



The Drug Treatment Court Concept: The Jamaican Drug Courts

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Legal Vice Presidency
The World Bank

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About the Author

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Abstract

The drug treatment court model (DTC) model was conceived out of the need to solve the numerous and intractable problems that drug-related cases create for court systems. A DTC is generally seen as a court that deals specifically with offenders who have committed offenses while under the influence of drugs and provides an alternative to incarceration. DTCs make use of a multidisciplinary team involving judges, prosecutors, defense attorneys, probation officers, treatment providers, police officers, and educational and vocational experts. The criminal justice and health service systems join to provide drug-dependent offenders with the mechanisms to recover from drug addiction and lead a productive and crime-free life. The purpose of this paper is to explore the concept of DTCs. After providing an overview of the origins of the DTC, looking at its roots in the United States and Canada, the paper examines the foundation and present-day experiences of DTCs in Jamaica. It also refers to some efforts among various countries in the Western Hemisphere to monitor DTCs and evaluate their effectiveness. The paper concludes with a return to the achievements of DTCs in Jamaica and a brief look at the future of the DTC program worldwide.

1. Introduction

The purpose of this paper is to explore the concept of drug treatment courts (DTCs). After providing an overview of the origins of the DTC, looking at its roots in the United States and Canada, the paper will examine the foundation and present-day experiences of DTCs in Jamaica. This will be followed by a look at efforts among various countries in the Western Hemisphere to monitor DTCs and evaluate their effectiveness. The paper concludes with a return to the achievements of DTCs in Jamaica and a brief look at the future of the DTC program worldwide.

The idea for the paper emanated from a similar but less detailed report delivered by this author at the headquarters of the Executive Secretariat of the Inter-American Drug Abuse Control Commission (CICAD) in Washington, DC at a workshop on the “Evaluation of Drug Treatment Courts in the Americas: Development of Methodologies and Indicators for DTC Evaluation,” on January 26, 2012. At that workshop, it became clear that although those of us who work directly with DTCs have been conversant about the concept for over a decade, there were still many people throughout the world for whom the notion of a DTC was foreign or perhaps even novel. It is not an exaggeration to say that most judges or magistrates who preside over a DTC develop a passion for this particular court; it is this passion that fueled the inspiration to make the DTC model more widely known.

An even greater motivation, however, arises from every DTC graduate who has ever walked the aisles of the court. These are people who have been monitored, sanctioned, plied with incentives, and regularly subjected to invasive testing—people who have, in many cases, kicked a habit that had plagued them for countless years and graduated from a DTC program on a path to recovery. Their dedication and effort are the true inspiration for anyone who is involved with the DTC project.

This paper represents an opportunity to promote DTCs as a way to improve one small corner of the criminal justice system.

2. The Origin and Character of the Drug Treatment Court

2.1. Background

It is often out of necessity that the most innovative ideas spring into being. The birth of the DTC model was not a chance occurrence; rather, it was conceived out of the need to solve the numerous and intractable problems that drug-related cases had become for court systems. These problems included case backlogs, overcrowded prison populations, high rates of recidivism of offenders, and the seeming powerlessness of judges to effect any change in the lives of the offenders. The DTC, seen as a problem-solving court, emerged out of the need to try to alleviate some of these problems.

DTCs defy the traditional notion of what many understand a court to be, which usually involves a place where trials take place and legal cases are decided, especially in front of a judge and a jury or a magistrate.¹ A criminal court is empowered to hear and decide on cases involving offenses against criminal law.² Those are the definitions we associate with the concept of a court of law—a forum for the dispensation of justice, which is seen as the upholding of rights and the punishment of wrongs by the law.³ In the common idealistic notion of justice as delivered by a criminal court, the innocent are exonerated and discharged and the perpetrators of crimes are arrested and punished according to the rule of law, punishment that would naturally include incarceration.

DTCs also redefine the role of the judge. The traditional notion of the judge in the criminal justice system is that he or she is the one charged with the dispensation of justice, one whose role in the court is supreme. The judge is also bound by law (be it case law or statute), acts in accordance with the dictates of the law books, and is not swayed by the motives or needs of an offender, which are considered second (at least) to the letter of the law.

¹ *Macmillan Dictionary*, available at <http://www.macmillandictionary.com/dictionary/british/court>.

² *American Heritage Dictionary*, available at <http://www.answers.com/topic/criminal-court>.

³ *Osbourne's Concise Law Dictionary*, 8th ed. (London: Sweet & Maxwell, 1993).

New roles in the DTC

With the introduction of DTCs, the court would no longer be viewed as a forum exclusively for the trial of cases but also as a place where treatment and rehabilitation can be prescribed—with or without sentencing. The position of the judge as leader was retained but took on a new dimension. In the DTC, the judge relies on the assistance of all team members in the decision-making process; no longer is the outcome simply the decision of the judge but of the entire team. Thus, not only do DTCs redefine the role of a judge, but they redefine the role of all the other players who operate within the DTC itself.

The role of the police is also redefined under a DTC, from one whose only interest is in prosecuting an offender to the full extent of the law to one who takes on the added dimension of assisting this offender to embark on a life-changing experience. This involves a change in the mindset of the police that enables them to recognize the long-term benefits of recommending an offender to participate in a DTC program. The role of the prosecutor as a kind of “minister of justice” is similarly expanded under the DTC to include assisting in the treatment and rehabilitation of an offender. The role of the defense counsel, however, remains somewhat more consistent. He still advocates in the interest of his client, but he is able to do so in a different manner, because he has confidence that the prosecutor also has some concern for his client’s interests, and more importantly, that this is true of the judge as well.

In addition to redefining some customary roles, DTCs also create an expanded place in the court for professionals from the medical field. Medical doctors, especially psychiatrists, are often accustomed to attending court proceedings, predominantly to give evidence in certain matters and to share their expertise from a witness box, usually subjecting themselves to cross-examination and sometimes to having their opinions berated by a cross-examining attorney. This has inculcated in many doctors a reluctance to take part in court proceedings—a reluctance that often dissipates in a DTC setting.

The criminal justice system transformed

DTCs represent nothing less than a transformation of the criminal justice system. A DTC is not a forum where the trial of cases is the order of the day, but one where the needs of the accused or even a convict become a priority. As the name suggests, treatment is at the helm of this court. For the skeptics, it seems contrary to the rationale or idea of justice that every man is to be given his due, since in most instances, participants are absolved of their crime upon successful completion of the DTC program. Put another way, DTCs embrace the idea of the court being used as a therapeutic tool, one that is used to aid the accused rather than to punish him.

The DTC model, however, still recognizes the importance of maintaining the rule of law, including the fact that victims may need their day in court. Thus, cases that come before a DTC have to be selected with this in mind. In a DTC, the focus is not on the wrong committed but rather on the reason behind the wrong, and then on solving that problem in the hope that society will benefit by not having to prosecute this same individual another day. Ultimately, the greatest benefit will be reaped by the potential victims, that is, any individual who may be threatened by drug-related crimes.

According to an important 2010 study published by the Organization of American States (OAS), DTCs have eschewed the traditional prosecution/conviction/sentencing model that has resulted in prison overcrowding and chronic recidivism. Instead, the DTC adopts an alternative approach that uses the leverage of the criminal justice system and its potential sanctions to provide a judicially supervised program of substance treatment and other services (Cooper, Franklin, and Mease 2010a, 6). (For more on the OAS survey, see section 4.3.)

2.2. DTCs are Established

In the United States

Drug courts emerged as a method for responding to drug problems in the United States at a time when health, treatment, and justice systems were overwhelmed by the drug epidemics of the 1980s. The dramatic increase in the availability of cocaine and later, crack cocaine, particularly in U.S. cities, became a new challenge for a criminal justice system that was already plagued with backlogs and delays. The volume of court cases exploded during this time, pushing the judicial process to its limits and threatening the traditional modes of managing the criminal caseload. Worse, the huge wave of arrests of drug offenders beginning in and accelerating during the 1980s occurred within a correctional system of local jails and state prisons in many areas of the country that were already chronically overcrowded. With little room in prisons for the new arrestees, institutional crowding intensified at the same time that the processing of criminal cases was slowed, causing logjams in the courts and a wide range of problems for the justice system as a whole (Goldkamp 2001).

In Miami, Florida, the gateway of major drug trafficking routes from South America, the drug crisis was particularly acute. A study at the time showed that approximately 90 percent of felony defendants entering the judicial process in Miami (Metropolitan Dade County) tested positive for drugs (excluding alcohol) at the time of their arrest. Given these dire conditions and upon historical hindsight, the efforts of the city's justice system leaders, including chief judge Gerald Wetherington, prosecutor Janet Reno, public defender Bennet Brummer, and control drug control administrator Timothy Murray, to create the Miami Drug Court may have reflected plain common sense. The court system and government leaders reasoned that if Dade County could not arrest and punish its way out of the drug problem, perhaps it should try providing treatment as a reasonable alternative to prosecution and confinement (Goldkamp 2001).

The first drug court in the United States went into operation in Miami in summer 1989 under the supervision of Judge Stanley Goldstein, the United States' first drug court judge. Since that time, DTCs have shown remarkable growth. The National Institute of Justice of the U.S. Department of Justice reports that as of December 2011, there were over 2,600 drug courts operating throughout the United States.

In other countries

Canada followed suit almost a decade later. Officials in that country had also realized that the traditional methods of dealing with drug-dependent criminality were a failure, and that a new and innovative alternative was needed (Bentley 1999). The first drug court was opened in Toronto on December 1, 1998, the first to operate outside of the United States. It began as a four-year pilot project funded by the National Crime Prevention Centre and resulted from the work of a number of key individuals in Toronto's criminal justice community. Since then, drug courts have become a feature of the criminal justice system throughout Canada, where they exist in eight different regions. The Toronto DTC differs somewhat from the American DTC model, however, with distinctions that reflect differences in the health, judicial, and political systems in the two countries.

In 2005, the United Kingdom began a pilot scheme of dedicated drug courts. DTCs also currently exist in Australia, New Zealand, Belgium, Chile, Mexico, Bermuda, the Cayman Islands, and Trinidad and Tobago. In the Caribbean, Jamaica led the way with the creation of the first drug court in 2001 (see section 3). Many more countries have followed and for those who promote the DTC model, it is hoped that many more will also do so. At this time, there is a relative absence of DTCs among Asian and African countries, although the drug problem is not foreign to them.

DTCs have garnered the support of international as well as nongovernmental organizations (NGOs). The OAS, through its agency the Inter-American Drug Abuse Control Commission (CICAD), has provided tremendous support to DTCs and to the professionals who operate them; indeed, CICAD has a department dedicated solely to promoting DTCs and treatment alternatives to incarceration.

2.3. DTCs: What They Are and How They Work

The United Nations Office on Drugs and Crime defines a DTC as a court that aims to stop drug abuse and the related criminal activity of offenders through court-directed treatment and rehabilitation programs.⁴ The National Institute of Justice describes a drug court as a specialized or problem-solving court-based program that particularly targets criminal offenders and parents with pending child welfare cases who have alcohol and other drug addiction and dependency problems.⁵ In most countries, DTCs primarily target adults; however, some countries, including the United States, have established juvenile drug courts.

The DTC is generally seen as a court that deals specifically with offenders who have committed offenses while under the influence of drugs and provides an alternative to incarceration. The DTC employs the use of supervision by judicial authorities, urine analysis, counseling sessions, and advantages or sanctions for compliance or noncompliance. DTCs make use of a multidisciplinary team involving judges, prosecutors, defense attorneys, probation officers,

⁴ See "Drug Treatment Courts Work," United Nations Office on Drugs and Crime, http://www.unodc.org/pdf/drug_treatment_courts_flyer.pdf.

⁵ See "Drug Courts," National Institute of Justice, <http://www.nij.gov/topics/courts/drug-courts/welcome.htm>.

treatment providers, police officers, and educational and vocational experts. The criminal justice and health service systems join to provide drug-dependent offenders with the mechanisms to recover from drug addiction and lead a productive and crime-free life.

Volume one of the 2010 study referred to above provides a description of how a DTC functions (Cooper, Franklin, and Mease 2010a, 6). Its common procedures include:

- Early identification of individuals involved in the justice system as a result of their drug abuse;
- Suspension of justice system proceedings against the individual pending his or her participation in the DTC program;
- Provision of intensive outpatient treatment services for the individual that are overseen by the court, as well as any additional services (including mental health, housing, literacy, vocational, and other services) the individual may require, based on a comprehensive screening and assessment, that would not ordinarily be identified and/or provided in the traditional justice system process;
- Frequent and usually random testing (for example, up to three or four times per week initially);
- Frequent review hearings before the judge (often weekly at first), at which the judge reviews the individual's progress/compliance with the DTC requirements, acknowledges progress made, and determines how best to address difficulties encountered, either through changes in the treatment plan or other means;
- Immediate responses in the event of noncompliance, such as not appearing for treatment sessions, drug tests, or court hearings, which can range from a required writing assignment to community service to several days in jail; continued unresponsiveness to the DTC program; or the commission of an offense that disqualifies the individual from participation, which results in program termination and the resumption of the traditional justice system process;
- Gradual reduction in supervision as the individual increases his/her periods of sobriety and is able to benefit from the treatment and other services provided, recognizing, however, that the chronic relapsing nature of drug addiction may likely require renewed court intervention periodically, with adjustments to treatment and other services;
- Graduation from the DTC after 12–15 months of continued progress in treatment and a significant period of sobriety.

2.4. What is Distinctive about a DTC

The mission of DTCs is to stop the abuse of drugs and drug-related criminal activity. DTCs are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals.

Within a courtroom atmosphere, the judge heads a team consisting of court staff, the defense counsel, the prosecutor, probation officers, and treatment professionals all working in concert to support and monitor a participant's recovery. Together, they maintain a critical balance of

authority, supervision, support, and encouragement. In this regard, it behooves the judicial authority to be as creative as possible in its approach.

Combining treatment and judicial authority

One of the hallmarks of the DTC is the role of the judge as supervisor. A judge is commonly viewed in many societies as a leader, an individual possessed with erudition and acumen, someone who commands attention. In some societies, judges even take on a kind of regal personality. In another arena, medical practitioners have a similarly elevated role. The DTC uses a combination of these leaders, who share a common aim of rehabilitating and treating offenders and who represent a new type of partnership or collaboration between the courts and medical treatment. A basic premise driving the creation of the Toronto DTC, for example, was that no one system on its own—neither the treatment nor the court system—could be successful in working with drug-addicted offenders. By combining treatment with the power of the court, DTCs aim to address addiction-motivated criminal behavior in a more effective manner than the traditional adjudicative approach (Shivji 2004).

The judicial authority is uniquely positioned to be able to bring together different individuals to join their efforts in the rehabilitation process. In so doing, the justice system can help reduce the rate of recidivism, improve public safety, and reduce the prison population; if properly implemented, it can also be cost effective.

In DTCs, the importance of sanctions and incentives must be underscored. The judge is granted the power to give and the power to take away. It is generally the case that an offender's greatest incentive to participate in the program is to secure his liberty, the ability to avoid incarceration for an infraction that would normally result in a prison term. The idea that someone actually cares—and someone in authority—is often another driving force for the participant. Experience with DTCs has shown that it is frequently the constant encouragement and expression of confidence in the individual that motivates him or her to embark on the process of change.

By offering an alternative to incarceration, DTCs reverse the priority of the courts and focus on rehabilitation rather than punishment. The goal is to break the vicious cycle of drug addiction and reduce recidivism, with the aim of promoting social stability. If an offender has a drug problem that is addressed at the root of the problem by an offer of a means to change, a means involving admission into a program and treatment for drug addiction, as well as counseling and mandatory drug testing, all while under the supervision of the court, the benefits are clear.

Judge Herbert Klein, Senior Judge of the Circuit Court for Miami-Dade County and creator of the drug court concept, in his keynote speech at the 1996 Florida Drug Court Conference, summed up the rationale of the DTC quite aptly:

What we are doing is a statement of our belief in the redemption of human beings. It is a pronouncement from those in authority to some of our least powerful and most ignored citizens that we care about you and want to reach out and help you: your lives and well-being are important to us. The truth of the matter is that this may be the first time in the lives of many of these people that someone is actually listening to them - hearing what they are saying and telling them that they care about them and what happens to them is

important...We tell them we care about them and they begin to feel worthwhile. Some pretty important people (judges, lawyers, and others in authority) are telling them we don't want them to fail- they begin to believe they can transcend. (Klein 1996)

New strategy at the international level

As noted above, the creation of the DTC is a by-product of the “war on drugs” that the Western Hemisphere has been engaged in for many decades. In its Hemispheric Plan of Action on Drugs 2011–2015,⁶ the OAS states that among other goals, its new drug strategy promotes treatment as an alternative to incarceration. This includes through the establishment of drug courts, where recovery is closely supervised by a judge with the power to reward progress and punish relapses, an approach that has proven successful in reducing repeat offenses and setbacks.

As a first step of a comprehensive approach to confront the intertwined challenges of drug trafficking and drug dependency, it is thought crucial that OAS countries include an emphasis on the root cause of the problem: the consumption of illicit drugs. Approximately 20 percent of drug users account for nearly 80 percent of drug use. By progressively reducing dependence among hard-core drug users, DTC programs not only help reduce the demand for drugs but also diminish the profitability of the transnational criminal organizations that threaten the economies, as well as security and democratic governance, in the OAS.

In short, DTCs offer a mechanism that if utilized properly, can assist in reducing the demand for drugs, which will ultimately reduce the supply.

Although this report refers to the experiences of the Western Hemisphere, the drug problem is of course not limited to this region but in fact transcends hemispheres. In recognition of this, the Political Declaration of the twentieth special session of the United Nations General Assembly in 1998 affixed a definition to the world's wider drug problem to include the illicit cultivation, production, manufacture, sale, demand, trafficking, and distribution of narcotics drugs and psychotropic substances, including amphetamine-type stimulants, the diversion of precursors, and related criminal activities (United Nations 1998).

2.5. Principles Underlying the DTC

DTCs apply the principle of what is known as therapeutic jurisprudence, a term first used by Professor David Wexler, University of Arizona Rogers College of Law and University of Puerto Rico School of Law, in a paper delivered to the U.S. National Institute of Mental Health in 1987. Together with Professor Bruce Winick, University of Miami School of Law, who originated the concept with Wexler, the professors suggested the need for a new perspective to study the extent to which substantive rules, legal procedures, and the role of legal actors (lawyers and judges primarily) produce therapeutic (that is, healing or restorative) or anti-

⁶ Hemispheric Plan of Action of Drugs adopted by the Inter-American Drug Abuse Control Commission (CICAD) at its forty-ninth regular session May 2011, available at http://www.cicad.oas.org/Main/Template.asp?File=/main/aboutcicad/basicdocuments/plan-action_eng.asp.

therapeutic consequences for individuals involved in the legal process (Winick and Wexler 2003).

Therapeutic jurisprudence is a concept that encourages judges, lawyers, and others involved in the justice system to look at the law in a more comprehensive way to see what therapeutic agents can be used to bring about change. It is common to problem-solving courts, and embodies the spirit of a drug court, primarily by providing a drug dependent offender with an alternative to incarceration.

As described above, drug courts operate under a very specific model that combines intensive judicial supervision, mandatory drug testing, escalating sanctions, and various forms of treatment to help substance-abusing offenders break the cycle of addiction and avoid the crime that accompanies it. In 1997, the United States' National Association of Drug Court Professionals (NADCP) published a series of principles that underpin a drug court in order to provide courts with a model that can be adapted to fit the specific needs of the community (NADCP 1997). These principles have been incorporated into internationally recognized DTC core principles tailored to the needs of the justice system of any country.

1. The programmes integrate substance dependency treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defence lawyers promote public safety while protecting offenders' due process rights.
3. Eligible offenders are identified early and promptly integrated into the programme.
4. The programmes ensure access to a continuum of substance dependency treatment and other rehabilitation services.
5. Compliance is objectively monitored by frequent substance abuse testing.
6. A coordinated strategy governs responses of the court to programme non-compliance (and compliance) by offenders.
7. Ongoing judicial interaction with each offender in a programme is essential.
8. Monitoring and evaluation measure the achievement of programme goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective planning, implementation, and operations of these court-directed programmes.
10. Forging partnerships among courts directing treatment programmes, public agencies, and community-based organizations generates local support and enhances programme effectiveness.
11. Ongoing case management includes the social support necessary to achieve social reintegration.
12. There is appropriate flexibility in adjusting programme content, including incentives and sanctions to better achieve programme results with particular groups, such as women, indigenous people and minority ethnic groups.
13. Post treatment and after-care services should be established in order to enhance long term programme effects.⁷

These principles, of which everyone connected to a DTC should demonstrate a knowledge and appreciation, are the foundation of the DTC model.

⁷ The International Association of Drug Treatment Courts (IADCP), available at <http://www.nadcp.org/about-us/13-key-principles-drug-treatment-court?q=about-us/13-key-principles-drug-treatment-court>.

3. The DTC Experience Jamaica

As this author is intimately involved with the Jamaican drug court system, the operation of the DTC program in Jamaica will be the focus of this section of the paper.

3.1. Origins of DTCs in Jamaica

Jamaica's drug problem

Jamaica, an island surrounded by the Caribbean Sea and located some 581 miles from Miami, Florida (home of the first DTC), and whose informal motto is “Jamaica no problem,” has suffered from a serious, deeply rooted drug problem for decades. Moreover, Jamaica has a reputation for cultivating some of the best *cannabis sativa*—more commonly known as marijuana, ganja, or the herb—in the world, which its large Rastafarian population sees as a part of their religion, as having mythical and mystical properties, and as a holy plant that enables them to deepen their faith.

Jamaica's proximity to both North and South America has made it a popular spot for the passage of drugs, especially marijuana and cocaine, which has spilled over into local consumption. The two most commonly abused drugs in Jamaica are marijuana and crack cocaine. Countless youths in Jamaica are plagued with addiction to what is colloquially referred to “seasoned spliff” and “crack.”

The large number of people addicted to drugs, many of whom resorted to crime to sustain their addiction or dependence, led to a flood of drug cases in Jamaica's criminal justice system. Clearly, a solution was needed. The first answer was to lock the addicts up, sometimes for indefinite periods, which was not successful. The second solution was to detain them to give them a chance to “cool off,” but that too failed. Invariably, since the majority of these drug offenders were guilty of no more than petty crimes, they generally emerged from incarceration sooner rather than later, only to continue on the path of crime. The rate of recidivism was alarming.

Seeking a solution through legislation

The response was to look to the countries to the North for a solution to the problem. By 1999, both the United States and Canada had DTCs as a feature of their criminal justice systems, an approach that seemed to be making inroads into the problem of the massive number of drug-related cases facing the courts. The idea was to tackle the backlog of such cases not by having a more expeditious trial process but rather, by addressing the root cause of drug dependency.

It is not surprising that Jamaica charted the course for the creation of the first DTC in the Caribbean. In 1999, the Jamaican Parliament formulated the *Drug Court (Treatment and Rehabilitation of Offenders) Act*⁸ (hereinafter referred to as the Act). This was followed in 2000

⁸ The *Drug Court (Treatment and Rehabilitation of Offenders) Act*, available at <http://www.moj.gov.jm/node/387>.

by the *Drug Court (Treatment and Rehabilitation of Offenders) Regulations, 2000* (the Regulations). Both came into effect in 2001.⁹ The Act created a court that was distinct from all others, designed not for the trial of cases but rather for the purpose of the rehabilitation of the accused persons. The drug court was designed to get to the heart of the drug problem in Jamaican society.

The passage of legislation to create DTCs in Jamaica demonstrated the commitment of the Jamaican government to confront the drug problem from all angles. Although the Jamaican drug court is based on the Canadian model and borrows also from the American concept, the difference in Jamaica is that its DTC is based on actual legislation; it is thus formalized and entrenched in Jamaican law.

The year 2001 also brought a Memorandum of Understanding (MOU) signed between the Ministry of National Security and Justice and the Ministry of Health. This MOU contained elements of harmony, mutual understanding, and shared responsibilities with defined roles, the effect of which was that for the first time, both ministries would work together with a common aim: the rehabilitation of the offender. The preamble to the MOU provided:

WHEREAS the Government of Jamaica is resolute in its efforts to combat the problems of the use, production and trafficking of illicit drugs via a vibrant anti-narcotics programme as several studies have revealed that Substance Abuse is increasing within the urban areas of Jamaica, in particular and the consumption of narcotics and its trade are a grave threat to Jamaica's public health, internal stability, national security, international trade and transport linkages.

AND WHEREAS the prevention and control of Substance Abuse is therefore a high priority among the national objectives.

AND WHEREAS it is critical that Drug Abusers apprehended within the justice system be diverted from jail or the award of probation orders or suspended sentences by being provided with the option of Drug Abuse Treatment and Rehabilitation services in order to reduce the usage of illicit drugs, occurrence of drug and non-drug related crimes and the population of "hardened" criminals in the society.

The definition of "drug" is found in the *Dangerous Drug Act* of Jamaica and includes marijuana, cocaine, opium, morphine, and alcohol. Any offender dependent on any of the named drugs can benefit as long as he or she fits other criteria.

The objectives of the court are succinctly stated in section 3 of the Act. They are to reduce the incidence of drug use and dependence by persons whose criminal activities are found to be linked to such dependence, to reduce the level of criminal activity that results from drug abuse, and to provide assistance to those persons that will enable them to function as law-abiding citizens.

⁹ The *Drug Court (Treatment and Rehabilitation of Offenders) Regulations*, available at http://www.moj.gov.jm/laws/hr?title=&field_tags_tid=All&page=2.

DTCs are established

Although the Act has general application, enabling a DTC to be implemented in any or all of the 14 parishes throughout the island of Jamaica, DTCs began as a pilot project in two parishes that were selected because of their dire need. These were the corporate area parishes that consist of Kingston and St. Andrew and the parish of St. James.

In May 2001, a DTC was established in the Corporate Area Resident Magistrate's Court. Kingston, as Jamaica's capital, is a large metropolitan area with many drug-infested neighborhoods whose inhabitants frequently plague major businesses and commercial enterprises in the area, resulting in a loss of profit in the commercial arena. The target population of the DTC program consisted primarily of males residing in low-income urban areas. Another aggravating factor was the overflow of cases involving drug-dependent offenders at the Corporate Area Resident Magistrate's Court.

In July 2001, a second DTC was established in Montego Bay, the capital of St. James parish. Montego Bay, the second city of Jamaica, is a prime destination for tourists who are at times preyed upon by petty thieves. Tourist-oriented businesses were also affected. Again, the target population was low-income youths residing in the tourist area, and again, another aggravating factor was the huge backlog of drug-related cases facing the Montego Bay Resident Magistrate's Court. In both these parishes, the DTC program, although conceptualized as a pilot project, has lasted for over a decade.

3.2. The Functioning of Jamaica's Drug Courts

As with DTCs in other countries, in the rehabilitation of an offender in a Jamaican DTC, a holistic approach is utilized. Clients receive advice and guidance in areas such as family and emotional support, conflict management, education, employment, development of social skills, and legal assistance. Recommendations have been for the expansion of the drug court system based on positive responses. Unfortunately, the project is still in the pilot stage, due largely to financial constraints.

DTC procedures

The drug court is presided over by a resident magistrate¹⁰ (RM) and two justices of the peace (JP),¹¹ one of whom must be a female. The phenomenon of a JP presiding over a DTC is peculiar to Jamaica. The provision for one of the JPs to be female was advanced at a time when men dominated the position of RM, and was made to guard against having a bench with three

¹⁰ A creature of the *Judicature Resident Magistrates Act* (having the function of a judge of the resident magistrate's courts), available at

[http://www.moj.gov.jm/sites/default/files/laws/The%20Judicature%20\(Resident%20Magistrates\)%20Act.pdf](http://www.moj.gov.jm/sites/default/files/laws/The%20Judicature%20(Resident%20Magistrates)%20Act.pdf).

¹¹ The justice of the peace is a judicial public officer, albeit with limited powers. In addition to the number of duties and functions within the community, the JP actually performs judicial functions serving in the Court of Petty Sessions as set out in the *Justice of the Peace Jurisdiction Act* (1850), from which their authority is derived, available at <http://www.moj.gov.jm/node/519>.

males. Because women are viewed as the “gentler sex” in Jamaica, it was thought that they would be more sensitive to the needs of drug court participants.

When a person is referred to a drug court, the question of eligibility must be determined. The DTC is available to anyone who fits the following eligibility requirements:

- The person is charged with a relevant offense (any offense triable by an RM, which applies to a myriad of offenses both drug-related and non-drug-related)
- The person appears to be dependent on the use of drugs
- The person is at least 17 years of age
- The person is not suffering from any mental condition that could prevent or restrict his or her active participation in a prescribed treatment program

It is important to note that the provisions of the Act are very liberal, as they enable an individual at any stage of the court proceedings to take advantage of the program. Unlike some other countries where the DTC program is available only to individuals who have pled guilty, in Jamaica, the Act makes provisions for the offender to be treated whether he has pled or been found guilty, or even if he has not entered any plea at all. What is more, the program is available even to individuals who have committed violent offenses . The Act creates a DTC model that is all-encompassing and provides for the treatment of individuals both pre- and post-sentencing. In all instances, if the offender successfully completes the program, he or she leaves the criminal justice system without a criminal record for the offense that brought the individual before the DTC.

The only restriction is that if the offense is a violent one, it must be of such a nature that it still falls under the jurisdiction of an RM, suggesting that the injuries sustained by the victim were not serious or life threatening and not likely to be permanent. Offenses that come under the jurisdiction of the circuit court would not fall under the ambit of the drug court. In practice, a great number of persons who benefit from the program are not those charged with violent offenses but rather, those charged with offenses contrary to the *Larceny Act*, which suggests that they have a propensity to steal to sustain their drug habit.

Day-to-day functioning

The DTC in both cities is convened once per week. This, however, does not preclude magistrates from dealing with a DTC participant while presiding over their regular list where the need arises—usually in the case of an emergency. The participants are always released on bail with conditions, which may include reporting requirements, rules for curfew, and/or restrictions on places they are permitted to visit. They are required to attend the treatment center twice per week, where the treatment team takes over. All participants receive individual and group counseling and mandatory urine testing for drugs on a regular basis.

The drugs normally tested for are cocaine and marijuana and it is imperative that the participant test negative. A positive test result typically requires sanctioning, which may include an expulsion from the program—although the particular circumstances of the participant will be taken into account. Expulsion from the program is always a last resort, imposed in cases where

the problem is a recurring one and the participant over a period of time has not demonstrated a sufficient level of commitment to the program.

Prior to the commencement of court proceedings, there is a precourt meeting at which all team members are present and a discussion ensues relative to each participant listed for the day. The progress of each is discussed, as well as whether sanctions or rewards are to be imposed. All decisions are made during this precourt meeting.

When the participant arrives in open court, all are apprised openly of his or her progress or lapses. If the participant is doing well, he or she is commended; if not, sanctions are imposed or a stern warning given. Sanctions vary and can include the imposition of reporting conditions or a curfew, the withholding of a promotion, or even detention for a short period of time. Incentives include being applauded by everyone concerned, a reduction in the number of days required to report on condition of bail, or the provision of food subsidies. This level of supervision permits the court to actively support the recovery process and to react swiftly to impose appropriate therapeutic sanctions or to reinstate criminal proceedings when participants cannot comply with the program.

The program spans a minimum of six months and can last for up to one and one-half years. In many cases, participants are a part of the program for a longer period of time than their sentence would have been if they had not entered the program.

Completing the DTC program

On successful completion of the program, the participant becomes eligible for graduation. In order to qualify for this milestone, participants must have demonstrated that they have been drug free for an extended period and have no new criminal matters pending against them. Although not compulsory, they are encouraged to become engaged in either employment or some kind of educational or vocational training program.

The legislation establishing the DTC provides that the court can dismiss the relevant charge at this stage. In practice, although there is never any conviction recorded against the individual, there is usually an acknowledgement of guilt, and the court imposes a probation order for at least 12 months as a follow-up measure to ensure that he or she is monitored on a regular basis by a probation officer during this time.

If there is no acknowledgement of guilt, the matter may be adjourned *sine die*, that is, without scheduling a further date for court attendance. The matter is nevertheless reconsidered some months later, and if the individual has progressed well during that period and continues to be drug free, the matter is disposed of finally and he or she is eligible for graduation—one of the hallmarks of the program. The graduation exercise usually takes place in court or at a selected venue and the participants are encouraged to bring family members or well-wishers with them. At the graduation, the team members usually address the graduates and offer words of encouragement. In addition, there are specially invited guests and a guest speaker, and the graduates are presented with a certificate and other gifts.

3.3. The DTC Team

The interdisciplinary team is pivotal to the operation of any DTC. Indeed, it is the combination of team members from different spheres and professions that make the DTCs “click.” Dedication and passion are characteristics that all team members should possess, and the treatment and rehabilitation of the participants must be their paramount concern.

Jamaica’s legislation provides clear and defined roles for most of the professionals who work in the DTC. Over time and with practice, other roles have been developed for these professionals, and new roles for additional players have been created.

The resident magistrate

The RM has a designated role as chairman and thus heads the DTC panel that consists of an RM and two JPs. Since the role of the RM is to provide judicial supervision of the participants and to monitor their progress, the RM must be conversant with the provisions of the legislation. When a person is referred to the drug court, the RM should ascertain whether the person is eligible; the RM also has the task of (i) explaining to the person why he or she is being referred to the drug court and the consequences of such a referral, and (ii) requiring the person to signify in writing his or her consent to being referred. This is crucial, as the program is entirely voluntary. The RM should then explain to the person that he will be assessed by an approved treatment provider in order to determine his suitability for participation in a prescribed treatment program; if the person agrees, the case is adjourned until the assessment is carried out. The RM then orders a social inquiry report, a document prepared by a probation officer that outlines the personal circumstances of the individual and, like the treatment provider assessment, establishes his suitability for participation in the program.

The RM leads the precourt meeting described above. The RM must ensure that the viewpoints of each team member are aired and discussed and a consensus is reached. The RM should thus recognize that the opinion of each member must be respected and considered in the decision-making process, and that any final decision should not be a unilateral one.

The RM also has the task of offering incentives and/or imposing sanctions, as provided for in section 6(2) of the Regulations. This allows the RM, on the recommendation of the treatment provider, to offer advantages such as specified privileges, a change in the frequency of counseling or other treatment, a decrease in the degree of supervision or frequency of drug tests, or a change in the kind or frequency of the vocational and social services that must be attended. These incentives are recommended when the offender maintains a satisfactory level of compliance with the program.

Conversely, if the offender fails to comply with the program, the Regulations provide in section 6(3) for the imposition of sanctions, such as the withdrawal of privileges, an appropriate change in the frequency of counseling or other treatment, an increase in the degree of supervision or frequency of drug testing, and/or a change in the type or frequency of the vocational and social services that must be attended by the offender.

The RM must be familiar with the circumstances under which termination can occur. The legislation provides that the drug court should terminate a prescribed treatment program if the offender successfully completes the program, if the offender requests the drug court to terminate the program, or if, based on a report of the approved treatment provider, the drug court is satisfied that there is no useful purpose to be served by the offender's continued participation.

The Act provides that as soon as practicable after a prescribed treatment program has been completed, the drug offender should be brought before the drug court. If the offender has successfully completed the prescribed treatment program, the DTC should discharge, conditionally or absolutely, the offender in relation to the relevant offense and pronounce him eligible for graduation. If the offender has failed to complete the prescribed treatment program, the DTC may, if the trial was deferred, hear and determine the relevant offense. If the circumstances of the case so warrant, the court can require the offender to undergo a new treatment program for a certain period and subject to such conditions as the court may, on the recommendation of an approved treatment provider, specify. If the sentencing was deferred, the RM may impose any sentence that could have been imposed for the relevant offense. If the execution of a sentence was deferred, the RM can make an order confirming that sentence, and if the trial was deferred by a regular sitting, he can refer the relevant offense back to that sitting.

Clearly, the training of the RM is crucial to the effective operation of the DTC. The RM must be compassionate but maintain a firm hand, and be able to temper justice with mercy. The RM must also be willing to work with other partners and be familiar with, and apply the principles of, therapeutic jurisprudence.

The justice of the peace

The JPs bring with them their knowledge of life in Jamaica and their everyday experiences in dealing with drug offenders. As noted above, in order for the DTC to be properly constituted, two JPs must sit along with the magistrate. The Schedule to the Act provides that: "The Minister shall in each parish appoint a special panel of Justices, those Justices whom he may consider to be specially qualified to deal with cases before the Drug Court and no Justice of the Peace shall be qualified to sit as a member of the Drug Court unless he is a member of such a panel."

It has been stated that the drug court shall be constituted of an RM as chairman and two JPs, one of whom shall be a woman and both of whom shall be members of the panel referred to in paragraph 1 of the Act, provided that subject to paragraph 3:

(a) the Court shall be deemed to be fully constituted where the chairman and only one such Justice sit;

(b) until the panel referred to in paragraph 1 is prepared, the Court shall be constituted of a Resident Magistrate alone.

3. Where a Drug Court conducts a trial to determine guilt or innocence, the Court shall be constituted of a RM sitting alone.

As the JP is part of the DTC team and must assist in the decision-making process, the JP also attends and participates in the precourt meetings. JPs usually bring to the panel some knowledge of the impact of substance abuse on court systems, the lives of the affected individuals, and the entire community in which they live. JPs are usually suitably placed in the community and are more aware of community-based programs that the participant may benefit from, thus providing a sort of balance to the panel. The presence of the JP is a special feature of the Act, which many believe is indeed a commendable one. Justices function in a complementary capacity, providing a balance between common sense and the strict application of the law, ultimately bringing to the panel a realistic viewpoint to temper the law. Generally speaking, justices provide a community-based perspective and a practical approach; ultimately the bench has the benefit of collective wisdom.

The prosecutor/clerk of the court

The prosecutor in the resident magistrates' courts of Jamaica is called a clerk of the court. The role of the clerk of the court in the DTC is not to prosecute in the traditional sense; rather, the clerk of the court is part of a team whose aim is to provide treatment for the drug-dependent offender. The clerk of the court has an integral role, as it is he or she who first receives and prepares the file for presentation to the RM. The first major role of the clerk of the court is thus to review cases for admission. He has to assess the police officer's report and also the offender's criminal record, and if satisfied that the person is eligible, recommend that the individual be referred to the drug court. The clerk of the court additionally has to ensure that the offense is a relevant one.

The clerk of the court also plays a critical role in the precourt meeting, outlining the allegations to the RM and other team members and indicating the basis on which the person has been referred to the court. It is important that the clerk of the court liaise with the police officer, who is not usually present at the precourt meeting, in order to be able to advise the court about the suitability of the person for bail at that stage of the proceedings. The court would need to be particularly aware of this, as usually it is a program requirement that the person be out on bail; a strong opposition to bail may result in the person's nonadmission to the DTC program.

The Act mandates the clerk of the court to keep a register of persons who have been dealt with by the DTC. This is important because of persons who may be expelled from the program, charged again, and end up back before the drug court. Although not necessarily a bar to admission, it is important for the court to be aware of this so an informed decision can be made.

It is also the role of the clerk of the court to ensure the efficiency of court procedures. He or she prepares the relevant documentation—for example, the court listing on a weekly basis, the consent document, and the roster for JPs—and ensures that warrants are prepared and sent out for execution as soon as possible. At the same time, any clerk of the court assigned to the drug court should be dedicated to the cause of therapeutic justice and genuinely interested in the rehabilitation of the offender. Thus, in many ways, the clerk of the court's role in a DTC is similar to that of a social worker.

The police officer

When a person is arrested and charged with a relevant offense, and the arresting officer has reasonable cause to suspect that drugs are involved, the Act expects that officer to include in the police report a note of the facts giving rise to that suspicion. The police officer must be aware that a relevant offense is any offense triable by an RM.

The Act also provides that a person who is arrested and charged with a relevant offense specified in subsection 3 should be brought directly before the drug court. Subsection 3 states that the offenses referred to are those listed under the *Dangerous Drugs Act*:

- (a) possession of not more than
 1. One ounce of prepared opium
 2. Eight ounces of ganja
 3. One-tenth of an ounce of cocaine, heroin, or morphine, as the case may be
- (b) possession of any pipes or utensils for use in connection with the smoking of opium or ganja, as the case may be, or any utensils used in connection with the preparation of opium for smoking
- (c) smoking or otherwise using ganja or prepared opium, as the case may be
- (d) frequenting any place used for the purpose of smoking opium

Although there is no specific provision in the Act for a police role once the offender has been referred to the DTC, the police officer does continue to have an important function. In keeping with the principles of community policing, police officers can assist in monitoring the DTC participant, which can mean keeping an eye on him or her in the community and reporting any breach of conditions to the court as soon as possible. When a participant fails to attend court, the police should ensure that an arrest warrant is executed as soon as possible. In order for the police to efficiently execute their role in the DTC, they may need to adopt a new way of thinking, since drug courts often have the effect of redefining a police officer's traditional role. However, it is not inconsistent for a police officer who is mandated to serve and protect to also, as part of his role in the DTC, observe, monitor, and/or reassure.

The role of the police officer is critical to the operation of the DTC. The police officer is possessed of necessary situational awareness and is usually familiar with offenders and their propensities. The police are often the first point of contact with an offender, and they can easily detect those who are dependent on drugs. Without the input and watchful eye of police officers, many needy offenders might never be given the assistance that can be provided in a DTC setting.

The probation officer

As there is no specific provision in the Act for the role of the probation officer, the role has developed over time. The Act does require that the initial assessment of the individual include

his or her social and economic background, health profile, history of drug use, previous treatment (if any), level of education, vocational achievements, and any previous convictions. It is frequently the probation officer who goes out into the community to obtain all of these particulars and provides a detailed report to the court. The report also includes other matters not specified in the Act, for example, family support, whether or not the individual has a fixed place of abode, and any other factor the probation officer deems fit to bring to the attention of the team.

The probation officer attends the precourt meetings and has input in the decision-making process. It is thus crucial to have a designated probation officer assigned to the team, someone who interacts with the participant outside of the courtroom and treatment center, paying regular visits to the community and the home of the participant and speaking with family members.

At the end of the program, unlike the other professionals, the role of the probation officer does not end, as the court normally imposes a probation order requiring the probation officer to monitor the graduate for a period of up to one year. According to the provisions of the *Probation of Offenders Act*, the probation officer has the power to take the individual back before the court if he or she is not complying with the orders made. The options available in this case are wide and varied, as according to the *Probation of Offenders Act* in section 6(1)

A probation order shall have effect for such period not less than a year and not more than three years from the date of the order as may be specified therein, and shall require the probationer to submit during that period to the supervision of a probation officer and after-care officer appointed for or assigned to the parish in which the probationer will reside after the making of the order, and shall consider such requirements as the court considers necessary for securing the supervision of the offender, and such additional requirements as to the residence and other matters (including submission by the probationer to medical treatment) as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.

Section 9(1) of the said Act provides that:

If it appears to a judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue summons to the probationer requiring him to appear at the place and time specified or may issue a warrant for his arrest.

At this stage, it is open to the judge to pass another sentence, including imprisonment. Although this option is rarely utilized, the possibility or threat of it ensures further compliance in some offenders.

It is through the use of the probation order that the court is able to continue to monitor an offender after completing the program. More important, the probation order makes the services of a probation officer available to the offender, which can facilitate the process of his or her reentry into society.

The defense counsel

There is also no specific provision in the Act for the role of the defense counsel. However, specific wording is not necessary, as the role is similar to that of a defense counsel in any court—that is, to give legal advice and explain to the client the specific ramifications of the program, and to advocate for the client’s interest. Some clients are concerned about the particular conditions of the program and wish to obtain legal advice independent of the RM and the clerk of the court. The role of defense counsel becomes pivotal if the participant’s program is being terminated without successful graduation, as the defense counsel is usually required at that stage to make submissions on the client’s behalf and advocate for the client’s interest before the panel in open court.

It is important for defense attorneys to be familiar with the provisions of the Act so they can give proper advice, especially as it relates to immunity from prosecution. Section 16 of the Act provides that:

a person shall not be liable to prosecution for any offence comprising the unlawful possession or use of drugs as a result of any admission made for the purpose of seeking referral to the Drug court or for the purpose of satisfying the Drug court that the person should participate in a prescribed treatment programme; or in connection with the supervision of the prescribed treatment programme in relation to the person: such an admission shall not be admissible in evidence against the person making it.

One specific defense lawyer should thus be assigned to the DTC for the purposes of continuity and consistency. It is also important that the defense counsel be a part of the precourt meeting, as the participant will feel more comfortable confiding in him than perhaps any other team member. In this way, the defense counsel assists in bringing balance to the team.

The treatment provider

The Act provides that as part of the initial intake assessment, a person referred to the DTC should be examined by an approved treatment provider who makes a recommendation to the drug court of the person’s suitability for participation in a prescribed treatment program. An approved treatment provider is defined in the Act as an individual or organization approved by the Ministry of Health to carry out prescribed treatment programs for the purposes of the Act.

The treatment provider is actually a representative of the Ministry of Health and in Jamaica is a consultant psychiatrist, who heads a treatment team consisting of an administrative secretary and a counselor. The counselor is responsible specifically for providing counseling to the participant under the guidance of the consultant psychiatrist. The administrative secretary deals with the administrative aspect of the program at the treatment center and also makes arrangements for the fulfillment of the educational or vocational requirements of the individual participant. In addition, the administrative secretary assists in identifying and managing community partnerships (see below).

The treatment team operates from the treatment center and then attends court, where they form part of the court team and report to the rest of the group on the status of the participant. Before

the commencement of the prescribed treatment plan, the treatment provider conducts an intake interview with the offender in the form of a discussion of the following:

- a. the goals and objectives of participation, including abstinence from the use of drugs during the period of the program
- b. counseling and education requirements
- c. drug testing requirements
- d. payment of contribution, if any
- e. the place and times of participation
- f. reasons for termination of the program
- g. rules that relate to the offender, which shall be signed by the provider and a copy given to the offender

There are certain documents that are used in enrolling the offender, including:

1. A registration form
2. A form permitting the release of confidential information
3. An agreement to be signed by the offender and the approved treatment provider listing the services offered under the program, the costs, if any, payable by the offender, attendance requirements, and reasons for termination of the program, a copy of which is given to the participant and a copy kept

The treatment provider should tend to the participant in accordance with a prescribed treatment program that is outlined in the second schedule of the Regulations and includes:

1. Educational sessions
2. Group counseling sessions
3. One-to-one sessions
4. Drug testing
5. Treatment and recovery plan

The treatment team is responsible for conducting urine analysis tests and submitting a progress report to the court on each participant. This report should include circumstances when the participant fails to comply with any directions given or specified condition, the nature of the noncompliance, and the effect or likely effect on the participant's successful completion of the program. The provider is responsible for making recommendations to the court as it relates to the use of sanctions and incentives.

The treatment provider has a major role to play—perhaps the most pivotal role—in determining whether or not a participant's program should be terminated. When the treatment provider intends to report to the DTC that there is no useful purpose to be served by the participant's continued participation in the program, he should inform the participant of that intention and the court should permit the participant to show cause why the program should not be terminated. As

noted above, it is at this stage that defense counsel is usually required to step in and address the court on the participant's behalf.

In reporting to the court, the treatment provider should be aware that he or she is protected by legislation. According to the Act, the provision of information to the court does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct. Nor should it give rise to any action for defamation against him or constitute a ground for civil proceedings for malicious prosecution or conspiracy.

Additionally, a drug offender should be made aware that he or she will have to authorize the communication of protected information by an approved treatment provider to the drug court. The treatment provider is a part of the full court team and so must communicate effectively to other team members. At the same time, it is important that a treatment provider be caring and establish a good working relationship with program participants, as his particular role requires that he interact personally with all of them. Throughout the process, the treatment provider must act without fear or prejudice.

Outside partners

Drug courts require partnerships to work and Jamaica has been fortunate to have been able to partner with organizations outside of the justice and health sectors. One such group is called the Association of Family and Friends of Substance Abusers (AFAFOSA), which was formed in 2003 as a community support group. AFAFOSA is a nongovernmental networking organization that complements the DTC program by involving families and friends, by providing additional support to participants, both during and after the program, and by making donations and finding suitable employment for graduates. In keeping with its mandate, the organization recognizes that without networking, there is no one to share and understand the trauma that families and friends experience. JP and AFAFOSA founding member Clover Thompson said in a letter introducing the program:

AFAFOSA was initially conceptualized from contacts with the International Association of Drug Court Personnel and strengthened by these experiences of families and friends, as they try desperately to come to grips with and to ease the pain of their loved ones, AFAFOSA will be an organisation that helps the rehabilitated through the Court programme and meet the needs of families and friends through counselling individuals or families and helping with signs of relapse prevention. It really is primarily for boosting the court sanctions and rehabilitative methods and then to network with families and friends. AFAFOSA will also be networking with hundreds of families and friends all over the world and will be attending where possible conferences of the families and friends of the United States, Canada and the United Kingdom. They will also help people to help colleagues and employees who are suffering silently to access preventive and primary medical care and with general health education. They will look at domestic violence programmes, batterer's treatment and co-ordinate referrals service. (Clarke 2002)

Other partners include the National Council of Drug Abuse, the Salvation Army, Teen Challenge, and the Richmond Fellowship. Partnerships with educational institutions, skills-based training facilities, and social welfare organizations are encouraged in order to have a

range of services available to DTC participants. DTCs rely extensively on the collaboration of a range of different professionals—both inside and outside the courtroom—and can be effective only if there is a deep level of commitment from all of them.

4. Monitoring and Evaluation of DTCs

The monitoring and evaluation of DTCs are important tools to assess and measure the impact of these courts on certain vital issues. These include crime reduction and the rate of recidivism, drug addict rehabilitation and reentry into society, the impacts on the prison population, and the economic benefits.

4.1. Results in the United States

In the United States, an early assessment of DTCs revealed that:

Since the inception of the first DTC in Miami, DTCs across the country have recorded substantial success in retaining participants in treatment programs, reducing recidivism rates, and saving criminal justice system resources. American University's Office of Justice Programs Drug Court Clearinghouse estimates that some 45,000 individuals have enrolled in Drug Court treatment programs, and of these 31,500 have either graduated or are current participants. Based on these figures, the national participation and retention rate in Drug Court treatment programs stands at approximately 70%. The reductions in recidivism and jail time produced by DTCs can significantly impact the fiscal outlook of a jurisdiction. (Hora, Schma, and Rosenthal 1999)

Clearly, the collaboration between the justice and treatment/public health systems epitomized by drug courts may offer considerable hope for a long-term reduction in drug-related crime and a lower jail and prison population (Belenko 1998).

The U.S. government's 2012 National Drug Control Strategy highlights drug courts as a key alternative to incarceration for drug-addicted offenders. It also encourages the development of infrastructure to promote these alternatives when appropriate and to support drug and other problem-solving courts. West Huddleston, Chief Executive Officer of the NADCP, applauded the U.S. Administration's support for drug courts and its emphasis on using evidenced-based prevention and treatment efforts to break the cycle of drug abuse, crime, and incarceration.

In 2011, the National Institute of Justice (NIJ) and a team of researchers from the Urban Institute's Justice Policy Center, RTI International, and the Center for Court Innovation completed a five-year longitudinal process, impact, and cost-benefit evaluation of adult drug courts. The Multisite Adult Drug Court Evaluation (MADCE) compared the services and outcomes in 23 adult drug courts from seven regions in the United States against those of six comparison sites in four regions (Rossman and Zweig 2012). The key findings were highlighted in the MADCE executive summary. The following excerpt presents the integral findings and addresses the main questions that were answered.

Do Drug Courts Reduce Substance Use, Crime, and Other Problems?

- **Substance Use:** Drug courts produce significant reductions in drug relapse. Drug court participants were significantly less likely than the comparison group to report using any drugs (56 vs. 76 percent) in the year prior to the 18-month interview, and also less likely to report using “serious” drugs (41 vs. 58 percent), which omit marijuana and “light” alcohol use (fewer than four drinks per day for women or less than five drinks per day for men). As shown in Figure ES-3’s trajectory of change in drug use, drug court participants were significantly less likely to report using any drugs at both the six- and 18-month follow-up interviews. On the 18-month oral fluids drug test, significantly fewer drug court participants tested positive for illegal drugs (29 vs. 46 percent). Further, among those who tested positive or self-reported using drugs, drug court participants used drugs less frequently than the comparison group.
- **Crime:** Drug courts produce significant reductions in criminal behavior. Drug court participants were significantly less likely than the comparison group to report committing crimes (40 vs. 53 percent) in the year prior to the 18-month interview. As shown in Figure ES-4’s trajectory of change in criminal behavior, drug court participants were significantly less likely to report committing any crime at both the six- and 18-month follow-up interviews. Also, of those who reported criminal activity at the 18-month follow-up, drug court participants reported about half as many criminal acts (43.0 vs. 88.2), on average, in the year prior. Among specific offenses, drug court participation reduced drug possession, drug sales offenses, driving while intoxicated, and property related crime. Finally, drug courts reduced the probability of an official re-arrest over 24 months (52 vs. 62 percent), but this last effect was not statistically significant.
- **Other Psychosocial Outcomes:** Drug court participants experience select benefits in other areas of their lives besides drug use and criminal behavior. At 18 months, drug court participants were significantly less likely than comparison offenders to report a need for employment, educational, and financial services, suggesting that drug court participation addressed those needs. Further, drug court participants reported significantly less family conflict than comparison offenders. However, there were only modest, nonsignificant differences in 18-month employment rates, income, and family emotional support; and the samples did not differ in reported symptoms of depression or in experiencing homelessness.
- **Durability of the Drug Court Impact:** With respect to substance use and crime, improved outcomes at the 6-month interviews were nearly identical to improvements reported at the 18-month interviews, which includes at least some post-program time for 72 percent of the drug court sample. For instance, drug court participants were significantly less likely to report drug use in the prior six months (41 percent) than the comparison group (62 percent), a gap that was then largely sustained. (Rossman and Zweig 2012)

4.2. Results in Canada

Not only have significant benefits been noted in the United States but in Canada also, where DTCs have experienced some success. According to documentation prepared by the Canadian Association of Drug Treatment Court Professionals’ (CADTCP) National Research and Evaluation Institute, there is clear evidence that DTCs change lives and improve communities. For example, this organization has found that:

DTCs reduce substance use and crime:

- A western Canadian DTC tracked participants for up to 18 months after graduation; over half had remained entirely crime free.
- Providing criminogenic treatment in DTC helps clients change their criminal thinking patterns and can reduce recidivism by 70%.
- A DTC in Ontario found that, in that city alone, DTC resulted in an annual reduction of \$3 Million spent on drugs. Criminal activity required to support that drug use (goods stolen and/or drugs trafficked) is estimated at another \$9M, for a total savings of approximately \$12M.
- One DTC reports frequency of drug use declining from an average of 28.5 days per month to only 0.8 days per month during participation in the program. Another in western Canada found about one-third of DTC participants remained clean and sober for a year or longer in the program.
- When a comparison was made between one DTC's participants and court-involved clients of a residential treatment program, 100% of the DTC participants were abstinent at follow-up compared to only 64% of those who had received addiction treatment, without the other supports and supervision of DTC. (Budd et al. n.d.)

The same Canadian organization also notes that:

DTCs improve and save lives:

- DTCs help reunite families. Approximately 50% of DTC participants re-establish a connection with supportive family members after entering the program.
- DTCs providing employment/education preparation services show impressive outcomes of up to 75% of participants moving on to educational or employment activities.
- At least 61% of participants enter DTC with acute or chronic health issues. At any given time as many as two-thirds of participants in some DTCs may be Hepatitis C positive. These issues are addressed through: onsite health services located in some DTCs; community health care partnerships; and intensive case management.
- A western Canadian DTC administered Cantril's Life Ladder – a simple scale measuring clients' quality of life perceptions – with 1 as the worst, and 10 as the best life. Clients' satisfaction with their lives overall improved from an average score of 1.8 on admission to 7.8 at graduation. (Budd et al. n.d.)

4.3. Results in Other Countries

There seems to be widespread support for the hypothesis that DTCs, when properly executed, can have an impact on decreasing crime and reducing the rate of recidivism, and can also facilitate the reintegration of recovering addicts into society. Moreover, DTCs can have the added benefit of reducing the prison population, ultimately resulting in economic cost benefits.

There has been no formal evaluation of the DTC program in Jamaica. It is recognized that a comprehensive evaluation should be done and should include four major components: description, process, outcome, and cost-effectiveness.

An OAS survey

A survey was commissioned by CICAD, the Inter-American Drug Abuse Control Commission of the OAS, conducted by American University's School of Public Affairs, and funded by the European Commission (Cooper, Franklin, and Mease 2010a). The report was presented at the European Union (EU)-OAS Lugo Summit in April 2010. The survey was conducted in 12 countries and supported previous evaluations that these programs are more effective in reducing rates of repeat offenses and relapse into drug use compared to the regular incarceration of people with addictions.

One of the objectives of this publication was to provide information about the impact and benefits of DTCs in the 12 countries where they have been established. In the introduction of this publication it is indicated:

Although much still needs to be done, the information compiled from the 12 countries responding to the CICAD survey presents a cogent argument about why DTCs are a good idea, and gives a snapshot of what they cost in terms of human and other resources, what savings they can create for their respective societies in economic as well as human terms, and what benefits can accrue, particularly in terms of public safety and community wellbeing. The goal is to divert drug-dependent offenders to DTCs, that is to a judicially supervised treatment program, rather than simply incarcerating them with little, if any treatment and support services. (Cooper, Franklin, and Mease 2010a, 2)

The report notes further that "Not including the United States, the reporting DTCs, all of which have been established since 2001, have enrolled over 3,800 participants, of whom over 500 have successfully completed their respective program" (Cooper, Franklin, and Mease 2010a, 9). Most of the respondents indicated that these figures were lower than those anticipated when the DTCs were opened, primarily as a result of shortages of the necessary funding to adequately develop the programs.

In looking at the measures of success, it was stated that "A drop in recidivism, in particular, has been seen as a measure of success by most survey respondents. In Dublin, recidivism declined by over 75%; recidivism in the U.S. has also declined, although not to the same extent." As it relates to cost, it was indicated that "Where statistics have become available, they show that drug courts are significantly less expensive than incarceration which, when combined with the decline in recidivism, indicates a much greater of cost effectiveness." The attendant benefits to the community were also considered and there, the authors noted that "With the reduction in crime and recidivism, communities become safer places; respondents also saw gains in both physical and mental health of participants; and community members indicated greater trust in the criminal justice system" (Cooper, Franklin, and Mease 2010a, 9).

Clearly, the application of the DTC model should be based on scientific evidence. When carrying out evaluations, the assessment should be from both a quantitative as well as

qualitative standpoint. Evaluations should also serve the added purpose of identifying challenges and possible solutions in order to ensure the more effective operation of the program.

5. Conclusion

5.1. DTCs in Jamaica

DTCs in Jamaica and elsewhere in the world are not without significant challenges, the greatest of these being the lack of human and primarily financial resources. Most DTCs wherever they are experience a constant struggle for consistent funding. The obvious consequence from the Jamaican perspective is that the DTC remains still a pilot project, simply because consolidation requires significant budgetary commitments.

The human resource problem has seen significant improvement in recent years with the implementation of training programs, some with the assistance of CICAD and others through the resourcefulness of the people who work in the DTCs. The dedication and creativity of the professionals in the DTCs has made up for the lack of other available resources. There is, however, a recognition that public awareness must be enhanced if the DTCs are to gain the support they need, and this must also be accompanied by a strengthening of political will.

The small number of graduates has been a source of concern. This is due primarily to the high rate of absconding on the part of participants and the lack of human capital assigned specifically to the DTC, especially police personnel, to effect the expeditious execution of bench warrants. A review of the statistics to date reveals that from the inception of the DTCs in Kingston and Montego Bay to January 2012, a total of 721 persons were referred to the program; of that number, 450 were admitted and among those, some 221 have graduated from the program. This rate is actually consistent with international standards.

5.2. The Future of the DTC Model

In assessing the DTC model, there must be a recognition that drug abuse is an illness and recovery does not occur overnight. The process of recovery is a continuous one and the opportunity to participate in the DTC is the beginning of a life change for many. One of the hallmarks—and perhaps most inspiring phase—of the DTC program is the point of graduation, at which successful participants are feted and congratulated, some for the very first time in their lives having the opportunity to graduate from somewhere.

Clearly, the DTC program has touched the lives of many. The success of even one individual represents a life that has been saved. The lives that have been transformed and the attendant benefits to the family members cannot be quantified. This author's measure of success is not in numbers but rather in contemplating the stark reality that the offenders are usually from low socioeconomic backgrounds, often unskilled and/or illiterate, and yet they have enrolled in skills training and have learned to read and write. Success should not be measured only by the number of graduates, but also by the benefits to society and potential victims when an

individual is drug and crime free for even three months. During that time, these offenders left no new victims.

The provision of stable housing for a participant, the feeling that someone cares—it is difficult to measure their effects in numbers. Some DTC participants do better than others, and those with family or community support will usually do better than those without. The commitment level or motivation of the participant impacts greatly on the end result.

The Western hemisphere has embraced the DTC concept. Although DTCs are not the answer to all of the region's drug woes, it cannot be denied that they have a small but substantial role to play in solving the drug problem. It is clear that if properly utilized, DTCs can bring significant benefits to criminal justice systems and to societies as a whole. However, in order to solve the existing drug problem, significant investment in DTCs is required. The time has thus come for greater public awareness of the fact that DTCs work and that they are now an undeniable element of the justice system in many countries. It is the view of this author that DTCs should be brought within the reach of not only every Jamaican citizen, but also every citizen in the world who is more in need of treatment than punishment.

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