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Investigating therapeutic courts in the USA.

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| 1. Precis and Acknowledgement                           | 4 |
| 2. Introduction                                        | 5 |
| 3. Scenes from an Italian Restaurant                   | 6 |
| 4. The Courts and Crime in New York City              | 9 |
| 5. The Schedule                                       | 11|
| 6. What is Problem-Solving Justice?                   | 14|
| 7. The Practice – A Red Hook Story                    | 16|
| 8. The Practice – A Brooklyn Story                     | 19|
| 9. Problems with Problem-Solving Justice              | 20|
| 10. Conclusion                                        | 21|
| 11. Recommendations                                    | 23|
1. Precis and Acknowledgements

This report details findings from a 2007 Churchill Fellowship visit to New York City. The report relates to the benefits of problem-solving justice initiatives in curtailing criminal behaviour through court-imposed interventions, while at the same time reconciling justice for the victim and the community.

This report is the culmination of research, invaluable experiences and the support of many individuals and organisations that have greatly assisted in informing a better understanding of problem-solving justice initiatives and what they may mean in an Australian context.

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2. Introduction

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My area of interest in pursuing the fellowship was defined by a number of experiences emanating out a long history working within a number of social justice landscapes, in particular my experiences as a lawyer working in the criminal courts.

From my experience, Courts traditionally aren’t places that are associated with coercing change for the better in the life of the offender, victim and community. Their adversarial nature, exacerbated by their disconnection with the wider community, has led to courts becoming removed from the central principles of criminal justice administration, that being to rehabilitate the offender, consider the victim and protect the community from further offending.

Paradoxically, it is the case that on most occasions in the life of a criminal defendant there are precipitating factors that have induced the criminal behaviour in the first place, and quite often the interventions imposed by the court in response do not address these factors. Consequently, the offending continues and the community suffers. As a criminal lawyer, you witness this pantomime day in and day out, the same faces being recycled amid a batch of fresh ones, all journeying together towards this flawed notion of rehabilitation, followed by a procession of loved-ones all caught in the cross-fire of wayward social behaviour, addiction and violence. And of course, it sadly incubates a new generation of dysfunctional behaviour.

The great promise of problem-solving justice is that at first instance it recognises the pantomime and questions how the court venue can encourage a different type of theatre. Quite simply, it suggests that if we wish to effect real change in the life of offenders, victims and communities, courts must metamorphose into a venue that combines a hybrid of justice administration and support services that together combine holistic solutions that induce different experiences for offenders and their band of followers.

The Churchill Fellowship allowed me the opportunity to witness the manifestation of a new type of court and ponder its wider applicability in the Australian landscape.
3. Scenes from an Italian Restaurant

Today, New York City is one of the World's safest cities. Midtown Community Court Judge Richard Weinberg and I had lunch at one of his favourite Italian restaurants on 9th Avenue, West 54th Street. He spoke of the decaying nature of the neighbourhood some 15 years ago, pointing out sites that once harbored overt drug abuse and supply, prostitution, skullduggery and sheer mayhem.

“If you and I were here 15 years ago, we wouldn’t be safe,” he nostalgically observes through the window.

It’s difficult to pin-point one prescriptive reason that New York City is the way it is today. Under the tenure of ex-New York City Mayor David Dinkins in the the early 1990’s was the "Safe Streets, Safe City" initiative that in a practical sense pushed 12,000 police onto the streets. The massive influx of police coincided with the existing Rockefeller reforms. The Rockefeller Drug Laws, passed in 1973 by then-Governor Nelson Rockefeller, were the first of their kind in the U.S. They mandated stiff mandatory minimum sentences for low-level drug offenses, putting Gov. Rockefeller squarely in the "tough on crime" camp in preparation for his presidential run. Whilst the laws were long in existence prior to Dinkin's intervention, it has been suggested that the sheer increase in police numbers on the streets of New York City resulted in many offenders being incarcerated for lengthy periods of time, 92 percent of them black and Latino. Emanating out of the extraordinarily high incarceration of people during the 70's and 80's, some theorists opine that New York’s present state of grace has resulted from the inability of those long imprisoned to instigate the next generation of potential offenders. That is to say, that there may exist an empirical relationship between the large number of offenders during these years who were incarcerated and by their imprisonment, a consequent inability to breed children into a dysfunctional environment, thus leading to a reduction of crime over coming years.

Following Dinkins's demise to Rudy Giuliani in 1993, Giuliani followed suit with the "tough on crime" mandate, continuing with zero tolerance and aiming his target most notably to offences relating to public spaces. This approach was certainly not new and in fact formed the basis of an essay in The Atlantic Monthly in March 1982 by George Kelling and James Q Wilson. The essay later became the blueprint of a book titled, "Fixing Broken Windows - Restoring Order and Reducing Crimes in our Communities," by the same authors. Emanating from this experience, was the instigation of problem-solving justice initiatives. In 1993, the Midtown Community Court
Court, an official branch of the New York State Court started to respond to such low level crime in the most innovative way. The Court’s operational objectives were and still are to provide swift justice, to make justice visible in the community where the crimes are committed, to marshal the energy of residents, organisations and businesses to proactively engage in developing community service and social service projects and to demonstrate, that communities are victimised by "quality of life" offences. Quality of Life crimes are best categorised in our terminology as summary offences and those lesser offences under the Drugs Misuse Act (QLD)1986.

Through the court’s intervention, in particular its partnership with organisations willing and able to facilitate programs to sharply correlate to the offender the relationship between crime and the impact it has on the community, the Midtown Community Court is substantially curtailing recidivism within this cohort. It is reported that recidivism generally within this court is as low as 15% despite some 18,000 cases that are pushed through the court annually. Another stark feature of the Midtown approach, is that community service and programs that accentuate the offence and its impact upon the community are instigated on the same day as sentence, thus minimising lack of compliance. For example, whilst a public nuisance charge may commonly result in a fine in our Magistrates Court, in Midtown, the offender may be required to attend a one hour “Quality of Life,” program that points out how the public’s quality of life is impacted upon by such offending. In addition to the program, the offender may be compelled to perform community service. In ensuring the punishment’s best rehabilitative effect, the community service is tailored to replicate the net result of such offending. For example, the offender in the case of a public nuisance charge, may be required to clean down the footpaths outside a number of hotels to reinforce the link between the offence and the impact upon the community.

Walking back with Judge Weinberg after lunch, amid the constant revitalization and gentrification of the neighborhood which some say is yet another factor in the reduction of crime, you cannot help see the success of the convergence of factors that have led to such a wonderful metamorphosis of the city. In January 2008 New York City reported its lowest murder rate since 1962, with other offences pegging similarly.

However it cannot be ignored that underlying the convergence of these collective interventions there is a strong sense that there is another cost that the community
had to bear to witness the extraordinary downturn in crime. In particular, the Rockefeller reforms are presently on the nose, zero tolerance under scrutiny amid a prison population out of control and a swelling of homelessness. But given America's long history of somewhat evangelical consideration of criminal justice (look no further than Nixon, Reagan, Bush and Clinton), you would have to be doubtful that much will change. And of course, when the results reveal themselves as spectacularly as they have in New York City, there is probably not too much political impetus to change the furniture. And from the serenity and sugar-coating of 9th Avenue, West 54th Street and recollections of what it once looked like, the complexity of the matter is blatantly obvious.

A New York Graffiti Artist's take on gentrification
4. The Courts and Crime in New York City

Over the years, courts have increasingly become process focused. The sheer volume of matters that courts are expected to deal with has led to a pre-occupation with process efficiencies, as opposed to outcomes. Whilst such efficiencies are of vital concern to the proper and effective management of matters that are brought before the court, there are also societal outcomes that need to be reconciled in the administration of justice, particularly criminal justice. The societal outcomes are primarily those of community concern, namely that the defendant in the case of criminal matters is punished, if there is a victim, that the victim feels satisfied in such punishment and in order to protect the community, the defendant is rehabilitated and as a result, the likelihood of re-offending is significantly minimised.

Obviously, while there may exist a pre-occupation with court efficiency, the wider and perhaps more important goal of sound holistic outcomes for the community are at risk of becoming forgotten or redundant in dispensing justice. An obvious indicator of such landscape are the copious amount of court annual reports that repetitiously make mention of numbers, but very rarely, if at all, make mention of recidivism or interventions that are seeking to protect the community by addressing the underlying causes of one’s criminal behavior. To this extent, not to downplay the importance of court efficiency, many would argue that our criminal justice system as it presently stands is failing societal expectations. In this respect, I am sure that many colleagues that practice within the criminal jurisdiction would stoically agree.

In encouraging a paradigm shift, strong consideration of the work being done by the international think-tank, the Centre for Court Innovation in New York City cannot be ignored. The centre’s work is internationally renowned and in recent times it has been awarded the Innovations in American Government Award from the Ford Foundation and Harvard University.

The Centre for Court Innovation was founded as a public/private partnership between the New York State Unified Court System and the Fund for New York City. Since 1993, the Centre for Court Innovation has instigated a plethora of Court demonstration projects including: -

- Community Courts;
- Domestic Violence Courts;
- Re-entry Courts;
• Drug Courts;
• Mental Health Courts;
• Youth Courts.

The Centre for Court Innovation presently operates more than a dozen demonstration projects in New York, each of which is experimenting with new court-imposed solutions to difficult social problems. Underpinning the work of the Centre for Court Innovation is the philosophy that courts should do more than simply process cases, it should actively participate in addressing the problems that lead people to court.
5. The Schedule

Week 1  Centre for Court Innovation Head Office – Manhattan

Week 2  Centre for Court Innovation Head Office – Manhattan

Week 3  Midtown Community Court – Manhattan

The Midtown Community Court was established in 1993 targeting quality-of-life offenses, such as prostitution, illegal vending, graffiti, shoplifting, fare beating and vandalism occurring in the Midtown area of Manhattan. The Court emanated out of a strong out-cry from local business owners, mostly theatre venues who were being economically disadvantaged due to an increase of crime in the area, that was ultimately dissuading theatre-goers away from off-broadway shows. Typically, Midtown Community Court sentences low-level offenders to pay back the neighborhood through community service, while at the same time addressing the causal issues that led to the offending behaviour. The Court incorporates a strong fabric of services that value-add to the relationship between court and offender, significantly bolstering holistic solutions.

Week 4  Red Hook Community Court – Red Hook, Brooklyn

Launched in June 2000, the Red Hook Community Justice Center was established in June 2000. The Court was the nation’s first multi-jurisdictional community court. Red-Hook Community Court operates out of a refurbished Catholic school in the heart of a low-income Brooklyn neighbourhood. The Centre is embedded within a local community that has had a long, strident reputation of being an over-laden drug-induced community with crime, domestic violence and landlord-tenant disputes being a common day occurrence. Accordingly, Red Hook Community Court straddles a number of areas of law including crime, family and civil with the predominant focus being to offer the offender customised and holistic solutions to their offending behaviour and the usual familial mayhem that coincides with it.
At his disposal, the Red Hook judge has an array of sanctions and services to offer defendants including community restitution projects, on-site educational workshops and educational classes, drug treatment and mental health counselling. The outstanding feature of the court, and most community courts generally is the vigorous monitoring that is coupled with the sanction to effectively ensure accountability.

Week 5

Brooklyn Mental Health Court – Brooklyn

The Brooklyn Mental Health Court is a specialized court part that seeks to craft a meaningful response to the problems posed by defendants with mental illness in the criminal justice system. Addressing both the treatment needs of defendants with mental illness and the public safety concerns of the community, the Mental Health Court uses the authority of the court to link defendants with serious and persistent mental illnesses (such as schizophrenia and bipolar disorder) who would ordinarily be jail- or prison-bound to long-term treatment as an alternative to incarceration. The Court aims to improve the court system’s ability to identify, assess, evaluate and monitor offenders with mental illness, create effective linkages between the criminal justice and mental health systems, and improve public safety by ensuring that participants receive high quality community-based services.

Week 6

Brooklyn Treatment Court – Brooklyn

The Brooklyn Treatment Court was established in 1996. Through a partnership with New York State Unified Court System, the court became New York’s first drug treatment court. Not to dissimilar to the operation of a Drug Court, the Treatment Court links nonviolent, substance-abusing defendants to drug treatment as an alternative to incarceration. Again, consistent with the methodology of community courts, judicial monitoring is embedded in practice to ensure full compliance with the court-imposed regime. To this extent, commonly
the Judge will use her coercive influence to keep participants on track, rewarding progress and imposing sanctions.

Week 7  
**Bronx Community Solutions – South Bronx**  

*Perhaps the grandest problem-solving venture in New York City, Bronx Community Solutions is an initiative that seeks to apply a problem-solving approach to non-violent cases in the Bronx. Its goal is to transition problem-solving justice tenets from specialised courts to traditional courts. Whilst Bronx Community Solutions predominant feature at this point in time is to assist the court system through offering defendants community service and educational interventions, Bronx Community Solutions is striving to encourage a huge judiciary to entertain punishment and help bilaterally.*

Week 8  
**Harlem Community Court – East Harlem**  

*The Harlem Community Justice Center seeks to solve civil disputes, predominantly those that emanate out of a landlord/tenant relationship. In addition, the court does tinker in relatively simplistic family law matters. The Court offers a number of services on-site, including programs to help local landlords and tenants resolve conflicts and access financial support; programs for at-risk youth, including a youth court; and reentry programs for both juvenile and adult ex-offenders returning to the community.*
6. What is Problem-Solving Justice?

Problem-solving justice is the idea that rather than simply processing cases, the justice system should seek to change the behaviour of offenders, aid victims, and improve public safety. It in fact embodies the very principles that underpin Section 9 of the Penalties and Sentences Act (QLD) 1992.

Drawing from the experiences of Community Courts operating in New York City, the Centre for Court Innovation found that it was typically the case that the cohort of offenders coming into contact with the criminal justice system were often recidivists who suffered from issues that precipitated their offending behaviour. Such issues ranged from abject poverty, substance abuse, mental illness, homeless and/or family fragmentation. The Centre for Court Innovation in its establishment of problem-solving Courts recognised the underpinning social issues influencing offending behaviour and consequently assembled a range of community services within their project courts to allow offenders to address those issues and in doing so, tailoring the Court’s judicial response to take into consideration of those issues and then draw upon the array of available resources to address the salient issues.

Thus, central to the principles of problem-orientated justice embedded within a community court is the notion that through collaboration with community organisations, the Court is better placed in prescribing more holistic outcomes for the offender, victim and community. In a practical sense, such holistic outcomes are commonly those that employ both a “punishment” and a “help” philosophy. For example, community courts often utilise sanctions that are coupled with assistance with the precipitating issues that have led to the offending. The court in this sense does not act as a welfare provider, but rather accentuates the relationship between the offending and the underpinning causal issues, while ramming home the ultimate court-imposed punishment as a tool to provoke a sense of accountability and willingness within the offender to address those issues.

There are a number of tenets that underpin problem-solving court practice:

- Information Enhancement
If Magistrates and/or Judges are provided with more complete and holistic information in relation to a defendant’s predicament, then the court is better equipped to package an intervention that may lead to a better outcome. Whilst the notion is remedial, but given the adversarial nature of courts and a focus on punishment, there is a practice of simply sentencing without proper regard to the wider picture of outcomes. That is to say, Magistrates and Judges that are provided with good and complete information of a defendant are beholden to institute sentences that are somewhat tailor-made to an offender. In this respect, obviously our Penalties and Sentences Act (QLD) needs to be overhauled so as to ensure that it is an adequate toolbox in notching-out sentences that are meaningful and will go towards minimizing recidivism or alternatively, enhanced to provide Magistrates and Judges the latitude to impose a number of community options.

- **Better Options**

Judges and Magistrates need to have a range of options before them that they believe will punish, rehabilitate and protect the community from re-offending. In New York City they simply call it, “individualized sanctions.”

- **Accountability**

The criminal justice system needs to be accountable to the community and of course, the defendant. Problem-Solving Courts strives for accountability at every level and are absolutely relentless in conducting research, both in-house and independent that tracks the efficiencies and deficiencies of new interventions. There is also a focus on community engagement in this regard.

- **Partnerships**

Problem-Solving Courts do not operate in a vacuum. There is significant planning that occurs prior to the instigation of a new project, ensuring strong collaboration with key stakeholders. The building of such partnerships ensures that problem-solving courts, or “good courts” as Chief Executive Officer of the Centre for Court Innovation Greg Berman calls them, are those that are seen as resource centres.
7. The Practice – a Red Hook Story

A few hundred metres from the corner of Van Brunt and Verona Streets, Red Hook, Brooklyn, School Principal Patrick Daly was gunned down. The murder of Daly in late 1992 was the crescendo of a wave of crime that had plagued the area since the stevedoring industry packed up and left town for New Jersey in the sixties, taking all the money with it. In its place, public housing, or projects as they’re called here, sprung up all over the joint in response to the community’s new-founded glum financial position. One set of projects which take up nearly a whole block, houses approximately 8000 people. It’s not pretty! However, despite the hullabaloo of social housing theorists who promote all the virtues of public housing that shouldn’t look like this, what else do you do with the brown-brick monstrosities and more importantly their people in a place where votes don’t count?

Red Hook, a neighbourhood of 1 square mile with 12,000 residents isn’t cute by any stretch. Not only is it somewhat geographically compromised in so far as three sides of it is surrounded by water and an expressway chooses to bypass it, its more recent history hasn’t lent itself to attracting economic revitalisation. Instead, Red Hook became synonymous with an Arnott’s Assorted of gangs, drugs, assault, rape, battery and death. Not exactly ingredients to woe economic investment. The community became crime’s whipping boy and in 1980 was given the prestigious gong by the American Life Magazine as the country’s “crack” capital.

A one-time beneficiary of Red Hook’s award-winning drug dispensary, Kathy McGill (real name protected), now ravaged and done with drug abuse, reminisces that this area of Brooklyn was a no-go zone.

“You couldn’t get a cab to bring you out here. As soon as you’d mention, ‘Red Hook,’ drivers would tell you to find another taxi.”

The memories of the days that once were, still litter the streets. Up the road, one whole section of public housing was notoriously known as the “pharmacy.” There, every drug imaginable and more were being peddled. The shooting gallery was the children’s playground, which soon was renamed by locals as “Needle Park,” lending itself as a yardstick of the tightening head-lock that drug-crime was having upon the community. Shops were boarded up, public transport ceased and good people were scared with good reason. In one year, the Red Hook Police Precinct recorded 26 homicides. But in the closer analysis, evidence from the streets suggest the figure is
a tad shy because it doesn’t properly consider the bodies that weren’t found and all
the shootings by gang-members who couldn’t aim straight.

Perversely, the madness and in particular its culmination in a spray of bullets that
killed Daly was an incentive for Red Hook to take a good long hard look at itself. It
was fed up with drug-crazed lunatics ruling the roost and wasn’t prepared to again
hand over its fate to a criminal justice system that was good at offering offenders
revolving doors and little else.

Instead, their saviour came in the shape of an old, run down disused syringe-ridden
squat that years before when the docks were being worked was a Catholic School.
Under the hammer of Kings County District Attorney Charles Hynes who was intent
on giving the community the tools it needed to turn itself around, gave the one-time
building that housed the Catholic institution another chance of saving souls and the
backsides that owned them. It became the Red Hook Community Justice Centre
and since its establishment in 2000, its manner in dispensing justice has been
internationally acclaimed for all the right reasons with replicas spread all around the
world, most recently in Melbourne.

At its hub is the Red Hook Community Court, presided over by Judge Alex
Calabrese, a street-wise justice official who just won’t give in to a sausage factory
mentality of court administration. The court landscape is adrift with the ups and
downs of offenders both young and old who still don’t mind involving themselves in a
bit of tomfoolery in a war-zone that is in repair.

Today, McGill who has a rap sheet that reads more like an epistle is before the court
to ensure compliance with her Calabrese-imposed drug treatment regime. Her urine
sample again tests clear. She’s notched up 4 consecutive clean urines in as many
weeks, which is a record for her.

“You’re doing well, congratulations,” Calabrese offers up, before they step into a
discussion about some mental health services he knows of that could benefit her.
She leaves the court with a spring in her step despite a 12 month sentence hanging
over her head should she not play the game how Calabrese and his team of service
providers want it played.
“I’ve been in and out of courts for years, but this is the first that is interested in working with you. As hard as you might try, sometimes you can’t change overnight and you need a lot of help to do it.” McGill says.

Before her appearance was a teenager who thought he’d dabble in a bit of cocaine. The Judge leans in, and in his best wise old Uncle Frank from Missouri demeanour, gives the kid a bit of a hosing down. So he doesn’t forget it, he’s found himself subjected to weekly drug testing and frequent school truancy checks. He’s not happy, but it may just save his life.

Under the weight of a forest full of paper that sits on the Judge’s bench, is a weekly report jam-packed with brief summations on his customers for the week. Out of the couple of hundred offenders, around 75% are compliant with their drug treatment. The rest are a mixture of genuine cases, a few “dog ate my homework” excuses and some who tonight won’t be going home. In addition to these are all those downstairs in the cells that don’t know it yet, but the ultimatum waiting for them upstairs is “get on the program or try your luck.” Needless to say, those that choose the latter do so at significant peril.

“It’s not rocket science. The downtown courts are good at moving people around at the community’s expense,” says Calabrese, who’s done his lion’s share of working in the traditional courts.

“What makes this court so successful is that we’re addressing the underlying causes. Without doing that, you fail the defendant, the victim and the community.”

Red Hook’s rejuvenation still has a little way to go. But through the work of Calabrese and his team of clinicians, not only are the street’s safe, but there’s the smell of good money in the air. The supermarkets have returned, there’s an Ikea factory being built, property developers are buying up the foreshore and cabbies will bring you here at the drop of a hat. Red Hook is coming back!
8. The Practice – a Brooklyn Story

The clear distinction between the operation of our Mental Health Court (QLD) and those operating in the United States, but particularly Brooklyn is that eligibility in Australia requires either the defence of unsoundness of mind, or alternatively, the defendant has been deemed unfit for trial. Conversely, here matters where there is a defence are simply disposed of within the normal operation of the criminal court and the defendant is then subject to treatment. Thus, the existence of the Mental Health Court in the New York is based upon the quite valid assumption that defendants whose offending behaviour may be causally related to their mental illness, will not always be able to reach the high threshold of attaining a defence to the charge. However, there is an acknowledgment that despite the defendant not being of “unsound mind,” he or she, by virtue of their disability may not be as culpable or responsible as a person who doesn’t suffer from mental illness. As a lawyer, you continuously confront this situation. The defendant doesn’t have a defence, but the impact of the mental illness has significantly influenced the commission of the offence. Notably, I have represented on numerous occasions a young man who suffers from schizophrenia. On every occasion he has presented before the court on yet another petty charge we have been without a psychiatric report supporting a defence. However, this man lives in a housing cooperative with a large number of other people who suffer mental illness who are often non-compliant with medication. The cohort of people that live with him and of course all the mayhem that emanates out of the collective dysfunction substantially influences his actions, day in and day out. Consequently, he becomes engulfed by and subjected to strong peer pressure, lacking the necessary skills to set boundaries and as a result the offending occurs. Put simply, whilst he may not have a defence, he by virtue of his mental illness and the landscape that it has placed him in, there is an undeniable causal relationship between his offending and his illness.

It is on this basis that the Mental Health Court in Brooklyn operates. They attempt to achieve two separate but interrelated outcomes by linking offenders with mental illness to treatment as an alternative to incarceration, improved psychiatric stability for the offenders and improved public safety. Building on the model of drug courts, mental health courts seek to work with mental health agencies, families, housing providers and others to help an offender with mental illness lead a crime-free life in the community.
9. Problems with Problem Solving Justice

Whilst the problem-solving tenets applied by a Community Court make good sense and have rendered good results, there are a number of factors that undermine their overall effectiveness. In particular, the cost effectiveness juxtaposed with court outcomes. More specifically, from the New York experience, Community Courts are resource intensive and consequently notoriously expensive to run and whilst there exists some excellent evidence both quantitative and qualitative, the meat of the sandwich, “recidivism” is largely omitted within the research findings due to insufficient broader data collection across state courts and police departments. The omission in this respect, significantly plagues the confidence of government policy-planners generally in their contemplation of establishing Community Courts. Another substantial factor is that from the New York experience, the instigation of a Community Court can be somewhat divisive among judicial ranks in so far as they typically espouse the value in justice administration of this kind and in doing so, are at imminent risk of devaluing the more traditional courts which quite often handle significantly more matters than their “trendy” counterparts with a fraction of the resources.

The predominant focus of the Centre for Court Innovation at this point in time is to embed problem-solving justice initiatives within the broader criminal justice infrastructure. There are significant issues bringing this to fruition, exacerbated by relatively strong resistance from orthodox Courts. Bronx Community Solutions is the first attempt by the Centre for Court Innovation to go to scale with their problem-solving justice initiatives, of which at present they have a toe-hold within the Court, significantly assisted by their undertaking to supervise a majority of community service orders issued by the Court. However, despite this, the fundamental problem for the Centre for Court Innovation in untangling “problem-solving” from “specialized Courts” and thus disseminating the tenets of problem-solving justice to a much wider judicial audience is not principally about the merits of the philosophy, of which there are many, but rather is overcoming the tenuous relationship that has developed over the years between the two schools.

Simply put, problem-orientated courts are heavily resource intensive requiring specialised staff, ready access to community-supported interventions, most notably drug-rehabilitation facilities and other social services. Secondly, they strongly challenge deep-seated traditional court approaches and in doing so, can potentially fracture relationships within the judicial framework.
10. Conclusion

Whilst not thoroughly worked through by the Centre for Court Innovation yet, there is a growing belief that in some circumstances, full-blown problem-orientated courts are not necessary. In fact, in the case of Drug Courts, there is research presently underway that is seeking to examine what characteristics of the Drug Court lead to success. Is it the body of interventions, or is the combination of one or two, or perhaps even one in isolation? Recent research undertaken with respect to Domestic Violence Courts affirmed that the role of the Judge or more specifically, the way the Judge interacted with the parties was hugely important in ensuring good outcomes. Obviously, a precursor to this is ensuring again that the Magistrate or Judge has adequate information before him/her to be properly engaged and of course, a willingness to be engaged. In no small part, the Centre has learnt over the last 13 years, the personality of the Judge plays a significant role in the durability of the outcome. Accordingly, the great hope of community justice strategies, as I see it, is that they may illuminate the deficiencies within our existing criminal justice system and in response offer a broad range of tools, some simple, some complex, some requiring legislative change that leads to a more holistic response to criminal behaviour and its effect on the community. But, absolutely pivotal in all this, is the prudent appointment of Magistrates and court officials who are capable and most importantly willing to engage the community in responding innovatively to its justice needs. In my exposure to the use of problem-orientated approaches in New York City, these courts are driven by Judges who in equal measure are fundamentally interested in brokering justice for the community as well as genuinely assisting the defendant in changing his/her life.

At the end of the day, you can build in an infrastructure of support services that avail themselves to the court, form strategic partnerships with government, community and business, but without active judicial engagement, the risk is that all it becomes is window dressing and consequently all is lost.

That point aside, problem-solving justice initiatives make very good sense at all levels. However, most importantly for there to be an acceptance and ultimate traction of problem-solving principles within a court framework, there must be a considerable attention given to minimising fragmentation between respective courts and due respect given to adversarial theory that is deeply embedded in the teachings and the practice of law.
The Queensland Government has been steadfast in its commitment of adopting innovative diversionary programs and court-run interventions that seek to address the underlying reasons of criminality. The next challenge is in strengthening our state court system, particularly our Magistrates Court. This can be achieved through a better and well-informed understanding of the trends of criminal behaviour in each court and in turn ensuring that such information informs the strategic broadening of its association with social services, the development of key resources and thus, enhancing its reach in achieving the tenets of Section 9 of the Penalties and Sentences Act (QLD) 1992.
12. Recommendations

Recommendation 1 - Community Collaboration

The Queensland Department of Justice & the Attorney General has a commitment to improve the administration of justice so as to produce better outcomes, results, and impacts for individuals, communities and society at large. The effective and efficient administration of justice requires public support and involvement. Court and community collaboration is a sustained, two-way commitment to ensuring that our justice system is open and effective for all. The Court should adopt broad methods to facilitate a closer relationship between court and community.

Recommendation 2 - Widening the Court Infrastructure

Queensland Courts, particularly Magistrates Courts increasingly serve by default as a front-line response to problems of substance abuse, family breakdown, intellectual disability, personality disorders and mental health. Courts as a consequence of this dualistic role are struggling to create dispositional outcomes appropriate for individuals with serious personal and health problems. As the Magistrates Court increasingly finds itself responding to chronic and emerging social issues without adequate support, there exists an overt need to incorporate social/medical services within the court infrastructure.

Recommendation 3 - Enhanced Resources

Collaboration provides both courts and communities with new and enhanced resources. Whilst the provision of social/medical service is not normally synonymous with justice administration, the embrace of these somewhat softer methodologies may encourage the joint formation and production of additional and perhaps more holistic physical resources for offenders coming into contact with Queensland Courts. For example, these resources may be brochures, posters or audio-visual tools aimed at defendants charged with specific offences, but with a bent towards the possible under-pinning issues that may have led to the offending.
Recommendation 4 – Smart Appointment of Judicial Officers

Problem-solving justice initiatives are heavily reliant upon the energy and willingness of judicial officers to engage in new ways of justice administration. This paradigm shift requires the selection of judicial officers to be based upon a criterion that does not focus solely upon academic ability, but rather more importantly, the ability of the incumbent to have a good knowledge of the inter-play between social issues and criminal offending and the interventions necessary to interrupt the relationship.