

# THERAPEUTIC JUSTICE


THE HONOURABLE JUDGE CLIFFORD C. TOTH



**SO WHAT IS  
THERAPEUTIC  
JUSTICE?**



# CHARACTERISED BY:

- Active judicial involvement
  - Explicit use of judicial authority to motivate individuals to accept needed services
  - The monitoring of individuals compliance and progress
  - Achieving tangible outcomes associated with preventing the reoccurrence of the problem
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**DO THERAPEUTIC  
COURTS MAKE  
ECONOMIC SENSE?**



# THERAPEUTIC COURTS IN CANADA


In April 2011 the Chief Judges of the Provincial Courts unanimously passed the resolution:

- **That the Canadian Council of Chief Judges endorses the principals and purposes of Therapeutic Justice and encourages their application in the courts wherever appropriate and feasible.**

Across Canada there are more than 100 courts in operations, which include:

- Community Courts
- Mental Health Courts
- Domestic Violence Courts
- Drug Treatment Courts

Saskatchewan has:

- A Drug Treatment Court in Regina, and a smaller version of Drug Treatment Court in Moose Jaw
  - Domestic Violence Courts in Regina, Saskatoon, and North Battleford
  - Two courts in the north implementing restorative justice and community values
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# THE PROBLEM: DRUG USE/CRIMINALITY



# **BILL C-10 AND DRUG TREATMENT COURT**

- **If the accused participates in and completes Drug Treatment Court the Judge may impose a sentence less than the minimum sentence set out in Bill C-10**
- **Addicted accused of selling to support their habit, who are willing to address their addiction can be considered for a restorative sentence**



# POLL QUESTION:

How many needles do you think were distributed by the Needle Exchange Program in Regina last year?

- 10,000
- 50,000
- 100,000
- 500,000
- Over 500,000

**Answer: Last year in Regina 1.1 million needles were distributed!**



# COST TO SOCIETY

- Estimates suggest that a hard drug habit costs the addict between \$200 and \$1000 a day
- Approximately 10% of worth is given on stolen goods when sold at pawn brokers
- Using the lowest estimate, \$2000 of stolen goods needed daily to fund a single addicts drug habit
- One day missed means violent withdrawal
- An addict who contracts HIV will cost the health system an estimated \$200,000



# TRADITIONAL COURT APPROACH

- Users are caught mostly for low level crimes
- Short jail sentences are given
- When released they are returned to the same neighbourhoods where their exposure to their drug of choice is extremely high
- Their social and economic situation is often worsened by jail time

Result = The Revolving Door



# HOW DOES DRUG TREATMENT COURT WORK?



# REGINA DRUG TREATMENT COURT

- Opened in November 2006
- 50% funded by Federal Government and 50% by Provincial Government
- Merge Health and Law
- Counsellors, a nurse, a bail supervisor, a lawyer, a crown prosecutor, a judge
- Commitment to an innovative project



## WHO **CAN** PARTICIPATE IN DRUG TREATMENT COURT?

- Drug-dependent adults whose criminal behaviour is motivated or caused by their addiction
- Acknowledgement and responsibility for their actions shown by a guilty plea
- Must be, or become, residents of Regina


## WHO **CANNOT** PARTICIPATE IN DRUG TREATMENT COURT?

- Those who have failed Drug Treatment Court treatment in the past year
- Those who pose a threat to public safety
- Those charged with certain offences:
  - Offences with serious violence
  - Sexual assaults
  - Offences involving or relating to children/youth
  - Profit-motivated commercial drug trafficking

The program is voluntary. To participate individuals must:

1. Meet all eligibility criteria. Crown prosecutors screen potential participants
2. Enter a guilty plea, waive the right to immediate sentencing, and agree to abide by the terms of the program
3. Follow detailed bail conditions setting out restrictions on activities and required conduct, including drug testing
4. Report to the program centre for a one-month assessment
5. Be assigned a case manager
6. Once assessed and determined to be addicted and motivated to change they enter an individualised day program designed by the program team
7. Appear in Provincial Court once a week or as required by the Drug Treatment Court Judge

**The Drug Treatment Court is staffed by:**

- **1 Program Director**
  - **3 Drug and Alcohol Counsellors**
  - **1 Bail Supervisor**
  - **1 Nurse**
  - **1 Social worker**
  - **An Elder**
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# AIMS AND MARKERS OF PROGRESS

- Reduced drug usage
- Movement to less harmful drugs
- Reduced criminality
- Periods of abstinence
- Eventual stabilisation
- Eventual entering into the workforce or an educational program



# PROCESS


## Weekly Meeting:

- Case conference with the crown prosecutor, Legal Aid counsel, and Drug Treatment Court staff, along with the Judge in attendance. (no clients)
- Program Director provides update on each client
- A case plan for the upcoming week is developed – motivating the client is always of utmost importance


## The Carrot and the Stick Approach



# JUDGE'S CAN:


- Change bail conditions
  - Sanction
  - Remand up to one week
  - Order detox or treatment
  - Alter curfew or area restrictions
  - Order community service
  - Require attendance at NA meetings
  - Offer praise and encouragement
  - Move the participant on to the next stage of the program
  - ...WHATEVER WORKS!
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# ROLE OF COUNSEL

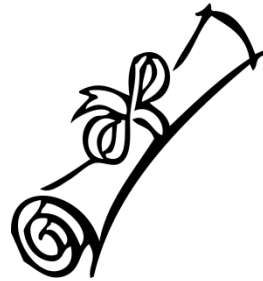
- The lawyers in Drug Treatment Court work within a harm reduction model
  - They accept that the accused needs help, support, monitoring and at times sanctions
  - Commitment to the process
  - Often it is difficult to tell who is Crown and who is defense
  - Someone may request to observe the pre-court meeting
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# REFERRALS TO THE COURT

Who can recommend a person for the  
Drug Therapy Court:

- Police
  - Defence Counsel
  - Crown Counsel
  - Legal Aid Counsel
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# GRADUATION FROM DRUG TREATMENT COURT



To graduate participants must:

- Complete all of their programming (approx. 240 hours)
- Be in school or working
- Be drug-free for at least three months
- Receive a non-incarceratory sentence (usually short probation or a discharge)

**AFTER 9 YEARS OF OPERATIONS, THE DRUG  
TREATMENT COURT HAS 69 GRADUATES!!**



# SUCCESS:

Those 69 Grads have given the DTC tremendous success, they have:

- 8 babies, whose mothers were addicts and on drugs when they came into the program, but were born drug free
- Reunited families
- Graduates who have returned to the workforce are now : -
  - in management
  - running successful small businesses
  - outreach workers for community agencies
- Students – one has been admitted to the U of R for Social Work
- A national spokesperson for issues such as HIV/AIDS or housing for low income families



# MENTAL HEALTH COURT





# REGINA MENTAL HEALTH COURT

- Sentencing court
- Restricted to cases where the Crown are asking for provincial court time (i.e.: less than a two-year sentence)
- Restricted to cases where the accused has some mental or cognitive disability (including FASD)
- Defense counsel or support workers can contact the Crown to request the case be considered for Mental Health Court



REGINA MENTAL HEALTH DISPOSITION COURT

# PROCESS

- **Bi-monthly meetings, pre-court for an hour (restricted access). Attending the meeting are:**
  - Crown
  - Defence
  - Service providers
  - Judge
- **Discussion of:**
  - Root problem
  - What happened
  - What can be done to help
  - What can be done to protect the public
- **Followed by a half-hour docket with 8-10 clients per docket**

# OUTCOMES

**Twelve cases were concluded in 2014:**

- Eleven community-based sentences
- One was kept in custody for an additional month until a supportive housing unit was available

**In 2015 twenty-five cases were concluded:**

- Five were sentenced to short periods of incarceration
- The balance were given community based dispositions
- Two were re-sentenced from 2014 which shows the remarkably low recidivism rate

**It is possible with a collaborative approach to start a therapeutic initiative.**





# CANADIAN ASSOCIATION OF DRUG TREATMENT COURT PROFESSIONALS

International Conference held in Regina June 22-24<sup>th</sup>,  
2016.

- Visit their website at: <http://cadtc.org/>
- For the conference specific website visit:  
<http://www.cadtcpconference.com/>
- This event is approved for 13 hours of CPD credits by the Law Society of Saskatchewan

