

Drug treatment courts in action: effectiveness, shortcomings and alternatives

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1 Issues

- Drug treatment courts (DTCs) are limited to an abstinence treatment model, failing to meet the needs of particularly marginalized and vulnerable social groups.
- A criminal law focus often leads to the violation of people's human rights, as well as to a hindrance of their health-care needs — undermining their right to health.

2 Description

- DTCs are judicially mandated treatment programs — in lieu of incarceration — for people who come in contact with the criminal justice system because of their drug-related criminal activity.
- The DTC system is based on a therapeutic jurisprudence concept, in which efforts are made to transform the traditional adversarial judicial system into a more restorative, rehabilitation-based process.

3 Lessons learned

- There are only six DTCs in Canada, primarily located in large urban centres, which limits accessibility for people living outside of such centres. So few DTCs also affect the diversity of services available to a diverse client base.
- The eligibility criteria undermine people's access to treatment. There is little to no consideration for people with serious addictions.
- Several ethical issues arise from the DTC process:
 - A guilty plea may be required in order to obtain treatment;
 - Self-incriminating statements made in a DTC could be used against the defendant in later proceedings;
 - Judges may engage in ex parte communications;
 - Judges encourage defendants to waive their right to a lawyer;
 - The role of defence lawyer as a zealous advocate is altered;
 - Defence lawyers have insufficient time to investigate and advise their clients;
 - DTC team meetings take place in the absence of defendants; and
 - Defence lawyers represent the client's "best interest" rather than her "stated interest".
- Many in need of treatment in order to reduce the health risks associated with intravenous drug use, including HIV and hepatitis C exposure, may either forego DTCs or be expelled for an inability to comply. They are thus exposed to judicial proceedings and incarceration without the benefit of treatment.

4 Next steps

- Although DTCs remain a relatively new phenomenon in Canada, the government seeks to expand them across the country — notwithstanding the lack of evidence demonstrating their effectiveness in addressing drug use and recidivism among participants.
- It is timely to develop a critical analysis of drug treatment courts and the human rights implications of their practice and procedures as they affect people who are drug dependent.

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