

# Drug Treatment Courts FAQs



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*This series of frequently asked questions (FAQ) examines the issue of drug treatment courts and was prepared by Dr. John Weekes, Senior Research Associate, and Ms. Rebecca Mugford, Research Assistant, Canadian Centre on Substance Abuse (CCSA); Dr. Guy Bourgon, Research Officer, Corrections Research Branch, Public Safety and Emergency Preparedness Canada (PSEPC); and Ms. Shelley Price, Research Assistant, Rideauwood Addiction and Family Services. It is intended to provide current, objective, and empirically-based information to guide the discussion on relevant issues relating to the effectiveness of drug treatment courts in Canada.*

## What are drug treatment courts?<sup>i</sup>

- A drug treatment court (DTC) is a unique substance abuse intervention model that operates within the criminal justice system. DTCs provide judicially-supervised treatment in lieu of incarcerating individuals who have a substance use problem that is related to their criminal activities (e.g., drug-related offences such as drug possession, use, or non-commercial trafficking and/or property offences committed to support their drug use such as theft or shoplifting).<sup>1</sup> The individuals may need to meet other requirements specific to individual courts or court systems to be deemed eligible for admission (discussed below).
- The eligible accused must choose between the DTC program and traditional criminal justice processing that can result in various dispositions ranging from fines to incarceration. Typically, formal admission into a DTC program requires the individual to plead guilty to his or her charges. If an individual fails to comply or participate in all aspects of the DTC program, consequences range from an official reprimand or revocation of bail to termination in the program and handing down of custodial and/or community supervision sentences.<sup>2,ii</sup> Although DTC participation is initiated by the eligible accused with his/her consent, DTCs constitute a “coercive” form of treatment.<sup>3,iii</sup>
- According to the U.S. Department of Justice, Office of Justice Programs, there are a number of key facets of a well-designed and implemented DTC model.<sup>4</sup> These include:
  - Early identification of those who meet the program eligibility criteria and swift commencement of treatment.
  - Access to multi-modal treatment programs that integrate evidence-based practices of offender and substance abuse treatment to meet individualized needs of participants (e.g., alcohol, drugs and mental health issues).
  - Extensive ongoing judicial contact with each participant.
  - Intensive supervision and drug testing to monitor and ensure abstinence from all intoxicants.

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<sup>i</sup> For simplicity, we use the Canadian term “Drug Treatment Courts” to refer to this intervention model as it operates commonly in Canada, the U.S., and elsewhere. Important differences across jurisdictions are acknowledged specifically.

<sup>ii</sup> Some reviewers have pointed out that this may result in a loss of the individual’s due-process rights, see Fischer, B., Roberts, J. V., & Kirst, M. (2002). Compulsory drug treatment in Canada: Historical origins and recent developments. *European Addiction Research*, 8, 61-68.

<sup>iii</sup> This statement is not intended to imply that coercion is necessarily an inappropriate or unethical approach. Some evidence exists that coercive approaches are effective—particularly with hard-to-reach, hard-to-engage treatment populations. For a more detailed discussion of coercion in substance abuse treatment, see Mugford, R., & Weekes, J. (2006). *Mandatory and coerced treatment Fact Sheet*. Ottawa: Canadian Centre on Substance Abuse.

- Positive reinforcement for compliance and the use of sanctions for non-compliance.
  - Partnership among DTCs and community-based organizations to enhance program efficacy.
  - Continuing education of those involved in the field to promote effective operations of DTCs.
  - The use of a non-adversarial approach in the court system to ensure public safety as well as the rights of program participants.
  - Comprehensive evaluation to monitor program objectives and measure efficacy.
- In many jurisdictions around the world, DTCs have been openly embraced as an alternative way of dealing with the large proportion of individuals charged and convicted of criminal activities related either directly or indirectly to substance use.<sup>5</sup> In the United States, DTCs were established to address the large proportion of arrestees who are under the influence of alcohol or other drugs at the time of their offence, commit crimes to support their substance use, or have a substance use problem.<sup>6</sup>

### **What are the main principles underlying DTCs?**

- Based on the concept of “therapeutic jurisprudence”, DTCs attempt to transform the traditional adversarial criminal justice and courtroom approach into a more therapeutic and rehabilitative environment.<sup>7</sup>
- There are three assumptions underlying DTCs: 1. substance abuse treatment is an effective method to reduce the problems associated with substance abuse and related criminal behaviour; 2. intensive, frequent judicial supervision is an effective method to enhance compliance, including participating in treatment; and 3. that unifying treatment and court processes in a single coherent service delivery model is more effective than having the two systems operating independently.
- Compared to traditional criminal justice approaches (e.g., incarceration/community supervision sentences that may or may not include treatment), the intent of DTCs is to permit motivated clients to avoid incarceration and other sanctions, to allow them access to treatment services more quickly due to dedicated resources of the DTC, and to encourage clients to remain in treatment until completed through intensive and frequent monitoring and supervision by the court. Ultimately, it is reasoned that DTCs may be more cost-effective (both economically and socially) than sending the individual through the more traditional criminal justice route because they minimize the costs of the court (e.g., judge, lawyers, police, legal aid, probation, etc.) and avoid the cost of incarceration in a correctional facility.<sup>8</sup>

### **What is the history of DTC model?**

- In the U.S., DTCs were born out of the prison population boom in the 1980s<sup>iv</sup> when it became apparent that a large majority of offenders were incarcerated for drug offences and continued to re-offend due to an underlying substance abuse problem. It was reasoned that treatment services for substance abuse needed to be brought together with the criminal justice system through a strong judicial voice in order to deal more effectively with the problem.
- The first official drug court in the U.S. was implemented in Dade County, Florida (Miami) in 1989 in response to the threatened loss of federal funding if the state could not reduce their inmate population. Miami was facing an escalation of drug-related cases, particularly involving crack cocaine, and the prison system was struggling to accommodate the growing offender population and could not provide proper treatment services.<sup>9</sup> Backers of the first drug court included then State Attorney-General Janet Reno.
- In the U.S. in 1994, the Violent Crime Control and Enforcement Act was passed, which reserved federal funding for DTCs.<sup>10</sup> Ultimately, the implementation of this Act sparked a drug court movement that has resulted in over 1,700 drug courts either operating or in the planning stages in the U.S.<sup>11</sup>
- Within the U.S., the proliferation and apparent acceptance of adult DTCs has served as a catalyst for the use of “modified” DTCs for use with juvenile offenders,<sup>12</sup> families,<sup>13</sup> and with those charged with impaired driving.<sup>14</sup>
- The first Canadian DTC was established in Toronto in 1998. The Toronto Drug Treatment Court was a collaboration of many parties, including the Centre for Addiction and Mental Health (CAMH), Provincial Court of Ontario, Justice Canada, Toronto Police Service, and other community-based organizations.<sup>15</sup> Currently, the

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<sup>iv</sup> Resulting from significant changes in drug offence sentencing (various U.S. Sentencing Commissions and the U.S. War on Drugs).

program accepts individuals charged with offences such as possession of cocaine or heroin, and theft or prostitution related to drug use. Admission to the Toronto DTC is reserved for those with a non-violent criminal history.<sup>16</sup>

- The Drug Treatment Court of Vancouver was opened in December 2001 to address the high rates of heroin use and cocaine and crack cocaine use in Vancouver. Like the Toronto DTC, the Vancouver DTC offers treatment to non-violent offenders, 18 years or older, charged with a drug-motivated offence.
- In 2003, the federal government underscored its support for the use of DTCs in Canada by dedicating \$23 million over a period of five years to support the continued operation of the two existing Canadian DTCs as well as to facilitate the development, implementation and operation of four additional sites in Ottawa, Winnipeg, Regina and Edmonton.<sup>v</sup>
- DTCs have been established, or are being considered, in other parts of the world, including Australia, Brazil, Scotland, England, Ireland, New Zealand, Norway, Bermuda and Jamaica.<sup>17</sup>

### How do DTCs operate in Canada?

- Canadian DTCs operate in a manner that is *generally* similar to those in the U.S. The system includes an application process, Crown screening, admission procedures, and explicit expectations for participation, graduation and termination. The DTC team includes judges, Crown attorneys, defence counsel, duty counsel, treatment representatives, and other key players (e.g., probation services). The DTC team has frequent closed-door, pre-court case management meetings, engages in monitoring and supervision of its clients (including frequent drug testing), and provides a range of treatment services in partnership with other criminal justice and health care systems.<sup>18</sup>
- Although detailed procedures vary, all Canadian DTCs include the following essential processes and procedures:
  - **Application:** The accused must submit a formal application to the DTC, usually soon after arrest. By doing this, the accused gives consent to having the case processed through the DTC rather than the traditional justice system. Referral to the DTC typically occurs before submission of the application by the accused and the referral process may be formal or informal. Normally, the referral stage commences when information is provided (e.g., eligibility requirements, legal consequences of participating, behavioural expectations, rights and responsibilities, bail conditions, etc.) to the potential applicant to ensure that he or she makes an informed decision regarding application to the DTC. Application does not guarantee admission into the program.
  - **Crown Screening:** Generally, the Crown closely monitors and identifies potential cases. They are first to receive and review all applications to determine the applicant's eligibility for the program. Eligibility depends on certain court- and program-specific criteria: an applicant can be charged with offences such as drug possession or minor theft for the purpose of drug use, but not certain other offences such as assault; an applicant's criminal history must indicate no threat to community safety (e.g., many convictions for violence or offences involving a weapon would make the applicant ineligible); and his or her criminal behaviour must appear to be fuelled by addiction (e.g., minor theft to support a drug habit).
  - **Admission Process:** Case planning begins when eligible applicants are identified in pre-court meetings. Treatment personnel (e.g., court liaison staff) interview eligible applicants and identify immediate (e.g., suitable housing) and short-term needs (e.g., scheduling in-depth assessment and case manager appointments). An admission plan for the eligible applicant is then determined and presented to the DTC team at pre-court. Admission recommendations are provided to the DTC judge who reserves the admission decision until the applicant's case is heard in court. If the application is rejected, the case returns to the traditional court stream. If it is accepted, the applicant agrees to abide by the rules and regulations of the DTC program, enters a plea of guilty, and is placed on DTC Bail. DTC Bail sets out specific conditions: some are standard to DTC participants (e.g., attend treatment and court, abstain from drugs, provide urine when requested) and some are specific to the individual (e.g., not to be located in an area of the city that is high-risk for that person).
  - **DTC Program Participation:** Participation in a DTC program is intensive and demanding. It includes court attendance up to twice a week, random urine testing, and attendance in treatment (from daily to weekly as clients progress through the program). Although some participants may begin in residential

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<sup>v</sup> At the time of publication, DTCs in each of these four municipalities are either under development or newly implemented.

programs, all participate in outpatient treatment. At some sites, there is a primary treatment provider (e.g., Centre for Addiction and Mental Health in Toronto, Vancouver Coastal Health in Vancouver, and Rideauwood Addiction and Family Services in Ottawa) whereas at other sites, there are various community agencies providing primary treatment services, as in Edmonton, for example. The DTC team closely monitors client progress. Pre-court meetings provide a forum for identifying problems and generating potential solutions to client difficulties, relapse, or non-compliance. Attendance at court allows the client to inform the court of his or her progress, and allows the court to reward compliance and progress, sanction non-compliance, or impose new conditions or interventions to help the client break the cycle of crime and addiction.

- **Completing DTC Programs:** DTC clients continue to participate in the program, typically for more than a year, until they meet the criteria for graduation. They must achieve a prescribed period of abstinence from drugs (e.g., three months) while abiding by all conditions and establishing stability in the community (e.g., stable housing and employed). On graduation, the client is sentenced for the original charges he or she had pleaded guilty to on admission. Sentences for graduates are significantly lower than the Crown was originally seeking. They typically involve a short period of community supervision rather than incarceration. Of course, not all DTC clients graduate. Some will be terminated from the program for incurring new charges, being dishonest with the court, repeatedly not complying with conditions, or failing to attend treatment or court. Although the judge is responsible for termination decisions, members of the DTC team contribute to the decision-making process. Once terminated, the individual is sentenced for the crimes he or she had pleaded guilty to on admission.

### What are some of the characteristics of individuals who enter DTCs?<sup>vi</sup>

- A U.S. survey found that approximately 80% of DTC participants (parolees, prisoners and arrestees) had a history of problematic substance abuse, and many were either under the influence of alcohol and other drugs when they committed their current crime, or committed the crime in order to support their alcohol or other drug use.<sup>19</sup> Sixty percent (60%) of the courts surveyed claimed to have excluded offenders with minor substance use problems and targeted only those with more severe problems.<sup>20,vii</sup>
- A 1997 Drug Court Survey in the U.S. found that the majority of DTC participants were male; the average age of all participants was about 30 years. The average age of those who graduated from the program was slightly higher.<sup>21</sup> Other characteristics found were:
  - 25% of those surveyed were married; two-thirds had children.
  - Many stated they used multiple drugs and had been using substances for more than 15 years.
  - The majority of respondents indicated they had completed some high school experience or had graduated from high school, but did not proceed to higher education.
  - Over 65% of those surveyed were unemployed or changed jobs on a frequent basis.<sup>22</sup>
- While Canada does not have a history of DTCs comparable to the U.S., available evidence indicates that a significant proportion of individuals who become involved in the criminal justice system have substance use problems. For example, almost 70% of the federal offender population<sup>viii</sup> in Canada has an identifiable substance use problem; those with a serious problem report that about 90% of their criminal activity is related to substance use in some way.<sup>23</sup>
- Of Toronto DTC applicants, 30% were homeless, 78% were unemployed, and 77% were in police custody at the time of application. Of Vancouver DTC participants, 13% were homeless, 90% were unemployed, and 61% were in remand prior to admission.<sup>24</sup>
- These findings underscore the heterogeneity of participants and indicate that offenders in DTCs typically have multiple needs that must be addressed by treatment programs and other appropriate human services.<sup>25</sup>

### What are some of the treatment and service options available for participants in DTCs?

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<sup>vi</sup> Extensive Canadian research on participant characteristics is lacking. However, this section will highlight Canadian data where available.

<sup>vii</sup> However, it is noteworthy that our review revealed that relatively few courts use objective assessment tools and processes that would allow for an accurate determination of problem severity.

<sup>viii</sup> Data from the federal prison system is cited here (offenders who have received prison terms of two years to life); in general, less is known about the prevalence of substance use problems in provincial and territorial remand centres and jails (prison terms of up to two years).

- Most of the DTCs described in the international literature make use of residential, intensive outpatient, and regular outpatient programs as well as other social services and programs. The treatment methods used by DTCs are wide-ranging from cognitive and behaviourally-based programs to 12-Step and therapeutic community program models.<sup>26</sup>
- The 1999 U.S. National Drug Court Treatment Survey found that treatment services varied widely among the 212 DTCs surveyed in terms of their use of established correctional treatment approaches<sup>27,28</sup> and their likely effectiveness.<sup>29</sup> Additional treatment, social and public health services such as relapse prevention, detoxification, drug and alcohol education, mental health referral, parenting education, and anger management programs, are reportedly available to program participants in many DTCs.<sup>30</sup>
- Many juvenile drug courts in the U.S. use variations on Multi-Systemic Therapy (MST) for the treatment of substance abuse problems. MST uses cognitive-behavioural techniques (e.g., skill development) to address risk factors related to antisocial behaviours, including substance abuse. Risk factors include lack of family affection, peer influence in reinforcing attitudes and behaviours favourable to substance abuse, and supervision and monitoring.<sup>31</sup>
- A common treatment model used in the U.S. to treat users of methamphetamine is the “Matrix Model,” which consists of non-confrontational, behavioural counselling techniques, such as positive reinforcement of treatment adherence, in combination with family education and individual and group counselling sessions.<sup>32</sup>
- The Toronto DTC uses cognitive-behavioural and eclectic treatment approaches with multiple treatment phases. It also provides workshops on employment, health and other topics that attempt to change attitudes that support criminal activity.<sup>33</sup> The Toronto DTC also uses methadone maintenance therapy for those addicted to heroin.<sup>34</sup>
- The Vancouver DTC program initially used a multi-modal eclectic intervention model, but has since placed greater emphasis on a cognitive-behavioural approach.<sup>35</sup> The program addresses criminal and “addictive” thinking<sup>36</sup> in both group and individual sessions as a unifying framework and major therapeutic tool.

### What are the characteristics of “best practice” substance abuse programs in the criminal justice system?

- Recent developments in the area of effective correctional and criminal justice treatment have identified three primary principles that are critical to developing an appropriate treatment response.<sup>37</sup> The model recognizes that not all individuals need the same type of treatment, and every treatment is not appropriate for every individual. Although developed with incarcerated individuals in mind, these characteristics have direct applicability to DTC intervention services.
- The three guiding principles are
  1. **Risk Principle:** Intensive intervention services should be reserved for those assessed as being “high risk” for further criminal behaviour. High-risk cases respond better to intensive services whereas low-risk cases respond better to less intensive services.
  2. **Need Principle:** Treatment should be designed to target “criminogenic” factors or needs that are theoretically and empirically predictive of criminal behaviour. These needs are dynamic in that they may be changed through treatment (e.g., substance abuse).
  3. **“Responsivity” Principle:** Treatment should be designed to respond to the people who participate in treatment, taking into account their treatment goals, intellectual abilities, cognitive style, learning styles, mental health, etc.
- A number of specific treatment techniques and components have been associated with significant reductions in post-treatment substance use with criminal justice clients:
  - Social skills training
  - Problem-solving skills
  - Coping skills training
  - High risk identification skills
  - Structured relapse prevention (cognitive behavioural)
  - Goal-setting in treatment
  - Motivational Interviewing/Enhancement techniques
  - Cognitive restructuring techniques targeting anti-social attitudes and values

- Employment skills
  - Behavioural marital training
  - Stress management training
  - Maintenance, monitoring, and aftercare
  - Community reinforcement techniques
- In recent years, Her Majesty's Prison Service for England and Wales, and the Correctional Service of Canada (CSC), have developed program delivery standards and accreditation processes as methods of assuring the quality and effectiveness of criminal justice-based substance abuse programs<sup>ix</sup> Using external experts, CSC evaluates programs (using a pass/fail decision) against the following criteria:
- Founded on theory that is evidence-based
  - Use effective methods, techniques, and modalities
  - Multi-faceted—incorporate different treatment modalities
  - Appropriate intensity to respond to participants' needs (low to high severity)
  - Program integrity—delivered consistently and according to established principles
  - Quality staff—recruited according to selection criteria
  - Well-trained staff—certified, monitored, and supported
  - Management support
  - Supportive correctional environment for program delivery
  - Proper assessment and selection of participants
  - Comprehensive evaluation and monitoring infrastructure
- Canadian criminal justice researchers Paul Gendreau and Don Andrews have developed the Correctional Program Assessment Inventory (CPAI) as a structured process for evaluating the extent to which criminal justice programs employ the principles of effective treatment. This structured instrument has been applied extensively in a variety of contexts. Further, considerable research supports the utility of this process.<sup>38</sup> Programs are evaluated on the following eight CPAI domains:<sup>39</sup>
- Program implementation and management
  - Client risk and need
  - Program characteristics
  - Management and staff characteristics
  - Dimensions of core correctional practice
  - Inter-agency communication
  - Organizational culture
  - Evaluation
- Unique intervention and service models are needed for women, ethnic minorities (including Aboriginal peoples), and young people. Basic treatment concepts and techniques (e.g., relapse prevention, motivational interviewing, etc.) are relatively universal and may be suitable for these populations, but treatment programs designed and structured for different populations may differ dramatically from programs for adult males. For example, women differ from men in their pathways to substance abuse (linking substance abuse and various forms of abuse towards women, sexual assault, and trauma), the reasons why they continue to use at problematic levels (e.g., as a method of coping), the health consequence of using, the ways in which they seek help (and why), program models and the modes of appropriate intervention (create informal and formal spaces where women can safely share their stories and learn about the connections between substance use, violence, poverty, stress, health problems, and other connecting factors).<sup>40,41,42,x</sup>

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<sup>ix</sup> Recently, the Swedish Prison and Probation Service (Kriminalvården) has introduced a similar program review and accreditation process. The European Association for the Treatment of Addiction has also recently implemented a program accreditation scheme for substance abuse treatment programs in Europe (see [www.eata.org.uk](http://www.eata.org.uk)).

<sup>x</sup> For a further discussion of women and their involvement in the criminal justice system see Hannah-Moffat, K. (2001). *Punishment in disguise: Penal governance and Canadian women's imprisonment*. Toronto: University of Toronto Press; Hannah-Moffat, K. (2000). *An ideal prison? Critical essays on women's imprisonment in Canada*. Halifax, NS: Fernwood Publishing.

- Research on the post-release behaviour of incarcerated offenders has found that individuals who chose to reduce or moderate their substance use on release were significantly less likely to be re-convicted than those who attempted to abstain completely from all alcohol and other drug use.<sup>43</sup> This important finding has implications for many criminal justice programs, including DTCs, which have tended to demand complete abstinence and frequent urine testing to verify compliance.

### **How effective are DTCs in reducing problematic substance use and criminal behaviour?**

- At first glance, a review of the DTC outcome literature suggests reason for optimism regarding the positive impact of DTC programs on participants' behaviour. For instance, a 2001 review of 37 evaluations of drug courts in the U.S. found overall decreases in substance use and criminal activity by program participants.<sup>44</sup>
- A study examining individual factors and satisfaction within a U.S. DTC found that the majority of participants interviewed were satisfied with the program, although levels of satisfaction varied according to program completion and other client characteristics such as frequency of drug use and perceptions of fairness pertaining to treatment staff and the judge.<sup>45</sup>
- A U.S. study found that in-program effects, such as reductions in recidivism, did not extend beyond the completion of treatment,<sup>46</sup> thereby underscoring the importance of continuity of care and the need for post-program maintenance, support and aftercare in the community for program participants.
- The research team evaluating the Toronto DTC found that graduates of the program were less likely to re-offend than those who were expelled from the program. However, those who were in the program for some time before being expelled also benefited from the program in that they were less likely to re-offend and use drugs than those who were not engaged in the program (in the sense that they were expelled after a short period of time).<sup>47</sup>
- Additionally, although the Toronto DTC is abstinence-based—in that graduation requires three months of abstinence (one month for marijuana)—many program participants, including some of those who did not complete all components, reported that the program helped them reduce their consumption.<sup>48</sup>
- The authors of the Toronto DTC evaluation concluded that the program has a positive impact on those with substance abuse problems, and that participation in the program (related to both recidivism and drug-intake) is generally more positive in DTCs than in the criminal justice system alone without a treatment agenda as a priority.<sup>49</sup>
- The evaluation of the Vancouver DTC found similar results with 23% of graduates having new charges within six months of graduation compared to just over 50% of non-completers.<sup>50</sup>
- To date, four “meta-analyses”<sup>xi</sup> have been conducted on DTCs operating in the U.S. All four studies found reductions in recidivism ranging from 7.5% to 26%. However, the authors of all of these studies acknowledged the influence of a number of sources of bias inherent in DTC research that seriously compromise the validity of these findings.<sup>51</sup>
  - DTC research typically employs “quasi-experimental” design methodologies—participants are not randomly assigned to treatment and control groups. A range of important factors such as participant motivation and severity of substance abuse problem (potent predictors of post-program success) were not controlled. As a result, these uncontrolled factors may have played a significant role in the observed reductions in recidivism between the DTC group and the comparison group rather than the effects of the program.
  - DTC research typically shows very high rates of drop-out from treatment. Many of the outcome studies used in the DTC research literature do not include drop-outs in the presentation of results, thereby creating a more homogeneous and streamlined group representing only those individuals who completed a phases of treatment. Considerable criminal justice and clinical psychology literature confirms that drop-outs and other non-completers are at significantly higher risk to resume problematic behaviour following their exit

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<sup>xi</sup> “Meta-analysis” is a quantitative method that allows the objective synthesis of a body of research (as opposed to a single study). This statistical technique allows researchers to estimate the magnitude and direction of the relationship between two or more variables referred to as an “effect size”.

from treatment. When drop-outs and other non-completers are presented as a comparison group for those individuals who fully completed the program, differences in outcome are artificially inflated.<sup>xii</sup>

- Other methodological and statistical problems are noted with outcome research in this area. These problems include poorly defined treatment models, misinterpretation of statistical analyses, unclear or inconsistent participant selection criteria (e.g., placing individuals with no verified substance use problem in lengthy and intensive treatment), failure to match treatment and comparison groups on important characteristics, lack of cost-benefit analyses, etc.
- Additionally, issues concerning low retention rates ultimately affect the validity of evaluations of the effectiveness of DTC programs in facilitating genuine change in substance use behaviour and help to inform decisions about the overall cost-effectiveness of the DTC approach. For example, only 15.6% of the experimental (treatment) group participants in the Toronto DTC graduated.<sup>52</sup> In Vancouver, 16.8% successfully completed the program.<sup>53</sup>

### **What are some of the issues and challenges associated with DTCs?**

- It is important to acknowledge, that DTCs, like other intervention models used by the criminal justice system in Canada and elsewhere (e.g., mandatory detoxification services with youth, prison-based treatment, etc.), employ coercion<sup>54</sup> as a means of motivating individuals to participate in treatment to address a behavioural or mental health condition. This is done by holding the threat of incarceration and loss of personal freedom over them in order to get the person to agree to participate. As a result, the reason(s) why an individual agrees to participate in treatment may be quite different from the reason(s) an individual might present to receive a human service in other contexts.
- DTCs are sometimes described as a form of “harm reduction” by purporting to provide clients with choices and options when, in fact, the DTC model typically conflicts with harm reduction philosophies and approaches.<sup>xiii</sup> DTC programs make no provision for reduced or moderated use as an end goal for treatment and do not formally recognize reductions of use as markers of potentially significant positive change; any substance use by clients can lead to termination of treatment and withdrawal of freedom (incarceration). Research with Canadian federal offenders on release from incarceration demonstrated that those who chose the goal of moderation were reconvicted at a significantly lower rate than those who were attempting to abstain completely from all intoxicants.<sup>55</sup>
- Being “sentenced” to a DTC may actually increase the amount of official “time” in the criminal justice system a person has to serve.<sup>56,57</sup> In other words, the length of treatment may exceed the length of jail sentence the individual would have received if he or she had opted against the DTC. This phenomenon may deter some individuals from participating in DTC programming.
- Important barriers to successful DTC program participation include lack of housing, education, employment, family support, transportation, and child care for single parents.
- With few exceptions<sup>xiv</sup>, there is a lack of client-specific programs and support models to meet the unique needs of treatment groups such as women, youth, individuals with co-occurring problems (e.g., substance abuse and a mental health need, etc.).
- Treatment professionals must abide by confidentiality laws, although the effective operation of the DTC requires the release of some confidential information about the treatment process to legal authorities. It has been suggested that these conflicts can be avoided by obtaining consent to disclose from participants prior to treatment.<sup>xv,58</sup>
- In the 1999 U.S. National Drug Court Treatment Survey, 56% of the DTCs surveyed identified client lack of motivation as one of the major reasons why an individual is discharged from the program.<sup>59</sup> This finding suggests

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<sup>xii</sup> It is well-established in the criminal justice treatment outcome literature that individuals who drop out of treatment present a relatively high risk for future criminal behaviour. Clearly, the use of these individuals as a comparison for treatment completers is a serious methodological confound (e.g., selection bias) and will artificially inflate the differences between these two groups.

<sup>xiii</sup> For a contemporary discussion of harm reduction, see Marlatt, G. A. (1998). *Harm reduction: Pragmatic strategies for managing high-risk behaviors*. New York: Guilford.

<sup>xiv</sup> The Vancouver DTC has separate clinical programming and court sessions for women. The Toronto DTC refers women to gender-specific treatment, and has offered discussion groups for clients with Afro-Canadian and Caribbean backgrounds.

<sup>xv</sup> This was done in the Toronto DTC evaluation.



that programs could benefit from various motivational enhancement and treatment readiness components (e.g., use of “motivational interviewing” techniques) to maximize program uptake and minimize attrition.

- It is critical that DTCs employ an objective and validated assessment process to determine the nature and severity of the individual’s substance abuse problem; without this critical element, it is possible that individuals may be required to participate in treatment for simple possession and use regardless of whether they have a problem; court officials may see any use of an illegal substance as indicative of the need for treatment. This possibility is highlighted in related research on programs operating in the criminal justice system.<sup>60</sup>
- A report by the U.S. National Drug Court Institute offered suggestions to ensure effective evaluations of drug courts, including:<sup>61</sup>
  - Define the objectives of the DTC in a clear, succinct, effective manner and ensure these goals can be measured empirically.
  - Select a nonbiased comparison group to ensure that factors such as different levels of motivation (low–high) do not influence the outcome findings.
  - Not limit outcome data to those who graduate from the program and include all of those who took part in the program in order to truly show the effectiveness of the program.
  - Collect follow-up data for at least six months involving multiple outcomes that include things such as re-arrest, reconviction, substance use, and employment status following program involvement.
  - Identify the cost-benefit ratio in order to provide a basis for a decision concerning the differences in resources needed for treatment versus court processes and incarceration.
- Additionally, a crucial component of any DTC is a pre-planned evaluation framework, which will effectively examine the efficacy of the DTC programs. This evaluation component is important for determining which DTCs are accomplishing their objectives, and which need to be changed to achieve greater efficacy.
- DTCs employing evidence-based practices may be more effective than traditional criminal justice sanctions at reducing criminal activity and drug use; however, it is clear that DTCs need more financial resources for factors associated with treatment, and the frequency of court visits and urine testing.<sup>62</sup> For example, it was estimated that the median total cost per individual for those who enter the Toronto DTC program (which includes court processes, police, probation, community participation, and treatment costs) is approximately \$38,915. For those who are given the chance, but decide not to participate, the cost is \$25,525.<sup>63</sup>
- Although these initial costs are substantial, it can be argued that, in the long-term, these programs may support the economy by increasing clients’ employability and physical health, which in turn involves less dependence on the welfare and public health systems, and also results in more income tax dollars generated by those participants and former participants who are gainfully employed.<sup>64</sup>
- Other U.S. studies have suggested that the economic costs favour DTCs over lengthy prison terms or other processes associated with time-consuming criminal justice activities such as court proceedings.<sup>65, 66</sup>
- Most DTC treatment service providers are community based with roots in the health and mental health systems. They have limited experience with the criminal justice system and the offender population and may have little knowledge of risk/need factors for criminal behaviour and a lack of skills to address responsivity issues in offender populations.
- Besides program components themselves, issues of program integrity must be taken into account. Training, monitoring and supervision of staff, for example, have been identified as fundamental to effective treatment.<sup>67,xvi</sup>

U.S. studies suggest that more frequent judicial status hearings increase the likelihood of in-program success for high-risk offenders, whereas fewer hearings are needed to produce favourable outcomes for low-risk offenders.<sup>68,69</sup> These findings are consistent with the risk and responsivity principles of effective intervention and further reinforce the need to modify DTC components according to the risk level of offenders.

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<sup>xvi</sup> For a more in-depth discussion of the integrity of criminal justice intervention programs, see Hollin, C. R. (1995). The meaning and implications of “programme integrity”. In J. McGuire (Ed.), *What works: Reducing reoffending-guidelines from research and practice*. Chichester, UK: Wiley

- As discussed above, available outcome research indicates that DTCs have not clearly demonstrated treatment effectiveness or cost-effectiveness compared with alternative models of service delivery (e.g., treatment in prisons or rehabilitation-focused community corrections).
- DTCs are sometimes cited as alternatives to the criminal justice system when in fact they are firmly grounded in this system. This may constitute a conflict of goals and priorities between the judiciary and treatment providers. Indeed, judges, lawyers, and other court officials with no formal clinical or subject-matter training take on the role of social workers and mental health professionals in making or overriding clinical decisions about the need for treatment and assessment of progress.

### **What are some current and future issues for DTCs in Canada and elsewhere?**

- In principle, the DTC model offers a creative alternative to traditional criminal justice approaches to dealing with substance abuse and other illegal activity that would ordinarily involve sanctions ranging from fines and probation to incarceration in a correctional facility. The model is an attractive and potentially useful therapeutic option to more punitive approaches. However, significant challenges remain that, if left unresolved, have the potential to challenge the long-term viability of DTCs in Canada and elsewhere.
- The past few years have witnessed the proliferation of DTCs around the world. Clearly, however, this has occurred in the absence of solid empirical evidence to support their effectiveness in reducing or eliminating drug use and related criminal behaviour.<sup>70</sup> Given the infrastructure and significant operational costs associated with DTCs, this model of service provision needs to clearly demonstrate efficacy, value for money and its superiority over other models and approaches for responding to individuals with substance problems who engage in criminal behaviour.
- Program retention and completion rates for most DTC programs remain very low and pose a major challenge for programs in Canada. The program completion rates evidenced in the evaluations of the Toronto and Vancouver DTCs are unacceptable by any standard of care, including the treatment of other high-risk/high-need populations. Further, low program completion significantly elevates the overall cost to treat a single individual.<sup>xvii</sup>
- There remains a challenge for many DTCs to fully integrate contemporary scientific research and practice in substance abuse assessment and treatment within the context of criminal justice and the courtroom when dealing with illegal behaviour and the use of illegal drugs. A key issue includes the need for court and legal officials to understand and respond constructively to the subtleties of the behaviour change process (e.g., effectively dealing with slips, lapses, reduced/moderated use versus complete abstinence, etc.). This is an important factor for DTCs at a time when leading correctional jurisdictions have actively developed and implemented evidence-based models for service delivery (e.g., Correctional Service of Canada, Her Majesty's Prison Service for England and Wales, Swedish Prison and Probation Service, etc.). In fact, Canada is considered a world leader in theory and research on the principles of risk, need, and responsivity, effective treatment and evidence-based practice within the criminal justice system and substance abuse treatment.
- As discussed above, DTCs must take into account the unique situation and needs of population groups and recognize that that unique treatment tracks and service delivery models must be developed (e.g., treatment targets, treatment styles, modes of delivery, etc.) according to age, gender, ethnicity, and co-existing conditions.
- It is recommended that uniform program delivery standards for DTCs operating in Canada be developed and that a program accreditation process be implemented, using external criminal justice program experts as reviewers (e.g., similar to the process used by the Correctional Service of Canada). Further, it is recommended that all Canadian DTCs be evaluated using the CPAI. Taken together, these quality assurance processes will help to ensure that Canadian DTCs fully embrace all of the characteristics of effective criminal justice interventions and contemporary theory, and evidence-based substance abuse treatment.
- Until these critical issues are addressed satisfactorily, from a public policy perspective, debate will continue as to whether DTCs offer the most appropriate, efficacious, and cost-effective gateway to substance abuse treatment as a socio-legal response to this significant public health issue.<sup>71</sup>

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<sup>xvii</sup> Similarly, in the mid-1990s, the Auditor General of Canada criticized the Government regarding the cost effectiveness of spending large sums of money to treat a small group of sex offenders housed in federal correctional institutions. See Office of the Auditor General of Canada (1996). Chapter 10: Correctional Service Canada: Rehabilitation programs for offenders. Ottawa: Office of the Auditor General of Canada.

## Endnotes

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