated from Group B forms the basis for the study and ultimate conclusions.

52. The average amount of time that files are open (from the initial consultation until the FCHD) is 156 days.

**Stage 3**

53. The research to determine an external comparative group for this study proved to be more difficult than expected. There has been very little research and evaluations conducted regarding recidivism rates in general and, in particular, for people experiencing these types of multidimensional problems that the FSP and FSLS clients experience, namely a combination of mental health conditions and substance abuse and addiction issues.

54. A reasonably comparable piece of research is the 2010 study carried out by the NSW Bureau of Crime Statistics and Research (the 2010 NSW Study).[xxvii] It analysed the recidivism rates of people in prison who had substance disorders, non-substance mental health disorders, no disorders and combined substance and non-substance mental health disorders.

55. The study revealed that the rates of recidivism for people with one identification were about the same for each, ie for people who had substance disorder, non-substance mental health disorder or no disorder. However, for people who had a combination of substance disorder and non-substance mental health disorders, the rate of recidivism was much greater.

56. The 2010 NSW Study found that for prisoners with comorbid substance and non-substance mental health disorders, the rate of reoffending within two years was 67%. Whereas, for those with either disorder or no disorder, the rate of recidivism was, on average, 51%[xxviii]. This represents a significant departure from the findings from the FSLS Development Project that found that the recidivism rates in the first 24 months after the final court hearing date were as low as 21% [unknown 6%].

57. While it is difficult to attribute the treatment offered by the FSP alone to these findings, the statistics are sufficiently contrasted to suggest that the FSP treatments have a positive contributing effect. The corollary of this is that, with effective treatment and rehabilitation, those facing a combination of mental health, substance abuse and addiction disorders may enjoy reduced recidivism rates.

**CHALLENGES:**

58. The process of data collection regarding details of the FSLS clients' cases and court outcomes was time consuming. However, it was forecasted that this would be a time intensive task. Most of the data was stored in the individual clients' FSLS files and easy to find given the high standard of file maintenance.

59. The main challenges related to accessibility of the former FSLS clients and the accuracy of their recollection of dates of further offending. Past files (dating back to 2008) contained out-dated contact details. Moreover, there was no record of next of kin or alternative contacts. As a result, 6 of the 74 FSLS clients were un-contactable and relevant information was not obtained. They were removed from the study.

60. In some cases, even when contact was successfully made, the clients were very poor historians and were unable to provide exact dates for their re-offending.

61. Whilst it is possible to speculate as to the success of the FSP model in relation to clients that didn't re-offend, or those who reoffended in a manner less serious or much less serious, it cannot be concluded absolutely. A randomised control group study will potentially produce a more accurate inquiry.

**RECOMMENDATIONS:**

62. The recommendations resulting from the challenges include:
    - 62.1 Editing the FSLS Client Intake Form to include several alternative contact details.
    - 62.2 Amending FSLS Authorities and FSLS Agreements to Commence Legal Proceedings to include clauses authorising access to Court details and prior criminal histories after cases have been finalised (perhaps limited to a specified period).
    - 62.3 Interviewing the FSLS clients more extensively to determine reasons for successful rehabilitation and any other external treatment that they have received.
    - 62.4 Amending the FSLS Agreement to Commence Legal Proceedings to include a paragraph which allows clients to opt out of 'follow up' procedures and evaluations should they not wish to be contacted after closure of their file.
    - 62.5 Continue to keep files well organised to ensure easy access to the information required for this type of study.
    - 62.6 Conducting a further study using a randomised control group.

**FINDINGS AND RESULTS**

63. At the completion of the data collection and recording on the FSLS Development Project Longitudinal Statistics Table, recidivism rates of the study group were recorded. The relevant measure was how many FSLS cases involved re-offending within the first 12 months and 24 months respectively of the final court hearing date (FCHD). See figure 5.The further study expanded this research to 36 and 48 months.

**Figure 5: Recidivism rates after the final court hearing date**

| | Within 12 months | | Between 12 and 24 months | | Between 24 and 36 months | | Between 36 and 48 months | |
|---|---|---|---|---|---|---|---|---|
| | 100% | 67 cases | 100% | 63 cases | 100% | 48 cases | 100% | 23 cases |
| Cases of Recidivism | 21% | 14 | 21% | 13 | 37% | 18 | 35% | 8 |
| Cases of non-recidivism | 76% | 51 | 73% | 46 | 46% | 22 | 39% | 9 |
| Unknown | 3% | 2 | 6% | 4 | 15% | 7 | 22% | 5 |
| Death | NIL | NIL | NIL | NIL | 2% | 1 | 4% | 1 |
| Not relevant | NIL | NIL | | 4 | | 19 | | 44 |

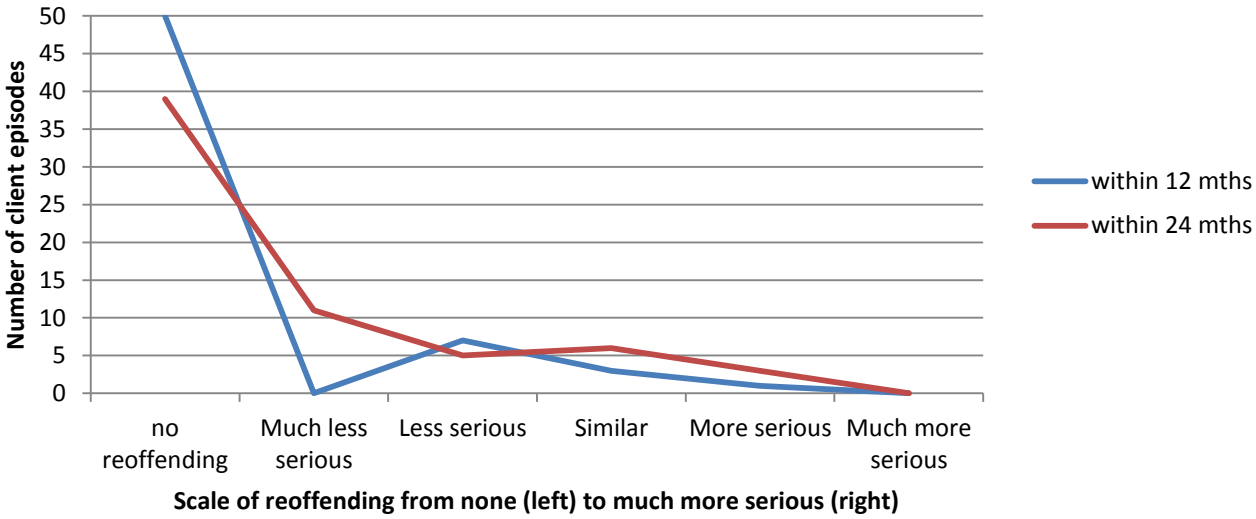
64. In addition, data was tabulated in relation to the severity of reoffending among those cases involving reoffending. See figure 6.

**Figure 6: Severity of reoffending (among cases involving reoffending)**

| | **Within 12 months** | | **Between 12 and 24 months** | | **Between 24 and 36 months** | | **Between 36 and 48 months** | |
|---|---|---|---|---|---|---|---|---|
| | **21%** | **14 cases** | **21%** | **13 cases** | **37%** | **18 cases** | **35%** | **8 cases** |
| Much less serious | 3% | 2 | 9.5% | 6 | 8% | 4 | 0% | 0 |
| Less serious | 7% | 5 | 5% | 3 | 17% | 8 | 17.5% | 4 |
| Similar | 6% | 4 | 5% | 3 | 10% | 5 | 13% | 3 |
| More serious | 3% | 2 | 1.5% | 1 | 2% | 1 | 4.5% | 1 |
| Much more serious | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 0 |
| Unknown | 2% | 1 | 0% | 0 | 0% | 0 | 0% | 0 |

65. Those two sets of data (rate and nature of reoffending) can be examined simultaneously in figure 7.

**Figure 7. Comparison of reoffending patterns at 12 and 24 months**




66. This graph demonstrates a reduction in frequency reoffending (or lack thereof) for both the first twelve months period and further twenty-four month period as the graph moves from 'no reoffending' on the left of the x-axis scale to 'much more serious' reoffending on the right.

67. In the first twelve month period after the FCHD, there were fourteen (21%) cases involving recidivism. Seven (10%) cases involved commission of offences that were considered to be less serious or much less serious than the offences dealt with by the FSLS at the FCHD ('the FCHD offences'). Four (6%) cases involved offences that were similar and two (3%) cases involved offending that was more serious.

68. Therefore, of the total study group of sixty-seven cases, fourteen (21%) involved re-offending, however, only six (9%) cases involved offending in a manner that was similar or more serious to the FCHD offences. That is, 86% of the study group exhibited improvement in their overall offending behaviour (3% were unknown).

69. Recidivism rates were also tabled for the period between twelve and twenty-four months from the FCHD. For this measure, the number of cases relevant to the study was sixty-three. The re-offending number remained much the same, namely thirteen (21%) cases.

70. Of these thirteen (21%) cases, nine cases (14.5%) involved commission of offences that were either much less serious or less serious than the FCHD offences. Only four (6.5%) cases involved further offending of a similar or more serious nature.

71. The next period measured was between twenty-four and thirty-six months. There were forty-eight cases assessed over this period. There was a significant increase of recidivism - eighteen (37%) cases. However, of those 18 cases, only six (12%) involved offending in a manner similar or more serious to the FCHD offences.

72. The final period was measured between thirty-six and forty-eight months. This group was very small – only twenty-three cases were assessed. Four (17.5%) of these involved offending that was similar or more serious to the FCHD offences. A large portion of this group was classified as unknown.

73. It is crucial to distinguish between the severities of events which constitute indicators of recidivism as not all re-offending is necessarily relevant[xxix], for example a minor traffic offence will skew results and does not reflect that rehabilitation has not been successful. The methods employed to measure

frequency and nature of re-offending will have implications for understanding their re-offending[xxx]. Despite this, the results are still very positive.

## ENQUIRY B: COMPARE FSP TREATMENT REGIME OF THE FSLS NON RECIDIVISTS WITH THE FSLS RECIDIVISTS TO DETERMINE ANY PATTERNS REGARDING LEVELS AND INTENSITY OF TREATMENT.

### METHOD
### (What we intended to do)

**Stage 1**

74. Create rehabilitative treatment chronology tables for all FSLS clients detailing the type of rehabilitative treatment received and the dates on which it was provided and map the date of re-offending.

**Stage 2**

75. Compare the amount of rehabilitative treatment received by the FSLS clients who:
    - 75.1 Did not offend
    - 75.2 Offended in a much less serious manner
    - 75.3 Offended in a less serious manner
    - 75.4 Offended in a similar manner
    - 75.5 Offended in a more serious manner

76. Compare the findings to determine if the rehabilitative treatment received was more regular and intensive for the FSLS clients that didn't re-offend or offended in a less serious or much less serious manner when compared to the FSLS that offended in a similar or more serious manner.

### DEVELOPMENT PROJECT IMPLEMENTATION
### (What we actually did)

**Stage 1**

77. Due to the policies and procedures in place at the FSP in relation to privacy and confidentiality, the FSLS staff members are not permitted to have general access to any rehabilitative treatment information relating to the FSP participants unless the participant is a FSLS clients and relevant authority is provided.

78. This includes any information regarding medical, psychological, psychiatric, mental health or specialist treatment that is recorded and stored on Medical Director (the FSP data base). Therefore, written requests for information were required in order to obtain rehabilitative treatment histories and this information was only accessible on the basis of pre-existing authorities on the files.

79. Once this information was received, individual rehabilitative treatment chronology tables were created for each FSLS client included in the study group. This involved documentation of every available recorded treatment, including name of practitioner and their expertise. The original offending dates, the FCHD dates and the dates on which the individuals re-offended were interposed on these tables.

**Stage 2**

80. A comparison was conducted to determine any patterns between the rehabilitative treatment regimens available to the non-recidivists when compared to the rehabilitative treatment regimens accessed by the recidivists. The comparison analysed both the timing and intensity of the rehabilitative treatment in relation to the further offending.

### CHALLENGES:

81. Difficulties were encountered during the collection of data relating to the frequency of treatment session. In the earlier years of the FSP, two of the more significant treating professionals did not keep accurate records within the FSP database regarding their sessions with clients. Their records were kept within external databases or within their own personal databases. This was particularly challenging given that one of the relevant professionals was no longer employed by the FSP.

82. Not having records of treatment sessions within a central database is highly problematic for several reasons beyond evaluation of the FSLS. However, for the purposes of the evaluation, the records were updated and the project accuracy was not compromised. Suffice to say, this caused unnecessary delays.

83. Further, the sample was comprised of just 67 cases. This is a relatively small sample size.

**RECOMMENDATIONS:**

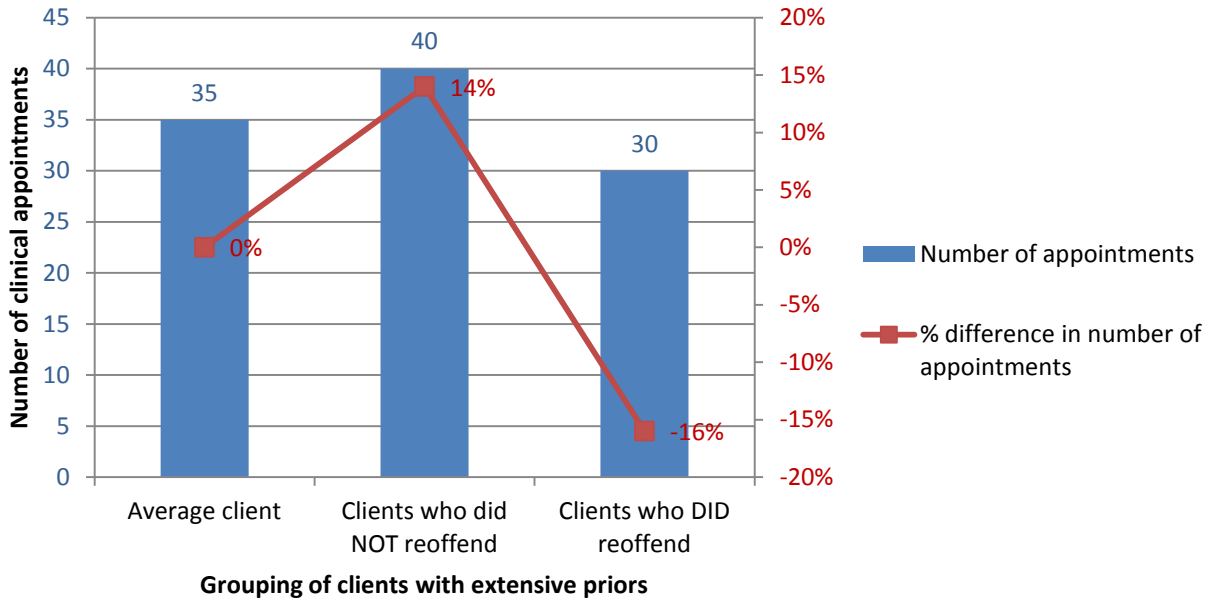
84. The FSP practices have evolved and policies have been implemented to ensure strict adherence to procedures regarding recording of client treatment details within the central database. This is being complied with - at the time of the report.

85. In relation to the sample size, it is recommended that a further study be conducted with a larger group incorporating a randomised control group.

**FINDINGS AND RESULTS**

86. There is small discernible difference between the regularity and intensity of rehabilitative treatment received by the FSLS cases involving recidivists when compared with the rehabilitative treatment regimens of the non-recidivists or those that offended in a less serious or much less serious manner, as represented in Figure 8.

**Figure 8: Number (or percentage difference) of clinical appointments within 12 months of final court date for all clients episodes with EXTENSIVE priors**




87. Figure 8 shows the number of cases in which clients with extensive priors did **not** reoffend within 12 months accessed (on average) more treatment (40 consultations) than those with extensive priors who **did** reoffend (30 consultations). The cases involving 'non-reoffending extensive priors' clients had 30% more consultations than the 'offending extensive priors' clients. Therefore, there is a positive correlation

between the rate of recidivism of people with extensive prior offences and the number of rehabilitative consultations received.

## ENQUIRY C: COMPARE THE LEVELS OF REHABILITATIVE TREATMENT OF THE FSLS RECIDIVISTS TO DETERMINE WHETHER THERE ARE ANY CHANGES IN THE TREATMENT REGIME AT THE TIME OF RE-OFFENDING.

### METHOD
### (What we intended to do)

**Stage 1**

88. Identify the recidivists that re-offended within 12 months and 24 months after the FCHD. Consult the individual rehabilitative treatment chronology tables and observe whether there is any pattern between the rehabilitative treatment received by the recidivists during the first 12 months and 24 months and the date of the re-offending for each individual.

### DEVELOPMENT PROJECT IMPLEMENTATION
### (What we actually did)

**Stage 1**

89. The recidivists were identified and the individual rehabilitative treatment chronology tables were analysed at the two intervals.

90. Observations were made and tabled regarding the timing of the recidivism within the context of the treatment program. There were three basic categories:

    90.1 No discernible reason (this means that there is no obvious change in the treatment regime at the time of the recidivism)
    90.2 Disengaged with treatment (stopped treatment at the FSP prior to the offending)
    90.3 Disengaged with regular treatment (significantly reduction in attendances for treatment at the FSP)

### CHALLENGES

91. The main challenges and recommendations related to similar issues detailed at paragraph 73-77. Additional challenges included the small numbers and failure to interview the FSP client regarding other services and programs that the clients were participating in and receiving support from.

### FINDINGS AND RESULTS

92. Examination of the dates and intensity of rehabilitative treatment over the 12 month period post FCHD represented in Figure 9 reveals a slight correlation between the timing of the recidivism and the absence or reduction in intensity/regularity of the rehabilitative treatment for the majority of FSLS clients. 6 of the 8 FSLS cases involved clients that had disengaged with rehabilitative treatment or lessened the regularity and intensity of that treatment. However, the numbers are very small.

**Figure 9: Individual Recidivism and Rehabilitative Treatment Comparison for the Cases Involving Recidivism over the First 12 months after the FCHD**

| Client Number | Discernible reasons | Type of re-offending |
|---|---|---|
| FSLS 1 (9:41) | Disengaged with treatment | Similar |
| FSLS 2 (8:07b) | Disengaged with treatment | Less serious |
| FSLS 3 (8:07) | Disengaged with treatment | Less serious |
| FSLS 4 (10:58) | No discernible reason | Similar |

| | | |
|---|---|---|
| FSLS 5 (12:91) | Disengagement with regular treatment | Less serious |
| FSLS 6 (11:59) | Disengagement with regular treatment | Less serious |
| FSLS 7 (9:19) | Disengaged with treatment | Similar |
| FSLS 8 (11:60) | No discernible reason | Less serious |

93. Examination of the dates and intensity of rehabilitative treatment over the 24 month period post FCHD represented in Figure 10 reveals that 10 of the 19 cases in which recidivism occurred involve disengagement with the First Step Program, change in their treatment, or significantly reduced intensity and regularity of treatment.

94. Interestingly, of the remaining 9 (where there no discernible changes observed in their treatment), many re-offended by committing much less serious offences compared with the offences the subject of the FCHD.

95. Due to a lack of resources, a comprehensive 'Client Follow Up' procedure has not been implemented within the FSP (although the program has been designed and a corresponding policy has been written and approved). These findings (albeit too small to draw decisive conclusions) show some initial support for the development of this process.

**Figure 10: Individual Recidivism and Rehabilitative Treatment Comparison Over the First 24 months after the FCHD**

| Client Number | Discernible reasons | Type of re-offending |
|---|---|---|
| FSLS 1 (9:37) | No discernible reason | Less serious |
| FSLS 2 (10:47) | Change in treating professional | Less serious |
| FSLS 3 (10:52) | Disengaged with treatment | Similar |
| FSLS 4 (9:41) | Disengaged with treatment | Similar |
| FSLS 5 (9:36) | Disengaged with regular treatment | Less serious |
| FSLS 6 (10:45) | Disengaged with regular treatment | Much less serious |
| FSLS 7 (8:07b) | Disengaged with regular treatment | Less serious |
| FSLS 8 (8:07) | Disengaged with regular treatment | Less serious |
| FSLS 9 (11:65) | Disengaged with regular treatment | Much less serious |
| FSLS 10 (9:42) | No discernible reason | Much less serious |
| FSLS 11 (9:28) | No discernible reason | Similar |
| FSLS 12 (9:39) | No discernible reason | Much less serious |
| FSLS 13 (10:51) | No discernible reason | Much less serious |
| FSLS 14 (9:31) | Disengaged with treatment | Less serious |
| FSLS 15 (9:19) | Disengaged with treatment | Much less serious |
| FSLS 16 (8:11) | No discernible reason | Much less serious |
| FSLS 17 (10:57) | No discernible reason | Much less serious |
| FSLS 18 (11:60) | No discernible reason | Much less serious |
| FSLS 19 (9:35) | No discernible reason | Much less serious |

## FURTHER DEVELOPMENTS

96. All of the recommendations that were made during the course of the study (and reported in the FSLS Development Project Quarterly Reports) have been adopted and FSLS practices modified to ensure that the next study produces more accurate and detailed information. Data relating to the past clients of the FSLS was not historically gathered in a regular or comprehensive way until the FSLS Development Project commenced in 2012. As a result of this study, the FSLS has implemented improved practices and procedures. In addition, practices within the FSP have been reviewed and improved.

97. It is clear that the development of the FSLS and the overall wellbeing of the FSLS clients would benefit from an ongoing annual evaluation. This will be a focus for the next funding review and findings will be presented to the FSP Funding and Marketing Subcommittee and the FSP Board.

## ADDITIONAL FINDINGS

### SENTENCING DISPOSITIONS FOR CLIENTS OF THE FSLS

98. Given that one of the primary objectives of the FSLS is to achieve sentencing dispositions at the FCHD which allow for the continuation of treatment and rehabilitation, it is worth noting that only two FSLS clients in the history of the operation of the FSLS have received sentences of immediate incarceration. The most common outcomes achieved for clients were suspended sentences, community based orders and fines. Figure 11 shows the court outcomes that were obtained.

99. In addition, it should be noted that one of these FSLS clients received two sentences within a very short period and the terms of imprisonment were ordered to be served concurrently. Thus, it did not constitute further offending and was therefore classified as forming part of the same period of offending.

**Figure 11: Dispositions at Final Court Hearing Date**

| Court outcome | Number | (%) |
|---|---|---|
| Immediate incarceration - record a conviction and order that the offender serve a term of imprisonment. Although the total number is 3, 2 of the 3 terms of imprisonment were incurred over a short space of time for the same FSLS client and did not result from further offending, it was ordered to be served concurrently. | 3 | (4.5%) |
| ICO - record a conviction and order that the offender serve a term of imprisonment | 7 | (10.4%) |
| CCO - record a conviction and order that the offender serve a term of imprisonment | 2 | (3.0%) |
| Suspended - record a conviction and order that the offender serve a term of imprisonment that is suspended by it wholly or partly | 15 | (22.4%) |
| Community Based Order - with or without recording a conviction, make a community correction order in respect of the offender | 10 | (14.9%) |
| Fine - with or without recording a conviction, order the offender to pay a fine | 12 | (17.9%) |
| Adjourned undertaking with conviction- record a conviction and order the release of the offender on the adjournment of the hearing on conditions | 4 | (6.0%) |
| Adjourned undertaking without conviction- without recording a conviction, order the release of the offender on the adjournment of the hearing on conditions | 8 | (11.9%) |
| Dismissal without recording a conviction - order the dismissal of the charge for the offence | 1 | (1.5%) |
| Other - impose any other sentence or make any order that is authorised by this or any other Act | 1 | (1.5%) |
| Not classified | 4 | (6%) |
| **TOTAL** | **67** | **(100%)** |

# Conclusions

## CONCLUSIONS

100. Enquiry A revealed that 79.4% of the study group did not re-offend in the first twelve months after the FCHD and 5.9% re-offended in a less serious manner. 4.4% offended in a similar manner and 1.5% offended in a more serious manner.

101. Over a twenty-four month period, 60.3% of the study group did not re-offend. 19.4% offended in a less serious or much less serious manner. 10.4% offended in a similar or more serious manner.

102. Over the further study period of thirty-six and forty-eighth months, there was a significant increase in the recidivism rates when compared to the twelve month and twenty-four month periods. Whilst not conclusive, these findings support the introduction of a structured 'Case Management and Follow Up' Program to ensure that FSLS clients are provided with ongoing support subsequent to the FCHD.

103. As indicated earlier, the 2010 NSW Study found that generally recidivism rates within two years of release are about 40%, but higher for people with comorbid substance abuse issues and mental health issues - approximately 67%. Almost all of the cases included in the study involved clients requiring treatment for both mental health issues and substance abuse conditions (64 cases out of 67).

104. Before contact with the FSLS, the majority of the non-recidivists previously reoffended, some on multiple occasions. Therefore, by impacting on the rate of the multi recidivists, the FSLS has a disproportionally high impact on the general rate (albeit small numbers). As a result, there is a flow on effect to incarceration rates, criminal justice costs, policing costs and community wellbeing.

105. Enquiry B revealed that the FSLS non recidivists over the relevant period appeared to generally access more intensive rehabilitative treatments than those FSLS clients that did re-offend. For example, the cases involving 'non-recidivists extensive priors' clients revealed access to 30% more consultations than the 'offending extensive priors' cases.

106. Enquiry C provided a mechanism to analyse the rehabilitative treatments accessed by the FSLS recidivists to determine any disengagement by the FSLS client's prior to the recidivism. This type of study would benefit from a more extensive study group and further interviews with clients to produce more accurate conclusions. However, early indications illustrate that the some of FSLS clients that re-offended had already disengaged with the FSP prior to offending or reduced their access to FSP treatment. Those cases where there was no discernible difference in their treatment regime, usually offended in a manner that was much less serious.

107. A large majority (96%) of FSLS cases received dispositions other than immediate custody, thus enabling them to remain in the community and continue with treatment if so desired.

108. The FSLS Development Project has created valuable data and findings to advocate for:

- 108.1 the expansion of the FSLS and current FSP services,
- 108.2 the introduction 'Client Follow Up' and case management programs for participants of the FSP,
- 108.3 the continuation of an annual FSLS evaluation,
- 108.4 the introduction of further evaluations for the other FSP services (Medical, Psychological, Mental Health, Hepatitis C).

109. The project is a worthy prequel to a more detailed evaluation involving larger numbers and a randomised control group. This would assist to determine the actual, rather than speculative, causal connections between rehabilitative treatments and reduced recidivism rates.

110. The results of the FSLS Development Project will be shared at conferences, stakeholder committee meetings and sector development conferences (et al) to promote the importance of similar evaluations.

111. Studies, such as the present one, are necessary to strengthen the argument for law reform and policy development in relation to the rehabilitative treatment of those suffering from substance abuse and addiction issues. For too long, these matters have fallen into the realm of justice, corrections and incarceration, when, as the current study illustrates, effective rehabilitative treatment that addresses health and socio economic issues can be a lot more beneficial to the overall aim of reducing recidivism. The corollary of this is that, the person who has successfully undergone treatment will have enhanced prospects of rehabilitation, their family will be spared the trauma and stress of the ongoing dysfunction and society will reap the benefits of a functional contributing community member.

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