



**Malatest**  
International



**Michael &  
Suzanne  
Borrin  
Foundation**

**Evaluation Report:**

# **Evaluation of the Special Circumstances Court, Wellington**

**March 2020**



## Acknowledgements

The evaluation of the Wellington Special Circumstances Court (SCC) was funded by the Michael and Suzanne Borrin Foundation. The Foundation believes that law is essential to a flourishing society – one that is just, inclusive, tolerant and free. The Foundation’s vision is of an Aotearoa New Zealand where everyone understands the role and value of law, and everyone enjoys the protection and opportunity that it provides.

Funding from the Michael and Suzanne Borrin Foundation has enabled the evaluation to explore the key elements of the SCC, the differences it is making and potential opportunities to strengthen the court. The Court was established by Justice Susan Thomas and we acknowledge her innovative approach to meeting the needs of offenders.

The evaluation relied on the participation of the judges, lawyers, other court officials, community providers and SCC participants and their whānau. We wish to thank them all for sharing their experiences.

We would like to especially thank Leah Davison who has been a driving force behind the SCC. Leah helped to link us to the people we needed to talk with for the evaluation. We appreciate the help provided by the Wellington court team including helping us to access the files we needed. We would also like to thank Tessa Vincent and the Social Change Collective who put forward the application to fund this evaluation.

We also thank the Ministry of Justice team who provided us with data and shared their expertise.

### **The Malatest International team**

## Table of contents

<b>Executive summary</b> .....	<b>4</b>
<b>1. The evaluation</b> .....	<b>10</b>
1.1. The aims of the evaluation .....	10
1.2. The evaluation approach.....	10
1.3. Evaluation logic model and framework.....	11
1.4. Information for the evaluation.....	13
1.5. Analysis.....	15
1.6. Strengths and limitations .....	16
<b>2. The Special Circumstances Court in Wellington District Court</b> .....	<b>17</b>
2.1. A brief review of relevant literature identified key elements of therapeutic courts.....	17
2.2. The history of the Wellington Special Circumstances Court .....	18
2.3. Roles and responsibilities .....	19
2.4. SCC has developed over time .....	21
2.5. Demand for the SCC has increased and it is now at capacity .....	26
2.6. There were differences between SCC and the District Court .....	27
2.7. Therapeutic courts are creating change within the community and justice system .....	31
<b>3. The difference the Wellington Special Circumstances Court has made for participants</b> .....	<b>33</b>
3.1. The SCC had reached 206 offenders .....	33
3.2. Offending was in the least serious categories.....	34
3.3. SCC participants have complex backgrounds.....	37
3.4. Analysis of the time participants were in the SCC.....	39
3.5. SCC participants were supported by NGO service providers .....	39
3.6. The number of participants who reoffended decreased as did the average number of reoffences.....	44
3.7. Interviewed participants described improved wellbeing.....	48
3.8. SCC participants said the support they received made them feel better able to manage their lives .....	52
3.9. Barriers to change .....	55
<b>4. Costs and benefits</b> .....	<b>59</b>
4.1. The direct impacts: Savings associated with reduction in reoffending.....	60
4.2. The wider impacts of the SCC.....	61
4.3. The costs of the SCC .....	65

<b>5. Opportunities .....</b>	<b>66</b>
5.1. There is growing evidence about the effectiveness of therapeutic courts.	66
5.2. The Wellington SCC is making a difference .....	67
5.3. Therapeutic courts cost more than other courts but are likely to produce a positive value if wellbeing outcomes are considered. ....	68
5.4. Priorities to strengthen current processes.....	68
5.5. Transferability to other locations.....	74
<b>Appendix 1: The evaluation framework .....</b>	<b>77</b>
<b>Appendix 2: what we know from the literature.....</b>	<b>78</b>
<b>Appendix 3: Recidivism rates.....</b>	<b>80</b>

## Executive summary

### The Special Circumstances Court in Wellington District Court

The Wellington Special Circumstances Court (SCC) is an innovative approach intended to improve outcomes for people who have pleaded guilty to offending<sup>1</sup>. It is a judge-led initiative, supported by a team of professionals (lawyers, community agencies, specialists). It aims to keep people out of prison and reduce reoffending by identifying and responding to the life circumstances driving their offending.

Malatest International received a grant from the Michael and Suzanne Borrin Foundation to provide an independent evaluation of the SCC. The aims of the evaluation were to:

- Demonstrate what is different about the SCC from the mainstream court process and identify the key elements that contribute to positive outcomes for court participants (offenders).
- Profile and quantify the participants (who is the SCC reaching), assess the impact of the SCC for participants and whānau and explore barriers and enablers to improved outcomes for SCC participants.
- Outline the costs of the SCC and transferability of key elements to mainstream courts.

### The evaluation approach

Information for the evaluation was sourced from:

- A brief review of relevant literature.
- Data and views gathered from judges, lawyers, court administrators, service providers, SCC offender participants.
- A systems perspective to understand any impacts of the SCC at different levels in the justice system.
- Triangulation of data sources drawing on qualitative data from interviews, analysis of administrative documents (e.g. court files) and quantitative data from the Ministry of Justice (MOJ).

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<sup>1</sup> Serious violence and sexual offending are excluded.

### **The SCC has reached 206 offenders**

There have been 206 offender participants in the SCC<sup>2</sup> including 168 males (82%) and 38 females (18%). There was an almost equal percentage of Māori and European participants amongst the 54% of SCC participants for whom ethnicity was recorded.

SCC participants had a history of multiple offending often over many years. MOJ data recorded a total of 1,753 offences for the 206 SCC participants. Offences included category 1 (lowest level of offending), 2 and 3 offences. More than eight out of ten had committed an offence in the categories of disorderly behaviour (90%), property (86%), breach (83%), and assault and threatening behaviour (82%).

More than half of SCC participants had committed their first offence before the age of 26 (59%). The median time from their first offence recorded in MOJ data to their appearance in the SCC was 10.1 years.

Analysis of MOJ data demonstrated the SCC was reaching the people it intended to reach. SCC participants' life circumstances contributing to offending included homelessness and poverty, often arising from:

- Experiences of trauma that often underpinned addiction
- Untreated mental health disorders including psychosis
- Disability arising from their own or a parent's addiction e.g. Fetal alcohol spectrum disorders
- Poor access throughout their lives to the health and social services that would have benefitted them.

### **Offenders had engaged with the SCC and made plans to address the issues underpinning their offending**

Most participants understood what was happening when they attended their first SCC appearance. They described the court assessing bail conditions, accommodation, health and addictions treatment, and ongoing support from whānau or organisations such as the DCM<sup>3</sup>. Participants told us being part of the SCC involved being supported to make a plan to address issues driving their offending and talking this through in the court. They would then appear in the SCC each month to talk about their progress.

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<sup>2</sup> Based on Ministry of Justice records checked for accuracy by the SCC Duty Solicitor.

<sup>3</sup> Previously the Downtown Community Ministry.

## SCC participants felt respected, treated with courtesy and that the SCC process identified and responded to their individual needs

We observed court sessions and heard from court participants that the SCC process was delivering the different experience of the justice system that the founding judge intended.

*It's not that same mentality that you get in a judgment thing. This is, we're here to listen to you. We are here to [listen to] what you've got to say. We are here to see how you are going. There's an empathy and care and I think that's the main thing and everyone seems lighter...there's a lightness because it's like there's hope. (SCC participant)*

**Participants were treated with courtesy and respected:** The SCC participants' voices were the most powerful demonstration that the SCC has achieved the aims of treating participants with courtesy and making them feel respected.

*Makes you feel like a human being. Like how you and I are talking. They care. (SCC participant)*

*They made me feel like I was worth something and they helped me a lot through that. I'd never spoken to a judge before. If anything, I wanted to just chuck things at them. So, it was great to be able to speak to [SCC judges] and engage with them and realise that they're actually human beings too. (SCC participant)*

**Participants had an opportunity to speak and be heard:** Some participants were surprised by the support and encouragement they received at their first SCC appearance.

*They focus on the positives, rather than the negatives. There was a guy who appeared before me, and the judge said "good luck for your weight-lifting competition", and it was really nice. (SCC participant)*

**Participants' individual needs were the focus:** Offender suitability for the SCC was assessed by the SCC duty solicitor. Participants general needs were assessed, and they were linked by the duty solicitor or their lawyer to the service(s) they needed. Criteria for inclusion in the SCC were not clear to some stakeholders likely because there was no formal assessment process or use of a holistic tool to consistently identify SCC participants' needs.

Assessment of cultural needs was a gap in current processes. Similar courts have a court kaumātua and links to local iwi providers to facilitate responses to cultural needs for Māori participants.

**Participants had organisations engaged with them:** SCC participants were linked with specialist services and NGO providers, but providers were often at capacity. There were no formal arrangements in place with NGO providers and health and social services to support SCC participants.

Developing agreements or Memoranda of Understandings (MOU) with organisations and formalising pathways to government providers such as Work and Income would help to ensure consistent support was readily available to meet the needs of SCC

participants. Access to specialist health services including addiction services are essential for some participants but were also difficult to access.

### **Mainstream courts have evolved since the SCC was established**

The 'mainstream' court system has changed since the SCC was established. We commonly heard from judges and court officials that greater understanding of the context and reasons for offending has been contributing to an evolution of court processes. Generally, mainstream court participants are being respected more and more, engaged and treated with courtesy. However, lack of time in other court settings limits the extent judges can, within the legislative context, respond to needs arising from participants' life circumstances.

A main difference provided by the SCC is the increased commitment of time to address participants' life circumstances contributing to offending:

- Court participants appear in front of judges on multiple occasions
- Lawyers and court officials take time to assess offenders' needs and link them to services
- NGO providers and other specialists provide monthly feedback to the court on participants' progress.

### **SCC participants had reduced offending**

The aim of the SCC was to reduce the seriousness and frequency of offending by linking participants to the services they needed and in doing so reducing the impact of offending on victims. MOJ data were available to compare the 12 months prior to the offender's appearance at SCC and 12 months and 24 months after sentencing (an indicator of the final appearance at SCC).

Analysis of MOJ data demonstrated:

- At 12-months after sentencing:
  - 45% of SCC participants did not reoffend.
  - For those who continued to offend, the mean number of offences significantly decreased from 7.83 offences per participant pre-SCC to 5.68 offences per participant for the year following SCC entry.
  - 19% of participants had increased their offending including 12% who had increased their offending by more than 90%.
- At 24-months after sentencing 33% of participants had not reoffended.

Reoffending rates are comparable for rates across the whole population of offenders on release from prison. However, these rates have been achieved for people with a history of repeat offending and complex life circumstances.

### **There were barriers to change for some participants**

Twelve months is a short time to address some of the entrenched issues in participants' lives. Interviews with stakeholders and SCC participants identified the following factors limiting the extent participants could make changes:

- Community services were at capacity making access to services difficult.
- A struggle to access specialist services including addiction and mental health services, and to find housing stops the momentum of change. Without healthcare and secure housing participants could not progress to developing their skills and to employment.
- Work and Income were not part of the SCC monthly processes and it may be difficult for some SCC participants to access their full and correct entitlements due to factors such as poor literacy and lack of identification.
- Lack of access to knowledge and skills development: Literacy Aotearoa although initially involved was no longer involved in the SCC at the time of the evaluation, although participants could still be referred to Literacy Aotearoa.
- Some SCC participants had disabilities that may limit the extent they can make substantial changes to their lives without intensive support.

### **The costs and benefits of the SCC**

The potential benefits of the SCC include:

- Direct benefits of the reductions in offending. Some of the additional costs of the SCC may be offset by reduced costs of imprisonment and reoffending. In the SCC evaluation, an average reduction of 3.22 offences per year could return a savings of \$392,536 per year.
- Indirect benefits to government, communities and individuals of improvements in wellbeing and reduction in the impacts of offending.

Therapeutic courts cost more to run than mainstream courts. The participants appear before the judges monthly to allow NGO partners to work with them to address their needs and the judges to monitor their progress prior to sentencing.

In considering whether the benefits of the SCC warrant the cost of running the SCC we suggest the following are considered: the potential for reduction in disparities between Māori and non-Māori; societal responsibility to a group of people who have been disadvantaged by health, education and social systems; and the potential for early intervention through therapeutic courts aimed at young people to over time reduce the demand for courts such as the SCC.

## Considerations for the future

The SCC provides a pathway for change and hope to SCC participants and their whānau. There is evidence of the effectiveness of the SCC<sup>4</sup>. However, the SCC is at or beyond capacity and functions on the goodwill of stakeholders. The number of participants has reached the point where strengthened infrastructure and more formal processes are required to maintain the existing court. Putting these in place would provide the foundation for extension of the court within Wellington and transferability to other localities.

We recommend the following considerations:

- Formalise and recognise the SCC and fund the required infrastructure.
- Appoint a SCC coordinator, ideally with social work and/or clinical assessment skills to assist with the initial assessment for SCC and link participants to needed services.
- Formalise the criteria and process for assessing eligibility for participation in the court.
- Reinstate written plans with input from the participants and other specialists.
- Establish clear expectations and agreement about the roles of government agencies and specialist services in supporting SCC participants.
- Strengthen arrangements and potentially provide funding to bring community services into the SCC, including kaupapa Māori services.
- Strengthen cultural connections for SCC participants.
- Establish ongoing monitoring and evaluation which requires improved electronic record keeping enabling identification of SCC participants and their progress to be tracked.

Suggested changes to the SCC have the potential to flow through to the District Court.

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<sup>4</sup> We note the absence of a comparison group. Generating a valid comparison group matched by the level of need of SCC participants would be difficult as level of need is not recorded in MOJ data. Additionally, SCC participants are selected for their motivation rather than randomly allocated to the SCC. However, the triangulation of qualitative data and MOJ data provide evidence of effectiveness.

## 1. The evaluation

The Special Circumstances Court (SCC) is an innovative approach intended to improve outcomes for people who have pleaded guilty to offending<sup>5</sup>. It is a judge-led initiative, supported by a team of professionals (lawyers, community agencies and specialists). It aims to keep people out of prison and reduce reoffending by identifying and responding holistically to participants' needs. The SCC aims to enhance the mana of participants by linking them with services to promote their health and wellbeing, and that of their whānau. For example, by linking participants with services who work with them to improve their work, housing and addiction challenges.

The SCC was established in March 2012 and has been operating in New Zealand's justice system since then. The SCC team are committed to the SCC approach and wanted an evaluation to better understand the results the SCC is achieving and how the support they are providing could be improved.

### 1.1. The aims of the evaluation

The aims of the evaluation were to:

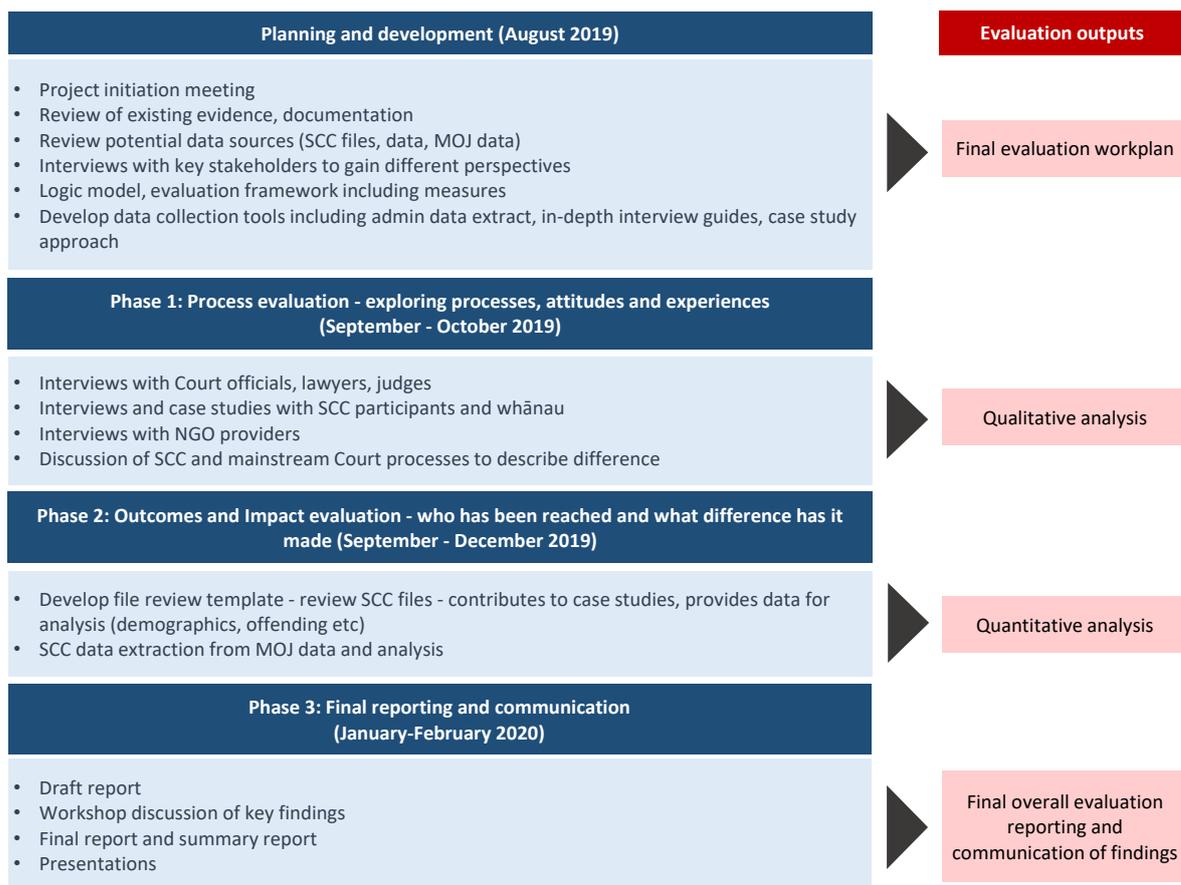
- Demonstrate what is different about the SCC from the mainstream court process and identify the key elements of SCC that contribute to positive outcomes for participants.
- Profile and quantify the participants (who is the SCC reaching), assess the impact of the SCC for participants and whānau and explore barriers and enablers to improved outcomes for SCC participants.
- Outline the costs of the SCC and transferability of key elements to mainstream courts.

### 1.2. The evaluation approach

An overview of the evaluation approach is provided in the following diagram.

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<sup>5</sup> Serious violence and sexual offending are excluded



**Figure 1. Evaluation plan.**

### 1.3. Evaluation logic model and framework

A logic model (Figure 2) was developed to provide the theoretical foundation to the evaluation by setting out:

- The inputs - the resources that support the SCC.
- The SCC activities.
- The outputs.
- The outcomes for SCC participants.

An evaluation framework (Appendix 1) was developed to align with the logic model and set out the evaluation questions and achievable measures for each evaluation question. The evaluation framework was modified slightly as the evaluation progressed and the access to different sources of information was better understood.

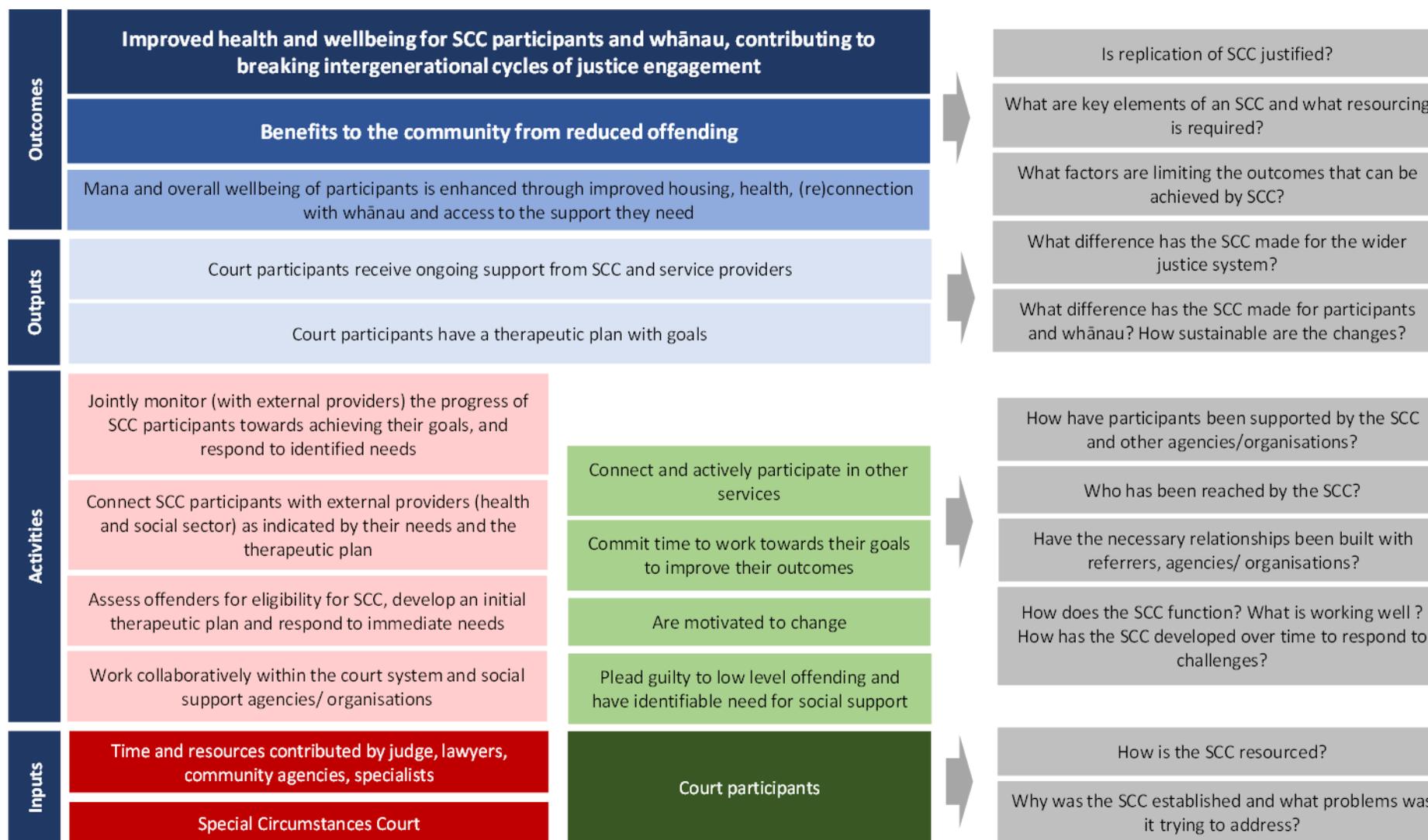


Figure 2. Special Circumstances Court Logic Model.

## 1.4. Information for the evaluation

Information for the evaluation was sourced from:

- Review of relevant literature.
- Data and views gathered from judges, lawyers, court administrators, service providers, SCC offender participants.
- A systems perspective adopted to understand any impacts of SCC at different levels in the justice system (for individuals and whānau, at the community level, for the justice sector).
- Triangulation of data sources drawing on qualitative data from interviews, analysis of administrative documents (e.g. court files) and quantitative data from MOJ.

**Table 1. Evaluation data sources.**

Stakeholder group	Number
Interviews with Court personal (court officials, lawyers, judges, prosecutors, clinical health assessors, probation officers)	18
Interviews with NGOs involved with SCC (Downtown Community Ministry, Salvation Army, Alcoholics Anonymous, Wellington City Mission)	4
Interviews with SCC offenders (participants)	14
Interviews with SCC participants' whānau	6
Case files requested	42
Case files accessed	41
Case files with sufficient information to be included in analysis	23
MOJ administrative data	206

### 1.4.1. Non-participant stakeholder interviews

A total of 22 SCC non-participant stakeholders took part in interviews – they included judges (3), lawyers (4), clinical health assessors (3), legal/risk officials such as probation officers, police prosecutor, bail support (4), court officials involved in running and managing the SCC (4), and non-government service providers (4).

Collectively these groups of non-participants provided a multi-perspective view of the SCC and its processes. Interviews were analysed for main themes. When citing quotes within the report, the person is identified as being:

- Judge.
- Lawyer.
- SCC Management (those involved in running the SCC).

- Legal/risk.
- Assessment (clinical assessment for mental health and drug and alcohol addiction).
- Service provider.

#### 1.4.2. SCC participants

Information about SCC participants was sourced from MOJ data. Table 2 outlines the gender, age, ethnicity and year of SCC entry for SCC participants.

**Table 2. Demographics of SCC participants<sup>6</sup>**

Demographic profile		People interviewed (n=14)	Case file reviews (n=23)	Total SCC sample (n=206)
Gender	Female	23%	26%	18%
	Male	77%	74%	82%
Age	<26	8%	-	17%
	26-35	33%	30%	29%
	36-45	25%	43%	28%
	46-55	8%	13%	19%
	56-65	25%	9%	5%
	66+	0%	4%	2%
Ethnicity <sup>7</sup>	NZ European	8%	30%	24%
	Māori	42%	26%	27%
	Pacific peoples	0%	13%	1%
	Other	50%	8%	2%
	Unknown	6%	22%	46%
Year of SCC entry	2012	-	4%	4%
	2013	-	0%	8%
	2014	-	9%	8%
	2015	-	22%	12%
	2016	8%	22%	15%
	2017	23%	9%	17%
	2018	15%	30%	22%
	2019	54%	4%	14%

<sup>6</sup> Not all participants had demographic details recorded

<sup>7</sup> People were counted in each ethnic group they identified with (the total count approach). Therefore percentages add to more than 100%.

- **Analysis of information in the MOJ database:** MOJ provided information about 243 people who appeared to have been a part of SCC including: a list of their criminal history (including offence date, type, plea and outcome); date of entry to SCC; and date of their latest SCC event. The list was checked against the records of the SCC duty solicitor and 37 people were removed from the sample as not engaging or not being involved with SCC. Most of the people who were removed from the MOJ data had no or one attendance at SCC recorded. The total number of people included in our evaluation of the SCC was 206, although this number may not include everyone who has been a participant in the court.
- **Participant and whānau interviews:** Three former, 11 current SCC participants and six whānau were interviewed. All were thanked with a \$50 Warehouse voucher and some interviewees were reimbursed for travel costs. We provided kai in some settings outside the court.  
Ethically, we were not able to use contact details in files to contact SCC participants so attempted to contact past SCC participants through NGO providers and using a ‘snowballing’ approach. Social service providers and lawyers who supported SCC participants disseminated information about the evaluation and passed on contact details for people who signalled they would like to take part in an interview. Our aim was to contact both current and former SCC participants to hear their stories. However, providers explained to us that many people who had been SCC participants had moved on and felt uncomfortable re-visiting that period of their lives.
- **File reviews:** We complemented our interviews with participants with detailed reviews of case files. We requested 42 SCC participant case files to reflect the different groups of SCC participants. One case file was not able to be obtained and of the remainder, 18 included only basic information on offence history. The 23 remaining case files provided a qualitative picture of some of the SCC participants who had complex histories and needs.

## 1.5. Analysis

We built analysis frameworks structured around the evaluation framework. SCC participant interviews and case file data were analysed to identify main themes. We aligned the themes identified from SCC participant and whānau interviews to the Treasury Living Standards Framework. Information from Treasury’s cost benefit analysis tool (CBAX) was used to monetise the benefits where this was feasible.

A composite case study approach was used to ensure anonymity of the participants. Case studies were developed by combining the main themes in the stories we heard from participants in their interviews and our review of the case files. The case

studies encapsulate key themes about participants' backgrounds, their offending histories, engagement with SCC and outcomes of that engagement - they do not represent any one person. Quotes from interviews with participants are used to illustrate key points.

Quantitative data from MOJ were analysed in SPSS (the Statistical Package for the Social Sciences) using mostly descriptive statistics to describe the number and profile (demographic, wellbeing and offending) of SCC participants. Paired sample t-tests were used to compare offending rates before and after SCC.

## **1.6. Strengths and limitations**

The logic model and evaluation framework provided a theoretical foundation for the evaluation. Triangulation of information from different sources provided a comprehensive profile of participants and the SCC processes.

The evaluation findings should be read in the context of the following limitations:

- We planned to interview both past and current SCC participants to hear about what difference it may have made to people further on in their lives. Unfortunately, it was harder than anticipated to connect with past SCC participants and most interviews came from current SCC participants.
- MOJ did not have a robust way of identifying SCC participants so they were identified through various indicators. The MOJ staff member who provided the data felt they had provided most SCC participants but there was a possibility they might have missed a small number.
- We discussed with MOJ the possibility of a comparable, propensity matched cohort extracted from the MOJ data to compare reoffending types and rates between people going through the SCC compared to standard courts. Although initially planned to coincide with this evaluation the timeframes for the MOJ analysis has been pushed out and is planned to be completed in the future.

## 2. The Special Circumstances Court in Wellington District Court

The Wellington SCC is one of several therapeutic courts (or solutions-focused courts as they are sometimes referred to) operating in Aotearoa New Zealand. These courts are based on the notion of therapeutic justice which places a greater emphasis on rehabilitation rather than punishment<sup>8,7</sup>.

Other therapeutic courts operating in Aotearoa New Zealand include:

- Ngā Kooti Rangatahi established in 2008 and operating within the Youth Court system in a marae setting.
- Te Kooti o Timatanga Hou also referred to as the Court of New Beginnings, established in 2010 as a response to repeated low-level offending by homeless people in central Auckland.
- Matariki Court established 2010 and operating in Kaikohe, Northland, where offenders are offered culturally appropriate rehabilitative programmes prior to sentencing (<https://www.districtcourts.govt.nz/criminal-court/criminal-jurisdiction/specialist-criminal-courts/matariki-court/>).
- The Sexual Violence Court established 2016 with pilot courts operating in Auckland and Whāngārei.
- The Alcohol and Other Drug Treatment Court (AODT) established in 2012 and located at Waitakere and Auckland District Courts to supervise offenders whose offending is driven by alcohol and drug dependency.

### 2.1. A brief review of relevant literature identified key elements of therapeutic courts<sup>9</sup>

**Non-adversarial judicial role** – the judge’s role is more involved and encouraging in their interaction with offenders. The prosecution and defence counsel (if applicable) also take a non-adversarial approach. The focus is on supporting offenders to make changes in their lives (rehabilitation rather than punishment).

**Early identification of court participants** – the goal is to identify eligible therapeutic court participants early in their offending cycle and promptly place them in the special courts.

**Focus on high-risk for reoffending, high-needs offenders** – therapeutic courts tend to target offenders with medium to high risk of reoffending and who also have clearly identifiable needs. Violent offenders are excluded.

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<sup>8</sup> Social Change Collective, 2018

<sup>9</sup> See Appendix 2 for list of references underpinning the key elements of therapeutic courts

**Collaborative approach between multiple agencies** – including external providers to whom court participants can be referred (e.g. drug and alcohol addiction treatment; mental health providers; accommodation for homeless). Information sharing and collaboration is vital to holistically address the context underpinning court participants' offending.

**Treatment is incorporated with justice system processing** – including alcohol and other drug treatment, mental health treatment and other interventions to address issues that may be driving offending.

**Frequent monitoring/testing for alcohol and other drugs** – to ensure offenders are complying with treatment requirements. Sanctions are imposed for non-compliance and rewards can be offered for progress.

**Tikanga Māori involvement for Aotearoa New Zealand is important** – and currently operating in most special courts. Tikanga Māori includes working closely with kuia and kaumātua, developing strong partnerships with Māori service providers, and supporting Māori court participants to reconnect with their culture.

## 2.2. The history of the Wellington Special Circumstances Court

The Wellington SCC was established by Justice Susan Thomas in March 2012. According to the founding judge, the initial focus of the SCC was on people with complex life problems with a view to intervention to interrupt the cycle of crime. That is, the aim of the SCC was to try and reduce both the seriousness and frequency of offending by addressing the circumstances in people's lives driving their offending (e.g. homelessness, drug and alcohol addiction).

*The SCC recognises the external issues that contribute to a person's offending and seeks to address these rather than just punishing the offending. (Lawyer)*

A secondary aim was to bring the community into the court through the collaboration of those working in the legal system and those providing support services in the community.

During its establishment, a pamphlet targeting lawyers and judges was produced to enable their understanding of the purpose of the SCC. Alongside that, community organisations (NGO and government) were invited to volunteer to be part of the SCC. The initial response was very positive, although no formal links were established with Māori agencies.

Agencies with strong involvement at the outset were DCM providing accommodation and health support; Literacy Aotearoa New Zealand supporting participants with literacy needs; the Salvation Army who provided clinical assessment and coordination of the SCC; Wellington City Mission who assisted with

basic needs; and Work and Income to assist with benefit entitlements and housing assessments.

An important aspect of the SCC's establishment was for court participants (offenders) to have a different experience of the justice system. Those involved wanted participants to:

- Be respected as a person
- Be treated with courtesy
- Have relevant services engaged with them
- Have an opportunity to speak and be heard
- Have their individual needs considered within the system.

The Chief District Court Judge rosters judges to the SCC pre-meetings and court sessions. No additional resources were provided to government and NGO agencies for their involvement meaning the SCC was reliant on the goodwill of many individuals and organisations – this remained the case to the time of the evaluation.

### **2.3. Roles and responsibilities**

The SCC is part of the Wellington District Court system. Some of those playing a role in the SCC also had key roles in the District Court. Time supporting SCC varied depending on the role. For some (e.g. the forensic team), the time involved was no different to working with a defendant in the District Court. However, for others (e.g. lawyers), the time needed for each of their SCC clients was more extensive compared to District Court clients, as the participant appears in court multiple times and a key role for the lawyers is to identify and access required social services.

The table below outlines the key roles of those involved in SCC but must not be viewed as being the only work they do. On the contrary, for most of those involved, the SCC effort is only a small part of their mahi.

**Table 3. Roles and responsibilities**

Who	Role for SCC
Judges (two preside over SCC)	<ul style="list-style-type: none"> <li>• Oversee the Court</li> <li>• Monitor progress of participants</li> <li>• Interact directly with participants</li> <li>• Sentencing</li> </ul>
Duty Solicitor (Wellington and Hutt Valley District Courts)	<ul style="list-style-type: none"> <li>• Coordinator of SCC</li> <li>• Oversee running of SCC</li> <li>• Assess potential participants for inclusion and identify needs</li> <li>• Main decision-maker for SCC</li> </ul>
Lawyers (Public Service Defence and private practice)	<ul style="list-style-type: none"> <li>• Refer potential clients to Duty Solicitor</li> <li>• Represent and advocate for client</li> <li>• Connect to services and others</li> <li>• Connect to family/whānau</li> <li>• ‘Pseudo’ social worker/navigator for client</li> </ul>
Police Prosecutor	<ul style="list-style-type: none"> <li>• Represent community interests</li> <li>• Put the facts before the court to make appropriate decisions for SCC participants</li> <li>• Bring any issues in preceding month (e.g. bail breach) before the court</li> </ul>
Forensic Team	<ul style="list-style-type: none"> <li>• Provide expertise on mental health issues</li> <li>• Feedback to SCC on treatment and follow-up of participants</li> </ul>
Alcohol and Drug (AOD) Clinician (Salvation Army funded)	<ul style="list-style-type: none"> <li>• Identify those who need help with addiction issues</li> <li>• Provide expertise on addiction issues</li> <li>• Clinical assessment for Bridge programmes</li> </ul>
Probation Officer	<ul style="list-style-type: none"> <li>• Provide sentencing expertise and advice</li> <li>• Dialogue with judge in pre-court meeting</li> </ul>
Bail Support (Corrections)	<ul style="list-style-type: none"> <li>• Identify support available in community</li> <li>• Help link participants to resources</li> <li>• Assess bail addresses</li> </ul>
Service Providers (NGO)	<ul style="list-style-type: none"> <li>• ‘Go to people’ for lawyers to access a network of services</li> <li>• Identify those needing services through SCC</li> <li>• Provide the ‘wrap around’ process and be a navigator</li> <li>• Occasional referral of potential participants</li> </ul>
Welfare Advocacy Project (Victoria University; approximately nine volunteer law students)	<ul style="list-style-type: none"> <li>• Team leader provides support to Duty Solicitor to run SCC</li> <li>• Notes for files; develop resources</li> <li>• Advocacy welfare service on Court days</li> <li>• Some follow-up with participants</li> </ul>

## 2.4. SCC has developed over time

### 2.4.1. Eligibility and assessment

Most participants heard about SCC from their lawyers. Others from friends, other participants or from regular support services such as DCM. One participant was alerted to SCC by a judge in the District Court. Participants said they then met with the SCC duty solicitor to be assessed for inclusion in the SCC.

The Social Change Collective (2018) describes the qualifying criteria for inclusion in SCC were that the offenders:

- have committed low-level offending
- pleaded guilty
- have an identifiable need such as addiction, mental health problems, lack of accommodation, income support etc.
- have expressed a desire for help with an identified need, and
- have a motivation to change.

In practice, the main criteria determining entry are that the offender has pleaded guilty, has not committed a serious violent or sexual offence and is motivated to change.

Participants frequently referenced conversations with lawyers and judges about the intent of SCC to stop the cycle of offending.

*I understand there will be more of a sense of leniency but more of an understanding of the background of the situation. The lady that runs SCC said it is trying to stop that revolving door. And I get that. In terms of my recovery going to jail won't help me. It will just make me do more bad things. For my future career, having a conviction is not good. I have a lot of remorse for my actions. It is just the power of addiction. (SCC participant)*

*I think the SCC is a great concept because rather than punishing people, it's looking to rehabilitate them. (SCC participant)*

All interviewed participants felt they had a choice in their case going to SCC. When participants were told about SCC, most had some understanding of what it involved and wanted to participate. Some participants were unwell with addictions or mental health challenges at their first SCC appearance and were not clear in their understanding of the process until after they were supported to address their circumstances.

*I didn't have a clue until halfway through my Special Circumstances. Once I'd sobered up, got off the hard drugs and done some counselling it all made sense, why I was there and stuff... As I got sober, 'cause of the counselling, and my counselling to deal with stuff it made me realize, it made me appreciate it, why I was in Special. (SCC participant)*

A few did not see the value in SCC and one described how they declined at first.

*[Lawyer] and them came in to see me and told me this and that and I said "Yeah whatever" and left, didn't want to know. I said "Nah, I don't want bail, I'm just happy to*

*stay in jail.” But she was persistent, there must have been something she’s seen. I’d decided okay then I’ll give it a shot. (SCC Participant)*

Many of the stakeholders had not been provided with any written criteria for a person’s inclusion in the SCC. As a result, some were unsure about why some participants were included in the court.

In the past the coordination of the SCC including the assessment process for inclusion, involved two people who brought the combination of legal and clinical skills to the process. Currently there is a heavy reliance on one person with a legal background to coordinate and assess potential participants – and this is in addition to a professional full-time role. Lack of a formal assessment process may have contributed to a perception amongst some stakeholders that the criteria for inclusion in SCC have changed over time.

*SCC is aimed at low-level offending but SCC has developed over time and when you look at the charges they are charged with they are not necessarily [low level offending]... some defendants charged with burglary and it is a more serious charge than theft under \$500. (SCC Management)*

*There has been scope drift in the last eight years. The types of defendants through the court initially are different to the types now. (Legal/risk)*

Lack of formal assessment and eligibility criteria may also contribute to a few offenders who are not motivated to change being accepted into SCC.

*I think my son’s objective is to walk away from here knowing that he’s played the system and that he’s going to go right back to offending. He doesn’t engage into anything, but he will say what you want to hear. (SCC participant whānau)*

*For them SCC is only in place to give some lame excuse not to go to jail. Young people with attitudes - I just got away with all this shit. (SCC participant)*

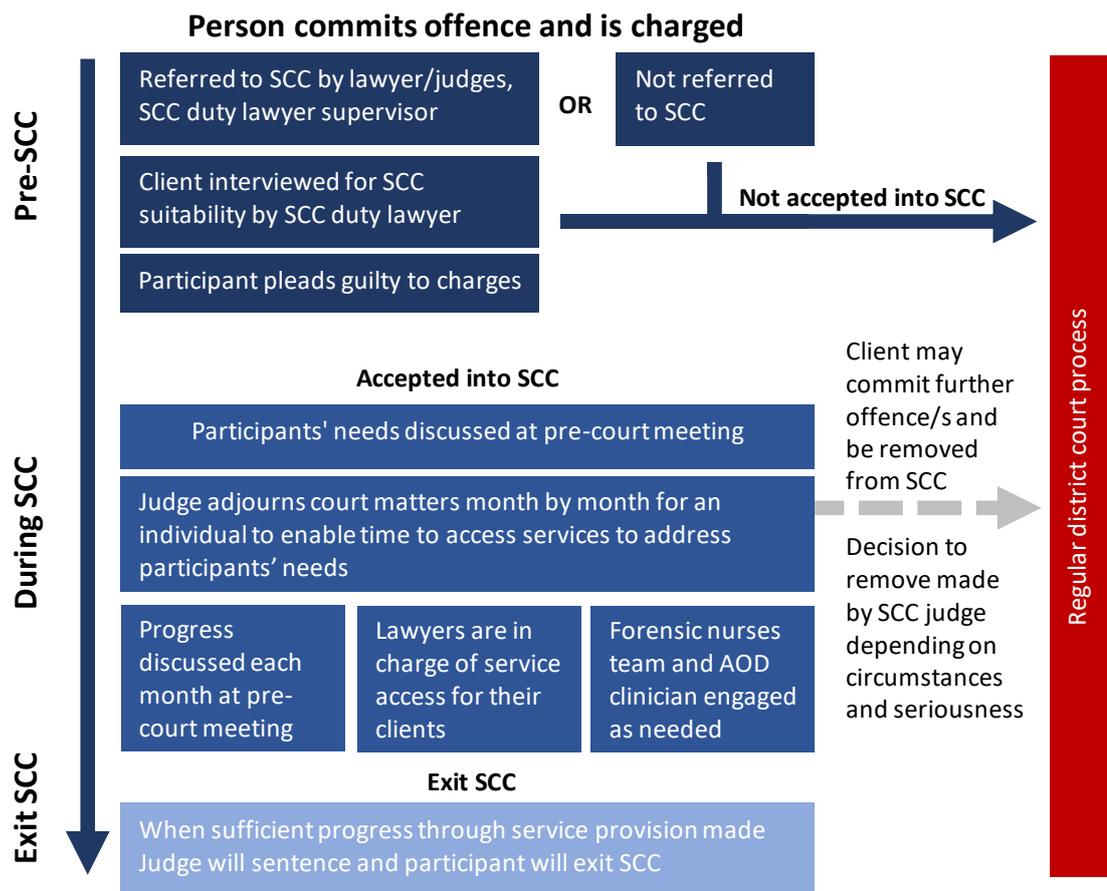
#### **2.4.2. Current processes**

The SCC sits every month. In the court room, the judge discusses with the participant their progress to date, monitoring attendance at meetings or appointments, and providing positive recognition of achievements. Once a judge is satisfied a participant has overcome the issues that have contributed to their offending, they are sentenced in the usual way. The aim is to give the participant tools and a positive foundation from which to avoid re-entering the criminal justice system<sup>10</sup> and to ensure community safety.

Figure 3 summarises the current process as described to us by the interviewees.

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<sup>10</sup> Social Change Collective, 2018



No follow-up or knowledge of outcomes unless participant comes before Wellington court again

**Figure 3. SCC process.**

### 2.4.3. SCC participants engaged with services

Participants described the SCC as assessing areas such as bail conditions, accommodation, health and addictions treatment, and then receiving ongoing support from whānau or organisations such as DCM.

Participants told us being part of the SCC involved making a plan to address issues driving their offending and talking this through in the SCC. They would then appear in the SCC each month to talk about their progress.

*I'd give them an address and they'd check it out, see if its suitable, while I'm there. They would add things, add courses, start researching things. (SCC participant)*

*Basically, the judges were really cool. They're trying to help you with housing, counselling, what are your issues, how do we get you into the medical system, drug and alcohol stuff. (SCC participant)*

Some participants described being surprised by the support and encouragement they received at their first SCC appearance. Repeated appearances at SCC provided the judges with opportunities to monitor participants' progress. Monitoring and

reporting back to the Judges had an impact over and above linking the participants with the services they needed.

*I just didn't know what to expect. Nah, they still shocked me. They always surprised me every time. Right at the end my lawyer turns around and goes "Hey, we're going to go for good behavior" I'm like what! Wow. (SCC participant)*

Most participants reported building good relationships with providers involved with the SCC. They talked about being supported by drug and alcohol assessors and bail support, with many describing not feeling judged by these services.

*They're awesome. They would never judge, that's the amazing thing with them. They didn't care where you come from. Their heart is to help you and nothing else. (SCC participant)*

*And they got me a place, a nice place to stay with nice people and they started encouraging me to bring out my self-worth and my true potential. (SCC participant)*

#### **2.4.4. Whānau were included in the processes**

Many of the SCC participants we interviewed outside the court were supported by whānau. A whānau member had seen a television documentary about SCC and was relieved when her son was able to participate in it.

*I was quite pleased that his case was going to be heard through here. Because it seemed like such a great opportunity to enable people like [him] to try and address all his issues and not have such a huge consequence on his life. (SCC participant whānau)*

Another noted the SCC...

*... gave him an avenue to be able to look at the whole picture than just the crime. Because it's like anyone with addiction, they need to use crime to feed their addiction... It's also opened up, and we never knew at the time...and now we know the reason for the addiction. Where the trauma came from. Because that's the one thing we've always questioned. He had a good upbringing... he had loving family, he had support. (SCC participant whānau)*

In contrast, one whānau member was sceptical and thought her son was *playing the system* and recalled being surprised at what his lawyer told the judge.

*Now his lawyer stood and said to the judge he had been to eight appointments. That was three years ago. It wasn't last week. He actually insinuated to the court that [participant] had been going to counselling. It's fabrication. It wasn't true. (SCC participant whānau)*

A whānau member noted the absence of advocacy for those who were supporting a family member.

*I mean there's been times that I have walked out bawling my eyes out and later on there's been someone who's come up and just held my hand. You know the feelings - you don't even have to say. It would be so nice to have that support group because there's so many people you can't talk to. You don't want to talk to your friends about it. (SCC participant whānau)*

Three whānau members mentioned challenges with practical issues such as childcare and parking when attending SCC to provide support.

*Hey, did you know there's this? Or even that there's parking available. You know, it's just those things. (SCC participant whānau)*

#### **2.4.5. There have been changes in involvement of service providers and other support**

The SCC has provided an opportunity for individuals and the system to learn over time through the collaboration of skills existing within the local Wellington community and the justice system. However, while the initial support from the different service agencies was significant, some organisations have dropped away over time. DCM, the Salvation Army and Wellington City Mission have remained consistently involved. The drop off in support from service agencies may reflect the reliance on individuals within organisations and when a person leaves their organisation they no longer collaborate with SCC. Equally it could be due to the pressure on social service providers to deliver what they are funded for; or it may be due to the lack of the court's profile in the community.

*The pre-court meeting used to be half agencies and half lawyers, not so anymore. (Service provider)*

A whānau member reinforced her disappointment that more agencies were not present at SCC.

*I would like to be able to see all of those agencies like we were told; WINZ, probation, drug and alcohol and lawyer all be in one place like we were told. (SCC participant whānau)*

Support from other agencies and groups has developed over time and the SCC depends on this support. For example:

- The Welfare Advocacy project run out of Victoria University has around nine volunteer students (rotating over time) who donate their time to SCC by taking notes for files, providing an advocacy welfare service on the court sitting day and some follow-up with participants. They also assist the Duty Solicitor/SCC coordinator with administrative tasks.
- Bail support, funded by the Department of Corrections, is a recent support function for SCC (and the District Court).
- Inclusion of new service providers such as Alcohol Anonymous (AA) and Narcotics Anonymous (NA).
- Inclusion of kaupapa Māori providers such as Mōkai Kāinga Marae and Ngāti Kahungunu.

## 2.5. Demand for the SCC has increased and it is now at capacity

At the beginning of the SCC in 2012, there were nine new participants. The number of new participants increased steadily to 46 new participants in 2018. In 2019, there were 28 new participants. The number of participants entering SCC was consistently higher than those exiting every year between 2012 to 2018. In 2019, 65 people exited<sup>11</sup> SCC which may explain the drop in participants entering the SCC in that same year (Figure 4). Ongoing engagement with the court from existing participants over time contributes to the pressure on court resources.

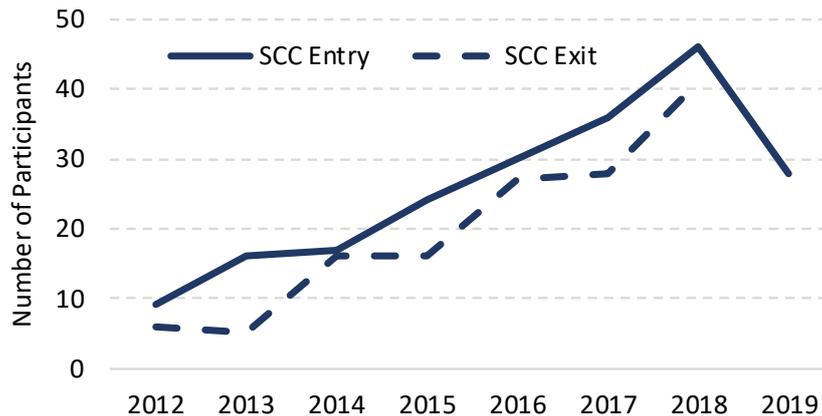


Figure 4. SCC participants entering and exiting SCC per year (n = 206) (MOJ data).

The court was originally designed to run once a month for two hours, with a pre-court meeting (round table of judge, legal counsel, service providers) on the day before to discuss the progress of participants. There was an expectation that around 12-15 participants would be part of the SCC at any one time. However, in August 2019 we observed there were 31 participants due to appear in court.

*Thought there would be no more than 20 people, the last one had 32 or 31, almost doubled. (Judge)*

Stakeholders suggested increased demand was associated with:

- Incremental changes in focus within the justice system with greater recognition of the need for rehabilitation.
- Increased poverty and other factors in the community that could contribute to offending.

*There is a lot of poverty and damage and homelessness out there and it's very hard when you see it not to do something, trying to stop prison. That's the challenge, the level of need and accommodating that in one little court. (Judge)*

<sup>11</sup> Exits from the SCC were recorded in the MOJ data as the date of sentencing. Exits in 2019 were not included as it was unclear from the data whether the date recorded was the date of the next SCC or a sentencing date.

There are consequences of the increased number of people participating in the SCC:

- Each month, the judges are now rostered for a half day on Mondays and the court now runs for five hours on a Tuesday (11-5pm).
- Greater pressure on legal counsel as many lawyers have several SCC participants who require greater time input than their other clients.
- Change in how the SCC is run including assessment of potential participants and formal/written rehabilitation plans not being completed.
- Difficulty in accessing required services in a timely fashion to keep up the momentum of change for participants.

*There is a lot of 'bumping' month to month as there is little that can be done if they can't access support services. (Lawyer)*

A few negative comments from SCC participants may reflect this increased demand on the limited SCC capacity. Two interviewees (a participant and a whānau member) described difficulties with talking to judges and lawyers during their SCC process. One participant had a different lawyer on his SCC day and did not feel that his full circumstances were relayed to the judge.

*...the lawyer said you've got to do this. She didn't ask me what I thought would help me, so she was basically telling me what I needed to do. I was like, kind of a little bit frustrated because I was standing in the court and she was saying that the only problem with [me] was their alcohol abuse which simply isn't true because I got all these mental health problems going on. (SCC participant)*

Two participants described long waiting times before SCC appearances and one of them this might be mitigated by more lawyers.

*More lawyers, so people don't have to wait all day and they don't have to work so hard. (SCC participant)*

## **2.6. There were differences between SCC and the District Court**

One of the questions for the evaluation was to look at the differences between the SCC and the usual court processes. Differences depended on the perspective of the stakeholder and the role they played in supporting the SCC. There were five consistent differences that emerged from the analysis of the interview data – collaboration, penalty versus rehabilitation, time and investment of resources in SCC participants, experience for the participants in the court (including participants' views), and sentencing.

### **2.6.1. Collaboration**

The most common difference between the two courts raised by the interviewees was collaboration. Collaboration was described in a variety of ways such as through everyone's interaction at the monthly pre-court meeting, the sharing of information

to get the best outcomes for the participants, and for some the feeling of being supported through the opportunity to discuss approaches with others.

*It's the power and force of all the agencies getting together, that sense of community engagement all working together having that meeting to effect that cohesion. To me that is the difference and I put it at the top in being able to achieve what we do rather than the list in the District Court. (Judge)*

*At the pre-court meeting you find out who and what is out there for your client, big difference is the agency connections. (Lawyer)*

### **2.6.2. Penalty versus rehabilitation**

Most of those interviewed recognised an underlying premise of the SCC being about rehabilitation instead of penalty and deterrence. Those involved are trying to solve the problems in people's lives that cause them to come back into the justice system. They want a more permanent change for SCC participants. Some participants talked about how their SCC court interactions gave them *hope*.

*It's a very transactional system in the District Court, you have done this, now do this and off you go. Because it is so transactional you get more throughput. There is some rehabilitation but its more about punishment – the weighting is different in SCC. (Judge)*

*Overall, the focus is less legal and more rehab and support. (Lawyer)*

*I still had no confidence at all in getting bail...I went dressed in my prison uniform, "Nah that won't get me out, I'm sectioned." And then they gave me bail and I thought "Oh my God - they're actually going to do something for me for a change." (SCC participant)*

### **2.6.3. Time and investment of resources**

According to the lawyers and judges we interviewed, a big difference between the SCC and other courts is the time required to support participants through change. There is a significant amount of effort and resource invested by SCC participants and from all who play a role supporting the SCC. This was described as an investment in people.

*You need more patience, more engagement with your clients, need to know what you are seeking to achieve, not just a sentence, a more permanent change. (Lawyer)*

*There are a lot of resources compared to BAU. It takes 9-12 months in SCC so a lot of resource is invested in defendants, a lot of resource that comes from goodwill, takes judicial time, court time that could otherwise be spent elsewhere. (Judge)*

There is recognition that participants come into the process with multiple and complex challenges and with little or no resources and skills to address them. The SCC does not have a formal coordinator or navigator for participants. That is, SCC participants are not allocated a social worker or case manager to help them access services, this falls on the shoulders of the lawyers.

*Clients have multiple issues and require a lot more care and support, a lot more non-legal work with them, helping them through housing and rehab services. (Lawyer)*

*The main difference with BAU is to spend more time with the defendant but there is always a lot of tension between the rules/efficiencies and getting the best results – that is the cost of time. (Judge)*

#### **2.6.4. Experience for the participant**

Interviewed stakeholders spoke of observing the impact of the SCC on the participants' experiences of the justice system. Aligned with the aims of the SCC, the participants felt 'more listened to', the judges were respectful of clients and were more personal with them, and participants said they felt outcomes were 'more just'.

*An experience of a judge that they hadn't experienced before, someone who would actually engage with them and not disregard them, a human face to the judicial system. It gives a lot of dignity and provides respect. (SCC Management)*

Almost all participants and whānau spoke in depth about their positive experiences in working with the judges and lawyers in the SCC. Many participants compared SCC to their interactions with judges and lawyers in other courts. In the District Court, participants described feeling that they were treated like a number or a file, instead of a person. They described District Court Judges as keeping their heads down and talking at people.

*The normal court, I feel like sometimes I've been lectured to. They don't see you as a person, just another file to deal with. (SCC participant)*

*You may have done some crime, but you're not the worst person. They make you feel like everyone else, on the same level. In the other courts it's like blah blah, you don't get no say. (SCC participant)*

SCC participants consistently described feeling they were treated like a person, they talked about the benefits of being able to speak in court, how they saw that judges and lawyers were genuinely interested in their lives, and being encouraged in different activities and achievements.

*I like it [SCC] 'cause they treat you like human not a number... They actually care about you, especially the judges, which I really enjoy. They talk to you. (SCC participant)*

*I like how the judge interacts with the people... because it makes me feel like an actual human. They seem really caring. They do care about what's happening. So, I like that part of it. I didn't feel stressed at all because it was so casual. (SCC participant)*

*The judges were cool, the judges were so cool. The lawyers were awesome. They'd smile back and they could see changes and they'd support. They're there to support you through changes. (SCC participant)*

As well as feeling valued and listened to by the judge, participants highlighted the clarity that speaking for themselves added, rather than speaking through a lawyer.

*They [judges] want to hear you from you, not from your lawyer. That's what I really enjoy about Special is the one-on-one contact you have with the lawyer and prosecutors. (SCC participant)*

The physical set up of the court also made a difference for participants. For example, standing outside the dock was comforting for some participants.

*You can just talk to the judge and you don't have to be in the dock, which is real cool. You can stand beside it or just be in the room, that to me is a good thing. (SCC participant)*

However, one participant found the SCC to be intimidating.

*For me personally I don't like being in there. It feels like standing in front of the judge I'm really nervous. Can't stop shaking. (SCC participant)*

Lawyers felt SCC participants had a better understanding (compared to usual court processes) of what was happening and why. Overall, it appeared the SCC put a human face to the judicial system and gave participants dignity and respect.

*It does seem to work well for some people, they get a greater sense of self-esteem and you see some people who are quite proud of it. (Assessment)*

*It is a positive experience for the clients – the familiarity with one judge is great. (Lawyer)*

#### **2.6.5. Sentencing**

When considering differences between the SCC and 'business as usual courts', some interviewees commented that they thought sentencing outcomes for participants were lighter. Without robust assessment criteria, there was the potential risk of offenders seeking to get accepted into the SCC in hope of a lighter sentence.

*Some difference in sentencing in comparison to the BAU Court, it's on the lower end of the scale, more discharge with community service, also home detention. (Legal/risk)*

*It's quite aspirational for people to get into SCC. There is a perception that you will get a lighter sentence. (Assessment)*

However, when this was explored further with those whose role it is to help inform appropriate sentencing, any difference in sentencing outcomes became clearer. It is the purpose of the SCC to delay sentencing to allow for rehabilitation steps to be taken. Participants who successfully engage in this process end up with a different sentence than had they been in mainstream court processes, but it's not necessarily lesser.

*Different sentence, not lesser. In the last few years, we have started to accommodate offenders charged with more serious offending so the starting point without SCC would be imprisonment. If being sentenced to short-term then for a lot of them due to personal characteristics they would be seen as unsuitable for electronically monitored sentence (EMS). With SCC the starting point is still imprisonment but then we would recognise rehab taken and so would end up in a lesser point and they could be considered eligible for EMS, or the punitive aspect may be done if having been on remand through some of the process, or bailed to a rehab facility and it would be considered a backward step to send*

*them to prison. That's where you might end up with an intensive supervision sentence instead. (Legal/risk).*

One stakeholder noted that the offender could still be asked for reparation to be paid at sentencing to recognise that there are others/victim involved.

It is also worth remembering that a requirement of successfully engaging in the SCC is that participants commit to months of being in the court system with their progress towards identified goals monitored and discussed on a monthly basis.

## **2.7. Therapeutic courts are creating change within the community and justice system**

The SCC and other therapeutic courts also create change within the local community and more broadly in the justice system. At the community level, a reduction in recidivism can increase community wellbeing. For every offence, there is a victim with their own needs, and reductions in reoffending can be uplifting for a community.

*The benefit for the victim is to know that in relation to this person they won't be back to burgle them or their neighbour. (Judge)*

In addition, community wellbeing increases as more people are having their basic needs met through housing, entitlements and social support.

*We all benefit when we all go through life in an uplifted way. (Judge)*

At the macro level, courts such as the SCC are helping to drive change in the justice system. The notion that the 'system' is not working well is evident in Aotearoa New Zealand's high incarceration rates. The SCC provides an alternative way by focusing on addressing people's life circumstances that are driving low-level offending which in turn leads to imprisonment. It is assisting to bring about greater adoption of more rehabilitative approaches in the justice system.

*SCC is responsive whereas the justice system generally is not. 50% of prisoners in New Zealand are Māori and the courts are based on English justice – they are not working, there is a lot of resistance. SCC provides a different way. (Legal/risk)*

This was evident from the judges' perspective as they provided recognition that many judges are applying a therapeutic justice approach in the mainstream courts. This indicates a broader shift in the justice system suggesting SCC is becoming more mainstream and less of an alternative approach to justice.

*SCC is not so special, there are a lot of judges around the country who are doing a problem-solving approach more and more and trying to do that in a mainstream court. (Judge)*

The shift of inclusion of therapeutic justice approaches being applied in mainstream courts was also evident in comments by several other interviewees. In terms of their roles, they commented that SCC was no different than the normal court process.

*Really, it's not that different from the normal court, it's just slowing everything down so people can get access to resources. (SCC Management)*

*We do our piece of work and continue it and kind of just hold them in mind like any other court. Lots of people are going through the District [Court] and we just support them the best we can, there's no difference for us. (Service provider)*

*It's not very different in terms of me, I'm providing feedback to Special Circs Court [SCC] in the same way that I'd provide feedback to the [District] court. (Assessment)*

Other interviewees talked about how involvement in SCC has influenced what they do in other court processes and they have implemented similar approaches to support defendants in their work in other courts.

*I think it has impacted the judicial system because it's provided another option of how things can be run and I think it's created New Zealand with an alternative approach to the way things can be managed. (SCC Management)*

One of the presiding judges of the SCC has initiated the 'pink court' in Masterton (a cut down version of the SCC), and judges from elsewhere have observed the SCC with a view to establish similar courts in other locations.

### 3. The difference the Wellington Special Circumstances Court has made for participants

This section of the report draws on data from MOJ, analysis of the case files, interviews with participants and their whānau and other interviewees to show the impact of the SCC. In addition to graphs and quotes, composite case studies are used to illustrate key findings.

#### 3.1. The SCC had reached 206 offenders

There have been 206 participants in the SCC including 168 males (82%) and 38 females (18%)<sup>12</sup>. There was an almost equal percentage of Māori and European participants amongst the 54% of clients with ethnicity recorded (Figure 5).

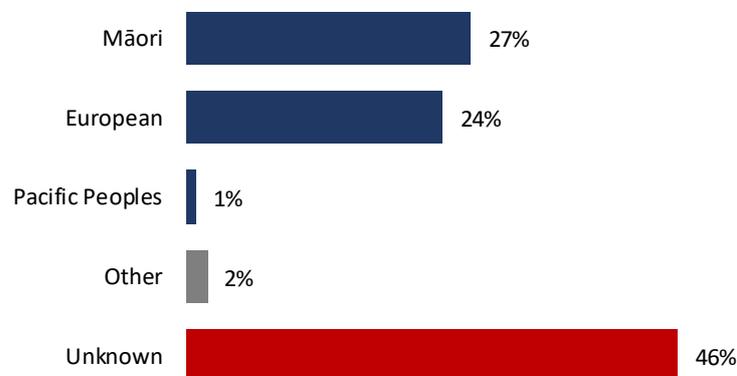


Figure 5. Ethnicity of SCC participants (n = 206) (MOJ data).

More than half of SCC participants had committed their first offence before the age of 26 (59%). The largest proportion of SCC participants entered SCC aged between 26 to 35 (30%) (Figure 6). The median time from first offence recorded in MOJ data to the participant's appearance in the SCC was 10.1 years (minimum 21 days and maximum 18.5 years).

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<sup>12</sup> Based on Ministry of Justice records checked for accuracy by the SCC Duty Solicitor.

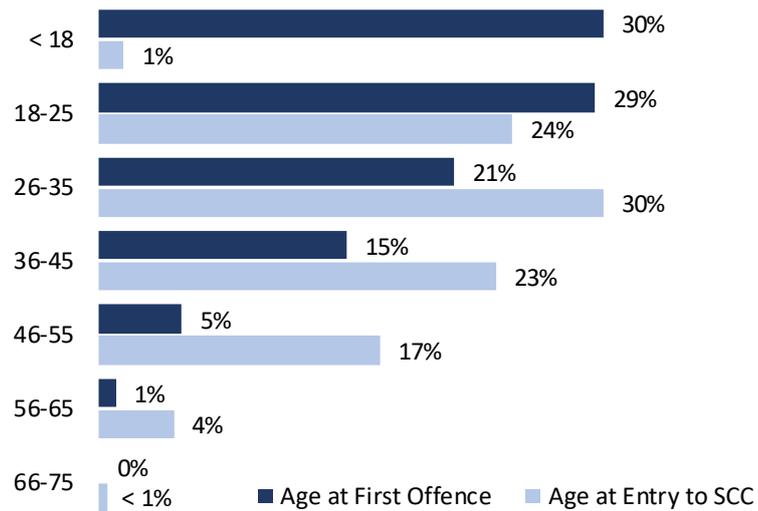


Figure 6. SCC participants' age at first offence and age at entry to SCC (n = 206) (MOJ data).

### 3.2. Offending was in the least serious categories

The MOJ data included the offence category(s) people were charged with. Categories and definitions are provided below.

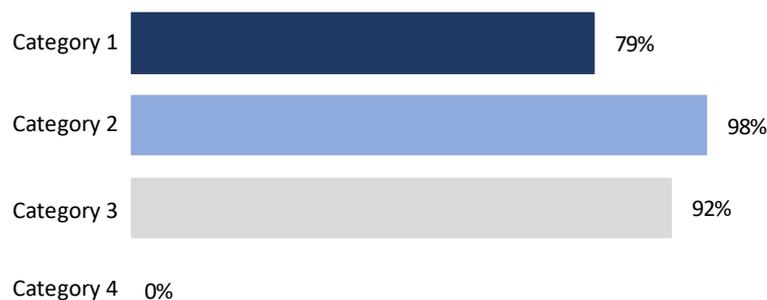
**Table 4. MOJ offence category descriptions.**

Category <sup>13</sup>	Criminal Procedure Act 2011 Definition <sup>14</sup>	Examples
<b>Category 1 Offence</b>	<ul style="list-style-type: none"> <li>• An offence that is not punishable by a term of imprisonment, other than               <ul style="list-style-type: none"> <li>○ an infringement offence; or</li> <li>○ an offence described in the definition of a category 2 offence; or</li> <li>○ an offence described in the definition of a category 3 offence.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Disorderly Behaviour</li> <li>• Breach of Liquor Ban</li> <li>• Fighting in Public Place</li> <li>• Failure to Answer Police Bail</li> <li>• Obscene Language</li> <li>• Unlicensed Driver Failed to Comply with Prohibition</li> </ul>
<b>Category 2 Offence</b>	<ul style="list-style-type: none"> <li>• An offence punishable by a term of imprisonment of less than 2 years.</li> </ul>	<ul style="list-style-type: none"> <li>• Theft (Under \$500)</li> <li>• Failure to Answer District Court Bail</li> <li>• Breach of Community Work</li> <li>• Shoplifts (Est Val Under \$500)</li> <li>• Wilful Trespass</li> <li>• Wilful Damage</li> </ul>
<b>Category 3 Offence</b>	<ul style="list-style-type: none"> <li>• An offence punishable by imprisonment for life or by imprisonment for 2 years or more, other than               <ul style="list-style-type: none"> <li>○ an offence described in the definition of a category 4 offence.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Possess Offensive Weapon</li> <li>• Contravenes Protection Order</li> <li>• Threatens to Kill/Do grievous bodily harm</li> <li>• Drove with Excess Breath Alcohol (Third or Subsequent)</li> <li>• Burgles (Est Val \$500 To \$5000 By Day)</li> <li>• Unlawful Takes Motor Vehicles</li> </ul>
<b>Category 4 Offence</b>	<ul style="list-style-type: none"> <li>• An offence listed in Schedule 1.</li> </ul>	<ul style="list-style-type: none"> <li>• Murder</li> <li>• Treason</li> <li>• Manslaughter</li> <li>• Espionage</li> </ul>

The MOJ data recorded a total of 1,753 offences for the 206 SCC participants. The SCC was initially intended to be for low level offending but the only people who were not accepted into the SCC had category four offences. Most SCC participants (71%) had committed offences in categories one, two and three (Figure 7).

<sup>13</sup> If an offence is in a given category, then the following is also an offence in that category: conspiring to commit that offence, attempting to commit that offence, or inciting or procuring or attempting to procure any person to commit an offence of that kind that is not committed, being an accessory after the fact to that offence.

<sup>14</sup> <http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3359962.html>



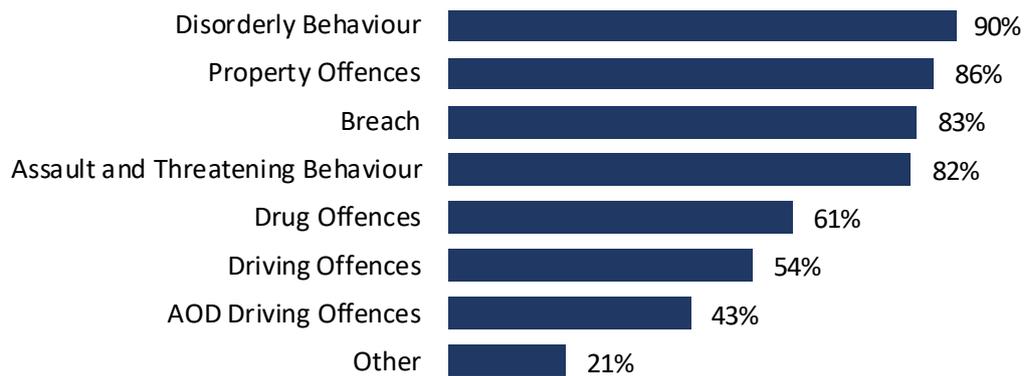
**Figure 7. SCC participants’ offending history – percentage of 206 participants with offences in each category (MOJ data).**

To summarise the offences, we coded them into eight offence types<sup>15</sup>. Of the 206 SCC participants more than eight out of ten had committed an offence in the categories of disorderly behaviour (90%), property offences (86%), breach (83%) and assault and threatening behaviour (82%) (Figure 8).

*The most common is bail breach prosecutions, we will provide information for how people can meet bail needs. (Legal/risk)*

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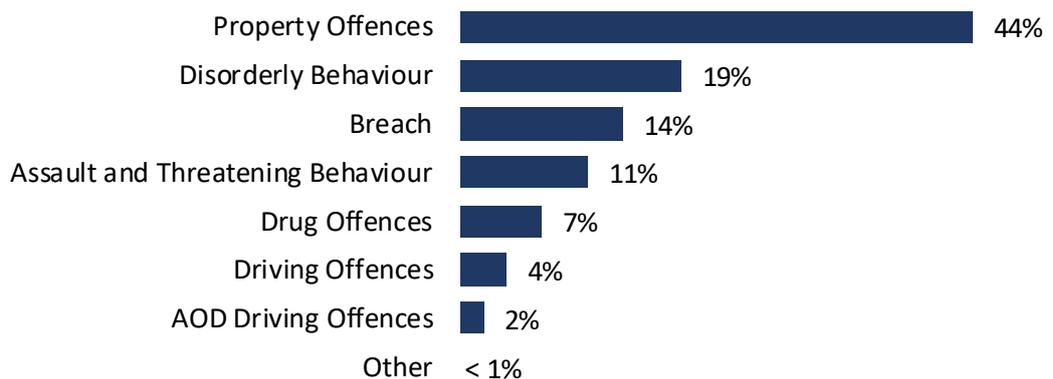
<sup>15</sup> To simplify the offences committed, the 402 different offences committed were split into eight different offence types. Offences which fell under the category of property offences included shoplifting, burglary and obtaining by deception. Disorderly behaviour included offences such as trespassing, wilful damage, and graffiti. Breach offence types included breaches related to community work, conditions of supervision, and protection orders. Assault and threatening behaviour included common assault, assaulting Police and speaking threateningly. Drug offences included procuring, possession and sale. Driving offences included careless driving, failing to stop, and driving while suspended. AOD driving offences included driving with excess blood alcohol content and refusing officers requests for blood specimens. Offences which did not fit into any of the other seven categories such as accessing a computer system without authorisation and cruelty/ill-treatment of animals were put into the category of other.



**Figure 8. Percentage of SCC Participants who committed each type of offence (n = 206) (MOJ data).**

Of the offences dealt with in SCC, just under half (44%) were related to property offences followed by disorderly behaviour (19%), breaching conditions (14%), assault and threatening behaviour (11%) and drug offences (7%) (Figure 9).

*As they are in the Court for a longer time period, the chances of them breaching bail conditions and reoffending is higher and there is greater acceptance that the defendants may reoffend. (Lawyer)*



**Figure 9. Percentage of offences in SCC cases by offence type (n = 1,753) (MOJ data).**

Offences such as property offences, assault and threatening behaviour affected victims. Victims' circumstances were considered by the SCC. The longer time offenders were engaged with the SCC provided a longer potential time for victims to consider whether they wanted to meet the offenders.

### 3.3. SCC participants have complex backgrounds

Case file reviews helped to highlight SCC participants' backgrounds. Participants described facing many challenges including homelessness, mental health issues, addiction and violence prior to being in the SCC. Many participants described living

in poverty and surviving by shoplifting and many had suffered past trauma and had experienced/were experiencing mental health challenges. Participants also talked about being physically unwell and living on the streets.

*Before SCC I was a heck of a mess. I was not okay man. Walking around in broad daylight wrapped in a blanket. (SCC participant)*

We have used the Treasury’s Living Standards Framework<sup>16</sup> to summarise the common themes from the participants’ backgrounds.

### Participant History

<b>Health status</b>	<ul style="list-style-type: none"> <li>• Wide range of mental health issues (Depression, Anxiety, Psychosis and Schizoid diagnosis).</li> <li>• Limited or no access to services (health services, Work and Income benefit, housing, other).</li> </ul>	<ul style="list-style-type: none"> <li>• Experienced abuse, neglect, poverty, trauma, physical and sexual abuse in childhood.</li> <li>• Early exposure to alcohol and drugs through parents and wider family.</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>• Inconsistent home life led to early homelessness.</li> <li>• Transient housing (living with extended whānau, Oranga Tamariki caregivers, other).</li> </ul>	
<b>Subjective Wellbeing</b>	<ul style="list-style-type: none"> <li>• Critical gap surrounding purpose in life.</li> <li>• Drive to reunite with children.</li> <li>• External motivations.</li> <li>• Desperation.</li> </ul>	
<b>Social Connections</b>	<ul style="list-style-type: none"> <li>• Disconnected from family and did not feel included in family dynamics.</li> <li>• No desire to be in contact with family.</li> <li>• Cared for by Oranga Tamariki or by other family members.</li> </ul>	
<b>Civic engagement and governance</b>	<ul style="list-style-type: none"> <li>• No formal identification or birth certificates.</li> </ul>	
<b>Income and earnings</b>	<ul style="list-style-type: none"> <li>• Physical and mental health and resultant difficulties created barriers to finding and holding down a job.</li> <li>• Limited opportunities to succeed.</li> </ul>	
<b>Education and skills</b>	<ul style="list-style-type: none"> <li>• Wide range of developmental issues (ADHD, FASD, other, some with undiagnosed disorders).</li> <li>• Limited educational opportunities.</li> <li>• Early departure from schooling system.</li> </ul>	
<b>Personal security</b>	<ul style="list-style-type: none"> <li>• Gang and family gang affiliation (patched member, other).</li> <li>• Long history of offending and imprisonment (theft, breach, driving offences, AOD and disorderly behaviour).</li> </ul>	
<b>Cultural identity</b>	<ul style="list-style-type: none"> <li>• Many participants were disconnected from their family, whānau, hāpū, iwi, marae and community.</li> </ul>	

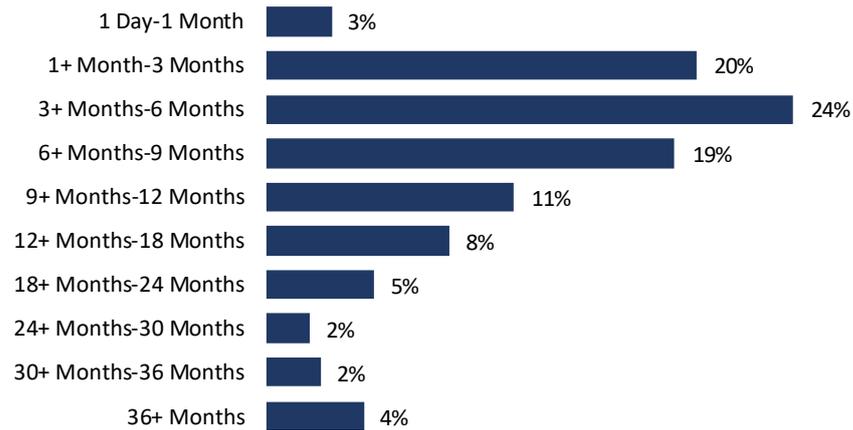
**Figure 10. Participant backgrounds (Source: Thematic analysis of interviews and file notes).**

<sup>16</sup> <https://treasury.govt.nz/information-and-services/nz-economy/higher-living-standards/our-living-standards-framework>

### 3.4. Analysis of the time participants were in the SCC

The average time participants spent in the SCC was 10.2 months with the median time being 6.2 months: around a quarter (24%) of participants spent between three to six months and more than three-quarters (77%) spent less than one year (Figure 11).

*Participants stay in the SCC for quite a while and it gets frustrating for some of them. They want it done and dusted so they can get on with their lives. It creates uncertainty and frustration at still being on bail. (Legal/risk)*



**Figure 11. Time spent in SCC by participants (n = 201) (MOJ Data).**

There were also some cases where the participant exited the SCC but reoffended and was accepted back into the SCC.

*Some people come back into the SCC again, sometimes it will be just to get help with something that has gone wrong. One guy lost his phone, accommodation, benefit, did shoplifting and he was back in the system. But [one of the providers] got him a house, set up a system for him to get his benefit – he was only back in the system for a month or two. It would have been very negative for him to be in the usual court. (SCC Management)*

We were unable to accurately identify from the data SCC participants who left and re-entered the SCC. This group may explain the SCC participants who spent more than three years in the SCC.

### 3.5. SCC participants were supported by NGO service providers

Participants described being connected to a range of services and support. These included help obtain a driver's licence, identification, healthcare, Work and Income entitlements, job training, counselling and therapy. At the top of the list for many participants was the need for accommodation with many being homeless.

*[DCM person] has been amazing. He helped me get my own flat for a start...I've ended up in a really good one... So, I'm really lucky to be where I've ended up. I've been keeping my*

*flat clean all the time, looking nice because it helps with my mental health and makes me feel better. (SCC participant)*

*I had been getting fed up for ages, looking and looking. And my City Mission support person turned around and said "Housing New Zealand." And he goes "Come into the office and we'll give them a ring." So, I sat there and I was having an interview, and then two and a half, three months later... That's real fast, normally it's a two-three year waiting list. (SCC participant)*

Participants were overwhelmingly positive about the support they received from service providers who helped them with housing and other issues. Participants reported positive relationships with a range of services including DCM, Mōkai Kāinga, Wellington City Mission, Kiwi Can Do, Ngāti Kahungunu Whānau Services and Kokiri Marae. They said they felt involved in setting goals with the service providers and recognised the importance of first building trust and good rapport.

*[Māori provider] said to me.... I don't care about your past, what I do care about is that you're here, and your potential is wasted so I want to take you around to my whare and help you establish yourself in society. And I thought okay, then and he did. (SCC participant)*

*He's an integral part of Special Circs. He was on my case about going, being there, making sure I'm there on time, not to get breached. He said if you breach with Special they don't give you a second chance. So I stuck it out, I didn't fail, I didn't breach. I went to every single Special Circs court date I had, never got breached. (SCC participant)*

Having trusting relationships was new for some participants especially those who had been incarcerated. For one man, this enhanced his mana and helped set him on a positive path.

*Through him [Māori provider], he gave me accommodation. And there was no boundaries, there was no restrictions. I didn't have to ask for anything or permission to do anything. There wasn't people looking over my shoulder when I was doing things, he just let me do my thing and of course that pulled through. (SCC participant)*

DCM has been an integral part of the SCC since its establishment and plays a strong role in supporting the homeless in the local Wellington community. Many SCC participants had been connected to DCM for several years and valued their ongoing support.

*I got to find out that if I needed food I could go to DCM. If I needed company and support I could go to DCM. So, part of SCC was DCM engagement and I spend a lot of [time with] DCM here when I do come into Wellington. I was looking forward to coming in today to see [duty solicitor] and I'm also looking forward to going into DCM today and re-engaging with [DCM] and he's always smiling. (SCC participant)*

We also used Treasury's Living Standards Framework to summarise the types of services supporting participants.

## Engagement with SCC

<b>Health Status</b>	<ul style="list-style-type: none"> <li>• Participants accessed medical treatment and connected with specialist health providers.</li> <li>• Some participated in AOD assessments and AOD counselling sessions: (not all were assessed).</li> <li>• Some participants accessed general counselling services.</li> <li>• Some struggled to get therapy related to past trauma (need external funding).</li> <li>• Participants accessed services including: Bail Support, Housing NZ, Work and Income, Salvation Army Bridge Programme, Kiwi can-do, TACT, CARE NZ, CADS and DCM.</li> <li>• Some participants accessed services that they did not find useful.</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>• Some participants were housed or in the process of finding a home.</li> <li>• Others continued to access housing support through DCM, shelters and other housing services.</li> </ul>
<b>Subjective Wellbeing</b>	<ul style="list-style-type: none"> <li>• Many participants had positive experiences with judges and lawyers; a care/emotional support element was noticeable. They felt like a human and not another number or file.</li> <li>• Participants enjoyed being able to stand outside of the dock and talk directly to the judges.</li> <li>• Some participants felt like they were given a second chance at life.</li> <li>• Participants started to set goals and progress towards completing them.</li> </ul>
<b>Social Connections</b>	<ul style="list-style-type: none"> <li>• Some participants reconnected with their whānau, support networks and community.</li> <li>• Some participants were working to reconnect with their children.</li> </ul>
<b>Civic Engagement and Governance</b>	<ul style="list-style-type: none"> <li>• Helped to get official identification.</li> </ul>
<b>Income and Earnings</b>	<ul style="list-style-type: none"> <li>• Some participants accessed Work and Income benefits and food grants.</li> </ul>
<b>Education and Skills</b>	<ul style="list-style-type: none"> <li>• Some participants have engaged with education providers, and signed up for short courses.</li> </ul>
<b>Cultural Identity</b>	<ul style="list-style-type: none"> <li>• Some participants reconnected with their marae and attended tikanga Māori and te reo Māori courses.</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>• Some participants were remanded until services were available; the drawn out process was a nuisance for some.</li> <li>• Some participants were not always genuine in their engagement with the SCC process; thought to be an 'easy ride'.</li> <li>• Bail support are one of the main services who support participants.</li> </ul>

**Figure 12. Engagement with SCC summary.**

## Composite case study 1

### About Sheryl:

- Diagnosed with severe developmental challenge
- Suffered serious bullying and physical abuse at school
- A range of mental health challenges (depression, anxiety and others).
- Sheryl drank and smoked marijuana and methamphetamine daily
- Her addictions became a coping mechanism to cope with the trauma she experienced as a young girl.

### Offending context:

- Sheryl has a long history of offending over 30 years. She started stealing, portraying disorderly behaviour and committing most of her crimes under the influence of drugs and alcohol.
- When she entered a court hearing she was identified as a suitable person to go through the SCC.

### Engagement with SCC:

- When she entered the SCC, she was not genuine in her interactions with the services available. She was placed into intensive rehab and only engaged in the counselling she wanted to do.
- Through the conversations with the judges and lawyers, Sheryl was able to see that each person was genuine in their desire to help her move forward with her life. She started to feel valued and gained a sense of purpose.

### Outcomes from SCC:

- Sheryl connected with new services. She was able to link up with DCM [who were] an instrumental figure in supporting her to attend every court session.
- She reconnected with her family and started actively looking for a suitable rehab facility although this was proving to be difficult.

*I offend and re-offend to keep my head above water.*

*I'm such a recidivist offender the judges pretty much said why isn't [she] in special circs. special circs... included intensive counselling and intensive rehabilitation but I didn't really do the drug rehabilitation.*

*In special [SCC] they treat you like a human, they actually care about you, especially the judges which I really enjoy they talk to you. I really enjoy the one on one contact you have with the judge.*

*[DCM] just genuinely helped out a lot... he was on my case about going, I didn't fail, I didn't breach, I went to every single special circs court date I had, never got breached. I moved into [a family members] house when I was going to special circumstances, it kind of helped me a lot to get back on my feet.*

*It is hard to find the right rehab for someone like me.*

## Composite case study 2

### About Mereana:

- Mereana suffered countless acts of physical and sexual abuse by family members.
- Her mother suffered from a range of mental health issues.
- She was taken into CYFS care and became disconnected from her immediate whānau.
- Mereana was failed by the schooling system.
- She had major gaps in her learning and left school without any formal qualifications.

*I have been in court since I was [a teenager]*

*I lived on the street and... I sit on the street and hustle...*

### Offending context:

- With no family support or formal education she struggled with life.
- Alcohol and drugs was an escape.
- Mereana became homeless and spent a lot of time 'hustling' on the streets; her family did not approve.
- Mereana started shoplifting as a way of surviving.
- Her addictions and lack of basic needs contributed to her offending.

*...drug and alcohol issues... is when my offending happened. I was already on that path even back then... all of my crime really are just surviving on the street. You have nowhere to stay.*

### Engagement with SCC:

- Mereana was unsure of what the SCC could offer her but she agreed to give it a go.
- She engaged well with the judges and appreciated the support she was given.
- She felt like she was being listened to and that people wanted to genuinely help her situation.

*With special they're a bit more lenient because they understand. They really understand crime does happen and people do it, but they're just humans. I was homeless, they saw a gap, they are helping me. Great to have support.*

### Outcomes from SCC:

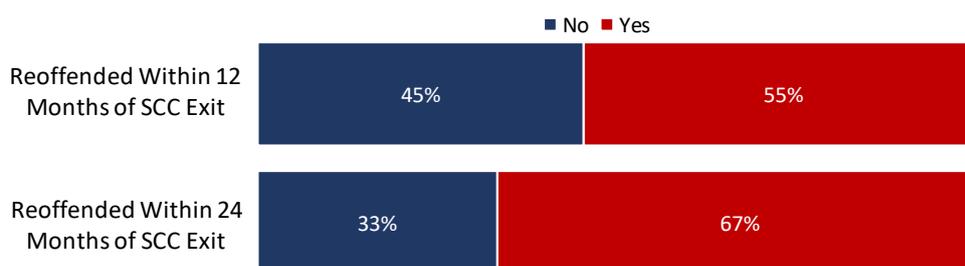
- She fully engaged in the SCC and made changes to her life.
- Mereana enrolled herself into some short courses and actively searched for stable housing.

*[I am] doing a course, so I have done Anger Management and now I am doing mana wāhine. [I am also] working with a group that helps me find a house. I am a little bit more stable now.*

### 3.6. The number of participants who reoffended decreased as did the average number of reoffences

Of participants who had exited SCC at least a year ago (n = 143), 45% had not committed a further offence within a year after exiting SCC<sup>17</sup>(Figure 13). Of the 96 SCC participants who had exited SCC at least two years ago, a third (33%) had not reoffended within the two years of exiting SCC.

The median time reoffenders engaged with SCC (182 days for reoffenders within 12-months and 185 days at 24-months) was longer than for those who did not reoffend (147 days for reoffenders within 12-months and 119 days at 24-months).



**Figure 13. Percentage of clients who committed offences within 12 (n = 143) and 24 months (n = 96) of exiting SCC (MOJ data).**

The SCC achieved similar reoffending rates as for the offender population on release from prison, despite targeting repeat offenders with complex life circumstances. The Department of Corrections 2018/19 annual report<sup>18</sup> provides overall 12-month and 24-month re-conviction rates of 45% and 62.1% respectively after release from prison. Reconviction rates at 12-months were similar for females and males and tended to be higher for less serious offences (e.g. breaches 55.8%, burglary 54.6%, dishonesty 59.8%). At 24-months, rates were higher for males (63.4%) and for specific offences ranged from property damage (61.7%), breaches (69.6%), burglary (73.0%), to dishonesty (73.8%).

There are limitations in interpreting the significance of the changes in reoffending for the SCC participants as follows<sup>19</sup>:

<sup>17</sup> Exit dates were based on the sentencing date

<sup>18</sup>

[https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0008/38852/Annual\\_Report\\_2018\\_2019\\_Web\\_Version\\_Final.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0008/38852/Annual_Report_2018_2019_Web_Version_Final.pdf). When RI rates are reported, they relate to offenders who were released from prison or started a community sentence over a 12-month period,

<sup>19</sup> A robust approach to determining the effectiveness of the SCC on participant outcomes would be to identify a motivated group of potentially eligible participants and randomly allocate them to either the SCC or to another court setting. However, given the accumulating evidence about the effectiveness of therapeutic courts it is unlikely that a randomised controlled trial would be considered ethically acceptable.

- There is no matched comparison group that experienced another court setting. It is difficult to develop a matched group using the MOJ data due to insufficient information about offending contexts.
- SCC participants are selected because they are motivated to change their life circumstances and are likely to differ from any other sample.

Although 55% of SCC participants had reoffended within 12 months after exiting SCC, the number of offences committed by participants was significantly fewer than the number of offences committed by the same group of participants 12 months prior to entering the SCC.

*The goal isn't always perfection, the fact that he is employed, housed and only had one charge this year is great. (SCC Management)*

*It gives the client time to demonstrate the desire for change. It also gives them the opportunity to have some backward steps before going forward and making progress – they might breach bail or have a minor reoffending – that is they can make some mistakes. (Lawyer)*

For participants who reoffended, the mean number of offences significantly decreased from 7.83 offences per participant pre-SCC to 5.68 offences on average per participant for the year following exiting SCC<sup>20</sup>.

*Having clients participating in SCC is a good thing. For example, the frequency of their offending may change, there can be some learning for the participants that even if they lapse again they will have increased their skills to cope in the future. (Lawyer)*

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<sup>20</sup> A paired-samples t-test was conducted to compare the number of offences committed by participants who offended 12 months after exiting SCC with the number of offences committed 12 months prior to SCC. This sample was comprised of 78 participants including one participant who did not offend within the year prior to SCC. For the paired-samples t-test that participant was not included (n = 77). There was a significant difference in offences prior to SCC (M = 7.94, SD = 7.97) and following SCC (M = 5.74, SD = 4.92)  $t(76) = 2.635$ ,  $p = .01$ . There was also a significant positive correlation  $r = .437$ ,  $n = 77$ ,  $p < .001$ .

**Table 5. SCC participants' offences 12-months before entry and after exiting SCC (Source: MOJ data).**

		Mean	Median	Minimum	Maximum
SCC Participants with 12-months before and after SCC (n = 143) <sup>21</sup>	Offences - before SCC	6.32	5	0	55
	Offences - after SCC	3.10	1	0	23
SCC Participants who offended after exiting SCC (n = 78) <sup>16</sup>	Offences - before SCC	7.83	5	0	55
	Offences - after SCC	5.68	4	1	23

Of the 140<sup>22</sup> participants who had exited SCC at least one year ago:

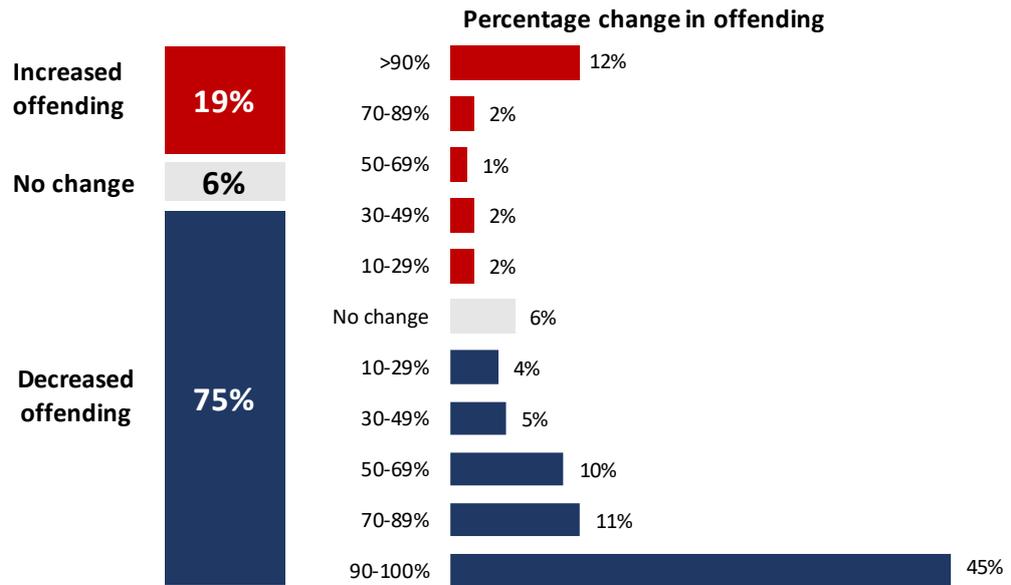
- Three quarters (75%) had reduced their offending, including 45% who had not reoffended.
- Around one in twenty (6%) had not changed the number of offences they committed.
- Just under one in five had increased their offending (19%): 7% increased their offending by 10% to 89% and 12% of participants had increased their offending by more than 90% (Figure 14).

Although the numbers in each group were small there did not appear to be a difference between gender or age groups. Increased offending may reflect participants who have been accepted into the SCC despite lacking motivation to change.

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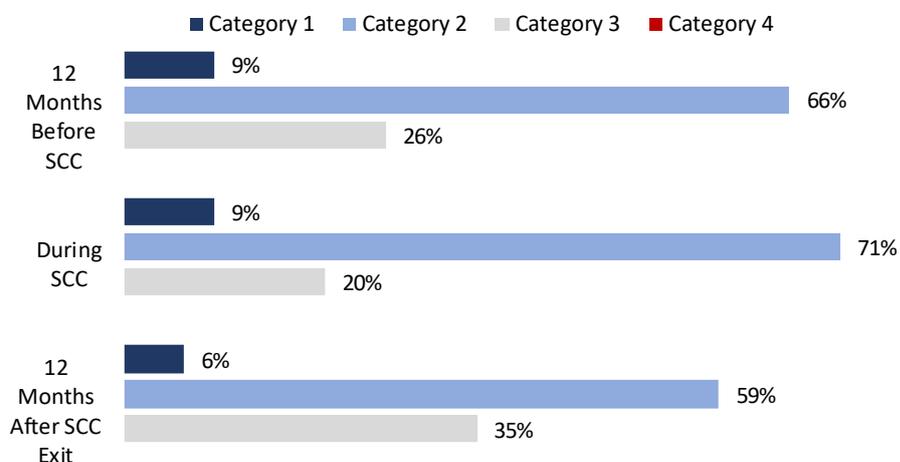
<sup>21</sup> A paired-samples t-test was conducted to compare the number of offences committed by participants 12 months prior to SCC and 12 months after exiting SCC. There was a significant difference in offences prior to SCC (M = 6.32, SD = 6.72) and following SCC (M = 3.10, SD = 4.60)  $t(142) = 6.249, p < .001$ . There was also a significant positive correlation  $r = .458, n = 143, p < .001$ .

<sup>22</sup> Of the 143 SCC participants who had data for at least 12 months prior to SCC and 12 months following their SCC exit, three participants had not committed an offence in the 12 months prior and were therefore excluded for percentage change in offending.



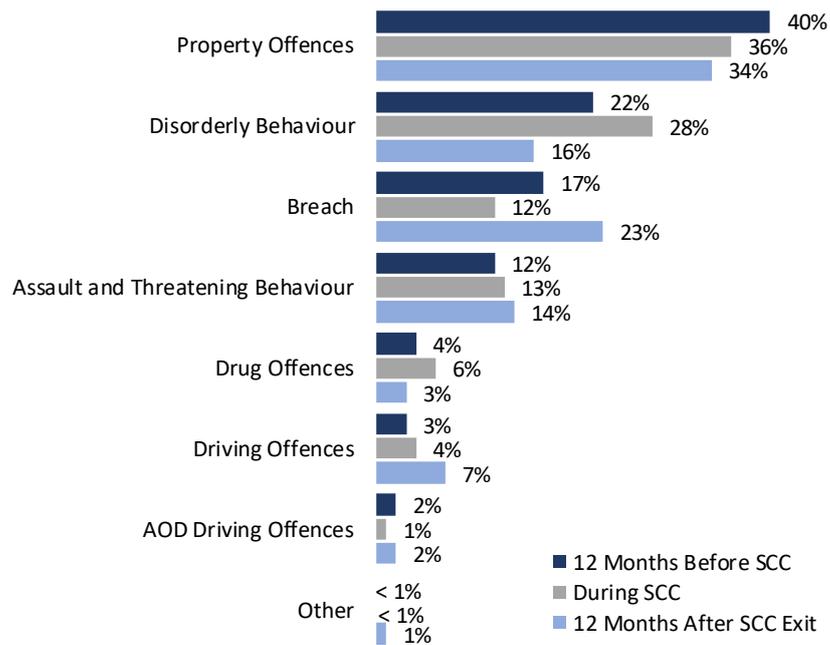
**Figure 14. SCC participants' change in offending from before and after SCC (n = 140) (MOJ data).**

Most offences committed by SCC participants in the 12 months before their first SCC date were Category 2 (66%), a quarter (26%) were Category 3 and 9% were Category 1 offences. After exiting SCC, there was a decrease in Category 2 offences but a 9% increase in Category 3 offences (Figure 15). The proportion of offences in each category was similar at 24-months.



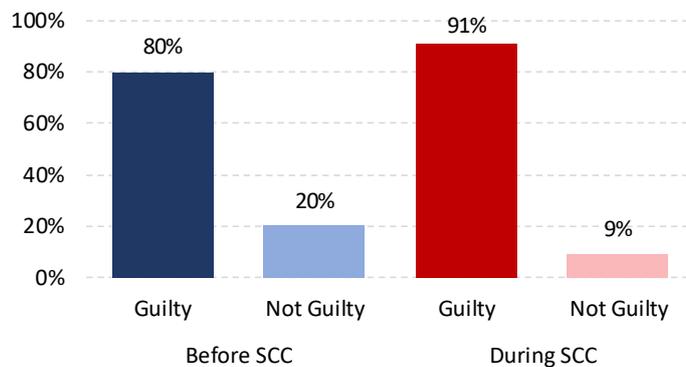
**Figure 15. SCC participants' (n = 143) offending seriousness 12-months before SCC (offences = 904), during SCC (offences = 496) and after exiting SCC (offences = 443) (MOJ data).**

After entering the SCC, the proportion of offences across offence categories changed slightly. There was a decrease in property offences (34%) and small increases in disorderly behaviour (28%) and breaches (23%).



**Figure 16. SCC participants' (n = 143) offences 12-months before (offences = 904), during SCC (offences = 496) and after exiting SCC (offences = 443) by offence type (MOJ data).**

Participants were more likely to plead guilty to offences during SCC (91% plead guilty) compared to before SCC (80% plead guilty) (Figure 17). Although pleading guilty is part of the inclusion criteria for the SCC, it is important participants are not pleading guilty to crimes they did not commit. There are a small number of SCC participants with non-guilty pleas who are simultaneously having cases heard in the District Court.



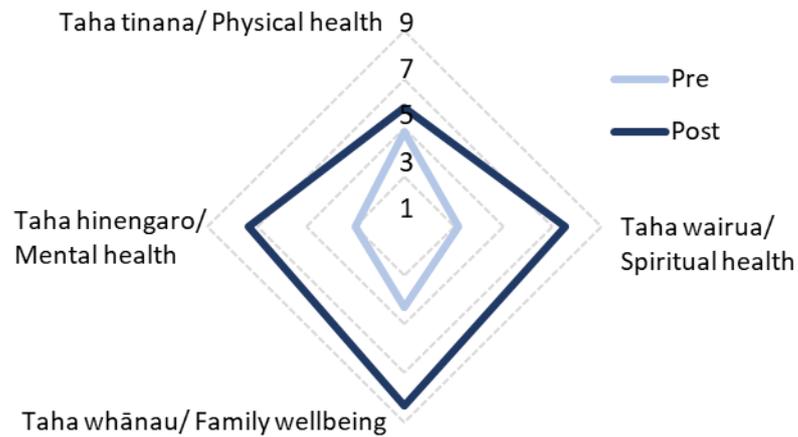
**Figure 17. Percentage of offences with guilty pleas before (n = 6,921) and during SCC (n = 1,528) (MOJ data).**

### 3.7. Interviewed participants described improved wellbeing

When interviewing participants, we asked them to rate their wellbeing in the four areas of Te Whare Tapa Whā before and after SCC. Some people preferred not to answer and other interviews were cut short but six participants gave us feedback.

They described increases in taha wairua (spiritual health), taha whānau (family wellbeing) and taha hinengaro (mental health). Participants said this was because their lives were more on track and they had engaged positively with their whānau.

Taha tinana (physical health) was rated lower than other domains of wellbeing and improved less than expected given increased engagement with health services, treatment for conditions such as hepatitis and a reduction in homelessness or sleeping rough.



**Figure 18. Wellbeing survey of interview participants (1=very bad, 10=very good) (n=6).**

The outcomes from the SCC have been summarised against the Treasury Living Standards Framework (Figure 19).

## Outcomes from SCC

<b>Health status</b>	<ul style="list-style-type: none"> <li>• Positive outcomes through engagement with mental health services</li> <li>• Engaged with AOD services; reduction or no use of AOD as a result.</li> <li>• More recognition of negative mindset and deterioration of mental state (e.g. triggers).</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>• Some participants reconnected and moved in with their whānau.</li> <li>• Participants continued to engage with DCM and access support for housing.</li> <li>• Some participants felt they had a safe and stable environment to live in.</li> </ul>
<b>Subjective Wellbeing</b>	<ul style="list-style-type: none"> <li>• Some participants felt like they had certainty about decisions in their life.</li> <li>• Participants were gaining hope and feeling valued (through engagement with judges, services and personal progress).</li> <li>• Some had a positive shift in their mindset and an increased awareness of coping strategies.</li> </ul>
<b>Social connections</b>	<ul style="list-style-type: none"> <li>• Reconnecting with whānau, support networks and their communities.</li> <li>• Supervised access with their children or in a family court process.</li> <li>• Setting goals to (reengage with children and wider whānau).</li> </ul>
<b>Civic engagement and governance</b>	<ul style="list-style-type: none"> <li>• Participants are aware of services they are entitled to.</li> <li>• Reduction in offending for some.</li> <li>• Some participants are getting formal identification and drivers licences.</li> </ul>
<b>Income and earnings</b>	<ul style="list-style-type: none"> <li>• Some participants are volunteering and increasing their chances of gaining employment.</li> <li>• Some are opening bank accounts and accessing Work and Income benefits.</li> </ul>
<b>Education and skills</b>	<ul style="list-style-type: none"> <li>• Some participants have attended short courses and wānanga based around tikanga Māori and te reo Māori.</li> <li>• Participants are attending self-development courses and education.</li> </ul>
<b>Cultural identity</b>	<ul style="list-style-type: none"> <li>• Some participants reconnected with their marae and attended tikanga Māori and te reo Māori courses.</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>• Potential reduction in offending because of their personal development while in the SCC.</li> <li>• Participants are more aware of the impact of their offending.</li> </ul>

Figure 19. Outcomes from SCC summary (thematic analysis of interviews and file notes).

### Composite case study 3

#### About Jack:

- As a child Jack suffered severe domestic abuse from his older siblings.
- He grew up feeling left out from his family and left home at the age of 15.
- Jack did not have a stable environment for schooling and eventually left without any formal qualification.
- He has struggled throughout his life to hold down a job for more than a couple of months.

#### Offending context:

- Jack's relationship with his whānau was never repaired and the streets became his home.
- He was not accessing basic necessities and his offending reflected this.
- He was shoplifting and stealing food from supermarkets to survive.
- Committing offences became a part of his normal life. It was an escape from his reality and his childhood trauma.

#### Engagement with SCC:

- Jack entered the SCC with the hope of making a change in his life.
- His first interaction with the judge was 'eye opening'.
- He enjoyed the dialogue between judges and the positive environment in the court.

#### Outcomes from SCC:

- Jack had many positive moments in the SCC.
- He completely engaged in the process and shifted his mind set to better his life.
- He was able to access stable accommodation with the help of the SCC.
- Jack started taking steps towards working and volunteered at the community gardens.
- For the first time in many years he is seeing some stability in his life.

*I came from the streets. As a young boy...I was on the...streets.*

*I believe the crime that I was getting to was through trauma, it was my way of coping.*

*Just by humanizing me, by speaking to me like a human and not like a number and asking 'me' how 'I' felt and what 'I' think should be done.*

*Well because of my attitude of, I want to stay here [and change my life], they said listen we know a guy that will take you on...he gave me accommodation.*

*[I also started volunteering at the] community gardens ... I was mowing all their lawns and weeding all their gardens.*

## Composite case study 4

### About Corey:

- Sexually abused as child
- Disengaged from his family and his social support from a young age
- Struggled to focus in school and eventually exited school at the age of 15 without any formal qualifications
- Used drugs and alcohol to cope with past trauma
- Been to prison multiple times.

### Offending context:

- Substance use led to a range of problems for Corey. He started offending and socialising with a rough crowd.
- He would often commit offences out of peer pressure. He found it easier to go along with committing an offence than saying no.
- Corey lived on the street and a lot of his offending was related to him stealing necessities like food while under the influence of drugs and alcohol.

### Engagement with SCC:

- He soon realised that SCC was his opportunity to change his life.
- Corey started implementing goal setting and working towards decreasing his use of cannabis.
- He enjoyed the freedom to speak directly to the judges. It made him realise they were genuinely interested in seeing him succeed in life.

### Outcomes from SCC:

- Corey made significant changes to his life.
- Developed an awareness around the impact of offending and learnt how to say no when he is in a peer pressured environment.
- He enrolled in a course and sat his licence test.
- He received support from DCM and who supported him to find permanent housing.

*Sometimes it is hard because there are a few people around and it is just like "come on, come on" to the point where I am just like okay then I will.*

*I sit on the street and hustle. It is my hustle. Knowing how to survive because it is the only way I have taught myself to survive.*

*[At SCC] they give you a second chance. It is better. It just gives me a clearer vision of what I need to complete that week. Majority of it is putting it down and plan. Just trying to control my cannabis use. Basically, the judges were really cool. They're trying to help you with housing, counselling, what are your issues, how do we get you into the medical system?*

*[The judge] made me realise say if there was something I was going to do, if someone said hey do this blah blah, I would actually say no. I don't want to end up where the consequences make me end up.*

*Bail support has helped me get into a course... I ended up getting my license through them.*

*[DCM has] been amazing. He helped me get my own flat for a start. He's known me for years now because I used to volunteer here, so he knows what I've been through.*

### 3.8. SCC participants said the support they received made them feel better able to manage their lives

We asked participants what made a difference for them and whether they would be likely to offend again after being in SCC. Most participants described feeling better able to manage their lives because:

- They felt they had been listened to and believed in and this reinforced their own self-belief that they could make positive changes.

*The courts did by helping me think yeah, I can actually do it. I can make a change and I am able to make a change and having people to support me... (SCC participant)*

*You know how you've done something for so long just to survive? I'm trying to change the mould. I'm trying my hardest. Towards the crimes that made me go to Special Circumstances I'm less and less and less doing them. It's hard because being broke sucks. Because I never used to be broke, I used to have money all the time. I miss money but at the moment I'm like ahh do I do crimes to get money? (SCC participant)*

- Previous abuse was acknowledged. One participant's story highlighted the enormous challenges he had faced since childhood. He had been on the streets at six years old and experienced abuse in State care. He had been in prison for decades and had hundreds of convictions. This participant had completely changed his life and attributed the change to SCC *humanising* and believing in him, while connecting him with positive supports. He no longer offends and has dedicated his life to helping others.

*If you're not going to acknowledge what happened to me, I'm just going to keep being a crim. And it wasn't until I got to SCC that I got the acknowledgement and I was given the opportunity to do something I wanted, which was to go back onto a marae setting with my elders... SCC gave me something that I'd been asking for, for 30 years. (SCC participant)*

- SCC had assisted them to build support networks to help them in the future.

*Extra help I suppose...Able to set up networks. Support system. (SCC participant)*

- Helped with setting goals and progressing towards them.

*Just the fact that this was my life and I didn't know what to do. No direction. I progress each month and work on things. (SCC participant)*

- Despite facing ongoing challenges, the SCC had made a difference for these participants in learning to stop and think about offending.

*I'm doing real good right now...but I've had my little slip ups. But then I've had times where I've gone to go do something like a crime and then I've just stood there and gone, what am I up to? And then just walked away. Because that was counselling, had put things in my way. Sometimes I fail, and sometimes I have a good one where I walk away and feel good about myself. (SCC participant)*

- They had hope.

*Just not having to worry about the police as much, that can be really terrifying. And feeling like there is hope. (SCC participant)*

- Once stability and housing were achieved some participants were able to develop skills.

*It gives you the skills and the opportunity to change. (SCC participant)*

Participants also highlighted the importance of readiness to change.

*If they're not ready to change, you'll soon know...because, if you're going to be soft and allow them to reoffend and allow them to come back over and over, they're using you.  
(SCC participant)*

### Composite case study 5

#### About Tipene:

- Tipene grew up in an environment heavily influenced by alcohol.
- His mother and stepfather both consumed large amounts of alcohol daily.
- Tipene developed a normalised view on alcohol consumption.
- He suffered from mental health challenges
- Most of his family moved overseas.

#### Offending context:

- Tipene developed alcoholism and struggled to cope with his mental health challenges.
- He spent a number of years in and out of prison and eventually became homeless.
- He was struggling to access the services he was entitled to.
- He started shoplifting to survive and committing offences under the influence of alcohol.

#### Engagement with SCC:

- When Tipene entered the SCC he was given an opportunity to change.
- He often had 'unwelcoming thoughts' but continued to fully engage in the SCC.
- Tipene thoroughly enjoyed the engagement he had with the judges. He felt like they were sincere in helping him move forward.

#### Outcomes from SCC:

- Tipene gained confidence to ask for help and access services.
- He started engaging with Work and Income
- With the help of the SCC he was able to develop a CV and apply for job.
- After many years of living on the street, Tipene found himself a stable home with the help of his City Mission support person.

*When I was on the streets.. it was really stressful having to lift myself up.*

*All my life I have gone to jail. I have alcoholism and homeless...I find it a lot more difficult... to find services.*

*My goal setting sucks. My unwelcoming thoughts suck and when my thoughts are stuffed then that's the positive manner gone out the window.*

*The judges were cool... The lawyers were awesome. They'd smile back and they could see changes and they'd support [me].*

*I got help with WINZ.*

*Both of my lawyers, they are both supportive, [they are] helping me look for a job and putting in a CV for a job.*

*My city mission support person... said come into the office... Two and a half three months later [I was placed into my own home] that's real fast, normally it's a two-three year waiting list.*

Our last question to participants was if they had any other messages they would like us to take back. Almost all participants and whānau took this opportunity to thank the court for their help and to reinforce how hard they are trying to make changes in their lives.

*If we didn't have this opportunity, we'd think we still got to go through that same cycle. We still got to be treated the same that we always get treated... Keep up the good job. What they do is worth it. (SCC participant)*

*I guess just giving people a second chance. Just thank you for the help really. (SCC participant)*

*Just thank you, and I'm trying my best. (SCC participant)*

Some participants singled out the SCC duty solicitor to thank for their positive experience of SCC.

*I just want to thank [duty solicitor] for helping me with this opportunity. If it wasn't for her I wouldn't of been in Special...She's solid, she is very good at what she does, and she cares and the people in Special care about the people. (SCC participant)*

A small number of participants talked about giving back to SCC and to their communities. One former participant was doing this already and another described how important it was to build trust and move forward.

*I think any person that goes through SCC and is willing to come back to SCC to mentor whether it be vulnerable, whether it be youth, whether it be the homeless I think they should do it. (SCC participant)*

*It's hard to get trust from people. It's hard to get people to trust that this works. Unless they've heard it from us. People that have already been through it. (SCC participant)*

### **3.9. Barriers to change**

Twelve-months is a short time to address some of the entrenched issues in participants' lives. Interviews with stakeholders and SCC participants identified the following as limiting the extent participants could make changes:

- Community services at capacity making access to services difficult. Many whānau and participants described a disconnect between the need for services and their availability.
- A struggle to access services including addiction and mental health services stops the momentum of change. Most participants had accessed or were on a waiting list to access treatment for their addictions or mental health. Waiting lists for residential addictions treatment were frequently mentioned. A current SCC participant had been remanded every month for an extended period while he waited for a place in a treatment facility.

- Challenges in finding housing also stopped the momentum of change. Without secure housing participants cannot progress to developing their skills and to employment.

*They're trying to get me into a rehab in Christchurch. I'm still working with people but unfortunately the process takes too long. The first thing I was told was we want to help you, so that was encouraging. It's hard to access help when you aren't well. (SCC participant)*

- Work and Income were no longer part of the SCC monthly processes and it may be difficult for some SCC participants to access their full and correct entitlements due to factors such as poor literacy and lack of identification.
- Lack of access to knowledge and skills development: Literacy Aotearoa no longer attended the SCC but could be contacted by SCC as required.
- Lack of a good fit with the service or treatment provider for a small number of participants.

*I've basically been ordered to go to these AA meetings. And I find them really scary. They don't work for me. I have social phobia, so I find them really difficult to go along to. (SCC participant)*

*One of the things about counselling is the counsellor and the person have to be a good fit. And there was no fit there. She was the most strangest person I ever met and I can see why my son wasn't engaging. (SCC participant whānau)*

SCC court participants were also asked how well SCC was working and, from their perspective, what could be improved. Most thought it was working well and could not think of any changes.

*I think what they're doing at the moment is perfect. Because they include the young, the vulnerable and the homeless, and that's very rare to find in a court. (SCC participant)*

A small number of participants suggested improvements. One participant felt socially isolated after SCC. After being part of a group on the streets, she was living alone in a small unit. She spoke fondly of her time at SCC but thought that she had left too early and needed more support.

*Maybe some after care and wrap around service. We go to court, and then we leave but what do we go back to? ... Got to have something to do...some sort of after or during the monthly visits, take them to some sort of wood carving place, get their talents out, because honestly, they've got a lot of good talents out there, amazing talents. (SCC participant)*

## Composite case study 6

### About Rahera:

- Often moved from home to home with different family members.
- Suffered mental health challenges (family history)
- Drug and alcohol use was a dominant feature of her family life and childhood, she started drinking heavily from a young age.
- Her mother drank heavily while pregnant with her.

### Offending context:

- Rahera continues to suffer with depression. Her mental health often triggers her drinking.
- She has no stable accommodation and she has been on the streets and in and out of emergency accommodation for many years.
- Rahera often offended while drinking and was usually charged with disorderly behaviour.

### Engagement with SCC:

- She was surprised by how relaxed she felt, the environment did not feel scary and there was a lot of positivity in the court room.
- She started engaging with her lawyer and she soon became frustrated.
- Rahera did not feel like her lawyer listened to her or ask how she felt, as a result she felt she was referred to a service that was not suitable.
- Was diagnosed with fetal alcohol spectrum disorder.

### Outcomes from SCC:

- Although she had difficulty connecting with her lawyer Rahera was still able to access services and found some parts of the SCC helpful.
- She especially appreciated DCM and the support they provided to her. She was able to make every court hearing and in the process decrease the amount of crime she was committing.
- Through the help of the SCC, Rahera was able to access stable living in an environment that suited her.

*My drinking, its not every day, it's been binge drinking when I got really lonely or depressed about something. So, I'm not a chronic alcoholic, its just when something happens and makes me feel bad mentally, then I go and binge drink, or I'll binge drink to deal.*

*I was basically homeless, so I had to live in an emergency accommodation and go to work and income every week to get a quote to stay in a motel, I ended up in a motel that drove me crazy.*

*It was really one sided because the lawyer said you've got to do this. She didn't ask me what I thought would help me.*

*I'm not looking forward to [the sessions] because I know they don't work for me. But I have to go because I'm expected to go.*

*Good 'cause [DCM is] like a liaison person towards the street people who need it. He's an integral part of special circs [SCC], he was on my case about going, being there, making sure I'm there on time.*

*I've ended up in a really good [flat], it's on the first floor. I'm in a smaller block that suits me.*

*The crimes that made me go to special circumstances [court], I'm less and less and less doing them.*

## Composite case study 7

### About Samuel:

- As a child Samuel was physically abused and sustained head injuries.
- Grew up in a home heavily influenced by alcohol.
- Samuel was removed from his families care and placed in the care of Child Youth and Family.
- He continued to stay in contact with his mother.



### Offending context:

- Samuel developed mental health challenges as a result of the trauma he experienced.
- He started abusing drugs and alcohol.
- Samuel was charged with domestic violence multiple times.

### Engagement with SCC:

- When Samuel entered the SCC he was unsure of what to expect.
- He was ordered to attend meetings to help him with his challenges.
- He was a nervous person and did not like the idea of attending class-based meetings.
- He lost his job because of the charges and struggled financially to attend appointments.

### Outcomes from SCC:

- Samuel was not satisfied in with his experience in the SCC.
- he did not feel like he was listened to or supported in the appropriate ways.
- He wished for a better opportunity to speak for himself and explain his mental health challenges and what services would have worked best for him.

*When my offending happened [it was due to] mental health and drug and alcohol issues. I ended up back here again, for the same reason why I was here in the first time, domestic violence.*

*I've basically been ordered to go to these meetings. I find them really scary. They don't work for me. I have [mental health issues] so I find them really difficult to go along to.*

*There is definitely the financial challenge about [making it to the counselling appointments because] I lost my job. No it hasn't helped me at all yet... I turn up there and basically the lawyer was ordering me while she didn't know about what my life was like mainly.*

*I don't think they referred me anywhere [useful]... I would have loved to say to my lawyer what I need is a counsellor or support person, but she didn't ask me my point of view at all.*

## 4. Costs and benefits

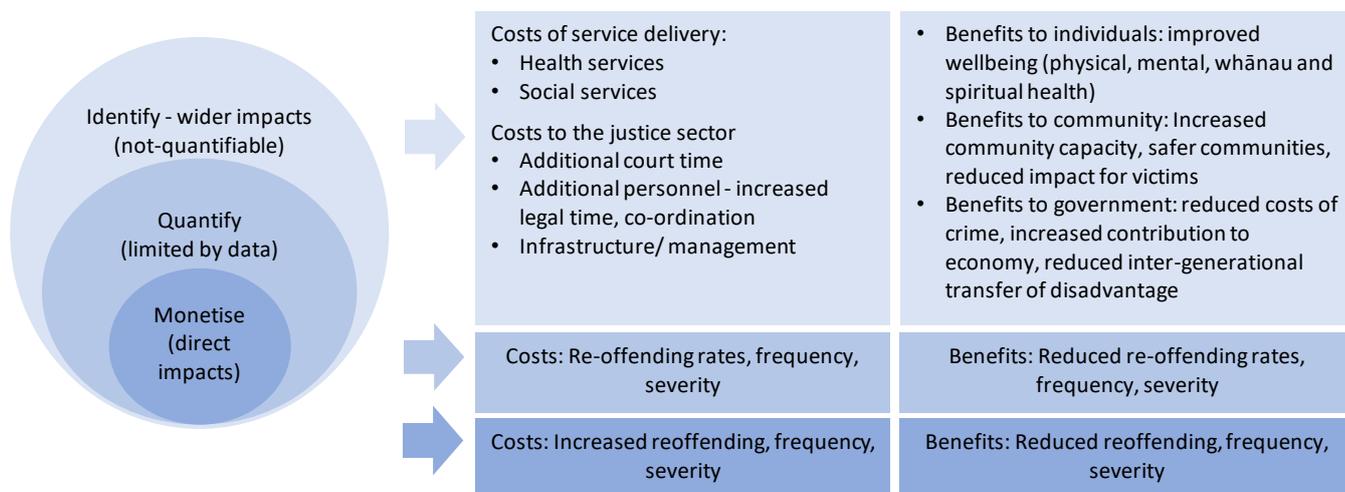
This chapter provides a high-level perspective of the costs and benefits of the SCC. Our aim was to outline the wide-reaching potential benefits of changes to offenders as a result of the SCC.

We considered the benefits of the SCC within the domains of the Treasury Living Standards Framework. The framework was developed as a practical policy advice tool to support application of a wellbeing approach more systematically across Treasury’s policy advice and work with other government agencies<sup>23</sup>. The Living Standards Framework aligns with the aims of the SCC to enhance the mana and wellbeing of participants through improved housing, health, (re)connection with whānau and access to the support they need.

Treasury guidance<sup>24</sup> is to:

- Monetise selected items using the CBAX tool<sup>25</sup>.
- Quantify other items where possible.
- Identify wider impacts.

The figure below summarises the direct impacts of SCC and the wider impacts on wellbeing that reach beyond participants and have the potential to reduce inter-generational transfer of disadvantage.



**Figure 20. Direct and indirect costs and benefits of SCC**

<sup>23</sup> <https://treasury.govt.nz/information-and-services/nz-economy/higher-living-standards>

<sup>24</sup> <https://treasury.govt.nz/sites/default/files/2019-09/cbax-guide-sep19.pdf>

<sup>25</sup> Additional items could potentially be monetised by MOJ via a licence to the Australian Social Value Bank (ASVB)

#### 4.1. The direct impacts: Savings associated with reduction in reoffending

The direct impacts of SCC are reduction in offending. MOJ data demonstrate a reduction in offending of 3.22 offences in the 12-months following SCC (Figure 21).



Figure 21. Reduction in offending per year for SCC participants.

The Treasury CBAX estimated costs for the four most common offences for SCC participants are shown in Table 6 below.

Table 6. Cost per offence<sup>26</sup>

Offence type	Cost per offence	% of SCC offences	% cost of offence
Burglary	\$16,312.62	5%	\$815.63
Theft	\$3,003.74	39%	\$1,171.46
Property damage	\$4,990.83	5%	\$249.54
All other offences	\$5,175.68	51%	\$2,639.60
<b>Mean cost of one offence based on percentage of offences taking place</b>			<b>\$4,876.23</b>

We estimated annual savings from a reduction in offending based on 25 participants (the mean number of SCC participants each year) as \$392,536 per year (Figure 22).

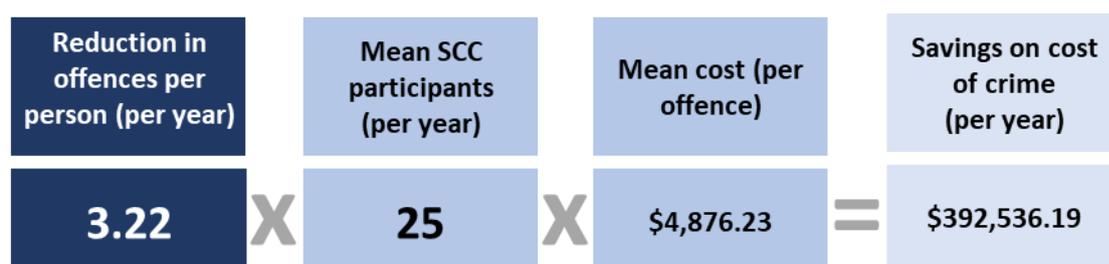


Figure 22. Mean annual savings from reduction in offending.

<sup>26</sup> New Zealand Treasury CBAX tool

This estimate:

- Is limited by the lack of a comparison group to enable estimation of additional savings as a result of the SCC compared with other court processes<sup>27</sup>.
- Does not include offences prior to the SCC that offenders were not charged with.
- Does not provide estimates for increased rates of offending after 12 months observed for some SCC participants.

Further follow-up is necessary to estimate the longer-term sustainability of reductions in offending and the lifetime savings from reduced offending.

#### 4.2. The wider impacts of the SCC

Case studies based on qualitative data provide an overview of the wider impacts of the SCC for government and society and for individuals.

Composite case study 8 provides an example of outcomes for an SCC participant that could be used to summarise the benefits. The main points to consider from the case study are:

- **People are not charged for all of the offences committed:** The cost to society is likely underestimated in the earlier analysis.
- **Increased wellbeing:** Monetising wellbeing is difficult but improved wellbeing has wide reaching impacts, including intergenerational benefits.
- **New employment:** If a participant gains employment there is an increase in revenue from taxes and a reduction in benefit spending.
- **Health impacts of appropriate housing:** There are well documented health impacts of being homeless or living in substandard housing. Reduction in homelessness will likely result in a decrease in health spending.
- **Benefits for victims:** Reduced exposure to offending benefits victims in different ways, depending on the offence and the victim's circumstances.

The CABx provides examples of the value of some of the benefits (Table 7). It is important to also note there is a cost associated with the delivery of the health and social interventions.

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<sup>27</sup> As noted previously, a comparison group is required to enable estimations of impact e.g. the differences in reductions of offending between the SCC participants and participants with similar complex life circumstances in the District Court.

## Composite case study 8

### Large change in lifestyle

#### About Jim

- Suffered abuse as a child
- In and out of prison for 30 years
- Over 300 convictions (mostly burglary)
- Involved with gangs
- Very low estimate of burglaries committed per year (52)
- Was happy to continue his criminal career and complete his full prison sentences
- Had no plans to reconnect with his children and grandchildren.

*I was actually locked up in jail and I didn't want to go anywhere, I wanted to stay in jail I didn't want to get out.*

*I've got 300 and something convictions.*

*[Burglary] it was my way of coping I was a full time burglar, and when I say full time I mean eight hour days and 40 hour weeks.*

*I was quite happy to maintain that career criminal mentality*

#### Working with CPP

- Jim was released from prison a year before his sentence was up
- He was set up to live with a cultural mentor away from his past life living with gang members
- Jim was overwhelmed with how the SCC treated him. The SCC showed him how he could have mana outside of gangs and prison and gave him the confidence to make a permanent change in his life.

*The other tools they [at SCC] gave me was trust, respect and dare I say it, love. I feel loved by them. I feel like family to them.*

*[I thought] they're actually going to do something for me for a change and they got me a place, a nice place to stay with nice people and they started encouraging me to bring out my self-worth and my true potential.*

*[Why did you change?] Just by humanizing me, by speaking to me like a human and not like a number and asking 'me' how 'I' felt and what 'I' think should be done in regards to punishment and engaging with victims and so forth, and restorative justice and stuff like that. I was quite surprised at their attitude.*

*Before Special Circs, none [of my whanau wellbeing] existed. I had no family support, I didn't have a missus, I had nothing.*

*Thought wise, intellectual wise, everything about my*

#### What difference has SCC made?

- At the request of the SCC judges, Jim is now volunteering to help mentor other people going through the SCC
- He has a full time job
- Has reconnected with his family and is now living with and seeing his children and grandchildren
- Huge increases in his mental health, wairua and whānau wellbeing.

**Table 7. Examples of the benefits and costs associated with living standards domains**

Living standard domains	Impact description – individuals/whānau/ communities	Impact description - Government and society	Examples of monetised benefits
Subjective wellbeing	Access to general help Improved quality of life resulting from interventions to improve life circumstances	Increased community capacity and resilience Reduction in disparities	QALY gained + \$33,306 Having access to general help for every 1 point change (0-4 scale) +\$6,040
Health	Reduced alcohol and drug use Improved mental health Improved physical health Quality-adjusted life years (QALY) gained	Short-term costs associated with increased use of primary and specialist health interventions	Mental health for every 1 point change (improvement) (0-100 scale) +\$4,795 Physical health for every 1 point change (improvement) (0-100 scale) +\$1,205
Social connections	Improved social connections through NGOs, improved mental health and reduction in addictions	Reduced intergenerational transmission of disadvantage	Feeling lonely for every 1 point change (increase) (0-4 scale) + \$18,349 Gaining a friend (for every friend gained) +\$616 per friend
Cultural identify	More able to express cultural identity	Increased community capacity and resilience	Being able to express cultural identity for every 1 point change (0-4 scale) +\$9,951
Housing	Access to help to find housing Access to housing/ improved housing leads to improved health and improved engagement with education/training and employment	Robust evidence linking housing quality to improved health and other outcomes (e.g. skills development, employment)	Living in a house in disrepair for every 1 point change (0-4 scale) – \$6,295 Living in a cold house for every 1 point change (0-3 scale) – \$6,991 Having access to housing help for every 1 point change (0-4 scale) + \$3,456

Safety	Reduction in offending	Reduced exposure to offending Reduced prison costs Reduced community sentence costs	Violent offences – \$20,587 per offence; Robbery – \$53,374 per offence; Burglary – \$16,313; Property damage – \$4,991, Drug offences – \$13,355, Serious traffic – \$72,113 Marginal cost of keeping a sentenced inmate in prison – \$13,379 Marginal cost of administering a community sentence +\$1,365
Knowledge and skills	Ability to (re)engage in skills development	Costs of skills development	No qualification to upper secondary school +1,256
Income and consumption	Financial resilience	Reduction in benefit costs	Having a money shortage for every 1 point change (0-2 scale) -\$20,171
Jobs and earnings	Increased participation in the workforce Increased average annual income arising from knowledge and skills development	Reduction in benefit costs Increases in contribution to the economy	Annual minimum wage +\$32,616 Being unemployed – \$71,923

### 4.3. The costs of the SCC

Therapeutic courts cost more to run than mainstream courts. The participants appear before the judges monthly to allow NGO partners to work with them to address their needs and the judges to monitor their progress prior to sentencing. The judges' time are a substantial proportion of the current costs of running the SCC.

We have suggested changes to roles and to the SCC infrastructure which if adopted would change the cost of delivering the SCC. The cost per SCC participant and the cost-benefit ratio of the SCC are dependent on the number of court participants - that is the extent the existing SCC might be expanded.

In considering whether the benefits of the SCC warrant the cost of running the SCC we suggest the following are considered:

- **Reduction in disparities:** As Māori are over-represented in the prison population and amongst SCC participants, reduction in disparities between Māori and non-Māori is also a wider benefit of the SCC.
- **Societal responsibility:** Therapeutic court participants have been disadvantaged by health, education and social systems. Some were also described by judges as victims of abuse in state care. Therapeutic courts are responding to a group of people who have typically not received the interventions earlier in their lives that had the potential to improve their living standards. There is robust evidence about the cost effectiveness of early interventions, including parenting support, childhood access to services etc. that have not been received by SCC participants.
- **Therapeutic courts for young people have the potential over time to reduce the need for SCC:** Therapeutic courts such as the youth alcohol and drug courts have the potential to provide early intervention and limit the flow of older people to courts such as the SCC.

## 5. Opportunities

### 5.1. There is growing evidence about the effectiveness of therapeutic courts

Figures from the past decade have not indicated any decrease in the rates of reoffending once an individual had been released from prison.

*Specialist courts target offenders for whom the justice system has become a revolving door. These offenders represent a high risk of reoffending and have a clearly identifiable need...the traditional role of criminal courts avoids addressing these issues at the point of sentencing in any meaningful capacity...<sup>28</sup>*

The importance of therapeutic courts is highlighted by the very high rates of diagnosable mental illness or substance abuse disorders amongst the prison population<sup>29</sup>. Many mental health and substance abuse disorders go undetected and under-treated, with the lowest rates of treatment for substance-use disorders<sup>25</sup>. Childhood trauma is associated with poor mental health; New Zealand data shows almost half (48%) of those in prison experienced family violence as a child<sup>30</sup>.

One of the major challenges to the reviews of therapeutic courts is the lack of robust studies to confirm the effect size and sustainability of outcomes from the therapeutic courts. Challenges reported in the literature are similar to those we have noted as limitations of the current evaluation: studies are retrospective; there is difficulty finding accurate records and data; and there are challenges in matching comparison groups.

However, there is accumulating evidence from meta-analyses of drug treatment courts that support their effectiveness in reducing offending compared to similar offenders sentenced in traditional correctional options<sup>31 32</sup>. Adult drug courts may be more effective than courts for juvenile drug offenders<sup>33</sup>.

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<sup>28</sup> Klinkum, O (2017). Courts that heal? A critical Evaluation of New Zealand's Specialist Criminal Courts and their Therapeutic Underpinnings. University of Otago thesis.

<sup>29</sup> Indig D, Gear C, Wilhelm K. Comorbid substance use disorders and mental health disorders among New Zealand prisoners. Wellington: Department of Corrections; 2016.

<sup>30</sup> Bevan M. New Zealand prisoners' prior exposure to trauma. *Practice: The New Zealand Corrections Journal* 2017; 5(1): 8-16.

<sup>31</sup> Wilson D, Mitchell O, Mackenzie D. A systematic review of drug court effects on recidivism *Journal of Experimental Criminology* (2006) 2:459-487

<sup>32</sup> Latimer, J., Morton-Bourgon, K., & Chrétien, J.- A. (2006). A Meta-Analytic Examination of Drug Treatment Courts: Do They Reduce Recidivism? Ottawa: Department of Justice.

<sup>33</sup> Brown, R. (2010) Systematic review of the impact of adult drug-treatment courts. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2886018/>

In New Zealand, the key results from the quantitative outcomes evaluation of the Alcohol and Other Drug Treatment Court showed there were large reductions over all of the reoffending measures, as well as for rates of police non-crime related incidents, within the two years following a participant's entry into the Court, when compared with matched offenders. Declines over longer time periods were consistent with addiction treatment relapse effects. The evaluation suggested that changes such as ongoing monitoring, drug testing and integration of tikanga and te reo Māori that had been introduced to the courts over time may result in improved results<sup>34</sup>.

## 5.2. The Wellington SCC is making a difference

Findings of this evaluation of the Wellington SCC were consistent with the literature.

- The SCC participants' backgrounds and offending contexts aligned with the target group for a therapeutic court.
- SCC participants felt respected and treated with courtesy.
- The SCC process identified and responded to their individual needs.
- Offenders had engaged with the SCC and been supported by NGO providers and specialist services to set goals and make plans to address the issues underpinning their offending.
- There was an overall reduction in the frequency of reoffending when the 12-months before SCC and the following 12-months were compared.

The benefits of the SCC were wide reaching and included benefits to:

- Individuals and whānau arising from improved wellbeing and re-engagement with whānau.
- Communities arising from improved wellbeing of community members and reduced offending.
- Government arising from a reduction in the costs of offending and increased benefits of strengthened communities.

The SCC did not work for everyone. We heard that a few offenders in the SCC were not motivated to change. Others had complex life circumstances and would need more than 12-months support to achieve significant changes. Some had disabilities that made it difficult to change their lives. Lack of access to services and to sustainable housing were barriers to change that also had the effect of limiting the momentum of change.

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<sup>34</sup> Ministry of Justice (2019). Alcohol and Other Drug Treatment Court Outcomes Evaluation 2018-19 Summary Evaluation Report

### **5.3. Therapeutic courts cost more than other courts but are likely to produce a positive value if wellbeing outcomes are considered.**

Therapeutic courts cost more to run than mainstream courts. Offenders appear before the SCC on multiple occasions, lawyers spend time linking therapeutic court participants to the services they need and there was a cost to NGOs and specialist services to deliver support. While the addition of a court co-ordinator may reduce some of the costs in linking participants to services, the overall cost per offender will remain higher.

Some of the additional costs of the SCC may be offset by reduced costs of imprisonment and reoffending. In the SCC evaluation, an average reduction of 3.22 offences per year could return a savings of \$392,536 per year.

In our evaluation of the SCC, in the AODT evaluation and in other evaluations of therapeutic courts a range of social benefits were identified. It is difficult to measure and monetise these benefits, so they are commonly not included in cost benefit analyses.

Cost benefit analyses of therapeutic courts in other jurisdictions have consistently shown a net positive benefit per person ranging from \$3.06 for drug courts to \$17,245 for mental health courts<sup>35</sup>. Community based treatments for offenders have also shown net positive benefits. For example, therapeutic communities for offenders with co-occurring disorders (\$23,994), employment training, job assistance in the community (\$6,064), and outpatient non-intensive drug treatment (\$4,226)<sup>31</sup>.

In New Zealand, the cost benefit analysis of the AODT Court found an average cost-benefit ratio average of 1.33. This represents a cost neutral intervention, leaning towards a small to moderate positive return on investment relative to the standard Court process<sup>36</sup>. That analysis did not include monetisation of social outcomes.

### **5.4. Priorities to strengthen current processes**

We used the key elements of therapeutic courts identified in the literature to analyse the interview data about what was working well in the SCC and what could be strengthened. We have added other criteria that were raised as being important elements of the SCC including governance and infrastructure, and processes. These additional criteria largely focus on the need for greater transparency of decision-making about entry to the SCC, building a team to govern the SCC to improve

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<sup>35</sup> Lee et al. Washington State Institute of Public Policy, 'What Works and What Does Not?' (2015)

<sup>36</sup> Ministry of Justice (2019). Alcohol and Other Drug Treatment Court Outcomes Evaluation 2018-19 Summary Evaluation Report

resilience to future change, better documentation and communication of operation (including participant plans and progress), and a greater focus on consistent data collection.

Collaboration was the most frequently raised aspect of how well the SCC is working suggesting all involved have a primary focus on achieving positive outcomes for the participants. Interviewees also made suggestions about how collaborative ways of working could be further strengthened. The table below highlights the lack of tikanga Māori in SCC. The high number of Māori in our justice system makes it important this becomes a focus for strengthening the operation of the SCC.

**Table 8. Summary of current processes and what can be strengthened**

Key elements	Overview of current processes	What could be strengthened
<p>SCC governance, funding and infrastructure</p>	<ul style="list-style-type: none"> <li>• The SCC is a judge led initiative. Goodwill from the Chief District Court Judge enables the running of SCC by rostering the judges to the SCC. Others contributing to the SCC do so within their current roles.</li> <li>• There may be differences in the time needed to support their SCC clients between public defence and private practice lawyers who take on legal aid work. Lawyers provide linkages to service providers and outcomes may be determined to some extent by how well a lawyer is networked to service providers.</li> <li>• Valuable support is provided by the Welfare Advocacy Project and by NGO providers within their existing funding, which may include grants and donations.</li> <li>• The SCC works, but is at capacity and lack of infrastructure and governance may be contributing to uncertainty amongst stakeholders of the purpose of the court, eligibility of offenders and assessment processes for inclusion of offenders in the SCC.</li> </ul>	<ul style="list-style-type: none"> <li>• Formalisation of the presiding SCC judges’ time for the Court to run for a full day once a month to accommodate current numbers.</li> <li>• There is a need to embed inheritance and generational change for sustainability of the SCC.</li> <li>• Time for planning and decision-making by a small governance team is needed.</li> <li>• It is critical a funded coordinator is appointed to work across both SCC and the District Court. Reliance on one person to coordinate leaves the SCC vulnerable. SCC would benefit from a coordinator with clinical assessment or social work skills to work with the Duty Solicitor to assess potential SCC participants. The coordinator would also provide case management/navigation to link participants to the services they need and alleviate the load on lawyers.</li> <li>• Infrastructure includes the regular capture of data, improved flow of information and documentation including transparency around process and outcomes.</li> </ul>
<p>Evaluation and monitoring</p>	<ul style="list-style-type: none"> <li>• Limited data capture is currently occurring in multiple places (e.g. police prosecutor, Welfare Advocacy Project, service providers) with no overall consistency or cohesion.</li> <li>• Robust data, essential to monitor and respond to demand and inform continuous improvement, is not currently available.</li> </ul>	<ul style="list-style-type: none"> <li>• Any future monitoring and evaluation of SCC requires an accurate code to identify SCC participants within the MOJ data.</li> <li>• Future evaluation of the SCC would benefit from a comparative analysis component although this is challenging due to the complex and unique nature of the SCC participants.</li> </ul>

		<ul style="list-style-type: none"> <li>As wellbeing outcomes for participants underpin the work of the SCC, a consistent approach to assessing and electronically recording wellbeing would help understand SCC's effectiveness. A holistic wellbeing measure that considers the four domains of Te Whare Tapa Whā<sup>37</sup> is recommended.</li> </ul>
<p>SCC is promoted and incorporated in justice system</p>	<ul style="list-style-type: none"> <li>Aims and intent of SCC is clear for stakeholders.</li> <li>The running of a 'Pink Court' (cut down version of SCC) being run in Masterton by one of the presiding judges is common knowledge but not formally acknowledged.</li> </ul>	<ul style="list-style-type: none"> <li>Greater promotion of the SCC and its aims within the community could help with linkage to resources available in the community and improve access for SCC participants.</li> <li>Invest in better documenting community services and resources available through engaging with those providing the services.</li> </ul>
<p>Identifying offenders with the most potential to benefit from SCC</p>	<ul style="list-style-type: none"> <li>The SCC is focused on high-need offenders at risk of reoffending.</li> <li>Identifying participants early is an important element of therapeutic courts. Many of the current SCC participants have a long history of offending but their life circumstances that contribute to offending would help to identify them earlier.</li> <li>Lawyers, judges, service agencies refer participants for inclusion. Offenders are screened and assessed for their suitability for inclusion in the SCC by the Duty Solicitor.</li> <li>Participants aware of why they were included in SCC.</li> </ul>	<ul style="list-style-type: none"> <li>Develop and formalise evidence-based assessment criteria and provide written clarification of these for all those involved in SCC. Strengthening the transparency of inclusion and assessment processes might reduce the small number of participants who are accepted into SCC even though they are not motivated to change.</li> <li>Clinical/social work/legal skills need to be combined for assessment for inclusion in SCC.</li> <li>If the capacity of the SCC is extended, there is potential to promote the SCC and eligibility criteria and intervene earlier.</li> </ul>

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<sup>37</sup> Taha wairua, taha hinengaro, taha whānau, taha tinana

Non-adversarial judiciary role	<ul style="list-style-type: none"> <li>• The court process runs well.</li> <li>• Participants felt they were given dignity, respect and encouragement by lawyers and judges. Participants report appreciation of interaction with the judge.</li> <li>• Participants described the SCC and NGO stakeholders as caring people with good intentions who were focused on them.</li> <li>• There are positive relationships with bail support.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue the current judicial roles and approaches.</li> <li>• Review the physical setting in the court room and consider having the judge sit on the same level as SCC participants.</li> </ul>
Collaboration	<ul style="list-style-type: none"> <li>• Progress is discussed at a pre-court meeting which involves justice officials and different agencies. There is camaraderie and support of all involved and a collegial approach to problem solving.</li> <li>• Strong leadership is provided from the judiciary and Duty Solicitor.</li> </ul>	<ul style="list-style-type: none"> <li>• Changes to the timing of the pre-court meeting would enable responses prior to court sitting.</li> <li>• MOU and funding for NGO providers would increase the engagement of different providers and increase the agencies attending pre-court meeting including Māori providers (e.g. kaupapa Māori agencies, emergency housing, Work and Income).</li> <li>• Collaboration is sometimes a slow process and the need to improve coordination was suggested.</li> </ul>
Support for SCC participants	<ul style="list-style-type: none"> <li>• Participants' progress is discussed monthly in round table discussions.</li> <li>• Participants are aware of 'their plan' and supported to achieve their goals.</li> <li>• Challenges in accessing the support required by participants is a barrier to change.</li> </ul>	<ul style="list-style-type: none"> <li>• Consistently provided written plans and documentation to monitor participants' progress and evidence-based intervention models is required.</li> <li>• There are benefits for participants in strengthening the engagement and involvement of Māori and Pacifica service providers.</li> <li>• Increased support for whānau of participants.</li> <li>• Building role models and peer support would enable participants to see the benefits of engaging with services that will help to change life circumstances.</li> </ul>

Tikanga Māori involvement	<ul style="list-style-type: none"> <li>Māori were under-represented amongst the SCC stakeholders - lawyers, bail support stakeholders etc were predominantly Pākehā.</li> </ul>	<ul style="list-style-type: none"> <li>Greater inclusion of kaumātua and kaupapa Māori service providers would enable culturally safe responses and reconnection with culture.</li> </ul>
Capacity of the SCC	<ul style="list-style-type: none"> <li>Increased number means there is less time to engage with people.</li> </ul>	<ul style="list-style-type: none"> <li>There was agreement from all concerned not to cap the numbers but instead increase resources available to accommodate what is needed.</li> </ul>

## 5.5. Transferability to other locations

Stakeholders and participants talked positively about the SCC and the role it played in the Wellington District Court. They saw great value in the SCC and all gave us examples of positive changes they saw in people's lives due to involvement in SCC. They thought courts like the SCC should be more widely available for people in the justice system but that it was important to have the right people accessing SCC so that it was not misused. They emphasised the importance of motivation to change.

*Just anyone that's got the same charges, repetitive. Anyone that's a lifetime criminal, someone who's been in the system for ten years and season veterans. Again, the people who want to help themselves... you only can change when you want to change. (SCC participant)*

*Definitely - when I was locked up in [prison] I was telling everybody about SCC...It gives you the opportunity to actually fix your mistakes and work from it. (SCC participant)*

Our interviewees identified key elements for successful replication.

### Replicating the SCC kaupapa

The key element of the SCC and other therapeutic courts is a focus on rehabilitation.

*The greater focus on rehab rather than punitive is the most appropriate role for the justice system, for this reason it needs mainstreaming. (Lawyer)*

Offenders are treated with respect and courtesy, providing them with an opportunity to speak and be heard, and responding to their individual needs.

*At the end of the day it's the kaupapa of the place. It's the very different approach, it's the care and the compassion and the making time and the forgiveness. Letting little things slip without getting into a tizz about it. (Service provider)*

### Having the right people involved

All interviewees emphasised the importance of people, their shared values and ability to build good working relationships with others. Comments highlighted how having the 'right' people across the broad spectrum of roles is needed for a court such as the SCC to work well. Of primary importance, however, was the choice of the court judge whose role is to oversee the court and set its 'tone'.

*The judge or judges that sit in the court. Ideally it will be a judge who has a heart for that court, because that's the foundation, that relationship between the participant and the judge is really critical. (SCC Management)*

Lawyers and service providers were others identified as being important to its running.

*We need lawyers and connections to resources, and judges who are open and hold lawyers and services to account. (SCC Management)*

## **Knowing and connecting to the local community**

A court such as the SCC is embedded in the local community and has established links with local agencies and NGO service providers. Most interviewees spoke of the need to know your community. That included understanding what the dominant issues are for people who might become participants in the court – for instance, one interviewee talked about homelessness being an important driver of offending in Wellington, but it might not be the case in a community elsewhere. Knowing what the local issues are will influence which service providers are around the table supporting the court.

*Know your landscape, your local community including what resources are available. Consider the needs of the catchment. Invite providers to be around the table and listen to their opinions, provide positive modelling. (Assessment)*

Knowing your local community also included involving people with good connections, especially in being able to know what services are available and how to access them. Connecting with the local community also included responsiveness to the community culture and a focus on Māori tikanga to be applied to the setting up of a similar court.

*If it is to be replicated there will be a large percentage of Māori in the court, and there needs to be a higher representation of Māori services they can use. The spiritual side of things is not addressed, should have kaumātua around the court and involved. (Service provider)*

The evaluation of the early outcomes of Ngā Kooti Rangatahi<sup>38</sup> noted the role kaumātua played, the cultural relevance of the marae venue and the inherent cultural processes were critical success factors that increased the likelihood of positive engagement by rangatahi and whānau.

## **Adequate resources and infrastructure**

Interviewees held a broad view of what they meant when referring to resources as being a key element of transferability. For some, resources meant having the support of service providers and other government agencies.

*Needs to have the resources behind it – representatives from the agencies who are committed as case managers and make themselves available to interact with others. These people need to be at the court so the court becomes a one-stop-shop. (SCC Management)*

*Resources, I'm talking about resources in the community, social workers who could be involved with the court as part of their day-to-day work. Knowing the resources in your community and ability to make connections with them. (SCC Management)*

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<sup>38</sup> Evaluation of the early outcomes of Ngā Kooti Rangatahi (2012) MOJ evaluation report.

Others thought of resources as including direct funding for the court, or at least the support of the justice system to enable the court to operate.

The need for a coordinator/s and a variety of people with the necessary skill sets to support a therapeutic court like the SCC was highlighted in this evaluation and in the literature. Klinkum described Court Liaison Coordinators as a cost effective and valuable way to enhance links between the court and community<sup>39</sup>. Comments also emphasised the importance of having team players, those willing to work alongside others.

*Gatekeepers and probably having more than one with different skill sets – clinical, social workers and I think it's quite good to have someone that has the legal cases cause it's a court of law and it needs to be guided. (SCC Management)*

*Having a team approach, nobody who thinks or acts like they can do it on their own and that they can bring people into it, people like me. Make me welcome as well as my clients. (Service provider)*

### **Established and transparent processes**

The processes that interviewees considered to be important for the SCC to be successfully replicated in other communities included:

- The most critical of these is the pre-court meeting. This aspect of the process creates the time and space to bring people together to share their knowledge and understand and find solutions/ pathways to meet participants' needs.

*The pre-court meeting is fundamental to the process. (Assessment)*

- Transparent criteria for inclusion and an evidence-based assessment process
- Written plans for participants

*Having clear criteria for entry, clear timeframes. (Assessment)*

*People need a written plan and they sign a contract to commit themselves to it, when it's in writing they know what is expected of them. (SCC Management)*

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<sup>39</sup> Klinkum, O (2017). Courts that heal? A critical Evaluation of New Zealand's Specialist Criminal Courts and their Therapeutic Underpinnings. University of Otago thesis.

## Appendix 1: The evaluation framework

Evaluation questions	Measures	Sources of information
<b>SCC processes, attitudes and experiences</b>		
What is the SCC and what processes are in place?	Description of SCC processes Participant selection What works well, identified challenges and responses	In-depth interviews with SCC team, judges, lawyers, police, community
What is the same or different to usual court processes?	Differences identified by expert key informants Similarities and differences to New Beginnings Court in Auckland or other solution-focused court models	Literature/ document review of evaluations of similar models In-depth interviews with SCC team, judges, lawyers, police, community
<b>Who has been reached</b>		
Who has been reached by SCC?	Number of SCC participants Demographic profiles of the participant Other profile information – offending, addictions, needs, health and wellbeing indicators	Analysis of Ministry of Justice (MOJ) data Review of SCC client files
<b>What difference has the SCC made</b>		
What difference has SCC made for participants and whānau?	Reduction in offending rates Nature of any reoffending Improved holistic wellbeing Improved whānau wellbeing Has goals and progress against goals Links with other services including education and training outcomes	Analysis of MOJ data Review of SCC client files Interviews and case studies with participants and whānau – success stories Interviews with NGO/ community
What is the duration or sustainability of any change?	Sustainability of outcomes	MOJ data Review of SCC client files Interviews and case studies
How do outcomes compare with usual court processes?	Comparisons between reduction in offending rates for a matched sample Comparisons in nature of any reoffending	Propensity matched sample with MOJ data
What difference has SCC made to the wider justice system?	Changes in attitudes and practices as a result of SCC	Interviews with court officials (judges, lawyers), police Interviews with NGO/ community
Is replication of SCC justified?	Identification of the key elements of the SCC essential for success Benefits of SCC identified by SCC judges, lawyers, community groups. What has been learned from the SCC Consideration of ways to strengthen SCC Cost-effectiveness of SCC	High level costs of SCC and benefits valued using Treasury CBAX model

## Appendix 2: what we know from the literature

The context of therapeutic courts	Comment
<p><b>Collaborative approach between multiple agencies:</b> including external providers who clients can be referred to (e.g. drug treatment providers, mental health providers). Information sharing and collaboration is important.</p>	<ul style="list-style-type: none"> <li>• Formative Evaluation for the Alcohol and other Drug Treatment Court Pilot. Litmus 2014.</li> <li>• A Report on the Progress of Te Kooti O Timitanga Hou – The Court of New Beginnings. Woodley 2012.</li> <li>• Gottfredson, Denise &amp; Kearley, Brook &amp; Najaka, Stacy &amp; Rocha, Carlos. (2005). The Baltimore City Drug Treatment Court 3-Year Self-Report Outcome Study. Evaluation review. 29. 42-64. 10.1177/0193841X04269908</li> <li>• Turner et al. (2002). A Decade of Drug Treatment Court Research.</li> <li>• U.S. Department of Justice. Defining Drug Courts: The Key Components.</li> <li>• Klinkum, O. 2017. <i>Courts that Heal? A Critical Evaluation of New Zealand's Specialist Criminal Courts and Their Therapeutic Underpinnings.</i></li> </ul>
<p><b>Non-adversarial judicial role:</b> The judge's role takes on a more holistic and involved approach to interacting with offenders. The prosecution and defence counsel (if applicable) also take a non-adversarial approach when dealing with offenders.</p>	<ul style="list-style-type: none"> <li>• Klinkum, O. 2017. <i>Courts that Heal? A Critical Evaluation of New Zealand's Specialist Criminal Courts and Their Therapeutic Underpinnings.</i></li> <li>• U.S. Department of Justice. Defining Drug Courts: The Key Components.</li> <li>• Turner et al. (2002). A Decade of Drug Treatment Court Research.</li> <li>• McNeil &amp; Binder. (2007). Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence.</li> <li>• Wilson, Mitchell &amp; MacKenzie. (2006). A systematic review of drug court effectiveness.</li> <li>• Gottfredson, Denise &amp; Kearley, Brook &amp; Najaka, Stacy &amp; Rocha, Carlos. (2005). The Baltimore City Drug Treatment Court 3-Year Self-Report Outcome Study. Evaluation review.</li> </ul>
<p><b>Focus on high-risk, high-needs offenders:</b> Courts should target offenders with medium to high risk of reoffending and clearly identifiable needs. Violent offenders are excluded.</p>	<ul style="list-style-type: none"> <li>• Klinkum, O. 2017. <i>Courts that Heal? A Critical Evaluation of New Zealand's Specialist Criminal Courts and Their Therapeutic Underpinnings.</i></li> <li>• Drug courts evidence brief. NZ Government, 2016.</li> </ul>
<p><b>Treatment is incorporated with justice system processing:</b> Including alcohol and other drug treatment, mental health treatment, and other interventions.</p>	<ul style="list-style-type: none"> <li>• Klinkum, O. 2017. <i>Courts that Heal? A Critical Evaluation of New Zealand's Specialist Criminal Courts and Their Therapeutic Underpinnings.</i></li> <li>• U.S. Department of Justice. Defining Drug Courts: The Key Components.</li> <li>• Turner et al. (2002). A Decade of Drug Treatment Court Research.</li> <li>• Rempel, M. &amp; Depies, C. (2008). Predictors of Engagement in Court-Mandated Treatment. <i>Journal of Offender Rehabilitation.</i></li> <li>• Henggeler, S.W., Halliday-Boykins, C. A., Cunningham, P. B., Randall, J., Shapiro, S. B. &amp; Chapman, J. E. (2006). Juvenile drug court: Enhancing</li> </ul>

	<p>outcomes by integrating evidence-based treatments. <i>Journal of Consulting and Clinical Psychology</i>, 74(1)</p> <ul style="list-style-type: none"> <li>• McNiel &amp; Binder. (2007). Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence.</li> <li>• Wilson, Mitchell &amp; MacKenzie. (2006). A systematic review of drug court effectiveness.</li> <li>• Gottfredson, Denise &amp; Kearley, Brook &amp; Najaka, Stacy &amp; Rocha, Carlos. (2005). The Baltimore City Drug Treatment Court 3-Year Self-Report Outcome Study. Evaluation review.</li> <li>• Lunt (2017). Preserving the Dignity of the Mentally Unwell: Therapeutic Opportunities for the Criminal Courts of New Zealand.</li> <li>• Drug courts evidence brief. NZ Government, 2016.</li> <li>• Formative Evaluation for the Alcohol and other Drug Treatment Court Pilot. Litmus 2014..</li> </ul>
<p><b>Eligible participants are identified early and promptly placed into the special court.</b></p>	<ul style="list-style-type: none"> <li>• U.S. Department of Justice. Defining Drug Courts: The Key Components.</li> <li>• Turner et al. (2002). A Decade of Drug Treatment Court Research.</li> <li>• Gottfredson, Denise &amp; Kearley, Brook &amp; Najaka, Stacy &amp; Rocha, Carlos. (2005). The Baltimore City Drug Treatment Court 3-Year Self-Report Outcome Study. Evaluation review.</li> </ul>
<p><b>Frequent monitoring/testing for alcohol and other drugs:</b> Ensures offenders are complying with treatment requirements. Sanctions are imposed for non-compliance and rewards may be offered for progress.</p>	<ul style="list-style-type: none"> <li>• U.S. Department of Justice. Defining Drug Courts: The Key Components.</li> <li>• Turner et al. (2002). A Decade of Drug Treatment Court Research.</li> <li>• Rempel, M. &amp; Depies, C. (2008). Predictors of Engagement in Court-Mandated Treatment. <i>Journal of Offender Rehabilitation</i>.</li> <li>• Wilson, Mitchell &amp; MacKenzie. (2006). A systematic review of drug court effectiveness.</li> <li>• Gottfredson, Denise &amp; Kearley, Brook &amp; Najaka, Stacy &amp; Rocha, Carlos. (2005). The Baltimore City Drug Treatment Court 3-Year Self-Report Outcome Study. Evaluation review.</li> </ul>
<p><b>Tikanga Māori involvement is important</b> and in most special courts currently in place in New Zealand, could be improved. This includes working more closely with kuia and kaumātua, developing stronger partnerships with Māori service providers, and supporting Māori participants.</p>	<ul style="list-style-type: none"> <li>• Formative Evaluation for the Alcohol and other Drug Treatment Court Pilot. Litmus 2014.</li> <li>• Evaluation of the Early Outcomes of Ngā Kooti Rangatahi. Kaipuke 2012.</li> <li>• A Report on the Progress of Te Kooti O Timitanga Hou – The Court of New Beginnings. Woodley 2012.</li> <li>• Lunt (2017). Preserving the Dignity of the Mentally Unwell: Therapeutic Opportunities for the Criminal Courts of New Zealand.</li> </ul>

## Appendix 3: Recidivism rates

Source: Department of Corrections Annual Report 1 JULY 2018 – 30 JUNE 2019

RECIDIVISM INDEX – 24 MONTHS FOLLOW-UP (PERCENTAGES) FOR 2016/17					
Category	Group	Released from prison		Beginning community sentence	
		Reimprisoned	Reconvicted	Imprisoned	Reconvicted
<b>All (2016/17)</b>		<b>43.3</b>	<b>62.1</b>	<b>8.2</b>	<b>40.3</b>
<b>Gender</b>	Female	30.5	50.8	4.8	33.2
	Male	44.8	63.4	9.0	42.1
<b>Ethnicity</b>	Māori	47.6	66.7	11.0	47.9
	European	38.2	56.7	6.9	39.2
	Pacific	39.6	59.0	6.8	39.3
	Other (incl. Asian)	22.7	34.0	5.7	31.6
<b>Age (at prison release or start of community sentence)</b>	Less than 20 years	54.7	79.1	9.0	54.4
	20-24 years	47.9	70.0	8.5	46.4
	25-29 years	47.8	68.6	9.3	43.8
	30-39 years	47.4	66.1	9.2	40.7
	40 and above	29.8	43.6	5.6	26.8
<b>Gang Affiliate</b>	Active	61.5	77.6	25.7	67.6
	Not recorded	34.8	54.8	6.7	38.0
<b>Offence Group (most serious for original sentence)</b>	Breaches	50.7	69.6	17.7	52.8
	Burglary	53.6	73.0	11.7	54.0
	Dishonesty	55.2	73.8	12.3	47.7
	Drugs	23.6	38.1	6.1	32.4
	Property Damage	39.2	61.7	10.4	47.8
	Sexual	16.4	25.5	3.2	14.7
	Traffic	30.2	52.4	4.5	34.2
	Violence	41.0	61.3	6.7	38.1
	Weapons	53.9	73.3	11.6	47.8
	Other offence	47.5	65.8	9.8	41.8
<b>Community Sentence</b>	Community Work	n/a	n/a	8.5	41.9
	Supervision	n/a	n/a	8.8	38.4
	Intensive Supervision	n/a	n/a	11.0	46.6
	Community Detention	n/a	n/a	2.1	37.5
	Home Detention	n/a	n/a	10.1	34.2
	<b>Prisoner Security Classification (at release)</b>	Maximum	85.2	88.9	n/a
	High	69.3	83.4	n/a	n/a
	Low Medium	54.6	71.9	n/a	n/a
	Low	43.5	65.1	n/a	n/a
	Minimum	21.2	39.7	n/a	n/a
<b>Release Type</b>	Parole	26.1	39.7	n/a	n/a
	Released on Conditions	48.2	68.2	n/a	n/a