

# **THERAPEUTIC COURTS IN CANADA: A JURISDICTIONAL SCAN OF MENTAL HEALTH AND DRUG TREATMENT COURTS**

A report prepared for the Steering Committee on Justice  
Efficiencies and Access to the Criminal Justice System

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## REPORT SUMMARY

### ***i. Goal of this project***

A sub-committee of the Steering Committee on Justice Efficiencies and Access to the Criminal Justice System was formed to examine therapeutic courts in Canada, ascertain how well they were functioning, and identify best practices. A plan was formed to conduct a jurisdictional scan focused on mental health and drug treatment courts. (Other therapeutic courts, such as domestic violence courts and “Gladue” courts for Indigenous offenders, were outside the scope of the scan due to the constraints of time and the need to focus the inquiries.) Group interviews were arranged with judges, lawyers, and treatment providers from across Canada who work in these courts.

The general topics that were covered in the interviews were:

- 1) [Barriers to access and success](#);
- 2) [Best practices](#); and
- 3) [Evaluation methods](#).

The authors of this report hope that this report can, in some way, serve to support, enhance, and contribute to the extensive body of knowledge held by the dedicated professionals who serve in these courts and who are passionately committed to improving the well-being of their communities.

### ***ii. Summary of the findings***

The therapeutic court team members who were interviewed for this project represent a broad cross-section of professionals from Drug Treatment Courts (DTCs), Mental Health Courts (MHCs), Wellness Courts, and Community Support Courts across Canada. A consistent theme emerged from the interviews: therapeutic courts are succeeding in their overall objectives and are learning to overcome some of the challenges to their service delivery. The following observation, made by a judge, best summarizes the optimism of these professionals:

*“These courts bring out the humanity of the process – which is one of its joys. We walk away feeling that today we made the world better.”*

#### **a. Common barriers to access and success**

The common barriers that were identified for all therapeutic courts include:

- 1) [Insufficient Program funding](#)
  - Program manager;
  - Data collection and evaluation;
  - Inequities between jurisdictions;
  - Not enough court support workers; and
  - Urine drug screens difficult to obtain for DTCs.
- 2) [Lack of stable housing](#)
- 3) [Inconsistent justice staffing](#)

- 4) ***Insufficient and inconsistent support services***
- 5) ***Narrow eligibility criteria***
  - Excluded charges;
  - Excluding history of violence; and
  - Requiring formal psychiatric diagnosis for MHCs.
- 6) ***Lack of public awareness of the programs***
- 7) ***Divergent views about best practices***
- 8) ***Requirement of a guilty plea***
- 9) ***COVID-19***
  - Loss of connection and accountability with virtual appearances;
  - Access to technology;
  - Resources diverted away from therapeutic courts to deal with backlog in traditional courts;
  - Bail issues restricting access to therapeutic court programs; and
  - Reduction in referrals and participants.

**b. Best practices**

The following best practices were identified:

- 1) ***Dedicated, consistent team***: Judge, Crown, defence, program manager and treatment providers.
- 2) ***Access to information***: Timely access to medical information and input from complainants.
- 3) ***Programming***
  - Separate facility for access to treatment, drop-ins, and court celebrations; and
  - Opportunities and aids to engage participants.
- 4) ***Three types of programs***: Mental health diversion, intensive mental health, and drug treatment programs.
- 5) ***Integrated “concurrent disorders” courts***: Coordinate and share treatment teams.
- 6) ***Pre-Court meetings***: Drivers of collaboration.
- 7) ***Data collection expertise***: Appropriate funding for someone trained in data collection and/or evaluations.
- 8) ***Provincial, regional and local steering committees***: Provide consistency, support, and coordination by developing a strategic framework, guidelines, and procedures. These committees can also address systemic problems unique to their jurisdiction.
- 9) ***Policies, procedures, manuals and templates***

- 10) **Publicly accessible information**: Website explaining the court programs.
- 11) **Broadening eligibility for DTCs**: Use risk assessment tools.
- 12) **Reduce administrative charges**
- 13) **Independent urine screeners for DTCs**
- 14) **Post-program support for DTCs**: Access to programs and support after program is completed.
- 15) **Peer mentors in DTC**: Graduates and alumni of the DTC program.
- 16) **Culturally significant incentives in DTCs**
- 17) **Evolving therapeutic courts**
  - Cultural trauma: A “judicial monitoring program” in Nova Scotia for people charged with an offence who do not have a formal mental health diagnosis but have suffered trauma due to race, ethnicity, marginalization, or abuse; and
  - FASD courts: A unique Manitoba court that focuses on youth 25 and under who experience FASD.

### **c. *Evaluating therapeutic courts***

Several Canadian therapeutic court programs have been subject to rigorous and effective evaluation. The jurisdictional scan revealed the following information:

#### 1) **Evaluations support the continuing need for therapeutic courts**

Evaluations have shown that therapeutic courts are both socially and fiscally responsible and support for their work should continue. Specific examples are given from evaluations of eight therapeutic courts across Canada.

#### 2) **Developing evaluation frameworks**

Evaluation frameworks assist in promoting methodological consistency. Developing strategic partnerships to design and conduct evaluations results in cost-effective evaluations. The frameworks are a recent innovation, but have been established in, or are being considered by, four provinces.

#### 3) **Best practices for evaluations**: A properly funded and resourced research and evaluation committee for each province or region, that includes justice ministry personnel and the judiciary, should collaboratively guide the creation of an evaluation framework that includes the following action steps:

- Include an evaluation plan at the implementation phase of a therapeutic court program, ideally aided by the expertise of a trained evaluator;
- Include a sustainable data recording and tracking function at the implementation stage;
- Design a participant exit interview and/or survey;

- Consider seeking partnerships with local academic institutions and qualified researchers;
  - Plan for evaluations to include recommendations for improvements to the court program;
  - Create focused evaluations with realistic and appropriate questions that can be completed in a reasonable timeframe;
  - Determine whether a process or outcome evaluation, or both, are to be conducted, based on the stage of implementation of the program;
  - Include both quantitative and qualitative evaluation methods to ensure that the weaknesses of each are offset by the other; and
  - Employ culturally relevant evaluation tools and methods designed to ensure cultural safety.
- 4) **Challenges: Data collection and funding for evaluations**
- Need for data from sources external to the court programs, e.g., hospitalizations, utilization of police resources, and incidence of property crimes;
  - Navigating distinct confidentiality requirements of data recorded in health care systems and in justice systems (prosecution or court); and
  - Need for funded, designated coordinators or program managers to collect and record data.
- 5) **A persistent question: How to measure “success”?** There is a consensus that increased connections to community supports and the successful implementation of community treatment and support plans are valid measures of success. Improvements in the key social determinants of the health of participants and financial savings to the justice system and to the community can be measured. Recidivism is not the only measure of success.

Examples of indicators of success are:

- Recidivism (however defined);
- Harm reduction;
- Generating monetary savings;
- Improving mental health;
- Reducing substance use;
- Accessing and utilizing community services and supports;
- Enhancing social stability/quality of life; and
- Getting participant feedback.

#### **d. Recommendations**

The following recommendations are made:

- 1) **Share this report:** Authorize the sharing of this report with the people who were interviewed.

- 2) **National, provincial, and regional umbrella advisory committees:** Create provincial or regional committees that support and coordinate resources for all therapeutic courts in the region. Support a national committee that can host a national conference and host a “list serv” that can facilitate cross-training and the sharing of best practices.
- 3) **Integrated courts:** Integrate drug treatment and mental health programs so that treatment teams are shared and coordinated, and participants are able to access the full range of services they may need.
- 4) **Dedicated and consistent legal and treatment team members**
- 5) **Adequate and predictable funding**
- 6) **Supportive and stable housing:** Fund treatment beds (for women as well as men), transitional housing, and supportive housing (with staff on site).
- 7) **Intake screening tools to assess risk/needs:** Use evidence-based and trauma-informed practices to develop individualized care and support plans.
- 8) **Information protocols:** Ensure timely access to medical information.
- 9) **Complainants:** Seek early input from complainants, where appropriate, and not just for sentencing purposes.
- 10) **Indigenous and other racialized populations:** Improve access by carefully considering underlying assumptions when evaluating referrals.
- 11) **Publicly accessible information:** Develop an informative online presence for each province or region.
- 12) **Evaluations and data:** Dedicate resources for the collection of adequate data, obtain feedback from participants and team members, and utilise professional evaluators (either directly funded or through a partnership with a university).

### ***iii. Method***

Provincial Court judges across Canada were canvassed to update a previous 2014 jurisdictional scan that had gathered basic information about their therapeutic courts, and they were asked to identify knowledgeable participants to contact, with the goal of speaking with judges, Crown and defence counsel, treatment providers, and program directors. The internet also was combed for all available information on these courts.

Approximately 78 people were interviewed during 23 virtual interviews using Zoom or Teams, each two hours in length, during February, March, and April 2021. Each interview was conducted by two Crowns using a standard set of questions, with the assistance of an articling student who transcribed the interview and then used qualitative research software to annotate the transcript and collate the information under the three main headings described above.

The information obtained from these interviews, together with information that was obtained through websites and documents that were provided, has been summarized in “regional overviews” appended to this report. Only those features that are distinctive from common practices are noted in these overviews, which also include any available evaluations and links to publicly accessible information.

#### **iv. Common features of DTCs and MHCs**

Under [s. 10\(4\)\(a\)](#) of the *Controlled Drugs and Substance Act*, a DTC program must be approved by the Attorney General. To be approved, the program should comply with the 13 internationally recognized principles of DTCs.<sup>1</sup> Provided the DTC program complies with those principles, the Chief Federal Prosecutor in the appropriate province, territory, or region can approve the DTC program in that region on behalf of the Attorney General.<sup>2</sup> Consequently, DTCs usually are consistent in their approach and frequently create manuals for participants as well as statements of policies and principles and application forms. DTCs commonly use incentives that can include gift cards, praise, encouragement, applause, and a graduation ceremony, as well as a range of sanctions.

By contrast, MHCs across Canada do not have a national set of recognized principles. By their very nature, they focus on individualized treatment plans. Instead, and as was observed in a recent study completed by the Ontario Human Services and Justice Coordinating Committee (HSJCC), MHCs have a “shared mandate” and “general intention” to address client populations with mental health challenges who intersect with the criminal justice system, divert them out of the regular criminal justice stream, reduce recidivism, and improve the wellbeing of each individual as well as society.<sup>3</sup>

#### **v. Funding models**

There are 13 federally funded DTCs in Canada, and a number of other DTCs who do not receive federal funding. The federally funded courts are funded through the Drug Treatment Court Funding Program (DTCFP)<sup>4</sup> which was established in 2004 and is part of the Treatment Action Plan of National Anti-Drug Strategy. The DTCFP is a

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<sup>1</sup> The Canadian Association of Drug Treatment Court Professionals – DTC Program. (2021, webpage). <https://cadtc.org/dtc-program-title/>

<sup>2</sup> Public Prosecution Service of Canada. (2020, March). *Drug Treatment Court Deskbook*. <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p6/ch01.html>

<sup>3</sup> Human Services and Justice Coordinating Committee. (2017, October). *Mental Health Courts in Ontario. A Review of the Initiation and Operation of Mental Health Courts Across the Province*. p. 6. <https://hsjcc.on.ca/wp-content/uploads/Mental-Health-Courts-in-Ontario.pdf>

See also: Centre for Addiction and Mental Health. (2013, October). *Mental Health Courts and Criminal Justice Policy Framework*. [http://www.camh.ca/-/media/files/pdfs---public-policy-submissions/mh\\_criminal\\_justice\\_policy\\_framework-pdf.pdf](http://www.camh.ca/-/media/files/pdfs---public-policy-submissions/mh_criminal_justice_policy_framework-pdf.pdf)

<sup>4</sup> Department of Justice Canada. (2021, April webpage). *Drug Treatment Court Funding Program*. <https://www.justice.gc.ca/eng/fund-fina/gov-gouv/dtc-ttt.html>

contribution funding program that provides funding to the provinces and territories for the development, delivery, and evaluation of DTCs in Canada. The recipients of federal funding are selected through a call for proposals.<sup>5</sup> The [DTCFP website](#) indicates that a total of \$3.6 million in ongoing annual funding is contributed to support the program. The many other DTCs that are operating in Canada, and that receive no federal or provincial funding, instead rely on in-kind services.

The federal DTCFP reduced funding to the federally funded courts a few years ago. Alberta responded by investing significant funding into their DTC programs (\$20 million over four years).<sup>6</sup> A recent evaluation of the Calgary DTC found the court generated savings (approximately \$83.4 million over four years).<sup>7</sup> Alberta's provincially funded DTCs have dedicated program managers, caseworkers, independent drug screening, and evaluators.

There is no federal funding program for MHCs. These courts do not always receive distinct funding and often are simply included as part of the budget for their provincial court. MHCs also commonly rely on in-kind services from partner agencies.

#### **vi. Abbreviations and language choices**

The report writers elected to describe anyone charged with an offence who participated in a therapeutic court as a "participant", rather than a "client", "offender", or "applicant". This term accurately captured the status of anyone involved in the therapeutic courts, from someone being diverted who had their charges withdrawn, to an accused person who was still going to be sentenced.<sup>8</sup>

The following abbreviations also were used:

CAMH	Centre for Addiction and Mental Health (Toronto)
CC	Community Court
CMHA	Canadian Mental Health Association
CTC	Community Treatment Court
DTC	Drug Treatment Court

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<sup>5</sup> Department of Justice Canada. (2018, September). *National Anti-Drug Strategy Evaluation*. <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/12/nas-sna/p1.html>

<sup>6</sup> Huncar, A. (2019, October). "Sentenced to recovery': Alberta expands drug treatment court program". *CBC News*. <https://www.cbc.ca/news/canada/edmonton/drug-treatment-court-edmonton-calgary-lethbridge-red-deer-addiction-rural-crime-1.5343302>

<sup>7</sup> Liska, A. (2020) *Real Help for Addicted Offenders: Further Evidence from the Calgary Drug Treatment Court*. p. 3. <http://calgarydrugtreatmentcourt.org/our-results/>

<sup>8</sup> This is the same language that was chosen by the members of the Peterborough Community Support Court, who viewed it as more respectful after having received training on a trauma informed approach to therapeutic courts.

DTCFP	Department of Justice Drug Treatment Court Funding Program
FASD	Fetal Alcohol Spectrum Disorders
HSJCC	Human Services and Justice Coordinating Committee
MHC	Mental Health Court
MHS	Mental Health Strategy
PPSC	Public Prosecution Service of Canada
WC	Wellness Court

***vii. Source materials***

Wherever possible web links have been provided for any documentation referred to in the report. Additional documentation, including precedents and templates, that was gathered but is not available online, is also listed in the Source Materials section of the report.



## BARRIERS TO ACCESS AND SUCCESS

### *i. Insufficient program funding*

*“One of the large systemic issues is funding – we don’t have funding to run the courts.”*

*“We used to have 3-4 more staff and fewer clients. We have scraped and scrimped – it is awful that when the need is greatest, we have our funding reduced.”*

Many therapeutic courts receive no dedicated funding to run their programs and rely on in-kind services from justice, health, and community services, which often do not meet the needs of the program. Team members from many funded courts also reported that the funding they receive is insufficient.

Interviewees also identified savings that can be generated by therapeutic court programs, diverting cases from the conventional trial stream. To the extent that participants in therapeutic court programs do not re-offend or re-offend less frequently or seriously, the social costs of crime also are reduced (*i.e.*, property crimes to support substance use, policing/prosecution costs, and costs of incarceration). Several Canadian evaluation studies have attempted to quantify these savings and have concluded that therapeutic courts generate savings that substantially outweigh the costs of funding the programs. These studies are reviewed in greater detail in the evaluation section of this report.

When the federal Drug Treatment Court Funding Program (DTCFP)<sup>9</sup> reduced funding to the federally funded courts a few years ago, it had a significant impact and, according to interviewees, came at a time when the need was the greatest. The province of Alberta responded by doubling its already significant funding of DTCs to \$20 million over four years.<sup>10</sup> This investment allowed the Calgary and Edmonton DTCs to increase capacity and expand DTCs to other regions in the province. These provincially funded DTCs also have dedicated program managers, caseworkers, independent drug screening, and evaluators.

In stark contrast to the well-funded Alberta DTCs, the unfunded and under-funded courts in other provinces face the following significant barriers:

#### 1) **No program manager**

In the courts with no dedicated funding, there is no dedicated program manager or program staff. Instead, people are doing the work “off the side of their desk.”

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<sup>9</sup> Department of Justice Canada. (2021, April webpage). *Drug Treatment Court Funding Program*. <https://www.justice.gc.ca/eng/fund-fina/gov-gouv/dtc-ttt.html>

<sup>10</sup> Huncar, A. (2019, October). “‘Sentenced to recovery’: Alberta expands drug treatment court program”. *CBC News*. <https://www.cbc.ca/news/canada/edmonton/drug-treatment-court-edmonton-calgary-lethbridge-red-deer-addiction-rural-crime-1.5343302>

Without a program manager, the other team professionals are often doing work that is outside the scope of their training and qualifications and are taking on extra duties when they are already overburdened. For example, in at least two courts in Ontario, the Crown is acting as the program manager in addition to their other significant duties and responsibilities.

2) ***Unmet DTC requirements***

*“If you don’t have urine screens, you don’t have a DTC.”*

For DTCs with established guiding principles and set program requirements, the lack of funding makes it difficult and sometimes impossible to follow the federally mandated requirements. For example, unfunded DTCs described difficulties in accessing urine screens for participants. (It should be noted that urine screens are considered a court ordered procedure and not a medical procedure, so they are not funded by provincial health plans.)

3) ***Data collection and evaluation***

Accurate data collection and evaluation requires sufficient funding and was described as a barrier in most therapeutic courts.

4) ***Inequities between jurisdictions***

Therapeutic courts do not exist in every jurisdiction and some jurisdictions have one kind of court but not another. This creates inequities for vulnerable people involved in the criminal justice system.

5) ***Not enough court support workers***

The case managers in most MHCs, who work directly with the participants, described excessive case loads. Even though counselling and many support services are being referred out, using a “brokerage model”, there are still not enough case managers to meet the needs of the participants and properly guide them through the court process. Case managers in rural and northern communities stated that it is not uncommon for one worker to case manage between 35-50 participants at one time, which is unsustainable.

***ii. Lack of stable housing***

*“Participants will not succeed if we put them into the shelter system.”*

Every jurisdiction but one named housing as a barrier for participant success in therapeutic courts, and many described housing issues as the most significant barrier. Shelter housing is counterproductive for DTC and MHC participants, as it tends to continue to expose them to a *milieu* that undermines their treatment and recovery efforts. Interviewees stressed the need for immediate, safe, stable, and treatment-based housing. Even the Toronto DTC, which has dedicated funding for a housing program, noted difficulties because housing providers find it is resource intensive to house people who have a combination of substance use, mental health symptoms and criminal justice involvement. This makes it challenging to find housing providers who are willing to serve DTC clients. The supports needed to make dedicated housing successful are not available or adequately funded.

In the Peterborough CSC therapeutic court, participants are specifically excluded from the provincially funded “bail-bed program” because of an agreement between the organization and the province. They are actively trying to change this, but it presents a barrier to anyone participating in that therapeutic court.

### **iii. Inconsistent justice staffing**

*“It’s a level of humanity that’s at play and gets injected into an otherwise inhumane system. Don’t mean to be dramatic, but if all of a sudden we’re talking about never-ending rotation of people coming in and out who have no particular interest in this area, it completely undermines the foundation we’ve built and the objective we’re trying to obtain, which is to get people out from under the crushing wheels they’re being ground underneath.”*

Those interviewed noted the need for consistency in the roles of the professionals working in therapeutic courts. Consistency of team members fosters trust and accountability. Very few interviewees noted inconsistency of treatment staffing but identified examples of inconsistent staffing on the justice side (judge, Crown and defence counsel). This inconsistency was viewed as a barrier to program and participant success. Interviewees also expressed a need for professionals who are well-suited to this type of program, and are interested, informed, and know the participants and the program well.

### **iv. Insufficient and inconsistent support services**

*“No waitlist to be screened into court but huge waitlists for support and services.”*

The community supports and therapeutic services that are most commonly lacking are:

- 1) access to specialized trauma counselling;
- 2) withdrawal management services;
- 3) culturally appropriate programming;
- 4) in-patient mental health treatment beds;
- 5) timely access to residential treatment centres, particularly for women;
- 6) dual diagnosis supports;
- 7) housing supports;
- 8) brain injury supports;
- 9) FASD supports;
- 10) timely access to psychiatric assessment, medication and treatment; and
- 11) transportation services.

Access to supports and services was especially problematic in rural and northern therapeutic courts where mental health and addiction services are scarce and difficult to access. These rural and northern communities have very large geographic regions with extremely limited resources. Many northern therapeutic court participants need to be sent “down south” to gain access to any form of residential treatment, where often it is

not culturally appropriate. The uncertainty of continued support in the community can add to the stress already experienced by participants in the program.

#### **v. Eligibility Criteria**

The Crown acts as the gatekeeper in therapeutic courts. Eligibility criteria are less rigid and more individualized in MHCs as compared to DTCs. There was a consensus that consulting the treatment team at the initial screening stage and taking a more individualized approach to screening in both DTCs and MHCs would help address barriers and would ensure that anyone who could benefit from a program would be eligible.

##### **a. DTCs – Excluded charges**

*“The criteria have not changed in many years, but the drug scene and needs of clients have changed. Re. commercial trafficking, we regularly have clients who use substances to such a degree that they would be considered commercial traffickers, but the supply they have is just what they use.”*

Federally approved DTCs follow the federal guidelines which exclude a number of offences, including violent offences, driving offences, residential break and enters, and trafficking for commercial gain, and were viewed as a barrier by many of the people interviewed. The criteria has not changed since its early days when provincial charges were added to the existing federal drug charges..

Many of the Crowns interviewed would like to take a more flexible approach. One commented, “We heard a lot of stuff at the forum<sup>11</sup> over the last two days that I found provocative, and I think we should open up discussion about expanding eligibility.” However, the Crowns also said that in order to address public safety concerns, better risk assessment tools are needed if the scope of offences is going to be broadened.

##### **b. DTCs – Ineligibility based on history of violence**

*“We have systemic racism at play because our clients that we should be serving we’re not serving because they’re not eligible. They are often ineligible because they’re targeted in arrests and incarceration and their charges and sentences are greater. You think about young Black men who, maybe more than others, are involved in gangs. That is a connection. And Aboriginal people, I don’t know if they’re involved more in domestic violence, but they get charged with it more and then they’re deemed ineligible.”*

Applicants with a history of violence or gang affiliations are deemed ineligible for DTCs. Some viewed this as a barrier particularly for racial minorities.

##### **c. MHCs – Requiring a formal psychiatric diagnosis**

While all MHCs require a suspected or identified mental health issue to be eligible for the program, there are a few MHCs that require a formal psychiatric

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<sup>11</sup> The Human Services and Justice Coordinating Committee. (2021, March 9 and 10) *Specialized Courts Forum*. <https://hsjcc.on.ca/our-work/phsjcc-specialized-courts-forum/>

diagnosis. This can be a barrier to access and take up to eight months where psychiatric resources are scarce.

**vi. Lack of public awareness of the programs**

*“When I think of accessibility, I think of awareness.”*

*“There is a big public gap in knowledge about who we are and what we do and how to refer – it’s a communication piece we need to look at.”*

Many courts do not have any publicly accessible information online so the public may not know where courts exist, who they accept, and how they operate. A lack of awareness was also identified in the report entitled “Racialized Populations and Mental Health Court Diversion,”<sup>12</sup> which revealed a lack of awareness and transparency around MHC diversion, especially for racialized populations. One of the reasons is that low-income racialized populations may be less able to access legal representation that can help inform them about MHC or advocate for a referral. The report concluded, at page 26, that “Mental Health Court diversion could be made more accessible to racialized individuals if all members of the justice system promoted the program. Mental Health courts should be expanded to all courts and each individual entering the court system should be screened and assessed for eligibility.”

**vii. Divergent views about best practices**

*“It’s a learning curve for us sometimes. We come from a clinical background, and then there are the folks from legal backgrounds, so sometimes our ideas or interests compete. Different perspectives enrich the program, but they don’t always jive ... It’s juggling therapeutic best practices with legal and justice system demands.”*

The legal team is required to constantly assess risk to the public safety while the treatment team’s role is to focus on the participants’ needs. Team members may lack sufficient knowledge, understanding, and expertise related to both treatment and criminal justice. These distinct priorities, and differing understanding and expertise, can lead to divergent views about best practices in a therapeutic court and can cause tension between the treatment team and the legal team. For example, some legal teams believe in an abstinence-based approach for their DTCs. This is challenging for treatment teams who advocate for a harm reduction approach.

Cross training has been noted as a good way to address this barrier. Even if the legal and treatment teams do not always agree, at least they can gain a better understanding and respect for each perspective. Cross training in some courts has also led to changes in court programming that respond to the evolving evidence-based practices in treatment.

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<sup>12</sup> The Community of Interest for Racialized Populations and Mental Health and Addictions. (2019, May). *Racialized Populations and Mental Health Court Diversion*. <https://ontario.cmha.ca/wp-content/uploads/2019/05/Racialized-Populations-and-MH-Court-Diversion-May-2019.pdf>

### **viii. The requirement of a guilty plea**

*“The guilty plea requirement in MHC is #1 barrier to accessing that court, especially for someone whose mental health isn’t allowing them to remember the event.”*

Some interviewees viewed the criteria for diversion in MHCs as too limited. Some MHCs did not have a diversions stream at all and required a guilty plea at the outset. The requirement of a guilty plea in MHCs was noted as a barrier where the underlying mental health or cognitive issue may impede the participant’s ability to remember the incident or understand that the behaviour was wrong.

The requirement of a probation order after participating in a lengthy therapeutic court support plan was also considered a barrier. Without the guarantee of a withdrawal or a stay upon successful completion, some defence counsel would decline to refer a client to an MHC, finding it hard to justify their client getting a suspended sentence and a criminal record, after spending 12-18 months in a program, when that outcome would likely have been available at the outset, without requiring the additional work of the therapeutic court program.

Lastly, interviewees expressed the view that, at a time when COVID-19 is causing Crowns and Judges to seriously reconsider custodial sentences, Crowns should expand the use of their discretion to broaden the scope of what can be diverted through therapeutic courts.

### **ix. COVID-19**

The consensus is that COVID-19 has had a negative impact on therapeutic courts across the country. The population that therapeutic courts serve has been the hardest hit by COVID-19 and its social impacts. Therapeutic courts were shut down completely during the first wave of the COVID-19 pandemic. Most courts are sitting again virtually but these courts require face-to-face interactions, and virtual appearances are only working because they have to and should not be a long-term solution. Participant deaths due to overdose have increased since the pandemic and many are worried that the continued lack of connection and accountability provided by therapeutic courts will further exacerbate the overdose crisis.

#### **a. Loss of connection and accountability**

*“There is no way to function on a virtual model because the pillar of therapeutic court is the check-in, and the fundamental accountability got lost in COVID.”*

Therapeutic courts rely heavily on connection, trust, and personal contact. The in-person setting of a courtroom encourages trusting mutual relationships between clients and court staff. For most jurisdictions this got lost when trying to do therapeutic court by telephone or video. There is also a different sense of accountability between virtual and in-person court appearances. Another issue that was noted is protecting confidentiality in treatment. Individuals in a crowded home are not able have frank conversations with their treatment providers.

In contrast, one jurisdiction reported that treatment providers found that they had an enhanced connection through the use of phone calls; the connections were more immediate, occurred more often, and they found that participants opened

up more while talking on the phone. Virtual appearances also allowed participants to move out of problematic environments and live further away, while still participating in the therapeutic program.

**b. Access to technology**

*“Overall, for both courts, COVID has brought out the stark reality in our system between haves and have-nots.”*

The virtual model does not work without access to stable technology. Many participants do not have access to phones and technology to connect to treatment and to call into court. There are participants who cannot keep a phone number stable, who run out of minutes on their phones, and who cannot afford internet. Many northern and remote communities also lack reliable internet access which has been a barrier to accessing treatment and connecting to virtual court.

**c. Resources diverted away from therapeutic courts to deal with backlog in traditional courts**

Some therapeutic courts are still not back up and running in jurisdictions where the regular courts are still getting through the backlog caused by the COVID-19 court shutdown; trial matters are being given priority. These courts are trying to move participants through the therapeutic program with informal check-ins and meetings over the judge’s lunch hour. Other courts have had their days reduced and only see a fraction of their participants each week.

**d. Bail issues**

*“It’s incredibly important to have bail dealt with in MHC. Clients with mental health issues don’t do well with regular busy bail court ... Not unusual to see matter adjourned for two weeks. If they go into MHC, they can be released the same day.”*

Bails are being done virtually and people are being released from the jails rather than the courthouse, which does not work well for participants in both DTCs and MHCs. Court support workers are often not able to see people or do intake assessments when the participants are in custody. Vulnerable people with mental health issues stay in remand custody longer.

**e. Reduction in referrals and participants**

Almost every court has seen a significant reduction in participants and referrals since the start of the pandemic. This is not due to a lack of need but because no one is at the courthouse or in the cells doing assessments and referring potential applicants.

## BEST PRACTICES

### A. Traditional therapeutic courts

#### i. **Dedicated team**

*“If you have the right people and the right team you get extraordinary results.”*

Every person interviewed stated that the single most significant component of a successful therapeutic court is a dedicated, consistent and committed team. Consistency of team members fosters trust and accountability. They all pull toward the middle. An effective team usually includes the following dedicated members:

##### a. **Judge:**

The judge who presides in a therapeutic court needs to be comfortable with creating a different court process that includes collaborative decision-making within a multi-disciplinary team. Decisions are often made by consensus and after fulsome discussions during a pre-court meeting. A dedicated, consistent judge reflects commitment to the team.

In addition, a dedicated consistent judge is critical to forming a relationship with the participant. The judge is uniquely situated to create a supportive environment, where each participant's strengths and accomplishments are celebrated. Small things help build rapport and make court appearances more meaningful. By getting to know the participant, the judge demonstrates the commitment that the professionals in the criminal justice system support and encourage participants.

Not all judges may be comfortable with this more therapeutic approach. If one consistent judge is not feasible, alternative best practices would be:

- 1) Have a small dedicated judicial team with a dedicated judicial team lead to ensure consistency of approach; and
- 2) Create an enhanced information-sharing calendar that allows judges to record and access updated personal information about each participant that can be used collectively, such as information about important life events (such as family events, the loss of a pet, or anything significant to the participant).

##### b. **Crown:**

*“Every time there's a change of Crown, it's a nightmare.”*

A dedicated Crown is also critical to the success of the court. They need to be comfortable in a non-adversarial environment and collaborative in the decision-making process. They also need to be empowered to take a flexible, informed approach to screening cases for inclusion in a therapeutic court, either for diversion or sentencing.



Although the ultimate decision about eligibility rests with the Crown, the decision should be informed by the input of the other team members and if possible, a consensus should be reached. The Crown needs to understand addictions and/or mental health and the needs of people living with those issues. With a dedicated Crown, both the team and members of the public will benefit. Anyone wanting information relating to the court will know who to contact.

**c. *Defence counsel:***

A dedicated defence counsel, usually funded through a provincial legal aid plan, is equally critical. Like the Crown, they need to be comfortable in a non-adversarial process that protects the legal rights of a participant while maintaining open communications in a trusted community. They too become an easily identifiable resource for those seeking information about the court.

There is also a role for private defence counsel. In some regions, defence lawyers resist referring their clients to therapeutic courts because they know how long the process takes. In many jurisdictions, the current legal aid tariffs do not reflect the increased time commitment and work involved. In recognition of this issue, Quebec recently increased tariffs for clients involved in a therapeutic court.

The practice of provincial legal aid waiving the financial criteria for participants in therapeutic courts is another best practice that ensures legal representation for the most vulnerable. Of particular note is the need for legal advice regarding immigration issues in situations where the participant is required to enter a guilty plea.

**d. *Treatment team:***

The treatment component of the team is the heart of the therapeutic court. Ideally the team would be made up of case managers who have a wide variety of training and experience, including experience working with clients with specific needs such as Post Traumatic Stress Disorder (PTSD), Fetal Alcohol Spectrum Disorders (FASD), concurrent disorders and acquired brain injuries. Culturally specific system navigators and representatives that reflect the court's community are also important. They need to work well with community services and integrate with available programs, including culturally appropriate programming.

A program manager for the court is an asset. They are able to focus on the systemic support for the court and provide leadership to an evolving practice.

**e. *Other important team members:***

Other potential team members include a police liaison officer, a probation officer and a psychiatrist. Both the police and probation services represent aspects of the criminal justice system that a participant would likely interact with. Both are able to support the work of the therapeutic court not only by identifying potential candidates but also by continuing programming post-sentence. Further, they both play a role in the de-stigmatization of mental health and substance use issues and increase public education and awareness.

## **ii. Access to information**

### **a. Medical information:**

Any available health information is critical to decision making, from appropriate bail conditions to appropriate community services. Best practice should include easily accessible electronic health records that can be obtained with the participant's consent. For example, employees of the provincial health ministries in Alberta and Nova Scotia are members of the treatment teams of those courts and have ready access to electronic records.

### **b. Complainant input:**

Whenever possible there should be a mechanism for a complainant to participate in some fashion in a therapeutic court, even where no guilty plea is being entered and no formal sentencing is taking place. One good example is Nova Scotia's "Victim's Voice Statement". The complainant's input is then included in the regular discussion of a participant's case.

## **iii. Programming**

*"We're in the business of providing opportunity, and it's up to participants what they do with it."*

Each participant enters into an agreement with the treatment team that focuses on their unique strengths and challenges. It can be adjusted as required. Each community has a unique set of challenges in facilitating the agreement, given that there may be limited availability of resources and services. In addition to traditional mental health and/or different addiction-related services, best practices would include programming for family members, trauma-informed practices, culturally appropriate services (e.g., fishing and hunting with elders or counseling specific to PTSD for veterans) and programs addressing criminogenic behaviours.

### **a. A facility separate from the court:**

*"When we do graduations, after court is adjourned, we have a celebratory lunch at the centre with the whole team, a few speeches – the breaking bread is important (team – judges, lawyers, client, family, other participants, community workers)."*

A dedicated facility offers participants a one-stop location for programming that is separate and apart from the court. It reinforces the supportive trauma-informed focus of a therapeutic approach.

### **b. Opportunities for the court to engage participants:**

*"We focus on language and relationships to try to reduce stigma."*

The dialogue between the participant and the court officials, particularly the judge, is critical to building a positive relationship. It demonstrates that people care about the participant and are invested in their success. Some courts have developed aids that help to highlight a person's strengths and individuality.

Examples include the use of a daily question to spark thoughtful discussion with the participants on a current issue or principle. (See: the Excel spreadsheet with the Daily Question of the Day for the Alberta DTC, that is available in hard copy.) The implicit message is that the participant's views matter. Another example is the "Wall of Hope" in Nova Scotia where a participant can contribute a piece of artwork to be displayed on the courtroom wall.

Words and language matter. Both treatment and criminal justice system representatives need to be deliberate in the language used. A simple example would be using "participant" in place of "accused" or "addict". Training in trauma-informed practices and motivational interviewing is a best practice that allows professionals to learn this skill.

#### ***iv. Three types of programs***

Therapeutic Courts offer three main types of programs. Some jurisdictions blend these programs into one integrated court, sometimes with distinct streams, while other jurisdictions create separate courts:

- 1) ***Mental Health Diversion***: A mental health diversion program for less serious offences resulting in a withdrawal of charges;
- 2) ***Intensive Mental Health***: A longer more intensive mental health intervention for more serious offences or for participants who represent a higher risk, that results in a reduction of sentence or one that is served in the community; and
- 3) ***Drug Treatment***: A drug treatment court, with a prescribed program that focuses on participants facing significant periods of incarceration. The drug treatment court programs may be further divided into two streams:
  - low risk offenders with low criminogenic behaviour who would not benefit from the more intensive drug treatment court program; and
  - high risk offenders with high criminogenic behaviour who require a longer, more structured and more intensive treatment program.

#### ***v. Integrated "concurrent disorders" courts***

Some jurisdictions have integrated all three programs into one court. This recognizes that many participants have concurrent disorders and experience *both* addiction and mental health issues. The treatment team is comprised of experts with backgrounds and experience in both areas who develop treatment plans for each individual. Treatment is more holistic and integrated. Although it may be necessary to have separate streams within the court, the face of the treatment team and the justice system members remain the same and the treatment resources are shared.

#### ***vi. Pre-court meetings***

More than any other feature of a therapeutic court, the pre-court meeting is an important driver of collaboration among team members and is critical to the success of the court. This allows for advocacy within a collaborative environment. Although any eligibility

decision ultimately lies with the Crown, the decision is informed by the recommendations of the treatment team and ideally is reached through consensus. Consistency, collaboration, and mutual accountability are fundamental guiding principles.

Meetings provide the forum for case updates and include discussions relating to possible incentives, sanctions, and dismissals. A framework and clear guidelines for transparent decision-making can support difficult discussions.

#### ***vii. Data collection expertise***

Data is critical to any well-run organization. However, not all data is useful and privacy restrictions may apply. A clear evaluation plan that is embedded into the program from the beginning is critical.<sup>13</sup> It enables programs to self-assess and identify areas that require adjustments. Both quantitative and qualitative data provide the basis for effective oversight and evaluation. Regular exit interviews, with both those who leave the program without completing and those who complete the program, are an important source of qualitative data.

A best practice would be to have appropriate funding for someone trained in data collection and/or evaluations.

#### ***viii. Provincial, regional, and local steering committees***

Provincial steering committees can provide consistency, support, and coordination to communities with therapeutic courts by developing a strategic framework, guidelines, and procedures. Regional or local committees can address systemic problems that are unique to their jurisdiction. A local committee may be more effective in addressing the community's priorities and characteristics. A best practice is to ensure that each of these committees is comprised of people who understand therapeutic court principles and can effect change.

#### ***ix. Policies, procedures, manuals, and templates***

Jurisdictions such as Nova Scotia, and Peterborough, Ontario, have created helpful documents such as terms of reference for their steering committee, a best practice framework for their court programs, a cultural competency guide, an evaluation framework and a manual for participants.<sup>14</sup>

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<sup>13</sup> Nova Scotia Provincial Court Wellness Court Programs Steering Committee. (2019, December). *Evaluation Framework*. [https://www.courts.ns.ca/Provincial\\_Court/documents/WCP\\_Evaluation\\_Framework\\_19\\_09.pdf](https://www.courts.ns.ca/Provincial_Court/documents/WCP_Evaluation_Framework_19_09.pdf)

<sup>14</sup> Nova Scotia Provincial Court Wellness Court Programs Steering Committee. (2019, March). *Evaluation Framework*. [https://www.courts.ns.ca/Provincial\\_Court/documents/WCP\\_Evaluation\\_Framework\\_19\\_09.pdf](https://www.courts.ns.ca/Provincial_Court/documents/WCP_Evaluation_Framework_19_09.pdf)

### **x. Publicly accessible information**

Many jurisdictions have a website which sets out what therapeutic courts they have in their jurisdiction, the criteria for eligibility, and what to expect in the program. They may also provide links to the policies and manuals referred to above, as well as recent evaluations done of the court.<sup>15</sup> Nova Scotia has a link to a short video showing someone appearing in their Wellness Court which may be very helpful in encouraging someone to consider the program.<sup>16</sup> These navigation tools are helpful for anyone seeking to learn more about the court.

Other jurisdictions rely on printed pamphlets available in the courthouse and on defence counsel advising their clients about the program. This is a less reliable way of ensuring the public is aware of these programs.

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Nova Scotia Wellness Court Programs Working Group. (2018). *A Cultural Competence Guide for Nova Scotia Wellness Court Programs*. [https://courts.ns.ca/Provincial\\_Court/documents/CulturalCompetenceGuide\\_18\\_09.pdf](https://courts.ns.ca/Provincial_Court/documents/CulturalCompetenceGuide_18_09.pdf)

Dartmouth Wellness Court (2021 webpage). *Forms*. [https://www.courts.ns.ca/Provincial\\_Court/NSPC\\_mental\\_health\\_program.htm](https://www.courts.ns.ca/Provincial_Court/NSPC_mental_health_program.htm)

Nova Scotia Provincial Court Wellness Court Programs Steering Committee. (2019, September). *Terms of Reference*. [https://www.courts.ns.ca/Provincial\\_Court/documents/WCP\\_Steering\\_Committee\\_Terms\\_of\\_Reference\\_19\\_09.pdf](https://www.courts.ns.ca/Provincial_Court/documents/WCP_Steering_Committee_Terms_of_Reference_19_09.pdf)

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Nova Scotia Provincial Court Wellness Court Programs Steering Committee. (2019, March). *Best Practices Framework*. [https://courts.ns.ca/Provincial\\_Court/documents/BestPracticeFramework\\_19\\_03.pdf](https://courts.ns.ca/Provincial_Court/documents/BestPracticeFramework_19_03.pdf)

*Drug Treatment Court of Vancouver, Participant Manual*. (2018, April). <http://www.provincialcourt.bc.ca/downloads/pdf/DTCV%20%20Participant%20Manual.pdf>

<sup>15</sup> Peterborough Community Support Court. (2021 webpage). *Forms*. <http://peterboroughcsc.org/referralprocess/forms/>

Justice Quebec. (2021, April webpage). *Quebec Justice and Mental Health Support Program*. <https://www.justice.gouv.qc.ca/en/programs-and-services/programs/justice-and-mental-health-support-program/>

<sup>16</sup> Swain, D. "Canada's Mental Health Courts: How they work and why they exist". (3 years ago). *CBC News*. <https://www.cbc.ca/news/thenational/canada-s-mental-health-courts-how-they-work-and-why-they-exist-1.4838785> (link provided on Dartmouth Wellness Court webpage. [https://www.courts.ns.ca/Provincial\\_Court/NSPC\\_mental\\_health\\_program.htm](https://www.courts.ns.ca/Provincial_Court/NSPC_mental_health_program.htm))

### ***xi. Broadening the eligibility***

*“It’s just the individual over the section number that we are interested in.”*

The eligibility for a DTC varies from province to province. Courts funded through the federal DTC Funding Program tend to follow the federal guidelines for DTCs that limit eligibility to crimes that do not involve violence. Other jurisdictions have more liberal eligibility requirements for both DTCs and MHCs and focus more on the level of risk a potential participant poses and whether that risk can be managed in the community. This allows for a broader range of offences to be considered and extends the opportunities of a therapeutic court to more individuals.

A best practice for both MHCs and DTCs would be to allow for a broader range of offences to be considered, accompanied by training and risk assessment tools to assess, identify, and manage risk in the community. Risk assessment tools also can be a source of information for case management purposes to determine appropriate treatment and/or services.

Crowns should be able to use their discretion to expand the scope of what charges can be considered for diversion. A guilty plea should only be required for matters not appropriate for diversion, such as where a mitigation of sentence is anticipated. The Crown must make clear at the outset their position on whether this will be diversion or a more favourable disposition such as a community disposition. The participant must acknowledge that they need and want help.

The support of the treatment team also should be made available to people deemed ineligible for diversion, who are not willing to enter a plea (and therefore choosing the trial stream), and who acknowledge that they need and want support. It is recognized that this could expand the use of treatment services and could raise an issue about treatment resources.

### ***xii. Reduce administrative charges***

One of the unintended consequences of the longer, more intensive intervention in drug treatment court is the accumulation of administrative charges (e.g., fail to comply and fail to attend court charges).<sup>17</sup>

Rather than setting up a participant to fail and generating a longer criminal record, a best practice would be to treat the new charges as an opportunity for an adjustment to the participant’s case management and treatment plan. Crowns reviewing

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<sup>17</sup> The 2020 study of Saskatoon’s Mental Health Strategy Court made this point, although it should be noted that the study itself is based on data from the first year of the court (2013-2014). Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis*. Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. p. vii. <https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

administrative charges should be encouraged to take a more discriminating view of these types of offences and, where appropriate, opt not to proceed on those charges.

### ***xiii. Independent urine screen testers for DTCs***

In order to maintain a therapeutic alliance with a participant, a best practice is to have drug testers who are separate from the treatment team consistently do the drug screens.

In addition, a best practice developed in Nova Scotia is the use of a “My Use” form that a participant is asked to complete when they have a positive urine screen. It is designed to help the participant identify triggers in their lives and work to make appropriate adjustments.

### ***xiv. Post-program support***

Transitioning from the support of a court program to the community can be stressful. Some jurisdictions offer formalized post-program supports through a community agency affiliated with the court. Other jurisdictions provide support through a probation order that can include a curfew, continued treatment, and the requirement to attend court, without legal consequences for a breach. This ensures that the participants are maintaining connections to support them in their recovery.

Another best practice for supporting those who have transitioned is allowing anyone who has completed the program to attend, or continue to attend, any support group they choose.

### ***xv. Peer mentors***

Graduates and alumni offer a unique support for those participating in a DTC. They can come back as guest speakers, offer mentorship, peer support, and ultimately some become members of the treatment team.

### ***xvi. Incentives and sanctions***

Best practices would highlight the importance of culturally significant incentives (*i.e.*, tobacco bundles in some Indigenous communities), in addition to common incentives such as coffee cards. Where appropriate, sanctions should be more treatment-based than punitive, supporting an intention to move forward (*i.e.*, a reflective work on goals). Treatment itself should never be used as a sanction.

## **B. Evolving Therapeutic Courts**

### ***i. Cultural trauma***

In 2016, Nova Scotia created a “judicial monitoring program” for people charged with an offence who do not have a formal mental health diagnosis but who have suffered trauma due to race, ethnicity, marginalization, or abuse. Assessments addressing cultural trauma as a result of systemic racism and discrimination are an important source of information. Nova Scotia has developed a cultural impact guide that is used by social workers. A best practice would have clinicians, who are trained to do cultural

trauma assessments, assist participants by preparing cultural trauma letters, not unlike a Gladue report.

## ***ii. Fetal Alcohol Spectrum Disorders (FASD)***

Manitoba is the first jurisdiction to create an FASD court. The court focuses on youth who are 25 and under who experience FASD. Although the court is presently limited to guilty pleas and sentencing, consideration is being given to expanding the mandate to include bail hearings.

The court includes justice workers who provide the court with an individual assessment that includes previous supports, challenges a participant faces, and a proposed plan of action. Each participant is given a specific time to attend court. Only one participant appears in court at a time and enters the court with his or her supports, including the justice worker. Everyone is encouraged to participate in the informal sentencing process. The most important principle of the sentencing process is to slow the process down and minimize distractions, which enables the participant to actively participate.

Like other therapeutic courts there is a dedicated team of justice workers, Crown counsel and judges who are knowledgeable about FASD and the relevant case law. However, because the FASD Court is a sentencing court, it does not involve participants returning to court on a regular basis. The Manitoba Court has proven to be extremely successful and is reported to be in “very, very high demand.”<sup>18</sup>

There is now a website specifically dedicated to FASD issues in a variety of legal contexts ([www.fasdjustice.ca](http://www.fasdjustice.ca)).

## **EVALUATING THERAPEUTIC COURTS**

*“The stats are great, but a seed planted can be success. If someone is open to changing, that’s what it means. If we do success on an individual basis, success is different for everyone. I don’t know how to measure that. It’s about wellness, as opposed to a number.”*

Despite the skepticism of many interviewees about the ability to evaluate these courts, several Canadian therapeutic court programs have been evaluated effectively. This portion of the report sets out conclusions from available evaluation reports, describes suggested practices for the conduct of evaluations, and summarizes some challenges to the evaluation process.

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<sup>18</sup> Geary, A. (2020, January 13). “As demand explodes, Manitoba's new FASD court expands to meet need”. *CBC News*. <https://www.cbc.ca/news/canada/manitoba/manitoba-fasd-court-expansion-1.5386229>



***i. Evaluations support the continuing need for therapeutic courts***

Canadian evaluations show that these courts are both fiscally and socially responsible and that support for the work of therapeutic courts should continue. This is a summary of conclusions from a sampling of evaluations:

- 1) The federal Department of Justice Drug Treatment Court Funding Program (DTCFP) evaluation found that, “. . . an expansive literature exists that considers the issues the DTCs address and their effectiveness. Based on this literature and survey results, the evaluation findings demonstrate that there remains a continued need for DTCs and the DTCFP.”<sup>19</sup>
- 2) A 2019 evaluation of the Calgary, Alberta DTC (the most recent of several), concluded that, “. . . the CDTC is valuable to the community and the participants that it serves.” Specific highlights include:
  - Prior to program entry, all participants were continuously using drugs or alcohol, interrupted by infrequent periods of sobriety. However, while in program 38% of the CDTC participants never relapsed, only 10% experienced three or more relapse-related events, and 55% experienced periods of sobriety of six months or longer;
  - A recidivism study of 87 graduates showed a 76% reduction in the number of criminal convictions when equivalent periods before and after the program were compared;
  - The program yielded savings of \$76 million from the cost of stolen goods over four years and avoided \$7.4 million in the cost of jail; and
  - Participants describe the program as life changing, its services as effective, and CDTC staff and team as supportive, caring and helpful.<sup>20</sup>
- 3) A 2011 review of the Adult Therapeutic Court in London, Ontario (an MHC) concluded that, “[w]hen benchmarked with other jurisdictions [this court] exceeds best practice recommendations and offers a functional example of successful community partnerships and client outcomes.”<sup>21</sup>

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<sup>19</sup> Department of Justice Canada. Evaluation Division Corporate Services Branch. (2015). *Drug Treatment Court Funding Evaluation – Final Report*. p. 23. <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2015/dtcfp-pfttt/dtcfp-pfttt.pdf>

<sup>20</sup> Hoffart, I. Synergy Research Group. (2020, July). *Calgary Drug Treatment Court: 2019 Evaluation Report*, submitted to Calgary Drug Court Society. p. 43. <http://calgarydrugtreatmentcourt.org/wp-content/uploads/2020/09/Calgary-Drug-Treatment-Court-2019-Evaluation-July-2020.pdf>

<sup>21</sup> *Adult Therapeutic Court/ Court Support and Diversion*. (2011, March). Prepared for the Southwest LHIN. p.1. <http://fasdontario.ca/wp-content/uploads/2014/01/Court-Eval-Project.pdf>

- 4) From a 2008 review of the then-new Durham Region DTC in Ontario: “The reduction of recidivism associated with DTCs is proof alone that DTCs work: they work by reducing recidivism; they work by reducing the number of drug-addicted individuals; and they work to make communities safer by rehabilitating drug-addicted offenders. Evidence suggests that supporting the Durham DTC is a fiscally and socially responsible action and one that is likely to be met with great success.”<sup>22</sup>
- 5) A Peterborough, Ontario Community Support Court evaluation noted the value of integrating both addiction treatment and mental health services and its success in reducing recidivism. The study observed: “The results of this study provide at least partial support for the efficacy of the Peterborough CSC in facilitating recidivism reduction. Completion of the programs was significantly associated with the reduced likelihood of reoffending. Compared to non-completers, completers demonstrated significantly lower recidivism rate within both the first and second year after their exit from the program.”<sup>23</sup>
- 6) A 2019 review of the much-studied Downtown Community Court (DCC) in Vancouver concluded: “Our study contributes new insights on the effectiveness of the DCC as a means to integrate justice, health and social services for improved health and community safety. In so doing, it highlights the DCC’s rich potential to serve as an explicit SDG (Sustainable Development Goals) lever for impactful local change.”<sup>24</sup>
- 7) A 2011 evaluation of the Saint John Mental Health Court in New Brunswick concluded that, “the Saint John Mental Health Court was able to improve the mental health functioning of its clients, facilitated greater stabilization of housing, and improved the employment and educational status of its clients relative to mentally ill offenders not admitted to MHC or those who prematurely withdrew/were expelled. MHC involvement also led to reductions in criminogenic needs, which directly resulted in reduced

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<sup>22</sup> Heagle, A., Scott, H. (2008). *Durham Drug Treatment Court (DDTC) Evaluation: A Literature Review and Analysis of Drug Treatment Courts*. University of Ontario Institute of Technology. p. 43. <https://shared.uoit.ca/shared/department/cesr/documents/Durham%20Drug%20Treatment%20Court%20Final%20Report.pdf>

<sup>23</sup> Nguyen, N., (2018, April). *Peterborough Community Support Court: An Evaluation of Recidivism*. Trent University. p.39. <https://hsjcc.on.ca/wp-content/uploads/Peterborough-Community-Support-Court-An-Evaluation-of-Recidivism-2018-04-30.pdf>

<sup>24</sup> Garcia, R.A., Kenyon, K.H., Brolan, C.E., *et al.* (2019). Court as a health intervention to advance Canada’s achievement of the sustainable development goals: a multi-pronged analysis of Vancouver’s Downtown Community Court. *Global Health* 15, 80. p. 11. <https://doi.org/10.1186/s12992-019-0511-9>

recidivism risk and a lower rate of reoffending relative to cases that did not complete the program or who were referred but never admitted.”<sup>25</sup>

- 8) In concluding comments from a process evaluation of the newly established MHC in Saskatoon, Saskatchewan (the “MHS”), the authors stated: “Our interviews and statistical data suggest that the MHS represents a positive innovation for the City of Saskatoon. It is meeting the expectations of participants and satisfying those involved with the MHS, while diverting participants with mental health concerns and cognitive impairments to address their needs.”<sup>26</sup>
- 9) The Yukon Community Wellness Court (CWC) was extensively evaluated (2011). This court was formed out of recognition that repeat offenders often experience multiple psycho-social issues such as substance abuse, mental health problems, FASD, as well as inadequate housing and unemployment. The study analysed processes and outcomes and concluded that the CWC had been successfully implemented and was effective; it had “become an important and useful additional restorative justice alternative to the traditional justice approach.” Based on interviews with clients who had completed the program, the report concluded that the CWC program “had a profound effect on reducing their underlying issues of addictions and mental health problems and thus has contributed significantly to helping them change their lives and become more productive and active members of their communities.”<sup>27</sup> A longer-term evaluation, completed in 2014, reinforced these conclusions.<sup>28</sup>

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<sup>25</sup> Campbell, M., Canales, D., Wei, R., Moser, A., Joshi, V. (2011, September). *Multidimensional Evaluation of the Saint John Mental Health Court: A Research Summary*. Centre for Criminal Justice Studies, University of New Brunswick-Saint John. p. 8. [https://www.researchgate.net/publication/235780531\\_multidimensional\\_evaluation\\_of\\_the\\_saint\\_john\\_mental\\_health\\_court\\_a\\_research\\_summary](https://www.researchgate.net/publication/235780531_multidimensional_evaluation_of_the_saint_john_mental_health_court_a_research_summary)

<sup>26</sup> Barron, K., Moore, C., Luther, G., Wormith, J. S. (2015). *Process evaluation of the Saskatoon Mental Health Strategy*, Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. p. 57. [https://cfbsjs.usask.ca/documents/research/research\\_papers/Process%20Evaluation%20of%20the%20Saskatoon%20Mental%20Health%20Strategy.pdf](https://cfbsjs.usask.ca/documents/research/research_papers/Process%20Evaluation%20of%20the%20Saskatoon%20Mental%20Health%20Strategy.pdf)

<sup>27</sup> Hornick, J.P., Kluz, K., Bertrand, L.D. (2011, October). *An Evaluation of Yukon’s Community Wellness Courts.*, Submitted to Yukon Justice. pp. 74-76. [https://www.yukoncourts.ca/sites/default/files/documents/en/cwc\\_final\\_report\\_05-10-11.pdf](https://www.yukoncourts.ca/sites/default/files/documents/en/cwc_final_report_05-10-11.pdf)

<sup>28</sup> Hornick, J.P. (2014, May). *An Evaluation of Yukon’s Community Wellness Court, June 2007 to December 2013*. Submitted to Yukon Justice. pp. 84-86. [https://www.yukoncourts.ca/sites/default/files/documents/en/cwc\\_evaluation\\_june\\_2007\\_to\\_december\\_2013.pdf](https://www.yukoncourts.ca/sites/default/files/documents/en/cwc_evaluation_june_2007_to_december_2013.pdf)

## **ii. Developing evaluation frameworks**

Therapeutic courts need to properly evaluate their programs; however, evaluations can be expensive and time-consuming. Some courts have implemented evaluations in partnership with universities, with financial support provided through university research grants. However, these are typically one-time projects. Federally funded DTCs have faced difficulty doing evaluations due to funding reductions.

Many therapeutic courts across the country lack any dedicated funding and operate with the provision of in-kind services and the dedicated professionalism of team members who are consistently described as “working off the sides of their desks”. The viability of partnerships with various community service agencies is vulnerable to financial constraints and service cuts to those agencies. Service providers seek to measure the results that they achieve from supporting the courts’ initiatives. Therefore, therapeutic courts need to demonstrate their success, through credible evaluations.

Therapeutic courts have operated in Canada for over two decades, but a consistent approach to evaluating them by creating evaluation frameworks is more recent. It was observed that historically, evaluation studies lacked methodological consistency. The following evaluation framework documents for therapeutic courts are publicly available and provide helpful guides for those seeking to evaluate their courts:

- 1) British Columbia (2016) for “specialized courts”;<sup>29</sup>
- 2) Nova Scotia (2019)<sup>30</sup> for “wellness courts”;
- 3) The University of New Brunswick, at the request of the Canadian Council of Chief Judges, released an Evaluation Guide and Template for Problem-Solving Courts.<sup>31</sup> This guide contains practical information as well as appendices that can serve as useful models for adaptation by individual court programs; and
- 4) In Saskatchewan, there is a Therapeutic Courts Oversight and Standards Committee, chaired by a provincial court judge, which proposes to develop an evaluation and education function, subject to available funding.

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<sup>29</sup> British Columbia Ministry of Justice. (2016, March). *Specialized Courts Strategy*. <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-reform-initiatives/specialized-courts-strategy.pdf>

<sup>30</sup> Nova Scotia Provincial Court Wellness Court Programs Steering Committee. (2019, December). *Evaluation Framework*. [https://www.courts.ns.ca/Provincial\\_Court/documents/WCP\\_Evaluation\\_Framework\\_19\\_09.pdf](https://www.courts.ns.ca/Provincial_Court/documents/WCP_Evaluation_Framework_19_09.pdf)

<sup>31</sup> Campbell, M.A., Canales, D., McTague, J. (2016). *Problem Solving Courts: An Evaluation Guide and Template*. Centre for Criminal Justice Studies, University of New Brunswick. [https://courts.ns.ca/Provincial\\_Court/documents/Problem\\_Solving\\_Courts\\_Template\\_17\\_06.pdf](https://courts.ns.ca/Provincial_Court/documents/Problem_Solving_Courts_Template_17_06.pdf)

### **iii. Best practices for evaluations**

To strengthen the performance measurement capacity of specialized courts, and to build an assessment framework, collaborative efforts should take place on a number of fronts, guided by a properly funded and resourced research and evaluation committee for each province or region, that includes justice ministry personnel and the judiciary.<sup>32</sup>

Necessary steps would include:

- 1) Include an evaluation plan as part of the implementation plan of a therapeutic court program,<sup>33</sup> preferably with help from a person trained in program evaluation. (For example, a professional evaluator assisted during the creation of the Calgary, Alberta DTC);
- 2) Include a data recording and tracking function at the implementation stage of a program and maintain it;
- 3) Design a participant exit interview and/or survey, to be done after discharge from program. (Only certain court programs in Canada include intentional exit interviews or surveys);
- 4) Consider seeking partnerships with local academic institutions and qualified researchers who may do evaluations on an in-kind or reduced-fee basis, in exchange for opportunities for student training and access to data for publication purposes. Evaluations that are published and peer-reviewed have enhanced credibility;<sup>34</sup> and
- 5) Evaluations should include recommendations to the court program that build upon identified strengths and work to overcome identified challenges.<sup>35</sup>

The Nova Scotia Wellness Court adopted for its Framework these additional recommendations, that were taken from the University of New Brunswick Guide:

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<sup>32</sup> British Columbia Ministry of Justice. (2016, March). *Specialized Courts Strategy*. p. 21. <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-reform-initiatives/specialized-courts-strategy.pdf>

<sup>33</sup> *Ibid*, p. 13.

Also: Comments by Chief Judge Williams at the Human Services and Justice Coordinating Committee (2021, March 9 and 10) *Specialized Courts Forum*. <https://hsjcc.on.ca/our-work/phsjcc-specialized-courts-forum/>

<sup>34</sup> Campbell, M.A., Canales, D., McTague, J. (2016). *Problem Solving Courts: An Evaluation Guide and Template*. Centre for Criminal Justice Studies, University of New Brunswick. p. 13. [https://courts.ns.ca/Provincial\\_Court/documents/Problem\\_Solving\\_Courts\\_Template\\_17\\_06.pdf](https://courts.ns.ca/Provincial_Court/documents/Problem_Solving_Courts_Template_17_06.pdf)

<sup>35</sup> *Ibid*, p. 21.

- 1) The evaluation should be focused, with realistic and appropriate questions, and completed in a reasonable timeframe;
- 2) Depending upon the stage of the wellness court program's lifecycle (pre-implementation, recently implemented, or well established) a different form of evaluation design and methodology will be appropriate. Either process or outcome evaluations, or both, may be indicated;
- 3) The evaluation methods should include both quantitative and qualitative methods. An evaluation which draws from both methods (mixed methods) may offset weaknesses of one method over the other, or to understand quantitative results in more detail/context or provide diversity of views; and
- 4) The evaluation tools employed should be culturally relevant and methods should be designed to ensure cultural safety.

#### ***iv. Challenges: Data collection and funding for evaluations***

Effective evaluations need data from sources external to the court programs they are evaluating. For example, hospitalizations, utilization of police resources, and reduced incidence of property crimes are potentially important indicators. Also, data recorded and maintained within court or prosecution information systems will be subject to distinct confidentiality requirements, from that recorded in health care systems. British Columbia and Nova Scotia are two provinces working to address these issues.

The unfunded nature of most of the programs gave rise to difficulties in recording program data. Many programs do not have designated coordinators or managers who could record information as part of their function,<sup>36</sup> and it often fell to key members of the court team (*i.e.* judges, their assistants, or Crown counsel) to record pertinent file information. The type and extent of information recorded and tracked may depend upon the computer skills and workload of the particular team member who takes on this function. For example, the ability to properly evaluate a local Community Support Court in Ontario was due in large part to the record-keeping work of the Crown counsel in charge of the program, who took the initiative to manually track data.<sup>37</sup>

In this regard, a recently published (2020) study of the Mental Health Strategy (MHS) Court in Saskatoon included the following recommendation about data tracking:

**Recommendation 1.** The MHS Court should strive to record data about its functioning and participants, including information such as demographics

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<sup>36</sup> Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis*. Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. p.8. <https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

<sup>37</sup> Nguyen, N., (2018, April). *Peterborough Community Support Court: An Evaluation of Recidivism*. Trent University. p. 26. <https://hsjcc.on.ca/wp-content/uploads/Peterborough-Community-Support-Court-An-Evaluation-of-Recidivism-2018-04-30.pdf>



(e.g., gender, race/ethnicity), risk screen data, referrals to partner agencies, and services provided via the MHS Court network to more fully explore its functioning. Data tracking is also required for each Court hearing and service; at a minimum, data tracking is required listing the date of each intervention, type of intervention and outcome of the intervention (e.g., positive, neutral or negative; or, success vs. failure). Standardized reporting and more partnerships/information sharing between agencies would facilitate future (internal and external) evaluations of the MHS Court and potentially allow for better services for clients.<sup>38</sup>

The Saskatoon evaluation also noted that the absence of designated funding for Canadian diversion courts in general was an impediment to the implementation of several of their recommendations.

**v. A persistent question: How to measure “success?”**

How to measure success was a constant topic of discussion during the interviews. In formal studies, “success” is examined in terms of: “outcome” (are we getting the right results?) and process (are we doing it the right way?). In describing challenges associated with measurement and evaluation, interviewees addressed various indicators from the “outcome” perspective, as set out further below.

**a. Recidivism/harm reduction**

One of the most common themes in measuring outcomes of therapeutic court programs is whether they are effective in reducing crime, both actual incidents of criminal behaviour and their severity. Policy makers often want to know whether these courts “reduce recidivism”, but therapeutic court team members caution that it is more realistic to work toward *harm reduction* as an outcome.

A review of the evaluations of Canadian therapeutic courts reveals that the term “recidivism” is applied and understood differently. For example:

- 1) The evaluation of the federal DTCFP defines the term as “a new criminal conviction after completion or participation in the DTC program”;<sup>39</sup>
- 2) Some jurisdictions (i.e. Alberta) understand recidivism to include new criminal charges in addition to convictions;<sup>40</sup> and

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<sup>38</sup> Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis*. Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. p. 58.

<https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

<sup>39</sup> Department of Justice Canada. Evaluation Division Corporate Services Branch. (2015). *Drug Treatment Court Funding Evaluation – Final Report*. p. 18.

<https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2015/dtcfp-pfttt/dtcfp-pfttt.pdf>

<sup>40</sup> Hoffart, I. Synergy Research Group. (2020, July). *Calgary Drug Treatment Court: 2019 Evaluation Report*, submitted to Calgary Drug Court Society. p. 26.

- 3) Others (*i.e.* Saskatchewan) include police arrests in the analysis of recidivism data.<sup>41</sup>

Quantitative “outcome” evaluations that have sought to measure recidivism (however defined) have generally revealed encouraging results from therapeutic court involvement. During the interviews, it was revealed that one still-pending evaluation (that was funded) showed that out of 57 graduates of a Quebec DTC program, none had re-offended.

### **b. Generating monetary savings**

Several interviewees spoke about the monetary savings for the conventional court system that therapeutic court programs generate. Therapeutic courts are not trial courts, as charges are either withdrawn, stayed, or resolved by guilty pleas. Resolving cases this way frees up resources for those cases that go to trial through the conventional process.

The social costs of crime are also reduced if participants in therapeutic court programs do not re-offend or re-offend less frequently or seriously (*i.e.* crimes to obtain money to support substance use, policing/prosecution costs, jail costs). Several Canadian studies quantified this indicator of success and concluded that therapeutic courts generate financial savings that substantially outweigh the costs of providing service to the participants.<sup>42</sup>

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<http://calgarydrugtreatmentcourt.org/wp-content/uploads/2020/09/Calgary-Drug-Treatment-Court-2019-Evaluation-July-2020.pdf>

<sup>41</sup> Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis*. Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. pp.37-39.

<https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

<sup>42</sup> Hoffart, I. Synergy Research Group. (2020, July). *Calgary Drug Treatment Court: 2019 Evaluation Report*, submitted to Calgary Drug Court Society. pp. 27-28.

<http://calgarydrugtreatmentcourt.org/wp-content/uploads/2020/09/Calgary-Drug-Treatment-Court-2019-Evaluation-July-2020.pdf>

Campbell, M., Canales, D., Wei, R., Moser, A., Joshi, V. (2011, September). *Multidimensional Evaluation of the Saint John Mental Health Court: A Research Summary*. Centre for Criminal Justice Studies, University of New Brunswick-Saint John. p. 7 (PDF version). [https://www.researchgate.net/publication/235780531\\_multi\\_dimensional\\_evaluation\\_of\\_the\\_saint\\_john\\_mental\\_health\\_court\\_a\\_research\\_summary](https://www.researchgate.net/publication/235780531_multi_dimensional_evaluation_of_the_saint_john_mental_health_court_a_research_summary)

Rideauwood Addiction and Family Services. (2009, January). *Outcome Evaluation of the Ottawa Drug Treatment Court Pilot Project*. pp. 30-32. <https://cadtc.org/wp-content/uploads/2015/02/2008-DTCO-Evaluation-Final.pdf>

Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court:*



### **c. Improving mental health**

Measuring changes in a person's mental health is challenging. One quantitative research approach is to consider post-program changes in hospital admissions and emergency room visits. The researchers who conducted an evaluation of Saskatoon's MHS Court used this data to conclude that reduced hospital admissions suggested an improvement in participants' mental health. They also observed that fewer Emergency Room visits in the 1-year post-program interval suggested that participation in the MHS Court helped reduce participants' mental health challenges that could lead to urgent visits, and also reduced non-urgent visits that put strain on the health care system.<sup>43</sup>

### **d. Reducing substance use**

Reducing participants' drug use during and after the program is the key outcome for the DTCFP.<sup>44</sup> At the same time, most team members interviewed reported that complete abstinence is not a realistic goal. Success is achieved by managing substance use, by reducing consumption, or changing drug use to less harmful substances.

Drug use by participants while they are in the program is measured through the use of mandatory urine drug tests (UDT). The DTCFP evaluation revealed that the DTC program had a positive effect on the participants' UDTs, with fewer positive (failed) and more negative (passed) UDTs regardless of the participants' final status (graduate or non-completer). Since DTCs do not track drug use after program completion, the measurement of post-program reduction in substance use depends upon other sources of information, including surveys and self-reporting.

### **e. Accessing and utilizing community services and supports**

Gaining connection to a variety of community services and supports is a measure of success, according to both evaluations and interviews. Therapeutic court programs connect people to a variety of services that respond to common participant treatment needs (*i.e.* addictions treatment, mental health services), broader social needs (*i.e.* housing, education, health, employment), and culturally specific supports where these services are available (*i.e.* hunting on the land for northern indigenous communities). Recording and tracking such information through systems that can later retrieve the

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*Outcome and cost analysis.* Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK. pp. 55-56, 62-63.

<https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

<sup>43</sup> Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis.* Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK.

<https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

<sup>44</sup> Department of Justice Canada. Evaluation Division Corporate Services Branch. (2015). *Drug Treatment Court Funding Evaluation – Final Report.* p. 60.

<https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2015/dtcfp-pfttt/dtcfp-pfttt.pdf>

information is difficult, as information systems are not typically designed to track this information.<sup>45</sup>

**f. *Enhancing social stability/quality of life***

Improvements to participants' quality of life and stability in their communities (sometimes referred to as "meaningful engagement") were considered to be significant measures of success by interviewees, but the ability to record, track, measure, and quantify changes in these areas for evaluation purposes is perceived to be limited or non-existent. As one Crown counsel mentioned during an interview, ". . . graduation isn't the only indicator of success. We come back to individuals who haven't graduated from our [DTC] program, but we haven't seen them back in the system. Or we get updates they've reconnected with family. From a participant perspective, we still deem that a success, but it's not quantifiable."

Safe and secure housing, one of the key social determinants of health, is a critical component of stability for DTC and MHC participants. Although quantitative data on improvements in participants' social stability (family, work, school, or housing status) during their time in the program is not readily available for evaluations (as it is typically not captured in computerized data systems), there is qualitative evidence from evaluations that, when appropriate housing is available, therapeutic courts have improved participants' stability. Therapeutic court teams across Canada would like to see these indicia of social stability captured for the purpose of evaluations.<sup>46</sup>

**g. *Getting participant feedback***

Feedback from the participants, such as through exit interviews, is valuable. For example, a University of Manitoba study, based upon a small sample of 20 participants from the Winnipeg MHC, provided helpful insight into the question of whether MHCs comport with procedural fairness principles and how they might modify their processes to ensure that participants are truly entering programs voluntarily and pleading guilty without being coerced.<sup>47</sup>

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<sup>45</sup> *Ibid.*, p. 63.

<sup>46</sup> Department of Justice Canada. Evaluation Division Corporate Services Branch. (2015). *Drug Treatment Court Funding Evaluation – Final Report*. p. 64.  
<https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2015/dtcfp-pfttt/dtcfp-pfttt.pdf>

<sup>47</sup> Watts, J., Weinrath, M. Manitoba's Mental Health Court: A Consumer Perspective, *2017 40-3 Manitoba Law Journal* 225, 2017 CanLIIDocs 371. pp. 241-243.  
<https://canlii.ca/t/2c51>

## RECOMMENDATIONS

The following are the key recommendations that have emerged from this jurisdictional scan.

### *i. Authorize the sharing of this report*

This report should be shared with the therapeutic court programs and their respective team members who were consulted/interviewed to prepare this report. This would serve as an appropriate acknowledgement of their contributions and would provide them with a central information source of references, evaluation studies, and other information that may be of benefit to each program going forward.

### *ii. National, provincial and regional advisory committees*

An umbrella advisory committee for a province or region with multiple therapeutic courts can provide support and the coordination of resources for all therapeutic courts in the region. It can also assist with the drafting of policies, guidelines, and templates. These should be “guiding documents” only that recognize the need to be dynamic, flexible, and responsive to each community’s available resources, demographics, and changes in treatment practices.

A national committee can foster the sharing of information and practices and enhance the knowledge base of all therapeutic court teams. It could also support the expansion and enhancement of these courts. For example, for DTCs there is the Canadian Association of Drug Treatment Professionals (CADTP).<sup>48</sup> There is nothing similar for other therapeutic courts at the national level.

There is a role for the federal government to fund an annual conference on therapeutic courts. This will foster development, networking, and support cross-training.

Additionally, the establishment of a national “List Serv” or restricted access website, that can be accessed by members of therapeutic court teams across Canada, could facilitate professional information-sharing relationships with a view to creating and sharing best practices and program evaluation recommendations on an ongoing basis.

### *iii. Integrated courts*

There are many good examples of therapeutic courts that have integrated their drug treatment and mental health programs so that participants are able to access the full range of services they may need. (It is rare that someone with a substance abuse problem does not also have mental health challenges.) This is especially helpful in smaller jurisdictions where the numbers may not support a more specialized approach to each court. Integrated courts can maintain separate streams for court appearances but take advantage of the coordination of treatment programs and shared treatment teams. These courts are often described as “concurrent disorders” courts and called

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<sup>48</sup> <https://cadtc.org/>

“wellness” or “community treatment/support courts” and work on a harm reduction model.

***iv. Dedicated and consistent team members***

There appears to be no debate that having dedicated, consistent and committed legal and treatment team members is critical to the success of these programs.

***v. Adequate and predictable funding***

All therapeutic courts identified the need for adequate and predictable funding.<sup>49</sup> Stable funding pays for program managers and staff and enables these programs to access the support services they need; it also provides stability for the participants.

***vi. Supportive and stable housing***

Across Canada, the lack of supportive and stable housing that is accessible to therapeutic program participants was considered one of the greatest barriers to success. It is recognized that as one of the social determinants of health, the provision of safe and secure housing is a challenge to be addressed by governments at the municipal, provincial/territorial, and federal levels.

It is recommended that therapeutic courts have access to

- treatment beds (for men and women);
- transitional housing; and
- supportive housing (with staff on site).

***vii. Use of intake screening tools to assess risk/needs***

Evidence-based and trauma-informed practices in the development of individualized care and support plans for therapeutic court participants are crucial. A plan should include the use of the Risk-Needs-Responsivity approach in this regard. (One example is the Level of Service Inventory-Revised [LSI-R], Level of Service/Case Management Inventory [LS/CMI] being used in the Dartmouth Wellness Court. This tool also was recommended in the 2020 report on the evaluation of the Saskatoon Mental Health Strategy Court.)

***viii. Information protocols***

Therapeutic court teams should have ready access to a participant’s current medical information, with the consent of the participant, as occurs in Nova Scotia.

***ix. Complainants***

Whenever appropriate, the input of the complainant should be sought, even where the participant is not being sentenced. For example, Nova Scotia uses a “Victim’s Voice

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<sup>49</sup> The federal government announced on April 20, 2021 in their 2021 budget that they are proposing to provide \$40.4 million over five years, beginning in 2021-22, and \$10 million ongoing, to support up to 25 additional drug treatment courts. This funding will provide eligible participants with access to a comprehensive program that includes substance use treatment and social services support.

Statement.” The complainant’s perspective is important when determining diversion and fosters a restorative approach.

***x. Improving access for Indigenous and other racialized populations***

Therapeutic courts need to carefully consider their underlying assumptions when evaluating referrals for Indigenous and other racialized participants. This recommendation was made in the Report on Racialized Populations.<sup>50</sup>

***xi. Publicly accessible information***

Each province or region should have an online presence for its therapeutic courts that includes the following:

- 1) A brief description, including the location, sitting days/hours, purpose and objectives of the court;
- 2) Policies and procedures/best practices, including eligibility criteria;
- 3) Copies of any evaluations/studies conducted in relation to the courts in that jurisdiction;
- 4) Contact information for each court team (email or telephone); and
- 5) Images that depict what the inside of the court looks and feels like. (The Nova Scotia website, with a link to a video clip of a typical day in their Wellness Court, is one good example.)

***xii. Evaluations and data***

An evaluation framework and regular evaluations are critical to understanding what is working, what may need adjusting, and to satisfy funding organizations that money has been well spent. There are a range of evaluations that have been done that can serve as examples, and the University of New Brunswick prepared a very helpful guide on how to evaluate problem solving courts.

Evaluations should be both quantitative and qualitative. To conduct an effective evaluation three things are essential:

- 1) resources dedicated to the collection of adequate data;
- 2) feedback from participants and team members; and
- 3) professional evaluators (either directly funded or through a partnership with a university).

The collection of meaningful data is easiest to achieve if it is built into the design of a therapeutic court. Data should not be limited to recidivism (however that is defined) and should be broad enough to include the social determinants of health (such as the

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<sup>50</sup> The Community of Interest for Racialized Populations and Mental Health and Addictions. (2019, May). *Racialized Populations and Mental Health Court Diversion*. <https://ontario.cmha.ca/wp-content/uploads/2019/05/Racialized-Populations-and-MH-Court-Diversion-May-2019.pdf>

utilization of community supports, stable housing, stable health status, and substance use).

## SOURCE MATERIALS

The following is a list of the materials that were gathered in the course of this project, which include manuals, templates, evaluations, academic studies and media articles. There is a vast repository of academic studies and articles on the subject of therapeutic courts, a great deal of which are not included here, but which are often referenced in the numerous academic articles and studies that are included here. Some of the materials listed here are not available online, but links have been provided where available.

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## APPENDIX ALBERTA

In 2016 the province of Alberta had a population of 4,067,175, including approximately 259,000 indigenous peoples and 845,000 immigrants. The land area is approximately 640,330 square kilometers, with a reported population density of 6.4 people per square kilometre. The two largest cities are Edmonton (pop. 1,321,426) and Calgary (pop. 1,392,609.)<sup>51</sup>

Interviews were conducted with a judge and three federal prosecutors working in the DTCs. There was no opportunity to interview anyone from the MHC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Calgary DTC</b>	2007	25% Fed. 75% Prov. (Prov. provides Edmonton & Calgary \$500,000 total)	Weekly	40 average  Cap at 40	<ul style="list-style-type: none"> <li>• Judges (D)</li> <li>• Prov. &amp; Fed. Crowns (D)</li> <li>• Duty counsel</li> <li>• Probation</li> <li>• Police liaison</li> <li>• Program Manager</li> <li>• Case Managers/Program Facilitators</li> <li>• Clinical Lead/Psychologist</li> </ul>	Yes, most recently in 2019
<b>Edmonton DTC</b>	2005	Same as Calgary DTC	Twice weekly	40 average  Cap at 40	<ul style="list-style-type: none"> <li>• Prov. &amp; Fed. Crowns (D)</li> <li>• Duty Counsel</li> <li>• Treatment team which includes case managers, mentors and peer supports</li> <li>• Probation</li> <li>• Police liaison</li> </ul>	Yes, most recently in 2010
<b>Edmonton MHC</b>	2018	In-kind only	Three days per week	No cap		Yes, in 2020

<sup>51</sup> [StatsCan 2016 Census - Alberta](#); [StatsCan 2016 Census - Edmonton](#); [StatsCan Census 2016 - Calgary](#)

***Additional Courts in Jurisdiction: Lethbridge DTC, Medicine Hat DTC***

***Note: The legend under column “Team Members” is as follows: (D) – Dedicated***

## **B. Number of Therapeutic Courts**

***DTCs:*** There are currently four locations with a Drug Treatment Court: Calgary (established 2007), Edmonton (established 2005), Medicine Hat and Lethbridge (both established 2020). Three more are scheduled to open within the next 12 months in Red Deer, Grand Prairie and Fort McMurray. Members of the Calgary DTC and the Edmonton DTC were interviewed.

***MHC:*** There is one Mental Health Court located in Edmonton that opened in April 2018.

## **C. Funding Model**

***DTCs:*** Both the federal and provincial governments have provided funding. The federal government provides \$500,000 for DTCs in Alberta. In October 2019, the provincial government announced \$20 million over four years to support the expansion of DTCs. Funding is stable until March 2023.

The Edmonton DTC is operated in partnership with the John Howard Society. The Calgary DTC Society was granted full Charity Status by Revenue Canada. As a result, both engage in fund-raising activities to augment existing funding.

The EDTC mentoring team is funded separately through private donors.

***MHC:*** There is no dedicated funding. The Court relies on a redistribution of existing resources and in-kind services from partner agencies. Alberta Health Services provides the services of a psychiatrist and a nurse who attend the Court. There is no community support program attached to the Court.

## **D. Distinctive Features**

***Common to both Calgary and Edmonton DTCs:***

***Program Manager:*** There is a Director in the Edmonton DTC and a CEO of the Calgary DTC Society. The Edmonton Director is contracted through the Edmonton John Howard Society to act as a liaison with Alberta Justice and the Solicitor General to deliver the provincial DTC expansion training and development for all new DTCs.

***Dedicated Staffing:*** The Edmonton DTC consists of four judges, four federal Crowns, three provincial Crowns, two duty counsel, a probation officer, and a dedicated police officer. The community component of the team is operated by the Edmonton John Howard Society and consists of an executive director, manager, two case managers as well as an Alberta Works social worker who is an “in kind” service provider to the multi-disciplinary team. There is also a mentorship team that consists of four past graduates: two are coaches and two are peer supports.



The Calgary DTC has three dedicated judges, a federal Crown, a provincial Crown, two duty counsel, a probation officer, and a dedicated police officer. The treatment component has a Manager, 3 Case Managers/Program Facilitators, and a Clinical lead.

**Separate Drug Testers:** Each Court has two drug testers who consistently do the drug screens. These drug testers have a different relationship with the participants, allowing case managers to maintain a therapeutic alliance. Case managers and mentors also do drug screening.

**Immigration Advice:** A requirement was recently introduced that participants sign a waiver acknowledging that they have received advice regarding immigration consequences when they enter a guilty plea. The Calgary DTC police officer regularly consults with CBSA representatives.

**Eligibility Criteria:** The Crown screening position must be for jail between a minimum of 12 months and a maximum of 5 years. The Calgary DTC accepts participants charged with crimes of violence if it is believed that there is no risk to staff security. "It's just the individual over the section number that we are interested in." (For example, cases involving the possession of a firearm and robbery of a bank have been approved.)

**Residential Treatment:** Residential Treatment is provided based on a clinical assessment of the individual's needs. The vast majority of participants attend a period of residential addictions treatment, as it typically is recommended by the clinicians due to the level of risk and needs of the individual, and/or the intensity of their active addiction at the time of screening. However, it isn't a requirement for all participants. If it is not possible to access timely residential addictions treatment, alternative arrangements are made, such as providing an intensive day treatment program while the participant resides in supportive housing.

Once a participant is accepted to the treatment facility, they are given bail and taken directly to the facility. The Court has developed partnerships with residential treatment facilities, and although there is residential treatment available for women and children, the Court finds it difficult to find beds for women in a timely fashion. Edmonton DTC does not require its participants go directly to a residential treatment facility in every case.

**After-Care Programming:** The Edmonton DTC has after-care programming through the Edmonton John Howard Society that provides graduates, and participants who did not graduate, with supports, including psychological services. Family members can also access support through the Edmonton DTC team. This is more formal in the Calgary DTC with graduates required to attend after-care programming for 12 months as part of a probation order. The probation order consists of a curfew, three meetings per week and probation reviews before the Calgary DTC.

**Peer Mentors:** The Edmonton DTC has four staff who are former DTC graduates: two as coaches and two as peer supports. They are considered the

most influential in keeping participants on task and buying into the program. The Calgary DTC does not have a formal mentoring program, but it can connect participants to graduates.

**Calgary DTC:**

**Early-Intervention Stream:** This Court has an early-intervention stream that focuses on participants that have an intensive addiction but also have lower needs. These individuals would not benefit from being exposed to a higher criminogenic population as they have not been entrenched in criminal lifestyle, are typically facing their first set of criminal charges, and have significant protective factors (i.e. able to sustain housing, and/or employment, some pro-social connections). They appear on a separate docket and at a separate time.

**Data Collection and Evaluation:** There is a career evaluator who has been working with the Calgary DTC since its inception. As a result, data is collected and analyzed on a regular basis. The Calgary DTC is in the process of customizing a new case management system. They have been using the SPSS (a program that assists with statistics). Data including demographics and services are tracked and evaluated.

**Edmonton MHC:**

**Information Sharing:** With a client's consent, defence counsel can obtain health-related information from Alberta Health staff in the MHC and share pertinent facts with the Court, including diagnoses, compliance with medical care and treatment. Counsel and the Court use this information to craft bail and probation orders.

Judges in the MHC have an enhanced information sharing calendar that allows them to make notes on matters each day that are shared among the judges. This allows the presiding judge to have meaningful exchanges with MHC participants.

**Access to Psychiatric Services:** The MHC has access to a rotation of psychiatrists who can provide fitness assessments and treatment as required by a treatment order.

**E. Evaluations**

**Calgary DTC:** The Calgary DTC Society conducted the most recent evaluation in 2019, which is the sixth evaluation since its inception. It was favourable, noting that "the program has had a positive impact on several pro-social lifestyle indicators including housing and employment. All eligible Calgary DTC participants had housing upon their graduation, about 20% in stable housing in the community and the rest in residences attached to the treatment centers. Eighty percent of the eligible participants were employed at the time of graduation or discharge and almost all of the remaining participants were employed at least once while in program...Participants describe the program as life changing, its services as effective and the Calgary DTC staff and court team as supportive, caring and helpful."

Hoffart, I. Synergy Research Group. (2020, July). *Calgary Drug Treatment Court: 2019 Evaluation Report*, submitted to Calgary Drug Court Society.

<http://calgarydrugtreatmentcourt.org/wp-content/uploads/2020/09/Calgary-Drug-Treatment-Court-2019-Evaluation-July-2020.pdf>

**Edmonton DTC:** The Edmonton DTC has been the subject of numerous evaluations, including by the University of Alberta, School of Public Health. Their 2010 Evaluation noted that the Edmonton DTC “places an additional emphasis on the achievement of reintegration of offenders into the community. Edmonton DTC participants are also assisted in improving other dimensions of their life, including their housing, health, and relationships, and are required to give back to the community through volunteer work or community involvement.”

Wild, C., *et al.* (2010, November). *Evaluation of the Edmonton Drug Treatment and Community Restoration Court: On-Going Evaluation and Monitoring*, The Addiction and Mental Health Research Laboratory, School of Public Health, University of Alberta., p.5

**Edmonton MHC:** Alberta Health Services and Alberta Justice and Solicitor General funded an evaluation team to conduct a number of interviews and analyze court data collected between April 2018 and March 2020. The qualitative report is an implementation and process evaluation and includes the following stakeholder feedback:

- Some of the stakeholders interviewed by the evaluation team indicated that the speed of the implementation of the Court compromised the clarity of the objectives and procedures.
- Some talked about how the existence of MHC is helping to address the stigma around mental health in the justice system, which “sends a strong message to everyone involved in the criminal justice system that these people are important. These people have a voice. They’re not just to be a forgotten part of society.”
- Many lawyers and other justice employees who are not regular MHC staff see the courtroom operating differently and “bring what [they] learn in MHC to [their] regular courts” or other areas of practice.

Edmonton Mental Health Court: Interim Evaluation Report, June 2020

## **F. Publicly accessible Information:**

Publicly accessible information about these Courts is available on these websites:

MHC & DTC: [https://albertacourts.ca/pc/about-the-court/innovation/special-courts-\(domestic-violence-drug-court-indigenous\)](https://albertacourts.ca/pc/about-the-court/innovation/special-courts-(domestic-violence-drug-court-indigenous))

Calgary DTC: <http://calgarydrugtreatmentcourt.org/>

Edmonton DTC (via John Howard): <https://johnhoward.org/programs-services/drug-treatment-court-services/>

Edmonton DTC (via "Inform Alberta):

<https://informalberta.ca/public/service/serviceProfileStyled.do?serviceQueryId=1052807>

Edmonton DTC and Community Restoration Court:

<https://www.lawcentralalberta.ca/en/edmonton-drug-treatment-community-restoration-court>

Lethbridge DTC:

[https://www.mcmansouth.ca/Drug\\_Treatment\\_Court\\_Lethbridge.html](https://www.mcmansouth.ca/Drug_Treatment_Court_Lethbridge.html)

Edmonton MHC: <https://albertacourts.ca/pc/areas-of-law/criminal/mental-health-court>

211Alberta: <https://ab.211.ca/record/1081000/>

Alberta's 2013 Submissions about DTCs:

<http://calgarydrugtreatmentcourt.org/wp-content/uploads/2015/06/AlbertaDTCs-An-Essential-Part-of-Albertas-Justice-Strategy.pdf>

Lam, P. (2020, February 24), "How Edmonton's drug court program changed the lives of two former drug users", *CBC News*.

<https://www.cbc.ca/news/canada/edmonton/edmonton-drug-court-program-participants-1.5472974>

## APPENDIX BRITISH COLUMBIA

In 2016, the population of British Columbia was 4,648,055, with approximately 1,200,000 immigrants and 270,000 Indigenous peoples. The land area is 922,503.01 square kilometres with a reported population density of 5.0 people per square kilometre. The largest cities are Vancouver (pop. 2,400,000) and Victoria (pop. 367,000).<sup>52</sup>

Interviews were conducted with a judge from the DTC, five Crowns covering all courts, defence counsel for the DTC and a director of therapeutic programs for the Vancouver Downtown Community Court (“DCC”) and the DTC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Vancouver Downtown CC</b>	2008	Prov. funding	Daily		<ul style="list-style-type: none"> <li>• Judge</li> <li>• Crown</li> <li>• Defence counsel</li> <li>• Coordinator</li> <li>• Two Case Management Teams</li> <li>• Probation</li> <li>• Police Liaison</li> <li>• Registered Nurse, Licensed Practical Nurse, Occupational Therapist, Social Worker, Income Assistance Workers, BC Housing worker</li> </ul>	Yes, 2013 in partnership with SFU
<b>Vancouver Downtown DTC</b>	2001	Fed.: \$650,000 Prov.: over 2 mil.	Twice weekly	60-80 per year	<ul style="list-style-type: none"> <li>• Director</li> <li>• Clinical Manager</li> <li>• Case Manager, Counsellor, Nurse, GP, Psychologist, Employment and Assistance Worker, Peer Support Coordinator</li> <li>• Probation</li> </ul>	Yes, in 2012, 2014

<sup>52</sup> [Statistics Canada, 2016 Census – British Columbia](#)

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Victoria Integrated Court</b>	2010	In kind only	Half day weekly	90-120 per year	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crowns (D)</li> <li>• Probation</li> <li>• Psychiatrists, Social Workers, Nurses</li> </ul>	No, but have done 3 positive reports on operations/ progress

*Note: The legend under column "Team Members" is as follows: (D) – Dedicated*

## **B. Number of Therapeutic Courts**

British Columbia has following three therapeutic courts that address mental health and addictions, with two in Vancouver and one in Victoria:

***Vancouver DCC:*** This court was established in 2010 and is a "jurisdictional court"; anyone who offends in the court's geographic jurisdiction and does not elect the right to trial can attend the DCC. Health, income assistance and housing staff, victim services and a Native court worker are located together in the new courthouse, along with Crown counsel, defence counsel, a police officer and probation officers (14 agencies in total). The DCC operates on the principle that collaborative case management can help offenders make long-term changes to their behaviour. Offenders are expected to be sentenced promptly and serve their sentences immediately after appearing in court.

***Vancouver DTC:*** This court was established in 2008, and only offenders who commit crimes because of an addiction are eligible for the drug treatment court program.

***Victoria Integrated Court ("VIC"):*** This court was founded in 2010 and is a concurrent disorders court that was created to address an increase in street crime in the downtown core caused by individuals with unstable housing who abuse substances and/or are mentally disordered. It is not a trial or jurisdictional court. Participants must apply to attend.

## **C. Funding Model**

***Vancouver DCC:*** This court is funded as part of the provincial court. It required substantial resources and is funded with a budget allocation. The DCC's 2015 budget was \$2.4 million from the BC Ministry of Justice and the Provincial Court of BC. The independent partner agencies are self-funded and the partner agencies' investments in the DCC are estimated at \$2.6 million annually. The Ministry of Justice made a capital investment of \$6.2 million to renovate the DCC building. The Insurance Corporation of BC used to fund beds and recovery houses for participants, but that funding has ceased.

***Vancouver DTC:*** This court is funded federally and provincially. Federal funding has not increased since the DTC first opened in 2008 and was reduced by \$50,000 in 2013-2014 to \$650,000. Corrections BC provides the balance of the \$2.1 million budget. Over the last five years the federal government has committed to not changing the funding.

**VIC:** This court was established as part of the provincial court without any new funding and relies on in-kind services from partner agencies.

#### **D. Distinctive Features**

##### ***Common to all or some of the three courts:***

***Provincial strategy for specialised courts:*** BC has a provincial strategy for specialized courts that establishes a structured approach for current and future specialized courts that is rooted in validated research, is fiscally responsible, and engages the judiciary, justice system partners and other interested parties. This strategy is limited to specialized courts that include a therapeutic component as opposed to judicial initiatives such as docket courts. The strategy sets out three actions:

1. Create a joint governance structure to enable shared decision-making on specialized courts;
2. Create a needs assessment and business case process to assess future proposals for specialized courts which require significant resources or significantly impact government policies and processes; and
3. Develop an assessment framework for existing specialized courts.

***Program Manager:*** There is a Director of Integrated Programs for the Vancouver DCC and DTC. The Director oversees the local managers who provide oversight in both courts.

***Regular training:*** The DTC has an annual day-long training session where each stakeholder organizes a speaker. Judges and Crowns can attend DTC training in the US and also have annual training. The DCC used to have regular annual training sessions. It also has weekly staff check-ins and the DCC steering committee meets about five times a year.

***Dedicated staffing:*** The DCC has a dedicated roster of three judges (one lead and two secondary) who are committed to the court until they retire. Duty counsel who works with out-of-custody participants has been with the court for 12 years. Crowns usually stay for three years. The VIC and the DTC have a dedicated primary judge and dedicated Crown counsel. The Crown rotates through on an annual basis. The VIC has on occasion seen greater numbers of judges rotating through although the current judge has been there since 2016.

##### ***Vancouver DTC:***

***Harm reduction model:*** The DTC has evolved to a “harm reduction” model with the long-term goal of abstinence, recognizing that abstinence is not always achievable.

***Dedicated treatment centre:*** The DTC has a dedicated treatment centre with dedicated staff for out-patient services. The centre also does urine screens.

**Residential treatment:** While the DTC program is non-residential, it informally supports in-patient treatment programs and houses people in recovery centres, as needed. A new hospital is being built that will have an attached addiction centre.

**Post-program supports:** There are no post-program supports other than the use of “non-reporting” six-month probation orders with an invitation to come back and see the team and the judge. There is no criminal justice response if the participant does not come back.

**Funding for data:** The DTC uses \$50,000 from their federal funding for data collection and management.

### **Vancouver DCC**

**Integrated Court:** The DCC is an integrated court which integrates justice, health, and social services, where addiction and mental health concerns are addressed together. Depending on their needs the participant is connected with the appropriate team.

**Executive Board:** The DCC Executive Board is chaired by the Assistant Deputy Minister of the Justice Services Branch, Ministry of Justice. Other members include an Associate Chief Judge for the Provincial Court, Assistant Deputy Ministers of the Court Services Branch and of the Corrections Branch, the Assistant Deputy Attorney General of the Criminal Justice Branch, and a Vice-President of Vancouver Coastal Health.

**Case Management Teams:** An offender may be assigned to a case management team for an in-depth assessment and assertive case management. (Other offenders may be managed by a probation officer.) Individualized, solution-driven plans are developed to address offenders’ justice and social circumstances and reduce the risks for reoffending.

**In-house defence lawyer:** In addition to a roster of duty counsel, an in-house defence lawyer is available to all out-of-custody participants.

**Post-sentence programs:** Someone can plead guilty in the DCC and be put on probation and then connected with one of the programs; their file is then managed through probation services.

**Medical services:** The DCC has an outreach team which includes a forensic nurse, a probation officer and two psychiatrists who will visit and treat people in the alleys of Vancouver. Doctors will visit the cells to provide treatment.

**Partner agencies:** The DCC has a memo of understanding with 14 provincial agencies. The Elizabeth Fry Society is located on site.

### **VIC:**

**Eligibility:** There is no offence that is strictly ineligible in this court. To be eligible the participant must either be already supported by an Assertive Community



Treatment Team (an “ACT team”) or apply and be accepted by an ACT team to be supported through the court process.

**Treatment teams:** The VIC has a total of seven teams: four dedicated ACT teams who are supported by local agencies, one Community Living Response Team, one forensic team and two Community Outreach Teams. These teams work with individuals to help them successfully live in the community. The ACT teams include: a team leader who is a registered nurse or social worker; a psychiatrist; three nurses (including registered nurses and a psychiatric nurse); a nurse practitioner; an outreach worker from the Ministry of Social Development; social program officers (social workers or counselors); an employment and income assistance worker; and a nurse practitioner. Some of the other teams also include a police constable; an employment and income assistance case worker from the Ministry of Social Development; and a probation officer from the Ministry of Public Safety and Solicitor General. The teams also receive clerical support.

**Monitoring of community dispositions:** The VIC deals with offenders at all stages of their court proceedings, including bail hearings, sentencings and community dispositions. Two examples of orders that are monitored are Probation Orders and “Rogers Orders.”<sup>53</sup> Rogers Orders require the participant and their treating physician to notify their probation officer when the participant is no longer following the prescribed treatment. In those circumstances the participant will be required to return to VIC for monitoring. The participant cannot be compelled to accept any treatment terms without consent. Compliance with urine screening when ordered is mandatory, failing which the participant must return to court for monitoring.

**Monitoring orders made by other courts:** Participants also come to VIC via the new rehabilitation facility called New Roads, which receives people who are referred by other courts from other jurisdictions. The court referrals to New Roads are then monitored by VIC.

**Harm reduction model:** It is understood that relapses by abusing alcohol and/or use of illegal substances will occur. Although abstinence would be the ideal, it should not be the only measure of success. The expectation is the participant will not commit further substantive criminal offences or engage in activity that harms the community (such as using drugs in public).

**Incentives:** Incentives are limited to active acknowledgment when someone is doing well; sometimes the Crown will decide to stay the charge. There are no physical incentives like coffee cards, etc.

**Residential Treatment Facility:** New Roads was established in 2019 and is only for men. There are no similar facilities for women or youth. It is funded by the Ministry of Health and takes referrals from VIC.

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<sup>53</sup> *R. v. Rogers* (1990), 61 C.C.C. (3d) 481 (BCCA)

**Post-Program Support:** Support does not end when court involvement ends. Participants who successfully complete the community supervision portion of their sentence will continue to receive care in the community from the teams as long as their health requires it; this does not require an existing court order.

## E. Evaluations

The BC therapeutic courts have been evaluated repeatedly and extensively.

**Vancouver DTC:** Two evaluations were completed in 2012 and 2014. The 2012 evaluation measured recidivism rates and found that participants in the DTC exhibited significantly greater reductions in offending than the comparison group. Dr. Julian Somers' research group out of Simon Fraser University has also completed numerous favourable reports of the DTC including:

Public Health and Public Safety: <https://www.sfu.ca/fhs/somers-research-group.html>

Rezansoff, S. N., Moniruzzaman, A., Clark, E., & Somers, J. M. (2015). Beyond recidivism: changes in health and social service involvement following exposure to drug treatment court. *Substance abuse treatment, prevention, and policy*, 10, 42. <https://doi.org/10.1186/s13011-015-0038-x>

Somers, J., Rezansoff, S., Moniruzzaman, A., (2013). Comparative Analysis of Recidivism Outcomes Following Drug Treatment Court in Vancouver, Canada. *International Journal of Offender Therapy and Comparative Criminology*. Vol. 58, issue 6. <https://journals.sagepub.com/doi/abs/10.1177/0306624x13479770>

**Vancouver DCC:** A detailed evaluation was completed in 2013 in partnership with Simon Fraser University. It focused on recidivism, efficiency, and community engagement. The results were favourable and showed significantly greater reduction in reoffending compared to the comparison group. In addition, an academic study was done in 2019:

Garcia, R.A., Kenyon, K.H., Brolan, C.E., *et al.* (2019). Court as a health intervention to advance Canada's achievement of the sustainable development goals: a multi-pronged analysis of Vancouver's Downtown Community Court. *Global Health* 15, 80. <https://doi.org/10.1186/s12992-019-0511-9>

The Vancouver Downtown Community Court Executive Board. (2013). *The Final Evaluation of the Downtown Community Court*. [http://www.provincialcourt.bc.ca/downloads/dcc/DCCEvaluation\\_ExecutiveBoard.pdf](http://www.provincialcourt.bc.ca/downloads/dcc/DCCEvaluation_ExecutiveBoard.pdf)

Somers, J.M., Moniruzzaman, A., Rezansoff, S.N., Patterson, M. (2014). *Examining the Impact of Case Management in Vancouver's Downtown Community Court: A Quasi-Experimental Design*. PLoS ONE 9(3): e90708. <https://doi.org/10.1371/journal.pone.0090708>

British Columbia Ministry of Justice. (2013, September). *Downtown Community Court in Vancouver: Efficiency Analysis*.

[http://www.provincialcourt.bc.ca/downloads/dcc/DCCEfficiency\\_Evaluation.pdf](http://www.provincialcourt.bc.ca/downloads/dcc/DCCEfficiency_Evaluation.pdf)

Jackson, M., Glackman, W., Giles, C., Buchwitz, R. (2012). Compilation of Research on the Vancouver Downtown Community Court, 2008 to 2012.

<http://www.provincialcourt.bc.ca/downloads/dcc/DCCRResearchCompilation.pdf>

British Columbia Ministry of Justice. (2021 webpage). *Vancouver Downtown Community Court*.

<http://www2.gov.bc.ca/gov/content/justice/criminal-justice/vancouver-downtown-community-court/the-community-court-s-story>

**VIC:** A formal evaluation has not been done, although six reports were done between 2011 and 2015. The reports generally were favourable and made a number of observations, including: there were a significant drop in calls to the police involving the participants; there was increased communication and collaboration among stakeholders; offenders have a favourable view of their involvement with the VIC; and there was improved effectiveness of the justice process for the targeted group of offenders. The last report noted that the VIC “continues to assist offenders in being accountable for their actions and motivating them to re-integrate into the community.”

*Victoria Integrated Court Report*. (2015).

<http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20Report%202015.pdf>

*Victoria Integrated Court Report*.(2014)

<http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20Report%202014.pdf>

Mason, S., Belliveau, A-M. (2014, December). *The Victoria Integrated Court: Integrating Health, Justice, and Social Services*. A Master’s project submitted in partial fulfillment of the requirement for the degree of: Master of Arts in Dispute Resolution, School of Public Administration, Faculty of Human and Social Development University of Victoria.

[http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20-%20Mason\\_Beliveau.pdf](http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20-%20Mason_Beliveau.pdf)

*Victoria Integrated Court Report*. (2013).

<http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20Report%202013.pdf>

*Victoria Integrated Court in its Second Year - Continuity and Progress*. (2012, June).

<http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20In%20Its%20Second%20Year%20-%20Report%20and%20Appendices.pdf>

*Victoria Integrated Court Report*. (2011).

<http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20Report.pdf>

The ACT teams are also subject to ongoing evaluation indicia including:

- client reduction in police contact;
- client reduction in use of hospital bed days and emergency health care services;
- reduced rates of incarceration;
- clients' personal achievements in obtaining and maintaining housing, skills development and education; and
- employment or volunteer work, reconnecting with family, and recovery from addiction.

*BC ACT Evaluation Framework*. (2013, March).

<https://www.act-bc.com/resources/show/a4466>

In addition, in 2016 the BC Ministry of Justice completed a report on “Specialized Courts Strategy” that provides a “structured approach for current and future specialized courts that is rooted in validated research, is fiscally responsible, and engages the judiciary, justice system partners and other interested parties.” The 2016 report proposes guiding principles and best practices to be followed in setting up therapeutic courts and recommends a needs assessment and a business case rationale.

British Columbia Ministry of Justice. (2016, March). *Specialized Courts Strategy*.

<https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-reform-initiatives/specialized-courts-strategy.pdf>

#### **F. Publicly Accessible Information**

The following website provides publicly accessible information about these courts.

<https://www.provincialcourt.bc.ca/about-the-court/specialized-courtswww.communitycourt.bc.ca>

## APPENDIX MANITOBA

In 2016, the population of Manitoba was 1,278,365; 227,000 were immigrants and 223,000 were indigenous peoples. The land area of Manitoba is 552,370.99 square kilometres with a reported population density of 2.3 people per square kilometre. Winnipeg is the largest city with a population of 778,000.<sup>54</sup>

No one was available to be interviewed so all information is gleaned from online sources.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Winnipeg DTC</b>	2006	Fed. funding and in kind	Weekly	17-23 average Cap at 23	<ul style="list-style-type: none"> <li>• Judges (D)</li> <li>• Prov. &amp; Fed. Crowns (D)</li> <li>• Defence counsel</li> <li>• Legal Aid (D)</li> <li>• Program Manager</li> <li>• Case Manager</li> <li>• Support Worker</li> <li>• Therapists</li> </ul>	Yes, in 2016
<b>Winnipeg MHC</b>	2012	Prov. funding	Weekly	25 average Cap at 30	<ul style="list-style-type: none"> <li>• Judges (D)</li> <li>• Prov. Crown (D)</li> <li>• Legal Aid (D)</li> <li>• Psychiatrist</li> <li>• Team Leader</li> <li>• Service Coordinators</li> <li>• Admin Assistant</li> </ul>	

**Additional Courts in Jurisdiction:** *Winnipeg Fetal Alcohol Syndrome Disorder Court*

**Note:** *The legend under column “Team Members” is as follows: (D) – Dedicated*

### B. Number of Therapeutic Courts

Manitoba has three therapeutic courts in Winnipeg: one DTC (established 2006), one MHC and one court specially created for individuals suffering from Fetal Alcohol Syndrome Disorder (“FASD”).

**MHC:** The Winnipeg MHC offers the following pre-sentence services and a diversion program:

<sup>54</sup> [Statistics Canada, Census 2016 – Manitoba.](#)

- Pre-sentence intensive services and supports are available to persons whose criminal involvement is a direct result of their mental illness. Persons who have been diagnosed with a severe and persistent mental disorder, such as schizophrenia or bipolar mood disorder, and committed certain criminal offences may be eligible for MHC. Services are provided by a Forensic Assertive Community Treatment (“FACT”) team which has been established within the Winnipeg Regional Health Authority’s Community Mental Health Program to work with MHC participants.
- Diversion is also available through the MHC where the individual’s record is minimal, unrelated or dated and the offence does not involve significant violence. Individuals suffering from FASD, Alcohol-related Neurodevelopmental Disorder, Autism, and Brain Injury will not be considered for diversion unless they have a co-occurring mental illness. Individuals who have a form of an organic brain issue such as dementia associated with Alzheimer’s or late stage AIDS also are not candidates for this specific form of diversion.

**FASD Court:** In 2020 a three-year pilot project was launched for individuals suffering from FASD who have come into contact with the law and wish to plead guilty. The pilot is modelled after the existing Winnipeg FASD Justice Program for youth aged 12 to 17. Shortly after launching the project the demand was described as “very high” with a two-month wait time quickly developing. It jumped from sitting one ½ day a week to seven half days plus another full day a week. The pre-existing FASD Justice Program pairs offenders with case workers who help them navigate housing, probation orders and the justice system.<sup>55</sup>

### **C. Funding Model**

**Winnipeg DTC:** According to the 2016 evaluation, this court is mostly federally funded with some in-kind services provided. In 2011 they added a housing support worker through Human Skills and Development federal funding, and a transition house, but the position and residence funding were terminated at the end of 2013. The federal and provincial governments had a three-year funding agreement in place from April 1, 2015 to March 31, 2018.

**FASD pilot project:** The pilot project will receive more than \$330,000 in provincial funding, as well as more than \$375,000 in in-kind support for staffing, training and other provisions. Assessment and diagnostic services will be provided by the Rehabilitation Centre for Children, which brings together a multidisciplinary team of experts and currently is responsible for FASD diagnoses and assessments for youth in Manitoba.

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<sup>55</sup> Geary, A. (2020, January 13), “As demand explodes, Manitoba's new FASD court expands to meet need”. *CBC News*.

<https://www.cbc.ca/news/canada/manitoba/manitoba-fasd-court-expansion-1.5386229>

## **D. Distinctive Features**

### ***DTC***

***Eligibility:*** According to the 2016 evaluation, the DTC is willing to take on some violent offenders (for offences such as robbery).

***Dedicated Staffing:*** Over the course of the first year the program developed a staffing model of one manager, three counsellors, one administrative assistant and one case manager. In 2011 they added a housing support worker through Human Skills and Development federal funding, and a transition house, but the position and residence funding were terminated at the end of 2013.

The 2015-16 program year has seen the drug court adopt a new treatment service model with greater distinctions between treatment and case management/supervision functions. The treatment program model is now comprised of a program manager, one case manager, one support worker/admin and two therapists. Traditional services (court appearances, incentives, sanctions, curfew, drug testing) are provided by case management. The therapist roles, which are provided by the Addictions Foundation of Manitoba, are now more distinct and give treatment services solely through individual and group therapy. The Addictions Foundation of Manitoba will also provide functional treatment support through a manager/consultant on treatment services.

***Harm reduction:*** The DTC uses a harm reduction approach and uses “considerable discretion” when dealing with problems such as missed appointments and failed urinalysis tests. Program goals centre on improving client knowledge of addictions, providing information on community resources, helping clients manage their addiction and improving client life skills. An overall goal is to reduce harms associated with drug use and addiction.

### ***MHC***

***Treatment teams:*** The FACT team consists of a psychiatrist, a team leader, a multidisciplinary team of four service coordinators, and an administrative assistant. In addition to providing intensive support to MHC participants, the team members will report to the MHC Judge on a weekly basis. The MHC Crown(s) and Legal Aid and private bar counsel will also participate in case discussions as required.

***Dispositions:*** Custodial sentences will not be made in the MHC. Upon completion of the FACT recovery plan, either the Crown will stay the charges, or a community-based sentence will be ordered. There is also an option for diversion.

## **E. Evaluations**

Two evaluations were located, a 2016 evaluation of the Winnipeg DTC and a 2017 academic study of the MHC.

The 2016 report was the ninth evaluation done of the Winnipeg DTC. It reported that about 32% of participants make it through the rigorous program to graduation. The recidivism rate for graduates was described as “a most positive outcome”.

Weinrath, M., Smee, C. (2016). *Winnipeg Drug Treatment Court Program Evaluation for Calendar Year 2015*. Department of Criminal Justice, University of Winnipeg.

[http://www.manitobacourts.mb.ca/site/assets/files/1081/wdte\\_evaluation\\_2015.pdf](http://www.manitobacourts.mb.ca/site/assets/files/1081/wdte_evaluation_2015.pdf)

The 2017 academic study of the MHC is somewhat unique for such a study as it considered the MHC from the “consumer’s perspective”. The sample size of 20 participants was small but findings were generally favourable towards MHC staff and programming. Feelings of procedural fairness were high, and the use of rewards and sanctions was endorsed. Some concerns about the coercive nature of the program, however, were also expressed by participants.

Watts, J., Weinrath, M. Manitoba's Mental Health Court: A Consumer Perspective, *2017 40-3 Manitoba Law Journal* 225, 2017 CanLIIDocs 371.

<https://canlii.ca/t/2c51>

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Winnipeg DTC: <http://www.manitobacourts.mb.ca/provincial-court/problem-solving-courts/drug-treatment-court/>

*Winnipeg Drug Treatment Court Brochure.*

[http://www.manitobacourts.mb.ca/site/assets/files/1081/wpg\\_drug\\_treatment\\_court\\_brochure-web.pdf](http://www.manitobacourts.mb.ca/site/assets/files/1081/wpg_drug_treatment_court_brochure-web.pdf)

Winnipeg MHC: <http://www.manitobacourts.mb.ca/provincial-court/problem-solving-courts/mental-health-court/>

*Winnipeg Mental Health Court Informational Sheet on Diversion*

[http://www.manitobacourts.mb.ca/site/assets/files/1080/mental\\_health\\_court\\_informational\\_sheet\\_april\\_2019.pdf](http://www.manitobacourts.mb.ca/site/assets/files/1080/mental_health_court_informational_sheet_april_2019.pdf)



## APPENDIX NEW BRUNSWICK

In 2016, New Brunswick had a population of 747,000, in a land area of almost 72,000 square kilometres, with a reported population density of 10.5 people per square kilometer. There are approximately 30,000 Indigenous people and 34,000 immigrants. The largest city is Saint John (pop. 123,520.)<sup>56</sup>

No one was available to be interviewed from New Brunswick, so all information has been gleaned from online sources and from New Brunswick's response to an initial request for information.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Elsipogtog Healing to Wellness Court</b>	2012	Prov. & Fed. funding	Weekly		<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Fed. &amp; Prov. Crowns (D)</li> <li>• Legal Aid (D)</li> <li>• Probation</li> <li>• Victim Services Social Worker</li> </ul>	Yes, in 2015
<b>Saint John MHC</b>	2000	Prov. funding	Bi-weekly	20-25 per sitting	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Prov. Crown (D)</li> <li>• Duty Counsel (D)</li> <li>• Probation</li> <li>• Mental Health Nurse,</li> <li>• Psychiatrist,</li> <li>• Psychologist (D)</li> <li>• Clinical Coordinator</li> <li>• Salvation Army Residential Centre Representative (D)</li> </ul>	Yes, in 2003, 2008, and 2011

*Note: The legend under column "Team Members" is as follows: (D) – Dedicated*

### B. Number of Therapeutic Courts

New Brunswick has the following two therapeutic courts:

**MHC:** This Court began as a pilot project in 2000 and became a permanent program of the Saint John Provincial Court in 2003.

<sup>56</sup> [StatsCan Census 2016 – New Brunswick](#); [StatsCan Census 2016 – Saint John](#)

**Wellness Court:** This is a specialized community court called Elsipogtog-Healing to Wellness Court (established in 2012) that is an integrated court, treating both mental health and substance abuse issues. It incorporates First Nation traditions and practices, and deals with not only crimes, but the underlying root causes of crime.

### C. Funding

**MHC:** This court is funded 100% by the provincial government.

**Wellness Court:** According to the federal government, it is a cost shared program where the Elsipogtog First Nation provides community-based programming, staff who provide such programming as well as office space for Provincial staff and the courtroom, and the Provincial Government provides some operational costs and salaries of government employees.

### D. Distinctive Features

#### **Both Courts:**

**Dedicated Staffing:** As of 2019 the MHC is overseen by an MHC team that includes: a designated judge, a Crown prosecutor, duty (defense) counsel, a clinical co-ordinator, a probation officer, a social worker, a psychiatrist, a mental health nurse, and a representative of the Salvation Army Residential Centre.

The Wellness Court similarly has a dedicated judge, federal and provincial Crowns, defence counsel, and probation services, victim services, and a primary case manager.

#### **MHC:**

**Funded Evaluator:** New Brunswick reports that it has a “funded evaluator.”

#### **Wellness Court:**

**Eligibility:** Clients must have a wellness-related issue, including mental health, substance abuse, cognitive impairment or FASD.

**Two Streams:** This court has 2 streams: A Conventional Stream and a Wellness Stream. The Wellness Stream combines intensive monitoring with a comprehensive, culturally sensitive approach to addressing social needs of participants in order to reduce crime. This is done through an intensive highly individualized treatment plan.

### E. Evaluations

**MHC:** The MHC was evaluated in 2003, 2008 and 2011 in partnership with the University of New Brunswick. The 2011 evaluation concluded that the “Mental Health Court was able to improve the mental health functioning of its clients, facilitated greater stabilization of housing, and improved the employment and educational status of its clients. ... MHC involvement also lead to reductions in criminogenic needs, which directly resulted in reduced recidivism risk and a lower rate of re-offending relative to

cases that did not complete the program or who were referred but never admitted. MHC involvement was further associated [with] reduced criminalization of mentally ill persons by leading to reduced days incarcerated.” At the same time the gains noted were not as dramatic as expected due to the chronic and persistent nature of the mental illnesses. The 2011 report made a number of suggestions for changes to the program.

Lane, S., Campbell, M.A. (2008, June). *Representing the client perspective of the Saint John Mental Health Court*. Centre for Criminal Justice Studies & Department of Psychology University of New Brunswick.  
<https://www.unb.ca/saintjohn/assets/documents/ccjs/clientviewmhc2008report.pdf>

*Multidimensional Evaluation of the Saint John Mental Health Court: A Research Summary*. Centre for Criminal Justice Studies, University of New Brunswick-Saint John.  
[https://www.researchgate.net/publication/235780531\\_multidimensional\\_evaluation\\_of\\_the\\_saint\\_john\\_mental\\_health\\_court\\_a\\_research\\_summary](https://www.researchgate.net/publication/235780531_multidimensional_evaluation_of_the_saint_john_mental_health_court_a_research_summary)

**Wellness Court:** According to the federal government, the Wellness Court was evaluated after the three-year mark in 2015 by R.A. Malatest & Associates, covering the first three years of the program. This publication is a provincial government document; results have not yet been made public.

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Saint John MHC: *New Brunswick Courts*. (2021, April web page).  
<https://www.courtsnb-courtnb.ca/content/cour/en/provincial.html>

Elsipogtog Wellness Court: Public Safety Canada. (2021, April web page).  
*Healing to Wellness Court*. <https://www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntn/dtls-en.aspx?i=10169>

## APPENDIX NEWFOUNDLAND AND LABRADOR

In 2016 Newfoundland and Labrador had a population of 519,718, including approximately 45,730 indigenous people, 11,810 visible minorities and 12,080 immigrants. The land area of Newfoundland and Labrador is 370,514.08 square kilometres and the reported population density was 1.4 people per square kilometre. The population of its largest city, St. Johns, was 108,860.<sup>57</sup>

Interviews were conducted of a judge and two crowns for both courts, and two treatment providers for the DTC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>St John's DTC</b>	2019	Partial federal funding, (through 2023)  In-kind support through Eastern Health	Weekly, can be twice per week for sanctions	10 per sitting  Discussed a cap of 20-25 but has not needed it yet	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Fed. &amp; Prov. Crowns (D)</li> <li>• Legal Aid (D)</li> <li>• Probation</li> <li>• Support staff: Coordinator and Addictions Counselor (D)</li> </ul>	Not yet, program is too new
<b>St John's MHC</b>	2004	No funding, all in-kind	One half-day biweekly	50-60 per year  6 per sitting  No cap  No waitlist	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Legal Aid (D)</li> <li>• Probation</li> <li>• Eastern Health provides two Social Workers, one Licensed Practical Nurse</li> </ul>	Yes, in 2011

**Note:** The legend under column "Team Members" is as follows: (D) – Dedicated

### B. Number of Therapeutic Courts

Newfoundland has two distinct therapeutic courts, both located in St. John's: A DTC pilot program was started in 2019 and an MHC has been in operation since 2004.

### C. Funding Model

**DTC:** It is funded by the federal government. Funding expires in 2023. The federal funding does not cover rent or office space so the two case workers for the DTC forged

<sup>57</sup> [Statistics Canada, 2016: Newfoundland;](#) [Statistics Canada, 2016: St. John's](#)

a partnership with the provincial Ministry of Transportation and Infrastructure who provide an empty office building to house the DTC outpatient services at no cost, and provide maintenance of the building.

**MHC:** It is funded jointly by the federal and provincial governments, with 60% of the initial funding to start up the Court provided by the federal government and 40% by the provincial government. There is no ongoing dedicated funding for the MHC, but in-kind services are provided by Eastern Health, Corrections and Community Safety, the PPSC, the Provincial Court of Newfoundland, and the Newfoundland Legal Aid Commission.

#### **D. Distinctive Features**

##### ***Both Courts:***

***Formal Court Applications Required:*** All persons wishing to appear in the DTC or MHC must make a formal court application at a hearing before a judge to transfer their case to one of the two specialized courts. Legal Aid assists with the application and the hearing. A judge makes a formal order to transfer the case after considering the application and affidavit evidence.<sup>58</sup>

##### ***MHC:***

***Eligibility for MHC:*** A formal psychiatric diagnosis is required for the MHC in the form of a letter from a psychiatrist. The Court does not accept persons with developmental delay.

***Legal Aid Criteria:*** Legal Aid waives all financial criteria for MHC participants. The Legal Aid Commission has a Mental Health Office which provides legal assistance and representation to all people whose cases are being dealt with in the MHC regardless of their financial status.

#### **E. Evaluations**

***DTC:*** The DTC has not yet been evaluated.

***MHC:*** The MHC was the subject of an evaluation in 2012. It considered 391 participants from 2006-2011. This evaluation looked at justice outcomes only and showed an 80% completion rate and a reduction in recidivism. A copy of the evaluation was not provided.

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<sup>58</sup> Provincial Court of Newfoundland and Labrador. (2021). *Practice Note re: Specialty Court Application Process*.

[https://court.nl.ca/provincial/goingtocourt/practice\\_note\\_specialty\\_court\\_application\\_process.pdf](https://court.nl.ca/provincial/goingtocourt/practice_note_specialty_court_application_process.pdf)

**F. Publicly accessible information**

The following are links to publicly accessible information:

Provincial Court of Newfoundland and Labrador. (2021 webpage). *Drug Treatment Court*. Process, eligibility criteria and guiding principles.  
<https://court.nl.ca/provincial/courts/drugtreatment/index.html>

Provincial Court of Newfoundland and Labrador. (2021 webpage). MHC:  
<https://court.nl.ca/provincial/courts/mentalhealth/index.html>

Newfoundland and Labrador Mental Health Court General Information.  
(Brochure).  
[https://court.nl.ca/provincial/courts/familyviolence/pdf/MH\\_Pamphlet\\_General.pdf](https://court.nl.ca/provincial/courts/familyviolence/pdf/MH_Pamphlet_General.pdf)

## APPENDIX NORTHWEST TERRITORIES

In 2016 the Northwest Territories had a population of 41,786, which is scattered over a vast geographical area exceeding 1.1 million square kilometres, with a reported population density of 0.0 people per square kilometre. There were approximately 20,860 indigenous people, 3,960 visible minorities and 3,690 immigrants living in the Northwest Territories. The largest cities are the capital Yellowknife (pop. 19,569), Fort Smith (pop. 2,542); Hay River (pop. 3,548); Inuvik (pop. 3,243); and Norman Wells (pop. 778).<sup>59</sup> In addition, there are some 30 smaller communities.

Only the manager of the Yellowknife Wellness Court was available to be interviewed.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Yellowknife Wellness Court</b>	2014	Fed. & Territorial funding	Bi-weekly	Unknown, hasn't yet reached capacity	<ul style="list-style-type: none"> <li>• Judges (D)</li> <li>• Crown</li> <li>• Defence counsel</li> <li>• Coordinator</li> <li>• Case Managers</li> <li>• Housing Officer</li> </ul>	None

*Note: The legend under column "Team Members" is as follows: (D) – Dedicated*

### B. Number of Therapeutic Courts

The Northwest Territories has one therapeutic court called the "Wellness Court", which sits only in Yellowknife and was established in 2014. It offers a supervised program to help offenders address the health issues that contribute to their re-offending, whether they are drug addiction, mental health conditions or cognitive challenges, including Fetal Alcohol Spectrum Disorder (FASD). The court essentially combines elements of drug treatment and mental health courts. While the court sits only in Yellowknife, persons from other communities may be accepted into the Wellness Court if they agree to reside in the Yellowknife area while involved in the program.

### C. Funding Model

This Court is supported through both federal and territorial funding. The federal funding is a 3-year commitment that commenced this year.

<sup>59</sup> [StatsCan 2016 Census – Northwest Territories; Census Profile, 2016- Yellowknife; Census Profile, 2016 - Fort Smith; Census Profile, 2016 - Hay River; Census Profile, 2016 - Inuvik; Census Profile, 2016 – Norman Wells](#)

## **D. Distinctive Features**

***Integrated Court:*** The Wellness Court is a sentencing court that offers a therapeutic model which blends mental health and drug treatment services.

***Dedicated Staff:*** Despite the small population of the city served by the Wellness Court, the court is served by a manager, a consistent Crown counsel and two Judges who dedicate themselves to the work of this court and preside in it on a rotating basis, working closely together and maintaining continuity within the court. Participants appreciate receiving praise and encouragement and remember the Judges before whom they appear. These features, emphasized by the community's small population, facilitate the development of close relationships with the participants.

***Eligibility:*** There are no offences officially excluded from eligibility, although in practice offences causing death would likely be excluded (although they do not have a lot of those offences). Only in the past two years did they start to accept CDSA charges (drug offences).

***Community Justice Committees:*** In addition to the Wellness Court in Yellowknife, the Northwest Territories are served by a number of local Community Justice Committees that, by 2018, had been established in some 31 communities<sup>60</sup>. These committees consist of community volunteers who meet to determine restorative resolutions of cases that have been diverted from the regular criminal court by either the police or the Crown.

There is no formal relationship or regular process of communication between the Wellness Court and the Community Justice Committee structure, as the Wellness Court is essentially a sentencing court, whereas the Community Justice Committees deal with criminal charges that have been diverted. However, an example was provided of a case that was transferred from a remote community to the Wellness Court because, although it was too serious to be diverted entirely, the individual was determined to be an appropriate candidate for that court.

***Aftercare:*** The Yellowknife Wellness Court incorporates an intentional aftercare process. During the final phase of the participant's wellness plan, usually beginning approximately three (3) months prior to completion, the individual is engaged in developing a transition plan to help ensure that gains made during the program continue to be experienced.

## **E. Evaluations**

The Wellness Court has not yet been the subject of a formal evaluation since it is a relatively new program. An evaluation is part of the work plan for the coming year. The program conducts exit interviews with participants, using a client evaluation form.

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<sup>60</sup> [Community Justice Committees – Northwest Territories](#)



## **F. Publicly Accessible Information**

The Wellness Court has a manual and list of eligibility criteria which is shared with defence counsel but is not otherwise publicly available. There is some information about the court available on the following websites:

Northwest Territories Government (2021 webpage). *Community Justice Committees*. <https://www.justice.gov.nt.ca/en/community-justice-committees/>

Government of Canada (2021 webpage). *Wellness Court – Northwest Territories* <https://www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntr/dtls-en.aspx?i=10192>

## APPENDIX NOVA SCOTIA

In 2016, Nova Scotia had a population of approximately 923,598, with a population density of 17.4 per square kilometre. There were approximately 51,495 Indigenous people, 58,650 visible minorities and 55,675 immigrants living in the province. The largest (and capital) city, the Halifax-Dartmouth Regional Municipality, had a population of 403,131. The other communities that have established therapeutic courts had the following populations in 2016: Port Hawkesbury (3,214), Kentville (6,271), Amherst (9,413), Bridgewater (8,532), Truro (12,261), and Wagmatcook First Nation (537).<sup>61</sup>

All persons interviewed were connected to the Dartmouth Wellness Court (WC): a provincial Crown counsel (who happens to also be a qualified psychologist), a defence counsel from Nova Scotia Legal Aid, and three staff employed with the Nova Scotia Health Authority (NSHA): a registered nurse, a social worker, and an occupational therapist. The research team was also greatly assisted by comments made by Chief Judge Williams of the Nova Scotia Provincial Court, at a Therapeutic Courts Forum hosted by Ontario's Provincial Human Services and Justice Coordinating Committee (P-HSJCC) on March 9 & 10, 2021. Chief Judge Williams presides in the Dartmouth WC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Dartmouth Wellness Court (DTC + MHC)</b>	2009	75% prov. funding	Weekly	200 at its max No cap	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Prov. Crown (D)</li> <li>• Fed. Crown (PT)</li> <li>• Legal Aid (D)</li> <li>• Probation</li> <li>• Occupational Therapist, Nurse, Social Worker, Psychologist (PT)</li> </ul>	Yes, province-wide evaluation in 2019, but no statistics available to team members
<b>Kentville DTC</b>	2014	Yes, 30% fed., 70% in-kind support	Twice monthly	4	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Fed. &amp; Prov. Crowns</li> <li>• Legal Aid</li> <li>• Probation</li> <li>• Case Manager, Nurse, Addictions Worker</li> </ul>	Yes, province-wide evaluation in 2019

<sup>61</sup> [StatsCan 2016 Census – Nova Scotia; Census Profile, 2016 – Halifax-Dartmouth; Census Profile, 2016 – Port Hawkesbury; Census Profile, 2016 - Kentville; Census Profile, 2016 – Amherst; Census Profile, 2016 - Bridgewater; Census Profile, 2016 - Truro; Census Profile, 2016 – Wagmatcook First Nation](#)

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Kentville MHC</b>	2014	No	Twice monthly	2	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Fed. &amp; Prov. Crowns (D)</li> <li>• Legal Aid (D)</li> <li>• Probation</li> <li>• Nurse, Social Worker, Forensic Psychologist</li> </ul>	Yes, province-wide evaluation in 2019
<b>Port Hawkesbury Wellness Court</b>	2012	No	Once every three months	12-15	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Addictions Worker</li> </ul>	Yes, province-wide evaluation in 2019

**Additional Courts in Jurisdiction:** Amhurst Wellness Court, Bridgewater Wellness Court, Truro Wellness Court, and Wagmatcook Wellness Court

**Note:** The legend under column “Team Members” is as follows: (D) – Dedicated, (PT) – Part time

## **B. Number of Therapeutic Courts**

The therapeutic courts are known as Wellness Courts in Nova Scotia. The term is used in order to destigmatize both mental disorders and substance use disorders, and to communicate the court programs’ focus on wellness. The court programs generally combine both mental health and drug treatment elements, although the Dartmouth WC has the capacity to stream participants into distinct Mental Health Court, Opioid Court, and Alcohol Court Programs, depending upon the results of their initial assessments. The courts are located in Halifax-Dartmouth (since 2009), Port Hawkesbury (2012), Kentville (2014), Amherst (2016), Bridgewater (2019), Truro (2020), and Wagmatcook.

## **C. Funding Model**

The Dartmouth WC is 75% funded. All other WCs operate without dedicated funding, other than the Kentville program, which includes a federally funded DTC component. The funding comes from the provincial Department of Justice, which reimburses the NSHA for the salaries of its three staff who work with the Court.

## **D. Distinctive Features**

**Provincial Steering Committee:** Nova Scotia has created a provincial Wellness Court Program Steering Committee that consists of some two dozen representatives from the judiciary, justice, health care, and the academic community, as well as graduates of WC Programs in Nova Scotia. The committee is tasked with providing advice and recommendations to senior leaders in the justice and health-care systems and assisting in a more coordinated approach when expanding WC Programs to more communities across Nova Scotia. The steering committee also creates data collection sets and

evaluation tools for WC programs. The Committee has created the following documents, all of which are accessible on the Nova Scotia Courts website:

- Terms of Reference for the Steering Committee;
- A Best Practice Framework for the province’s Wellness Court programs;
- A Cultural Competence Guide for Wellness Court programs; and
- An Evaluation Framework.<sup>62</sup>

The provincial steering committee seeks to help provide some consistency of approach across the various WCs in Nova Scotia but has no specific decision-making authority or power to mandate the performance of any measures. It was expressed during the interview that the provincial committee would work best if not driven by merely policy or research agendas but could include decision makers who could implement and effect change for those actually working in the courts.

**Case Management Function:** The Dartmouth WC, like many therapeutic courts, functions on what is described as a “brokerage model”: it does not provide direct service to participants as part of the court’s operations, but rather connects them to community providers. There are now three (formerly two) case managers who perform this work, and who also conduct the screening of applicants. While performing the same functions, they do so from distinct but complementary professional perspectives: nursing, occupational therapy, and social work.

**Court Attendance Supports: Welcoming Courtroom Tone & “The Wall of Hope”:** Behind the judge’s dais in the Dartmouth WC appears a sign containing these words from a phrase used by a participant: “Just Because You Have a Past, Doesn’t Mean You Can’t Have a Future.” In addition, participants who successfully complete their support plan are invited to contribute a piece of artwork to be displayed on the courtroom wall, referred to as the “Wall of Hope.” A video describing the history of these initiatives appears on the web page of the Court.<sup>63</sup>

**Addressing Overrepresentation of Black and Indigenous Populations:** The Dartmouth WC steering committee includes representation from the Mi’kmaq Legal Support Network (MLSN) and the Nova Scotia Brotherhood. They also attend the regular pre-court sessions.

**Addressing Needs of Military & Police Veterans:** The Dartmouth WC has developed a partnership with Veterans Affairs Canada that provides for the assistance of a Veterans Affairs case manager, embedded with the Court, to provide assistance to former members of the RCMP or Canadian Armed Forces (including Reserves) who have a mental health disorder or operational stress injury that is substantially connected to the offence charged. This augments the expertise of the WC through its understanding of PTSD issues.

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<sup>62</sup> See [https://www.courts.ns.ca/Provincial\\_Court/NSPC\\_mental\\_health\\_program.htm](https://www.courts.ns.ca/Provincial_Court/NSPC_mental_health_program.htm)

<sup>63</sup> YouTube. (2018, May). *Nova Scotia Mental Health Court Wall of Hope Digital Story*. <https://www.youtube.com/watch?v=AF9FipA8wc8>

***Needs-Based Eligibility (Not Offence-Based Exclusions):*** As long as the offence charged is within the jurisdiction of the Provincial Court, there are very few offence-based exclusions (sexual offences involving actual physical contact, as well as impaired driving-related charges are excluded). Instead, the Dartmouth WC team conducts extensive screening, including the use of a comprehensive risk assessment tool known as Level of Case Management and Services Inventory (LCMSI).

***Monitoring of Participants:*** The Dartmouth WC has designed a “My Use” Form which participants in any of the court programs are asked to complete if they have a positive drug screen. The form breaks down the components and information about the circumstances of the substance use, such as: when the use happened, what the person was doing at the time, what thoughts the person was having, with whom the person was using, etc. While the information is shared with the court, it is also designed to help the individual to identify triggers in their lives.

***Pandemic Impact/Learnings:*** The Opioid Program case manager has found that participants have “opened up” more as contacts have depended on phone calls/text messages. Participants have initiated communication more between scheduled appointments, becoming accustomed to the case manager’s availability through the telephone. The fact that some participants lacked access to a phone was an issue pre-pandemic as well, but has been addressed through mechanisms such as public libraries giving access to phones, arranging appointments with Mi’kmaq Friendship Centre to use their phones, and NSHA & Community Mental Health & Addictions Services developing a pool of “loaner phones” that people can use for appointments and then return.

***Community Outreach/Education:*** In addition to sharing a great deal of information about the WC, including eligibility criteria, court forms, etc. on the Nova Scotia courts website (see below under “Publicly Accessible Information” for details), the dedicated Crown and defence counsel with the Dartmouth WC travel to the NSHA clinics and other community clinics to give presentations about the WC. They also share their knowledge and expertise with personnel in the other communities’ WCs in the province. The Legal Aid defence counsel attached to the Dartmouth WC also speaks with news media as this is seen as an opportunity for public education.

***Cross-Training and Learning for Team members:*** The NSHA has made some education available to the judicial and legal team members, though scheduling issues have made it difficult for them to attend. In addition, the monthly steering committee meetings for the Dartmouth WC include time for learning opportunities involving guest presenters.

***Succession Planning:*** The existing team members at the Dartmouth WC have some influence on the selection of new team members, out of recognition of the importance of having personnel who are like-minded, can work well on a team, and are prepared to put in the necessary work.

***Data Collection for Research & Program Evaluation:*** The Dartmouth WC has a release of information/consent form for participants to sign so that researchers may access health information. There are also standardized exit survey questionnaires.

While the interviewees could not definitively address the data collection practices for the WCs in other areas of the province, they believed that any records kept were being kept by the judges in those courts or their assistants. Data is recorded and tracked through two separate systems: the NSHA system and the justice tracking system. The systems use different terminology and record different data.

## **E. Evaluations**

Several evaluations of Nova Scotia's Wellness Courts have been undertaken. The first was in 2015, examining the early outcomes from what was then the Dartmouth MHC. A progress report on the first three years of the operation of the Kentville program was released in 2017, and in 2019 a qualitative evaluation report was released on Nova Scotia's Wellness Courts. As of this writing, the report from a quantitative evaluation that concentrates on the Dartmouth WC was still pending.

The following reports are publicly accessible:

*Nova Scotia's Mental Health Court Report – Celebrating Five Years.* (2014).  
[https://www.courts.ns.ca/provincial\\_court/NSPC\\_documents/NS\\_MHC\\_Report\\_2014.pdf](https://www.courts.ns.ca/provincial_court/NSPC_documents/NS_MHC_Report_2014.pdf)

In the first four years of the court's operation, 199 of the 232 individuals deemed eligible (86%) graduated. The court helped connect or re-connect them to mental health services and community support agencies, and each participant who completed the court program reported satisfaction with it and noticeable positive change in their lives. Positive working relationships with key community partners and government agencies were established, and court team members engaged in public education activities related to the court's operation.

Campbell, M., Adams-Quackenbush, N. (2015). *Prospective evaluation of the Nova Scotia Mental Health Court Program: An examination of short-term outcomes.* University of New Brunswick- Saint John Campus. 10.13140/RG.2.1.4975.7285.  
[https://www.researchgate.net/publication/279537315\\_Prospective\\_evaluation\\_of\\_the\\_Nova\\_Scotia\\_Mental\\_Health\\_Court\\_Program\\_An\\_examination\\_of\\_short-term\\_outcomes](https://www.researchgate.net/publication/279537315_Prospective_evaluation_of_the_Nova_Scotia_Mental_Health_Court_Program_An_examination_of_short-term_outcomes):

This evaluation analyzed data referable to 80 individuals who agreed to participate in the study. They had been referred to the court's program between 2012-2014; 54 were not admitted and 26 were. The analysis of short-term outcomes indicated that case plans developed by the MHC team were better at meeting the responsivity needs of clients than case plans developed within the traditional correctional system. A number of key recommendations were made, including the continued investment in the court as an alternative means of responding to the needs of offenders with significant mental health concerns in a sensitive and compassionate manner.

Court Monitored Mental Health Program Working Group. (2017, December).  
*Court Monitored Mental Health Program – Municipality of West Hants & County*

*of Kings Pilot Three Year Operational Report.*

[https://courts.ns.ca/Provincial\\_Court/documents/CMMHP\\_Report\\_12\\_17.pdf](https://courts.ns.ca/Provincial_Court/documents/CMMHP_Report_12_17.pdf):

This study examined the experiences of 10 participants who had been admitted to the program out of 33 who had been referred over three years. The small sample size precluded specific outcome reporting because of the risk of violating confidentiality. The participants reported being either satisfied or very satisfied with both the connections to services they were provided and the way in which they were respected through the process. The report found that appreciable gains were made in increased public safety, improved health outcomes, and consistent utilization of community supports through working together. The report includes an introspective “Challenges and Lessons Learned” section, including specific recommendations.

Nova Scotia’s Wellness Courts. *Progressing Justice*. (2019).

[https://www.courts.ns.ca/Provincial\\_Court/documents/WellnessCourtsReport\\_No v5.pdf](https://www.courts.ns.ca/Provincial_Court/documents/WellnessCourtsReport_No v5.pdf)

The evaluation was developed following consultations among the primary researcher, the Chief Judge of the Nova Scotia Provincial and Family Court, and two Directors within Court Services in the provincial Department of Justice. The evaluation was to focus on two key areas:

- 1) What are the health, social and justice outcomes for people who have been referred to and/or participated in a Wellness Court Program since the first such program began in 2009?
- 2) What are the underlying ideologies, approaches, processes and mechanisms of Wellness Court Programs, and how might these impact program design and opportunities for individuals’ recovery?

Qualitative data collection methods included interviews, focus groups, and document review, involving seven (7) graduates and 31 team members across the four court programs under study. Detailed preliminary findings are described in the following areas: court structure (establishing wellness court programs, eligibility, court processes); community (geographic location, resources, partnerships); court team (job roles and impact, role of health care in justice); and change (opportunities for change, changes to wellness court programs, readiness to change for participants, desired changes).

## **F. Publicly Accessible Information**

Considerable information is available on the Nova Scotia courts website for all WCs:

[https://www.courts.ns.ca/Provincial\\_Court/NSPC\\_mental\\_health\\_program.htm](https://www.courts.ns.ca/Provincial_Court/NSPC_mental_health_program.htm) In particular, the following information can be easily accessed for Dartmouth WC:

- Printable program brochure;
- “Quick facts” document;
- Statement of eligibility criteria;

- Document describing factors for consideration for Crown consent;
- Information on re-application to the program;
- Information on support for veterans;
- Information on services for Mi'kmaq and other Indigenous persons;
- Information on program compliance and monitoring expectations, including potential rewards and sanctions;
- Information for victim participation and services, including a form for a "Victim's Voice" statement;

King's County/Kentville DTC and Diversion:

[https://courts.ns.ca/provincial\\_court/NSPC\\_drug\\_treatment\\_court.htm](https://courts.ns.ca/provincial_court/NSPC_drug_treatment_court.htm)



## APPENDIX NUNAVUT

In 2016, the population of Nunavut was 35,944, occupying a land area of 1,877,778.53 square kilometres and the reported population density was 0.0 people per square kilometre. There were approximately 920 immigrants and 31,000 Indigenous people (largely Inuit). All communities are fly-in with no road access. The largest communities are Iqaluit (pop. 7,000), Arviat (pop. 2,300) and Cambridge Bay (pop. 1,600).<sup>64</sup> Arviat and Cambridge Bay are located a day or more flight from Iqaluit. Nunavut has at least 23 hamlets, all of which are fly-in.

Only the federal prosecutor, located in Yellowknife in the Northwest Territories, was available to be interviewed.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Cambridge Bay Therapeutic Justice Program</b>	2019	Fed.& Prov. funding; \$750,000 from Justice Canada from 2018-2020	Court sits 6-7 times per year	16 in 2019 No cap	<ul style="list-style-type: none"> <li>• Mental Health Consultant</li> <li>• Community Counsellor</li> <li>• Therapeutic Case Specialist</li> </ul>	Interim Report completed 2020

*Additional Courts in Jurisdiction: Iqaluit Community Justice Committee*

### B. Number of Therapeutic Courts

All communities in Nunavut have some kind of therapeutic justice program. There is no standalone Therapeutic Justice Court and there is no Drug Treatment Court. The programs do not expressly involve mental health or drug treatment. Referrals for drug or mental health treatment are made if they arise.

In March of 2019 Nunavut launched a Therapeutic Justice Program (“TJP”) pilot project in Cambridge Bay. It is a community-based restorative justice program that aims to address the causes of criminal behavior such as mental health, addictions and trauma. It is a holistic approach to justice that aligns with Inuit Qaujimajatuqangit principles. It has two main components: 1) a clinical element that offers support from mental health counsellors, clinicians and psychologists; and 2) a cultural component that offers support from community counsellors and Elders, and participation in areas like on-the-land programs.

<sup>64</sup> [StatsCan Census 2016 - Nunavut](#); [StatsCan Census 2016 - Iqaluit](#); [StatsCan Census 2016 - Arviat](#); [StatsCan Census 2016 – Cambridge Bay](#)

A Therapeutic Justice Program has also just been started in Arviat.

### **C. Funding Model**

The Cambridge Bay TJP is jointly funded by the federal Department of Justice and the Government of Nunavut's departments of Justice and Health. The Department of Healthy Living of Cambridge Bay has also contributed to this pilot project. Justice Canada allocated a total of \$750,000 to this project, from 2018 to 2020.

### **D. Distinctive Features**

**Hybrid court:** In Nunavut, all the courts are a hybrid of a Territorial Court and a Superior Court. All matters, including TJP matters, appear on the same docket. The federal Crown deals with all matters including *Criminal Code* matters. There are very few drug files and no opioid crisis in Nunavut at this time. Most offences are crimes of poverty. The Court travels to all the communities, including the hamlets, at least once per year.

**Infrequent sitting:** The court in Cambridge Bay sits 6-7 times a year.

**No guilty plea:** No guilty plea is entered at the outset of the program and the charges are usually stayed at the end of the program. Participants can be referred pre-charge as a form of diversion or post-charge. Referrals can be made by the Crown or the defence, with the Crown's agreement.

**Eligibility criteria:** The TJP cannot accept in-custody referrals because the remand centres are located a great distance away in Iqaluit, Rankin Inlet, Yellowknife and sometimes places further south outside the territories. There are multiple gatekeepers. The Crown has a role and some offences are excluded, such as domestic violence, child abuse, sexual assault, impaired driving, and serious violent crimes. If it is not an excluded offence, the Therapeutic Justice Committee decides if it will accept someone.

**Program supports:** The program supports are described as being less clinical. The wellness plan is individualized and developed by the therapeutic justice case specialist with input from the participants. Culturally appropriate life skills programming and on-the-land activities, such as hunting and fishing with Elders, are a large component of the programming.

**Completion:** This is determined by the program with a "high level" summary sent to the Crown, which the Crown accepts on its face. A person can be removed from the program as well by the caseworkers who simply report the fact of the removal to the Crown.

**Program Manager:** Cambridge Bay has therapeutic justice case specialists and their manager is located in Iqaluit.

**Judge has no role:** The judge plays no role in this program. There are no "graduation ceremonies" and no check-ins with the Judge.

**Incentives:** Incentives are not really used. The nature of the program is its own reward.

**Medical Services:** There is no residential addictions treatment available. There may be some out-patient addictions treatment available in Iqaluit. Community mental health services are very limited and most have to be provided from places further south, outside the territories. Cambridge Bay does have mental health nurses. A psychiatrist is available through tele-medicine. Cultural competencies are a major challenge in providing these services.

### **E. Evaluations**

The government of Nunavut contracted an evaluation of the Community Justice Program in Cambridge Bay that was supposed to be completed in March 2020. It is a small sample size of 15, including 5 participants. It commenced before the typical 18-month program cycle was completed for the participants. All clients indicated they felt supported by the TJP team in achieving their goals. Some participants would have liked more than weekly contact and activities. Most participants highlighted that the cultural programming (sewing, baking, carving, igloo building, learning Inuktitut, and spending more time learning from Elders) was their favourite part of the program. There were frequent requests for more and better organized programming.

Qaujigiartiit Health Research Centre. (2020). *Therapeutic Justice Pilot Project – Mid Project Report*. Iqaluit, NU: Qaujigiartiit Health Research Centre.

### **F. Publicly Accessible Information**

Other than the following press release on the Nunavut government website about the pilot project, there is no other publicly accessible information.

Nunavut Department of Justice. (2019, March). *Therapeutic Justice Pilot Launch Celebration*. <https://www.gov.nu.ca/justice/news/therapeutic-justice-pilot-launch-celebration>

## **APPENDIX ONTARIO**

Ontario has the largest population of 13,448,494, in a land area of 908,699.33 square kilometres, with a reported population density of 14.8 people per square kilometre. There are 3,852,000 immigrants and 374,395 Indigenous people.<sup>65</sup> It also has the most therapeutic courts of any province.

The Ministry of the Attorney General has divided Ontario into seven main crown regions, each of which have distinctive features due to geography, population density and the diversity of its population. Each region has one or more therapeutic courts, many of which are distinctive. Consequently, the regional review of Ontario has been broken down into seven separate reviews, as follows.

- Central East (including Durham, Peterborough, Barrie, Newmarket and the Kawarthas)
- Central West (including Brampton, Hamilton and Halton)
- East (including Cornwall, Ottawa, Kingston and Perth)
- Northeast (including Sudbury, Timmins and Sioux Ste. Marie)
- Northwest (including Kenora and Thunder bay)
- Toronto
- West (including London, Windsor, St. Thomas and Wellington-Guelph)

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<sup>65</sup> [StatsCan Census 2016 - Ontario](#)

## APPENDIX ONTARIO - CENTRAL EAST REGION

The central east region of Ontario includes the following communities: Oshawa (pop. 380,000), Barrie (pop. 197,000), Peterborough (pop. 121,000), Newmarket (pop. 85,000), Lindsay (pop. 75,000), Bradford (pop. 35,325), Orillia (pop. 31,000), Cobourg (pop. 20,000), Bracebridge (pop. 16,000) and Minden (pop. 6,000).<sup>66</sup>

Interviews were conducted with one Crown from Peterborough, and three treatment providers for Peterborough, Lindsay and Minden. A Crown from the Durham DTC in Oshawa also provided information.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Kawartha Lakes CC (Minden and Lindsay)</b>	2004	Nothing formal, CMHA funded by Ministry of Health	Biweekly	50 average No cap	<ul style="list-style-type: none"> <li>• Judge</li> <li>• Crown (D)</li> <li>• Community Support Workers</li> </ul>	No
<b>Peterborough CSC</b>	2011	Nothing formal, CMHA funded by Ministry of Health plus HSJCC local funding		For track 1 & diversion track: 50 currently No cap For track 2: Cap at 7-10	<ul style="list-style-type: none"> <li>• Judge</li> <li>• Crown (D)</li> <li>• Community Support Workers</li> </ul>	2018 by Trent University

**Additional Courts in Jurisdiction:** Durham DTC, Barrie DTC, Newmarket CTC.

**Note:** The legend under column "Team Members" is as follows: (D) – Dedicated

### B. Number of Therapeutic Courts

There are five therapeutic courts in this region: the Durham DTC in Oshawa (established in 2006), the Peterborough integrated CSC (established in 2011), the Lindsay integrated Community Court (CC) (established in 2004), the Simcoe County DTC in Barrie and the Newmarket Community Treatment Court. There are no formal therapeutic courts in Cobourg, Bracebridge, or Orillia.

<sup>66</sup> [StatsCan Census 2016 - Oshawa](#); [StatsCan Census 2016 - Barrie](#); [StatsCan Census 2016 - Peterborough](#); [StatsCan Census 2016 - Newmarket](#); [StatsCan Census 2016 - Lindsay](#); [StatsCan Census 2016 - Bradford](#); [StatsCan Census 2016 - Orillia](#); [StatsCan Census 2016 - Cobourg](#); [StatsCan Census 2016 - Bracebridge](#); [StatsCan Census 2016 - Minden](#)

There is an organization in Newmarket called “Addiction Services for York Region” which supports people with addictions involved in the criminal justice system.<sup>67</sup> Barrie, Orillia, Newmarket and Bradford have diversion and court support programs for individuals with mental health challenges who are accused of minor criminal offences.<sup>68</sup>

### **C. Funding Model**

***Durham DTC:*** The Durham DTC does not have dedicated funding but does receive informal financial support from donations and from the Durham Regional Police Services Board for incentives, scholarships, and graduation gifts. Otherwise, the Court relies on in-kind services and the main partner agency is Pinewood Centre of Lakeridge Health. Even though this Court has been recognized by the federal government as an approved DTC, it has not received any federal funding despite having applied in 2006. Funding was described as a systemic problem and has meant the Court can only take 8 participants at a time, despite having a chronic waitlist prior to the Covid-19 pandemic.

***Peterborough CSC:*** The CSC does not have dedicated funding but does receive some informal funding from the Ontario HSJCC in the amount of \$500 - \$1,000. The HSJCC also funded its 2018 evaluation. Even though Track 2 of this Court has been recognized by the federal government as akin to a DTC, it has received no federal funding. Otherwise, in-kind services from various partner agencies are key to supporting the court. Funding was described as a systemic problem.

### **D. Distinctive Features**

#### ***All courts:***

***Policy and Procedures Manual:*** The Peterborough CSC has a 12-page manual which sets out the mandate of the CSC, its goals and policies, and includes admission criteria. The Durham DTC similarly has a 12-page manual and an 18-page participant manual.

***Two or Three-track approach:*** The Peterborough CSC uses a three-track approach: 1) Track 1, a finding of guilt and plea upfront; 2) Track 2, a finding of guilt, plea upfront, and a more intensive program like a traditional DTC; and 3) Diversion, with no finding of guilt and a withdrawal of the charges. Tracks 1 and 2 both end with a joint submission for a non-custodial sentence, a withdrawal of charges, or a stay (on a case by case basis).

In addition, “Court Support” is available to anyone who comes to the Peterborough CSC and wants to connect with a community agency. Court Support will accompany people to their court dates, help them through the

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<sup>67</sup> [ASYR](#)

<sup>68</sup> CMHA Simcoe County. (2021 webpage). *Court Support and Diversion*. <https://cmhastartalking.ca/adult-services/court-support-and-diversion/#.YIldMPIJGU>;

CMHA York and South Simcoe. (2021 webpage). *Court Support and Diversion*. <https://cmha-yr.on.ca/programs/adult/mental-health-justice/>

process, and help them with legal and other services. Upon successful completion of a Court Support Plan, the Crown will usually take a more favourable position on sentencing. However, the presiding Judge will always make the final decision on all sentencing matters heard in Community Court.

The Durham DTC has a two-track approach. No diversion is available. Successful completion of track 1 will result in the plea being struck and a withdrawal of the charges. Successful completion of track 2 will result in a non-custodial sentence (usually probation).

The Lindsay CC has a two-track approach: 1) Track 1, Diversion and 2) Track 2, Court Support. Successful completion of the Court Support track will result in a community disposition, usually a probation order.

### **Durham DTC:**

**Eligibility:** Violent offences, sexual offences, commercial drug trafficking offences, and drinking and driving offences are ineligible. However, the Crown will consider violent charges on a case-by-case basis in consultation with the police liaison and the treatment team.

**Dedicated Staff:** The Durham DTC has always had a dedicated judge, Crown, police liaison, bail supervisor, and 2 case managers/treatment providers from Pinewood Centre of Lakeridge Health.

**Cross-Training:** The DTC steering committee, which meets quarterly, sets up regular “lunch and learns” to provide cross training to the multi-disciplinary team. These “lunch and learns” are more frequent when there is a change in the dedicated staff.

### **Peterborough CSC:**

**Integrated Court:** The Peterborough CSC is a true integrated court. The treatment plans integrate mental health with substance-related care for participants with a concurrent disorder. Mental health issues also can include developmental delay and acquired brain injury.

**Trauma Informed Approach:** Team members have done cross-training on subjects such as a trauma informed approach. The team makes a point of using respectful language such as “participant” rather than offender.

**Referral Sources:** Referrals are accepted from any source (e.g. self, family member, legal counsel, Crown Attorney, police). An intake is completed by Justice Service Programming at CMHA to determine eligibility before being screened by the Crown.

**Eligibility:** There are no offences automatically excluded. High-risk offenders and persons charged with violent offences, including domestic violence, are not automatically ineligible.

**Complainant Input:** Complainant input is always sought by the Crown before the Crown makes a decision in any CSC case.

**Dedicated Staff:** The CSC has had a dedicated Crown and treatment providers. The judges have not been as consistent as the rest of the team would prefer.

**Data Collection:** The Crown in Peterborough keeps an Excel spreadsheet to track outcomes and relevant data for the Court, including the number of appearances, length of time in the program, as well as recidivism rates while in the CSC program and two years post-CSC.

**Crown as Program Manager:** There is no dedicated program manager; that task falls to the Crown.

### **Lindsay CC**

**Integrated Court:** This is also an integrated court that deals with concurrent addiction and mental health issues. The treatment plan integrates mental health with substance-related care for participants with a concurrent disorder. Mental health issues also can include developmental delay and acquired brain injury.

**Eligibility:** There are no offences automatically excluded. High-risk offenders and persons charged with violent offences, including domestic violence, are not automatically ineligible.

**Dedicated Staff:** This court has a dedicated Judge, Crown, probation officer, and four treatment providers/case managers from CMHA and “4Cast Addiction Services”. The dedicated judge, who was the former Crown responsible for setting up the court in 2004, recently retired. She has been replaced with another dedicated judge who has experience presiding in the Peterborough CSC. The Lindsay CC has struggled to maintain a consistent duty counsel.

**Crown as Program Manager:** There is no dedicated program manager; that task falls to the Crown who chairs the steering committee, which meets quarterly.

### **E. Evaluations**

The Durham DTC and the Peterborough CSC both have been evaluated.

**Durham DTC:** The Court developed a strong relationship with Dr. Hannah Scott from the University of Ontario Institute of Technology and has been evaluated three times with her support.

The first evaluation was in 2008, two years after its inception. Although it was a small sample size of 28 participants and four graduates who had completed the program, the study is a useful review of the literature and proposes some best practices.

Heagle, A., Scott, H. (2008). *Durham Drug Treatment Court (DDTC) Evaluation: A Literature Review and Analysis of Drug Treatment Courts*. University of Ontario Institute of Technology.  
<https://shared.uoit.ca/shared/department/cesr/documents/Durham%20Drug%20Treatment%20Court%20Final%20Report.pdf>



The second evaluation was done in 2012 and provided a literature review and analysis of the 13 guiding principles of DTCs. It found that, for the most part, the Durham DTC was adhering to those principles. The Court's strongest attribute was identified as forging strong partnerships with various community agencies; its weaknesses were identified as establishing a regimented method of collecting urine screens, not establishing an alumni group, and not providing social supports (such as housing). The evaluation suggested that funding would assist greatly in rectifying these issues.

Doelman, N., (2012, April). *Durham Drug Treatment and Mental Health Court Evaluation: Literature Review and Analysis of Guiding Principles of Drug Treatment Courts*. Submitted in fulfillment of the requirements for LGLS 4902U-001 Honours Thesis, Bachelor of Arts in Legal Studies, Faculty of Social Science and Humanities, University of Ontario Institute of Technology, Oshawa, Ontario.

The third evaluation was started in 2015 and considered both justice and health outcomes, tracking criminal recidivism and emergency room visits of current and past participants in the DTC. This evaluation has yet to be completed due to a lack of resources and funding.

**Peterborough CSC:** This Court was evaluated through Trent University in 2018 with funding from the HSJCC. The study concluded that there is "at least partial support for the efficacy of the Peterborough CSC in facilitating recidivism reduction. Completion of the programs was significantly associated with the reduced likelihood of reoffending." (Nguyen, p. 39) The study observed a lower recidivism rate in the CSC than as compared to non-therapeutic courts and DTCs. On the other hand, the retention rate (staying in the program) was low compared to other MHCs but higher than other DTCs, which is consistent with the dual nature of the program (substance abuse and mental health disorders).

Nguyen, N., (2018, April). *Peterborough Community Support Court: An Evaluation of Recidivism*. Trent University.

<https://hsjcc.on.ca/wp-content/uploads/Peterborough-Community-Support-Court-An-Evaluation-of-Recidivism-2018-04-30.pdf>

## **F. Publicly Accessible Information**

The Durham DTC and the Lindsay and Peterborough CCs each have a printed pamphlet available for the public that is displayed in the courthouse and distributed to all the partner agencies.

The following websites also provide publicly accessible information for the therapeutic courts and programs in this region:

Lindsay/Kawartha Lakes CC (via CMHA): <https://cmhahkpr.ca/programs-services/justice-services-kawartha-lakes/>

Peterborough CSC: <http://peterboroughcsc.org/>

Newmarket and Bradford MHCs (via CMHA): <https://cmha-yr.on.ca/programs/adult/mental-health-justice/>

Barrie & Orillia Diversion (via CMHA): <https://cmhastarttalking.ca/adult-services/court-support-and-diversion/#.YFTIHfIJE2w>

## APPENDIX ONTARIO – CENTRAL WEST REGION

The central west region of Ontario is located just west of Toronto in Central Ontario and includes the cities of Mississauga (pop. 721,599); Hamilton (pop. 747,545); Brampton (pop. 593,638); the Regional Municipality of Halton (pop. 548,435); and St. Catharines-Niagara Falls (pop. 406,074).<sup>69</sup>

Interviews were done with one defence counsel (also a former federal agent for the PPSC) who works in several of the courts, and three treatment providers. There was no opportunity to interview anyone from the St. Catharines DTC or the Brampton MHC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Halton CTC</b>	2012	No	Twice monthly	35-40 average No cap No wait list	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Duty counsel (D)</li> </ul>	
<b>Halton DTC</b>	2013	Yes, municipal gov. funds 2 full-time employees , 2 days per week	Twice monthly	10-13 average (could take more) No wait list (not enough interest)	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Duty counsel (D)</li> <li>• Psychologist (PT)</li> </ul>	Yes, required by municipal gov. (funder)
<b>Hamilton DTC</b>	2014	Yes, indirectly through partner agency Mission Services	Weekly	8-10 average Cap at 12 No wait list (not enough interest)	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Duty counsel (D)</li> <li>• Defence Counsel</li> <li>• Probation</li> <li>• Bail Compliance</li> <li>• CMHA Rep</li> <li>• Service Provider</li> </ul>	Yes, exit interviews. Program assessment committee is in development

<sup>69</sup> [StatsCan Census 2016 - Mississauga; StatsCan Census 2016 - Hamilton; StatsCan Census 2016 - Brampton; StatsCan Census 2016 – Halton region Municipality; StatsCan Census 2016 – St. Catharines – Niagara Falls](#)

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Peel/ Brampton DTC</b>	2016	No, relies on donations	Weekly	Cap at 20	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Duty counsel (D)</li> <li>• Defence counsel</li> <li>• Elizabeth Fry and Parc workers, Psychologist</li> </ul>	In part – Ryerson University evaluation done four years ago (grad research)

**Additional Courts in Jurisdiction:** Peel/Brampton MHC and St. Catharines DTC

**Note:** The legend under column “Team Members” is as follows: (D) – Dedicated

### **B. Number of Therapeutic Courts**

There are four DTCs in the central west region of Ontario: Hamilton (established in 2014), Halton (established in 2013), Brampton (established in 2016) and St. Catharines (established in 2013).

There are two mental health courts: the Halton CTC (established in 2012) and the Brampton MHC.

### **C. Funding Model**

There is no funding for these courts, with the exception of the Halton DTC which has minimal funding. These courts rely on in-kind services from various agencies.

**Hamilton and Brampton DTCs:** In Hamilton, Mission Services, a local out-patient addiction treatment facility, provides treatment services to the court as well as out-patient services for participants. In Brampton, the main partner agency is the Elizabeth Fry Society.

**Halton DTC:** This court is minimally funded through the Region, which pays for an Elizabeth Fry Society case manager two days per week. The funds expire in June and it is uncertain if they will be continued.

**Halton CTC:** The main partner agency is the Canadian Mental Health Association (CMHA) who provides justice services workers who support the participants and get them connected to appropriate treatment and services.

### **D. Distinctive Features**

**DTCs and the Halton CTC:**

**Consistent staffing:** All three DTCs and the Halton CTC have consistent judges and Crowns assigned to the court. These courts were started because a judge in each jurisdiction saw a need and made it happen.

**Hamilton DTC:**

**Eligibility Criteria:** Only applicants facing lengthy jail sentences are admitted. There is some discretion for violent crimes, which the Crown will consider on a case-by-case basis.

**Intensive program:** This is described as the “most intensive” DTC in the province of Ontario. The application process takes up to six weeks with intake appointments and an assessment report prepared for the DTC team to consider. Many applicants wait in custody. Once admitted, participants are required to do prescribed treatment programming five days a week at Mission Services for the first phase. Programming consists of individual appointments, groups, and wellness activities such as yoga. The program requires a negative urine screen for six to nine months in order to graduate. The court is considering changes in the program model to accommodate more individualized programming.

**Post-program supports:** Graduates are placed on probation and a dedicated probation officer tracks their progress and reports back to the court. Graduates are also required to attend court on a monthly basis post-graduation.

**Brampton DTC:**

**Psychological services available:** The Brampton DTC has access to a psychologist, funded by the Elizabeth Fry Society, who provides assessments and services to the participants in the DTC.

**Cross-training:** The DTC team meets regularly for “lunch and learns” to provide cross training.

**Halton CTC:**

**Eligibility Criteria:** This court requires a formal mental health diagnosis from a psychiatrist to be admitted into the program. Applicants without a formal diagnosis can wait six to eight months to be admitted into the program because of the lack of psychiatric resources.

**Guilty plea required:** Even if the successful outcome is a withdrawal of the charge, participants are required to plead guilty at the outset. Participants are not told up front if the charge will be withdrawn at the completion; this decision is made by the Crown. No fitness or NCR assessments are made in this court.

**Post-program supports:** The CMHA provides a “post-court transitional case manager” to provide post-program supports and on-going mental health services, which is funded by the Ministry of Health.

**E. Evaluations**

No formal evaluations have been done. Lack of funding was identified as a barrier to data collection and evaluation.

**Hamilton DTC:** The steering committee has set up a sub-committee to discuss program assessment, to evaluate social, health and justice outcomes, and then apply for federal funding.

**Halton DTC:** They currently are in discussions with the graduate program at UBC to conduct a study.

**Brampton DTC:** Prior to COVID they had started to discuss doing an evaluation.

**Halton CTC:** The region collects data on how many people access the program on a yearly basis.

## **F. Publicly Accessible Information**

The following websites provide information for specific courts and programs.

Brampton DTC: [BDTC – Brampton Drug Treatment Court \(bramptondtc.com\)](http://bramptondtc.com)

Brampton MHC (via CMHA): <https://cmhapeeldufferin.ca/programs-services/mental-health-and-justice/>

Halton DTC (via ADAPT): <https://haltonadapt.org/programs-services/community-justice/>

Hamilton DTC (via Mission Services): <https://mission-services.com/programs-and-services/addiction-services/>

Halton CTC (via HSJCC): [Microsoft Word - Halton Community Treatment Court info sheet Apr 2012 FINAL \(hsjcc.on.ca\)](http://hsjcc.on.ca)

## APPENDIX ONTARIO – EASTERN REGION

The eastern region includes a number of smaller county towns such as Perth (pop. 5,930), larger centres such as Brockville (pop. 21,346) and Belleville (pop. 50,716), and the City of Ottawa (pop. 991,726).<sup>70</sup>

All persons interviewed were involved in either or both of the DTC or MHC in Ottawa, and included: the DTC Manager, a case manager with the DTC, a federal Crown counsel with the DTC, a provincial Crown counsel who works in both the DTC and the MHC, and a judge who presides in both courts.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Ottawa DTC</b>	2006	Fed. funding through Prov. MAG	Weekly	15 average Cap at 25	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Prov. &amp; Fed. Crowns (D)</li> <li>• Duty counsel (D)</li> <li>• Police Liaison (D)</li> <li>• Probation</li> </ul>	Yes, in 2009
<b>Ottawa MHC</b>	2005	Only for forensic psych. Screenings, rest is in kind	3 days a week; two full days in a dedicated courtroom, one day floating without a dedicated courtroom	60-80 average No cap	<ul style="list-style-type: none"> <li>• Judge (R)</li> <li>• Prov. Crown (D)</li> <li>• Duty counsel (D)</li> <li>• Probation</li> </ul>	No

**Additional Courts in Jurisdiction:** Perth DTC, Brockville CTC, Belleville CTC

**Note:** The legend under column “Team Members” is as follows: (D) – Dedicated, (R) – Rotational

### B. Number of Therapeutic Courts

**DTCs:** Two DTCs are located in Ottawa (established in 2006) and Perth (established in 2016).

**MHCs:** The only MHC, termed as such is in Ottawa (established in 2005).

<sup>70</sup> [Census Profile, 2016 – Perth](#); [Census Profile, 2016 - Brockville](#); [Census Profile, 2016 - Belleville](#); [Census Profile, 2016 – Ottawa-Gatineau \(Ontario Part\)](#)

**CTCs:** Two CTCs are in Belleville (established 2007) and Brockville. The Belleville CTC is an integrated court and provides assistance with both mental health and substance use issues.

### **C. Funding Model**

**Ottawa DTC:** The Ottawa DTC is funded by the federal government, through the provincial Ministry of the Attorney General.

**Other Courts:** The remaining therapeutic court programs lack dedicated funding, and therefore depend upon in-kind services provided by the various partner agencies.

### **D. Distinctive Features**

#### **Both DTC and MHCs:**

**Therapy Dog Support Program:** Prior to its interruption by the pandemic, the Ottawa courts had a therapy dog program that was extremely well-received. The judge in both DTC and MHC advised that the therapy dogs played a very important role, changing the tone in the court to help people relax in an otherwise-stressful environment. The program was initiated in the MHC in 2018 and has extended to the DTC and other therapeutic courts in the Ottawa courthouse.

Saad, C.L. (2019, October), "Mental Health Court Therapy Dogs – Ottawa's going to the dogs and loving it." <https://tpoc.ca/wp-content/uploads/2020/04/MHC-Dogs-Conference-Paper.pdf>.

**Dedicated Staffing:** The Ottawa MHC has a dedicated Crown and two dedicated duty counsel but no dedicated judge. There is a judge who acts as a resource for the MHC but does not sit in the court consistently. The MHC is also lacking a program coordinator and that task falls to the provincial Crown. The Ottawa DTC has a dedicated judge, provincial and federal Crowns, a dedicated police liaison, a probation liaison and duty counsel. There is also a DTC coordinator who carries out the court's administrative functions out of PPSC office.

**Impact of Covid 19:** MHC and DTC have not fully resumed since the Covid 19 shut down last year. The trial courts have been given priority and the DTC doesn't appear on any docket. The judge will do an informal Zoom meeting with participants and the DTC team on her lunch hour and they are then adjourned "en masse" to a new date. The MHC has been reduced from three days per week to one day per week and the day is reserved for fitness assessments; the other MHC matters can only be adjourned. The Crown has had to set up special resolution days for MHC matters with the trial coordinator. There have been six resolution days so far.

#### **Ottawa DTC:**

**Graduation Levels:** There are 3 levels of graduation:



1) Level 1 graduation requires a minimum of 9 months participation in programming, no use of substances for 6 months, stable housing, and participation in work, school or volunteering. The outcome is a suspended sentence and one day of probation.

2) Level 2 graduation requires the same as above but only 3 months of no substance use. The result is a suspended sentence and reporting probation order.

3) Level 3 graduation was described as rare and involves a harm reduction approach. It is for participants who achieved some success, stability and a reduction in use but cannot maintain 3 months of continuous abstinence from substances. The appropriate sentence is discussed with the team and the Crown gets input from treatment and makes a specific recommendation based on the seriousness of the charges and what they've achieved in the program.

**Early Intervention Program:** In December 2019, the Ottawa DTC piloted an early intervention DTC which is a shorter program for people charged with simple possession and property offences which would not attract significant or any jail time. The 16-week model is a form of diversion program. This is considered an ideal program for criminality that is motivated by substance use and that is on the lower end of the spectrum (including where someone is charged with possession) because the participant can apply, be assessed immediately and have the benefits of court supervised recovery. This program runs out of the same treatment centre with the same case managers and budget the Ottawa DTC has for the regular DTC program.

**MHC:**

**Eligibility Criteria:** There is no specified eligibility criteria and no excluded offences; the Crown will accept participants facing serious charges. If an applicant can safely be released into the community, the Crown will accept them into the program and allow them to earn a non-custodial disposition such as a conditional sentence.

**E. Evaluations**

The Ottawa DTC received an outcome evaluation, as a pilot project, in 2009. It was prepared by Rideauwood Addiction and Family Services (the main treatment provider for the program). The evaluation determined that recidivism rates of program participants dropped significantly after the first year of operation. The most significant impact was on the reduction in drug use. Prior to program entry, 94.6% of participants were using 3 – 5 times per week or more (89.2% were daily users of at least one substance). A sample of 37 active participants, taken over a six-month period, spent \$15,403 on substance use as compared to \$1,516,703 for an equivalent period of time had they not been participating in the DTCO program. While in the program, the frequency of use was less than once per month. The evaluation calculated that the DTC effected a reduction of \$1.5 million spent on drugs in Ottawa in only six months.

Rideauwood Addiction and Family Services. (2009, January). *Outcome Evaluation of the Ottawa Drug Treatment Court Pilot Project*.  
<https://cadtc.org/wp-content/uploads/2015/02/2008-DTCO-Evaluation-Final.pdf>

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Belleville/Hastings CTC: <https://amhs-hpe.ca/services/court-diversion-court-support/>. This link describes court support and diversion services available through Addiction and Mental Health Services of Hastings and Prince Edward Counties, without specifically mentioning the Belleville/Hastings CTC.

There is a descriptive newspaper article from 2014 about the CTC:

Malette, C. (2014, December). "A Better Way for Justice Served". *The Intelligencer*. <https://www.intelligencer.ca/2014/12/12/a-better-way-for-justice-served>

Brockville CTC: Little information is publicly available, though there is brief mention of assessment services for "mental health court":

The Royal Mental Health Care and Research. (2021 webpage). *Mental Health Law*. <https://www.theroyal.ca/patient-care-information/clinics-services-programs/mental-health-and-law>

Ottawa Drug Treatment Court. (2011, January). *Forms and Policies*. [http://www.cicad.oas.org/fortalecimiento\\_institucional/dtca/dtcc/Documents/Presentations%20and%20Materials/Materials%20-%20Hand%20Outs/Hand%20Out%20James%20Budd%2031-JAN-11%20DTCO%20Forms%20and%20Policies%20W-ADDI.pdf](http://www.cicad.oas.org/fortalecimiento_institucional/dtca/dtcc/Documents/Presentations%20and%20Materials/Materials%20-%20Hand%20Outs/Hand%20Out%20James%20Budd%2031-JAN-11%20DTCO%20Forms%20and%20Policies%20W-ADDI.pdf)

The Court is also briefly mentioned on the Rideauwood (main treatment provider for the DTC) website at <https://www.rideauwood.org/programs/adults/>

Ottawa MHC (via CMHA): <https://www.cmha-east.on.ca/index.php/en/intensive-case-management2/court-support-diversion>. This CMHA site primarily provides information about mental health diversion services generally, as distinct from the specific operation of the Ottawa MHC.

Perth DTC: A descriptive newspaper article announcing the establishment of this court in 2016 is available online:

Seymour, A. (2016, December). "We give them a second chance: Rural drug court thrives." *Ottawa Citizen*. <https://ottawacitizen.com/news/local-news/we-hope-to-give-them-a-second-chance-rural-drug-court-thrives>

## APPENDIX ONTARIO – NORTHEAST REGION

The northeast region of Ontario is an area covering approximately 276,365 square kilometres. It includes the cities of Sudbury (pop. 88,054), Sault Ste Marie (pop. 66,313) and Timmins (pop. 29,331).<sup>71</sup>

Interviews were conducted with a judge who sits on occasion in the Sudbury Wellness Court and a clinical services manager with the Sudbury Community Service Center who oversees two justice service workers. A Crown from the Sudbury Wellness Court provided information as well.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Sault Ste Marie Community Wellness Court</b>	2008	No funding	Twice monthly	20 average	<ul style="list-style-type: none"> <li>• Judge</li> <li>• Prov. Crown</li> <li>• Probation</li> <li>• Mental Health Worker</li> </ul>	No
<b>Sudbury Wellness Court</b>	2013 or 2014	No, in-kind only	Biweekly for two hours (can extend court time if needed)	45-50 average, 20-30 per sitting  No cap No waitlist	<ul style="list-style-type: none"> <li>• Judge (R)</li> <li>• Crown (D)</li> <li>• Duty counsel (D)</li> <li>• Two Program support workers (D)</li> </ul>	Not a formal one

**Additional Courts in Jurisdiction:** *Timmins Wellness Court*

**Note:** *The legend under column "Team Members" is as follows: (D) – Dedicated, (R) – Rotational*

<sup>71</sup> [Statistics Canada 2016 Census - Ontario Northeast Region](#); [Statistics Canada 2016 Census - Sudbury](#); [Statistics Canada 2016 Census - Sault Ste Marie](#); [Statistics Canada 2016 Census - Timmins](#)

## **B. Number of Therapeutic Courts**

There are presently three Wellness Courts, located in Sudbury, Sault Ste Marie and Timmins. There is no detailed information available online about the specifics of the Sault Ste Marie and Timmins programs, and representatives from those Courts were not interviewed.

***Sudbury Wellness Court (SWC)***: This Court was established in 2013 and is primarily a mental health diversion court with a few cases involving substance use issues taken on an *ad hoc* basis. A participant's drug use is usually identified more as a corollary to an existing mental health issue or developmental disability. There is a desire to expand the SWC to include three streams: diversion, mitigation of sentence, and aspects of a traditional DTC.

## **C. Funding Model**

There is no dedicated funding and the Court relies on in-kind services from partner agencies. However, the federal Ministry of Children, Community and Social Services (through the North Community Networks for Specialized Care) provides funding for a Diversion Justice Case Manager. Recently the Crown's office has entered into Memoranda of Understanding with 16 new community partners and is looking to add addiction services.

## **D. Distinctive Features**

***Dedicated staffing***: There is a designated Crown but no consistent judge, no federal Crown and, as a result of recent changes to Legal Aid, no duty counsel is regularly present. Most of the participants in SWC are unrepresented, which is a significant concern particularly for participants who have cognitive impairment. If legal advice is needed, one of the duty counsel working in the courthouse is contacted for assistance. The SWC used to have a psychiatrist on site but that resource is no longer available.

***Eligibility***: The criteria for admissibility follows the Ontario Crown Policy Manual for eligible offences and exceptional circumstances. Most matters are diverted, and some may be resolved with a s. 810 peace bond. Those falling under the exceptional circumstances stream result in a reduced sentence. For those who do not meet the criteria for mental health diversion, there remains the option to enter a guilty plea in the regular stream and engage in mental health services that are made available, which can result in a reduction in sentences.

***Program Partners***: Two community agencies are present in the Sudbury Wellness Court: the Canadian Mental Health Association - Sudbury (CMHAS) and the Sudbury Community Service Centre. The main addiction treatment agency, Monarch Recovery Services, has no court presence. This gap has been identified in light of a growing opioid-use concern in Sudbury.

**E. Evaluations**

There have been no evaluations conducted. Although no data is being kept for the SWC specifically, the two agencies supporting the Court collect data specific to their programming.

**F. Publicly Accessible Information**

There is no publicly accessible information available.

## APPENDIX ONTARIO – NORTHWEST REGION

The northwest region of Ontario is vast and sparsely populated, being 526,478.23 square km in size. With a total population of 227,455, it has a population density of just 0.4 per sq. km. There are 59,000 indigenous persons and 15,280 immigrants. The largest cities are: Thunder Bay (pop. 93,952) and Kenora (pop. 10,687), which is located close to the western border with Manitoba and a six-hour drive from Thunder Bay. The northwest region also includes 24 Indigenous fly-in communities to which the Ontario Court of Justice travels.<sup>72</sup>

Interviews were conducted with a Judge who sits on occasion in the Kenora MHC, the designated Crown, a defence counsel, and treatment providers from the CMHA - Kenora.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Kenora DTC</b>		None	Biweekly	6-15 avg per sitting	<ul style="list-style-type: none"> <li>• Judge,</li> <li>• Prov. Crown</li> <li>• Legal Aid</li> </ul>	No
<b>Kenora MHC</b>	2011	None	Biweekly	20 avg per sitting  Proposed ministry cap on caseload for service workers is 15 (though they have ~50 clients now)	<ul style="list-style-type: none"> <li>• Judge,</li> <li>• Prov. Crown</li> <li>• Legal Aid</li> <li>• CMHA workers</li> </ul>	No

### B. Number of Therapeutic Courts

The northwest region of Ontario has two therapeutic courts, both of which are in Kenora.

**MHC:** This court was established in 2011 and serves people from all over the district, including transfers from other communities in the region, when participants waive in their charges from those other jurisdictions. The Court offers three approaches, depending on the nature of the charges and the participant's background: 1) If a

<sup>72</sup> [StatsCan 2016 Census - Northwest Ontario](#); [StatsCan 2016 Census - Northwest Ontario](#); [StatsCan 2016 Census - Thunder Bay](#); [StatsCan 2016 Census - Kenora](#); [Ontario Court of Justice – Report on Fly In Operations](#)

participant works collaboratively with the service worker, then the Crown will take a more lenient sentencing position; 2) A participant enters into a diversion agreement and successfully completes his/her program and the charge is then withdrawn as diverted and 3) Upon being assessed as low risk, the participant enters into a formal diversion agreement with CMHA to engage in their programming for a year. The charges are stayed by the Crown. If the participant does not comply with the agreement, CMHA notifies the Crown and proceedings are reinstated.

**DTC:** This court was established in 2010. Participation requires a commitment for a year. To date only a few people have participated in the program, which may be due, in part, to the absence of residential treatment and aftercare to provide support to participants. This Court has been on hold since the start of the pandemic in March 2020.

### **C. Funding Model**

There is no dedicated funding for either court. The CMHA - Kenora chapter provides the primary support for the MHC's operations. It now provides two court support workers to manage the caseload, having received funds for an additional worker in 2018 to address the increased workload.

### **D. Distinctive Features**

The Kenora therapeutic courts have a number of distinctive features. The majority of these stem from the region's vast size (the Kenora District courts cover some 60 communities), large caseloads, and limited resources. While there is virtually no waiting list in the MHC for referrals (CMHA screens them quickly), there are typically long waiting periods for actual access to services (detailed below).

#### ***Both Courts:***

***Counsel for the Participant:*** Changes in Legal Aid Ontario funding have had a significant impact on both the MHC and DTC in Kenora. Duty Counsel are no longer providing services in the MHC. Since having counsel is a requirement, access to that court is limited to those with privately retained counsel, funded through Legal Aid Ontario. At present there is only one defence counsel who represents a significant percentage of those appearing before the MHC. Counsel indicates that recent changes to the billing practice for Legal Aid Ontario has resulted in smaller retainers. Experience shows that the clients' cases are often complex and require more time and legal support, not less.

Only Duty Counsel appear in the DTC since funding for private counsel through Legal Aid Ontario is no longer available for DTC matters.

***Impact of COVID:*** The Court has not been going to fly-in communities since February of 2020. As a result, members of those communities who have been charged with offences are not appearing in court and so are not being referred to any services in Kenora. In the words of counsel, "the charges are just piling up."

**MHC:**

**Dual diagnosis population:** The region's dual diagnosis population is very high. In addition to the volume, these cases are very complex and typically require additional resources. There is a significant waitlist for developmental services, recently numbering some 700 individuals. As a result, participants often have to wait up to 24 months to be sufficiently connected to resources in order to have their case completed.

**Service Providers:** The Canadian Mental Health Association - Kenora (CMHAK) provides services to support the MHC. This includes screening for appropriateness for the MHC and the need for further psychiatric assessments, referrals and, for those who have no supports, intensive case management support within the Kenora area. These assessments are requested by defence counsel and are considered privileged. As a consequence, any decision to disclose them rests with the participant.

The assessments include a cultural services assessment, cognitive impairment screen, FASD screen, and a suicide risk screen. As a result, they are able to identify individuals who have not previously been flagged when they were before the criminal justice system and offer services.

**Indigenous Services:** CMHAK court staff work with all of the participants before the MHC and make referrals to other community services that focus almost exclusively on the Indigenous population (approximately 90% of the court's caseload). There is an intention to broaden the Court's presence and reach out to other Indigenous services to have them provide a greater breadth of services reflecting both western clinical assistance and Indigenous programs. In addition, there is a desire to provide more cultural sensitivity in the Court, for example, by incorporating such significant symbols as tobacco bundles and a talisman as incentives for participants.

**Psychiatric services:** There is a demand for increased psychiatric services for those residing in Kenora. At present there are no close-to-home in-patient services and there is a significant waitlist for out-patient psychiatric services (at the time of the interview the waitlist was 150 people). Furthermore, there are no such services for residents in fly-in communities. Not even virtual psychiatric services are available to those residents owing to limited availability of cell phones and bandwidth capacity.

The closest in-patient facility and early psychosis episode clinic is in Thunder Bay, a six-hour drive from Kenora. The facility has only nine beds yet provides services for individuals across the entire region. Alternate treatment facilities are all in southern Ontario. There are no outreach programs for those reintegrating back into their home communities.

**Pre-court meeting:** The MHC Judge does not currently participate in these meetings; only the Crown, defence counsel and CMHA worker meet to discuss



each client before his/her court appearance. Privacy legislation limits how much information CMHA staff may share.

**Data:** The Court does not collect data. The CMHA maintains its own records, including numbers of clients served.

## **E. Evaluations**

**MHC:** A 2014 study researched the “social phenomenon” of the MCH and wrote: “The results suggest that if individuals with mental health issues, cognitive disabilities, and brain injuries are offered access to a speciality court, such as the MHC, based on therapeutic and restorative justice principles, they would be less likely to re-offend and be involved in the criminal justice system.”

Dias, S., (2014). *Does Participation in Mental Health Court Reduce Recidivism?* Master’s Thesis, Faculty of Social work, Faculty of Graduate Studies University of Manitoba.

[https://mspace.lib.umanitoba.ca/bitstream/handle/1993/24045/dias\\_sara.pdf?sequence=1](https://mspace.lib.umanitoba.ca/bitstream/handle/1993/24045/dias_sara.pdf?sequence=1)

**DTC:** There have been no evaluations.

## **F. Publicly Accessible Information**

The following website provides publicly accessible information:

Kenora MHC (via CMHA): <https://www.cmhak.on.ca/index.php/mental-health-diversion-court-support-program>

## APPENDIX ONTARIO – TORONTO REGION

In 2016 Toronto, Ontario's largest city, had a population of 2,731,571. More than half the population were visible minorities (1,385 850), just under half were immigrants (1,266 005) and there were 23,065 indigenous people.<sup>73</sup>

Interviews were conducted with a Judge from each of the DTC and the Old City Hall MHC (OCH-MHC), four Crowns covering both courts, three defence/duty counsel covering both courts, the program manager and a social worker from the DTC, and the program manager from the OCH-MHC.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>College Park MHC</b>		Yes, fully funded (Prov.)	Daily	30/day average No wait list	<ul style="list-style-type: none"> <li>• Judge (R)</li> <li>• Crowns (D)</li> <li>• Duty counsel (D)</li> <li>• 4 MH Case Workers</li> </ul>	Yes, through Fred Victor
<b>Old City Hall DTC</b>	1998	Yes, Prov. & Fed. funding	Weekly	30-35/day avg Cap 48 No wait list	<ul style="list-style-type: none"> <li>• Judge (R)</li> <li>• Prov. &amp; Fed. Crowns (R)</li> <li>• Defence counsel</li> <li>• Duty counsel (R)</li> <li>• Probation officer</li> <li>• Police liaison</li> <li>• Psychiatrist (PT)</li> <li>• Social Worker</li> <li>• Addiction Medicine Doctor</li> </ul>	Yes, last done in 2006
<b>Old City Hall MHC</b>	1998	Yes, fully funded (Prov.)	Daily	30/day average 50-person case load No wait list	<ul style="list-style-type: none"> <li>• Judge</li> <li>• Crowns (D)</li> <li>• Duty counsel (D)</li> <li>• 5 MH Case Workers</li> <li>• Psychiatrist</li> <li>• Community Support Workers</li> </ul>	Yes, through Fred Victor

**Additional Courts in the Jurisdiction:** Two MHCs at 1000 Finch and 2201 Finch

**Note:** The legend under column "Team Members" is as follows: (D) – Dedicated, (R) – Rotational, (PT) – Part time

<sup>73</sup> [StatsCan Census 2016 - Toronto](#)

## **B. Number of Therapeutic Courts**

Toronto has five therapeutic courts, one DTC in Old City Hall, and four MHCs in Old City Hall, College Park, 1000 Finch and 2201 Finch. The following information was obtained about three of those courts:

***Toronto DTC:*** This court was established in 1998 as the first DTC in Canada. The main partner agency is the Centre for Addiction and Mental Health (CAMH) and this court does addiction and mental health together, although it is not officially an integrated court. The court sat two days per week until 2020 (and prior to COVID) when it was reduced to one sitting per week. During COVID most of the time it has not sat.

***OCH-MHC:*** This court was established in 1998 as Ontario's first courtroom dedicated to dealing with mentally disordered offenders. It sits five days per week and has adjoining holding cells and office space allowing easy access to the participants by psychiatrists, social workers, and lawyers. Psychiatrists are onsite every day to conduct fitness hearings, speak to families and provide advice to the mental health court workers. The Fred Victor Mission and CAMH are the main partner agencies.

***College Park MHC:*** This Court sits five days a week with a dedicated Crown but no dedicated judge. It also has four mental health community workers.

## **C. Funding Model**

***Toronto DTC:*** This court received initial funding in 1998 from the federal government that has not been increased. About two years ago, at a time when the court was serving more participants, the funding was cut by about 20% (by \$150,000) when funding was downloaded to the province. The court lost three-four staff. This court also receives separate funding from the Ontario Ministry of Health for a housing program for its participants.

***OCH and College Park MHCs:*** These courts are fully funded by the provincial government. The Ministry of Health provides funds for the management of the OCH-MHC including psychiatric services five days a week, and five social workers from the Fred Victor Mission who support approximately 50 participants at a time. The Ministry of Health also provides funding for a dual diagnosis program, a housing program, and a post-incarceration program.

## **D. Distinctive Features**

### ***Both Toronto DTC and OCH-MHC:***

***Dedicated Staffing:*** The Toronto DTC currently has a rotation of four Judges with one judicial Team Lead. The OCH-MHC used to have a dedicated Judge but that is no longer the case. Both courts currently have dedicated provincial and federal Crowns, as well as dedicated duty counsel.

***Bail matters:*** Bail is currently dealt with in both courts. Both courts are meant to be a "one stop shop" and deal with everything except trials.

**Impact of the New Toronto Courthouse:** A new 17 story courthouse is being built in downtown Toronto. It is a first in Ontario and will amalgamate six Ontario Court of Justice criminal courthouse locations, with a completion date of Spring 2022. There was unanimous concern that the new courthouse will have a deleterious effect on the Toronto DTC and OCH-MHC courts, in two main respects: staffing and bail matters.

- 1) **Staffing:** The way the Judges, provincial Crowns, and duty counsel will be organized at the new courthouse will mean that there will no longer be designated/consistent Judges, provincial Crowns and duty counsel assigned to the therapeutic courts. This was described by the representatives who were interviewed as moving away from best practices and undermining the objective and the foundation of what had been built.
- 2) **Bail:** Bail matters will be dealt with at an offsite remand centre. Representatives from both courts indicated that this change will cause significant delays in getting applicants assessed and released on bail since the psychiatric supports, case managers and social workers will not be located at the remand centre. The representatives from the MHC described how important it is to have bail dealt with on-site in the MHC because clients with mental health and addiction issues do not do well with a regular busy bail court and it is not unusual to see matters adjourned for two weeks in custody. If they go into the MHC, they can be released the same day.

### **Toronto DTC**

**Eligibility Criteria:** The criteria have not changed in 22 years; both treatment providers and legal participants are looking at expanding eligibility criteria. Currently the court accepts primarily high risk non-violent offenders with an addiction to opiates or stimulants. The court does not accept commercial drug traffickers, anyone with gang affiliations, or driving offences. The treatment providers that were interviewed saw these criteria as a barrier to access, especially for racialized applicants, and described systematic racism in the application process. As in other DTCs the Crown is the gatekeeper. However, in the Toronto DTC, the treatment team does not see an applicant until the Crown deems them to be eligible and is not consulted at the initial application stage.

Participants may be suspended from the program if they incur a new ineligible charge, but they can continue to work with the program and continue to check in until they have dealt with the ineligible charges.

**Harm reduction:** A harm reduction model is used. A participant will never be removed from the program for continued drug use. Abstinence from alcohol, cannabis, and other secondary drugs are not criteria for graduation. However, abstinence from the primary drug of concern is still a criterion for graduation. The court has “alternative exits” from the program and will complete participants who have done all treatment phases and made significant improvements in their lifestyle. These participants will still receive a non-custodial disposition but not

the full graduation ceremony, although there is some flexibility. For example, permission was given to graduate someone who was still using but was going to school and otherwise maintaining stability in the community, which are markers of success.

**Peer Support Worker:** A former graduate who completed the program two decades ago is now employed as a peer support worker at CAMH for participants in the Toronto DTC.<sup>74</sup>

**Housing Program:** This program is funded separately by the Ministry of Health through Addiction Supportive Housing Funds. Typically, this funding is not targeted to a specific program; however, the Toronto DTC was able to secure funding because the Ministry of Health focused on people connected to the criminal justice system. The program provides for 26 permanent units and eight temporary (11- month) units. The temporary units are dependent on their continuance in the DTC program. Once in a permanent unit, the tenants come under the *Landlord Tenant Act* and can stay in the housing program regardless of their status in the DTC. The program also provides rent supplements and housing supports, however, due to the high needs of the participants, the supports are not viewed as sufficient and it is difficult for the program to find and keep housing partners.

## **OCH-MHC**

**Eligibility and risk assessments:** Violent offences causing bodily harm, driving offences and offences involving domestic violence are typically excluded. However, there is some flexibility and senior Crowns are assigned to the court so they can make difficult decisions. CAMH used to do risk assessments but no longer do them because of volume and resources. With more tools for risk assessments OCH-MHC would likely broaden the scope and take more serious offences, like the Nova Scotia MHC does.

**COVID changes:** Prior to COVID, OCH-MHC sat five days per week as a mental health court and dealt with everything short of a trial, which included bails, fitness explorations, treatment orders, resolutions, and monitoring diversions. It was also used as a drop-in centre connecting participants with case managers, psychiatrists, duty counsel and social workers, and provided basic needs such as food, clothing, and gift cards for grocery stores. The following changes have occurred since COVID.

- 1) The OCH-MHC operates only as a daily fitness court for in-custody fitness hearings. Other non-mental health related matters are also being put into OCH-MHC which is leaving no time for anything else.

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<sup>74</sup> Chan, P., (2021, January 28). "Toronto woman credits encounter with judge for turning her life around". *CTV News*.

<https://toronto.ctvnews.ca/toronto-woman-credits-encounter-with-judge-for-turning-her-life-around-1.5286658>

- 2) Bails are now being done from the jails and people are being released from the jails which are out of the city centre. The representative we interviewed said that what they used to do in one day in OCH-MHC now takes an average of one week, and that means one extra week in custody for people who are unwell.
- 3) There is no longer a consistent Judge in OCH-MHC.

## **E. Evaluations**

**Toronto DTC:** This court was evaluated in 2007. The evaluation was promising and found a reduction in substance abuse, breaches and recidivism among drug dependent participants (both graduates and participants who were unable to fully complete the program.) The court would like to have the program evaluated again but it lacks the necessary funding or resources.

Public Safety Canada. (2007). *Toronto Drug Treatment Court Evaluation Summary*.

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/drqtrtmnt-trnt/drqtrtmnt-trnt-eng.pdf>

**OCH-MHC:** Apparently the Fred Victor Mission has done evaluations although they were not available.

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Toronto DTC: <https://www.camh.ca/en/your-care/programs-and-services/drug-treatment-court-services>

Toronto OCH MHC: <https://www.fredvictor.org/what-we-do/health-services/mental-health-and-justice/>

## APPENDIX ONTARIO – WEST REGION

The western Ontario region extends west geographically from Guelph (pop. 131,794) and Kitchener-Waterloo (pop. 338,208) through London (pop. 383,832), St. Thomas (pop. 38,909) and Windsor (pop. 217,188) to the southwest to Owen Sound (pop. 21,341) and to the north and west to Brockton (formerly Walkerton, pop. 9,461).<sup>75</sup>

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Guelph/Wellington DTC</b>	2013	No, all in kind		4 avg Cap at 8	<ul style="list-style-type: none"> <li>• Judge (R)</li> <li>• Crown (R)</li> <li>• Defence counsel (D)</li> <li>• Support Workers</li> </ul>	No

**Additional Courts in Jurisdiction:** Kitchener-Waterloo DTC, Kitchener-Waterloo MHC, Elgin / St. Thomas MHC, London MHC, Owen Sound MHC, Sarnia MHC, Windsor MHC, Western Region (Brockton) MHC, Woodstock CC

**Note:** The legend under column “Team Members” is as follows: (D) – Dedicated, (R) – Rotational

### B. Number of Therapeutic Courts

**DTCs:** are located in Guelph (established 2013) and Kitchener.

**MHCs:** are located in London (established 1997), Windsor (2005), Kitchener-Waterloo (2006), Sarnia, St. Thomas, Owen Sound (2004), and Brockton (Walkerton) (2011).<sup>76</sup>

**A Community Court:** is located in Woodstock (established 2014), with another reportedly under consideration in Stratford.

Limited information was available to the researchers, as only the personnel from one DTC program (Guelph) were accessible to the interviewers. The following were interviewed: a program manager, manager of regional outpatient services, and an addictions specialist/support coordinator (all working for the key service provision agency); and one defence counsel who also serves as the federal Crown counsel affiliated with the Guelph DTC.

<sup>75</sup> [Census Profile, 2016 – Guelph](#); [Census Profile, 2016 – Kitchener](#); [Census Profile, 2016 – London](#); [Census Profile, 2016 – St. Thomas](#); [Census Profile, 2016 – Windsor](#); [Census Profile, 2016 – Owen Sound](#); [Census Profile, 2016 – Brockton \(formerly Walkerton\)](#)

<sup>76</sup> [Human Services and Justice Coordinating Committee \(2017\), “Mental Health Courts in Ontario,” Appendix II, p. 20;](#)

### **C. Funding Model**

There is no indication that any of the therapeutic court programs in the Region receive dedicated funding. The informants from the Guelph DTC expressly advised that their program is unfunded. The court relies on in-kind services and the main partner agencies are Homewood Health, Stonehenge Therapeutic Community and Hope House.

### **D. Distinctive Features**

#### ***Guelph DTC:***

***Police Officer on DTC Team:*** This is a feature of the Guelph DTC. Having a police officer as part of the team helps ensure that information about any police contacts is provided to the rest of the team. This also helps with monitoring of compliance with bail conditions and also facilitates police community wellness checks if there is concern about a participant missing an appointment or court appearance.

***Personal Supports During Court Attendance:*** The Guelph DTC is open to and flexible in the provision of various kinds of supports to facilitate participants' court experiences. Examples include closing the court for some individuals, allowing participants to bring their child with them, as some have childcare issues, and permitting participants' support coordinators to speak for them if they are particularly uncomfortable with speaking for themselves. The participants form strong relationships with their support coordinators.

***Sentencing Done Separately from Graduation:*** At the Guelph DTC, graduation ceremonies are held on separate days from formal sentencing, occasionally outside of regular court sitting hours.

***Graduation Criteria:*** Volunteer hours and life skills program are a requirement of graduation. When stabilized, participants are referred to Hope House to complete life skills workshops and do volunteer hours. There are various levels of graduation. In order to graduate with honours, a participant must have completed 100 hours of volunteer work, a residential treatment program, three groups through CADS and have 90 days of sobriety. The various levels of graduation go down from there.

### **E. Evaluations**

***MHC:*** The London Adult Therapeutic Court was evaluated in 2011 and the report found that, when compared with other jurisdictions, London's Adult Therapeutic Court "exceeds best practice recommendations and offers a functional example of successful community partnerships and client outcomes". The report includes descriptions of the collaborative partnerships that characterized the court's ability to facilitate linkages to services and supports for participants, as well as recommendations for improvement.

*Adult Therapeutic Court/ Court Support and Diversion.* (2011, March). Prepared for the Southwest LHIN.

<http://fasdontario.ca/wp-content/uploads/2014/01/Court-Eval-Project.pdf>



**DTC:** The Guelph DTC has not yet been evaluated. It is a significant challenge for unfunded therapeutic courts to arrange for evaluations of their programs.

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Stonehenge Therapeutic Community (Guelph DTC) (2021, April web page). <https://stonehengetc.com/overview-of-stonehenge-programs/community-services-programs/drug-treatment-court/>. This webpage provides basic information as to eligibility and exclusionary criteria, as well as the referral/screening mechanism.

Waterloo Region DTC: This link provides access to a webinar and associated slides presented in 2015 to describe the court's operation. HSJCC. (2017, November). *Region of Waterloo Drug Treatment Court*. <https://hsjcc.on.ca/region-of-waterloo-drug-treatment-court/>.

Waterloo Region MHC (navigational handbook): HSJCC Waterloo and Wellington. (2d edition). *Mental health, the justice system and you*. [https://cmhaww.ca/wp-content/uploads/2016/05/Mental-Health-Justice-System-Booklet-Low-Res\\_WEB.pdf](https://cmhaww.ca/wp-content/uploads/2016/05/Mental-Health-Justice-System-Booklet-Low-Res_WEB.pdf).

Windsor MHC brochure: <https://windsorsex.cmha.ca/wp-content/uploads/2016/11/672-Court.pdf>.

Elgin/St. Thomas MHC: CMHA Egin County. (2021, April web page). *Justice Services/Court Support*. <http://www.cmhaelgin.ca/services/court-support/>.

Owen Sound MHC: CMHA Grey Bruce (2021, April web page). *Mental Health Court Support*. <https://greybruce.cmha.ca/mental-health-services/mental-health-court-support/>.

Oxford/Woodstock CTC: CMHA Oxford County (2021, April web page). *Support and Treatment*. <https://cmhaoxford.on.ca/programs-services/support-and-treatment/>. This link includes provides access to some information as to the operation and eligibility criteria for the CTC.

## APPENDIX PRINCE EDWARD ISLAND

Prince Edward Island has a population of 142,907, occupying 5,686.03 square kilometres, with a reported population density of 25.1 people per square kilometre. There are 2700 Indigenous people and 8,900 immigrants. The largest city is Charlottetown (pop. 67,820).<sup>77</sup>

Prince Edward Island currently has no therapeutic courts and as a result no one was interviewed for this report.

The media reports that Prince Edward Island is actively working on opening a therapeutic court that would focus on mental health and addictions issues, although no timeline was indicated.

Campbell, K. (2021, April 1). "P.E.I. justice minister describes 'great first step' toward therapeutic court." *CBC News*.  
<https://www.cbc.ca/news/canada/prince-edward-island/pei-politics-therapeutic-court-thompson-1.5971818>

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<sup>77</sup> [StatsCan Census 2016 – Prince Edward Island](#); [StatsCan Census 2016 - Charlottetown](#)

## APPENDIX QUEBEC

In 2016 Quebec had a population of 8.1 million. There were approximately 183,000 Indigenous people, over a million visible minorities and over a million immigrants living in Quebec. The land area of Quebec is 1,356,625.27 square kilometres and the reported population density was 6.0 people per square kilometre. The largest cities are Montreal (pop. 1.78 million); Quebec City (pop. 831,000); Trois Rivières (pop. 114,000); and Sherbrooke (pop. 139,000).<sup>78</sup>

Interviews were conducted with a judge, social worker and defence counsel for the Sherbrooke MHC, a Crown for the Trois Rivières MHC, and the program administrator for the Montreal DTC. There was no opportunity to interview anyone from the other courts.

### G. General Information<sup>79</sup>

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Montreal Conciliation Court</b>	1988		Daily	900 files		
<b>Montreal DTC (PTTCQ)</b>	2012	Hoping to continue Fed. Funding; some Prov. funding as well	Monthly (participants appear every other month)	7 participants currently 155 have completed since 2012 No wait list	<ul style="list-style-type: none"> <li>• Four Judges (D)</li> <li>• Crown</li> <li>• Defence (legal aid and private)</li> <li>• Probation</li> <li>• Social Service</li> <li>• Evaluation Team (Nurse)</li> <li>• Research Team</li> <li>• Justice Department Liaison</li> </ul>	Yes, currently completing second evaluation
<b>Montreal Municipal MHC</b>	2008		Daily	554		

<sup>78</sup> [StatsCan, 2016, Quebec; Census Profile, 2016, Montréal; Census Profile, 2016, Quebec City; Census Profile, 2016, Trois-Rivières; Census Profile, 2016, Sherbrooke](#)

<sup>79</sup> The information in this appendix was provided by the interviewees and was not validated by the Government of Quebec.

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Sherbrooke MHC</b>	2016	Funded by the Court of Quebec plus in kind	Monthly (participants appear every other month)	10 on average	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Defence (D)</li> <li>• Probation</li> <li>• Social Worker (D 4 days a week)</li> </ul>	Qualitative survey done by Sherbrook University in 2016
<b>Trois-Rivieres MHC</b>	2016		Twice monthly	15 on average Cap at 20 Waitlist at times	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Defence (D)</li> </ul>	Informal client exit interviews only
<b>Four Programs in one Court (Quebec)</b>					<ul style="list-style-type: none"> <li>• Perception (Collection/ Fines Options)</li> <li>• Mental Health</li> <li>• Drug Treatment</li> <li>• Homelessness</li> </ul>	

**Additional therapeutic Courts in Quebec:** Abitibi (Val-d'Or); Beauharnois; Bonaventure; Chicoutimi; Drummond; Gaspé (Gaspé et Percé); Gatineau; Joliette; Saint-François; Saint-Maurice (Shawinigan); Terrebonne; Kamouraska; Labelle; Laval; Longueuil; Rimouski (Rimouski); Roberval (incluant Opitciwan et Mashteuiatsh)

**Note:** The legend under column "Team Members" is as follows: (D) – Dedicated

## **H. Number of Therapeutic Courts**

There are at least 24 therapeutic courts in Quebec with many more in development, as described below:

**DTCs:** There are currently two DTCs in Quebec: Montreal (established 2012) and on an Indigenous reserve in the northern village of Puvirnituk (2019). Options for expanding DTCs in Quebec are being considered.

**MHCs:** MHCs are being developed and expanded under the inter-ministerial action plan called "Justice and Mental Health Support Program", with 22 courts currently in existence and six more in development. Details as well as a map can be found on the Justice Quebec website at [Justice and mental health support program - Ministère de la justice \(gouv.qc.ca\)](http://Justice and mental health support program - Ministère de la justice (gouv.qc.ca)).

## **I. Funding Model**

***DTC– Montreal:*** This Court is jointly funded by the federal and Quebec government.

***MHCs:*** The Quebec government funds these programs through the “Justice and Mental Health Support Program.”

## **J. Distinctive Features**

### ***Both DTC and MHCs:***

***Judges and Crowns receive specialized training.*** Designated judges and Crowns appear in these therapeutic courts and receive specialized training in court-supervised addiction and mental health treatment. More specifically, they are trained in motivational interviewing.

***Increased Legal Aid Tariffs.*** Legal Aid Quebec increased Legal Aid tariffs for counsel who represent clients in any of the therapeutic courts in Quebec as a recognition of how time consuming it is for counsel to represent a client throughout the course of these programs.

### ***DTC – Montreal:***

***Residential treatment centres.*** There is a formalized relationship with residential treatment centres. At the outset of the program, the addiction program worker does an initial assessment and recommends the level of treatment for each participant. This will determine whether the participant must begin their DTC process in a 6-month residential treatment program, or whether they will be referred to outpatient treatment services. The participant can choose from residential treatment centres that have been approved by the court. To be an approved treatment centre, the centre must have signed an MOU with the court and must prepare standardized progress reports for the court every 2 months. The centre must also report any breaches to the court as well as prepare a formal release plan that is sent to the court for approval. Only the court can officially discharge a participant from the treatment centre to begin the next phase of the program, which is court-monitored outpatient treatment and reintegration into the community. If the participant leaves the residential treatment centre, they are discharged from the DTC program.

***Probation Services:*** Probation services plays an integral role. Correctional Services provides a probation officer who develops and monitors the treatment plans throughout and acts as the liaison between the treatment centre or outpatient treatment services and the court. In addition, the probation officer prepares a pre-sentence report (PSR) for the court at the end of the in-patient treatment that speaks to risk of recidivism and the potential for reintegration into the community. The court considers this document when determining whether the participant can be released from the residential treatment centre. If the participant is doing outpatient treatment, the PSR is used to help determine if they have completed the program requirements and the appropriate sentence.

**Program Administrator:** The main contact and administrator of the program is the Director of the Community Legal Clinic in Montreal. (A project manager at the MJQ is in charge of all the PTTCQ in Quebec.) This appears to be the only DTC in Canada with a program manager who is a former defence counsel from Legal Aid.

#### **MHCs:**

**Partnership–Ministry of Health:** There is a well-established partnership between the Court of Quebec and the Ministry of Health. The MHCs have a social worker who does an initial assessment and then creates the links to recommended supports and services.

**Dedicated Staffing:** The MHCs each have a consistent judge and Crown assigned but it is difficult for them to keep consistent treatment staff.

#### **K. Evaluations**

**Montreal DTC:** This court is currently completing an evaluation, but it is not yet completed.

**Sherbrooke MHC:** There was a qualitative study done by Sherbrooke University at the implementation phase, which could not be shared for reasons of confidentiality. No program evaluations have been done.

**Trois Rivières MHC:** No evaluations have been done; however, the court conducts exit interviews with its participants. The judge's assistant collects and stores the data from the exit interviews. A new coordinator role has recently been added and the court hopes that this will provide the necessary resources to perform an evaluation in the years to come.

#### **L. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs.

Justice Quebec. (2021, April web page). *The Court of Quebec Addiction Treatment Program*.

<https://www.justice.gouv.qc.ca/en/programs-and-services/programs/the-court-of-quebec-addiction-treatment-program-cqatp/>

Justice Quebec. (2021, April web page). Quebec Justice and Mental Health Support Program. <https://www.justice.gouv.qc.ca/en/programs-and-services/programs/justice-and-mental-health-support-program/>

Observatoire en justice et santé mentale. (2021, April web page). *Programme d'accompagnement Justice Santé Mentale de Trois-Rivières*.

<https://santementalejustice.ca/paj/paj-sm-de-trois-rivieres/>

## APPENDIX SASKATCHEWAN

In 2016 Saskatchewan had a population of just under 1.1 million people, with a land area of 588,243.54 square kilometres and a population density of 1.9 per square kilometre. There were over 175,000 Indigenous people, 115,875 visible minorities and 112,490 immigrants living in Saskatchewan. The largest cities are Regina (236,481), Saskatoon (295,095), Prince Albert (44,160) and Moose Jaw (35,053).<sup>80</sup>

Interviews were conducted with the manager of the Regina DTC; two judges who, between them, have experience presiding in the Regina MHC and the Regina and Moosejaw DTCs (and one of whom is on the provincial Oversight and Standards Committee, described below); and a Crown who had practiced in both MHC and DTC, who currently oversees prosecution support for Saskatchewan's therapeutic courts, and who serves on the provincial Therapeutic Courts Oversight and Standards Committee.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Moosejaw DTC</b>	2010	Prov. funds Coordinator	1 <sup>st</sup> & 3 <sup>rd</sup> Thursday pm	Cap at 8  No wait list	<ul style="list-style-type: none"> <li>• Judge (D, rotate every 2-3 years)</li> <li>• Crown (D)</li> <li>• Legal Aid (D)</li> <li>• Coordinator</li> <li>• Addiction</li> <li>• Counsellor</li> <li>• Probation Officer</li> </ul>	Yes
<b>Regina DTC</b>	2006	Fed. & Prov. funding	Every Tuesday a.m.	20 average  Cap at 30 (only hit it once)	<ul style="list-style-type: none"> <li>• Judge (D, rotate every 2-3 years)</li> <li>• Crown (D)</li> <li>• Legal Aid (D) Manager</li> <li>• 3 Addiction Counsellors</li> <li>• Nurse</li> <li>• Probation Officer Kate's Place (Women's Residence)</li> </ul>	Yes

<sup>80</sup> [StatsCan Census 2016 - Saskatchewan](#); [StatsCan Census 2016 - Regina](#); [StatsCan Census 2016 - Saskatoon](#); [StatsCan Census 2016 - Prince Albert](#); [StatsCan Census 2016 - Moosejaw](#)

<b>Regina MHC</b>	2013	No funding	1 <sup>st</sup> & 3 <sup>rd</sup> Friday am	15- 25 No cap No wait list	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Legal Aid (D)</li> <li>• Psychiatrist</li> <li>• Community Partners</li> </ul>	Yes
<b>Saskatoon MHC</b>	2013	No dedicated funding	1 <sup>st</sup> & 3 <sup>rd</sup> Friday am	40-60 No cap No wait list	<ul style="list-style-type: none"> <li>• Judge (D)</li> <li>• Crown (D)</li> <li>• Legal Aid (D)</li> <li>Psychiatrist</li> <li>Probation Officer</li> <li>• Community Partners</li> </ul>	Yes

*Note: The legend under column "Team Members" is as follows: (D) - Dedicated*

### **B. Number of Therapeutic Courts**

In addition to three domestic violence courts in Saskatchewan (in North Battleford, Saskatoon and Regina) there are the following four MHCs and DTCs:

**DTCs:** There are two DTCs, one in Regina (established in 2006) and one in Moose Jaw (established in 2009). Occasionally, people from Estevan and Yorkton, both several hours away, will be accepted in the Regina DTC. It was anticipated that another DTC could open in North Battleford within the next year.

**MHCs:** There are two MHCs (both established in 2013), one in Regina (the Regina Mental Health Disposition Court) and one in Saskatoon (the Saskatoon Mental Health Strategy Court).

### **C. Funding Model**

**DTCs:** The Regina DTC is funded by both federal and provincial funding. The Moose Jaw DTC is supported by provincial funding.

**MHCs:** There is no dedicated funding for the two MHC's.

### **D. Distinctive Features**

**All Courts:**

**Provincial Director of Therapeutic Courts:** The Director of Therapeutic Courts provides leadership, guidance, and general oversight for therapeutic courts in Saskatchewan.

**Therapeutic Courts Oversight Committee:** This provincial committee works with the local advisory committees for each therapeutic court program. The purpose of this Committee is to set provincial standards and provide oversight of therapeutic courts in Saskatchewan. This committee is also examining ways of providing service to remote and northern communities, as most services are concentrated in the southern part of the province.



**DTCs:**

**Housing:** While the shortage of safe and secure housing is identified as a constant barrier to the success of therapeutic courts across Canada, the Salvation Army has partnered with the DTC to provide 24-hour, secure apartments for women enrolled in the DTC program in Regina. There is no comparable program in Moose Jaw.

**Separate Location for Programming:** The Regina DTC has access to a separate centre that provides one location for participants in which to meet their addiction counsellor and complete their programs. The centre provides space for a psychiatric nurse, probation services, income assistance coordinators, and a place for people to have meals together. For example, when there is a graduation ceremony in court, after adjourning, a celebratory lunch is held in the centre. Judges, lawyers, family of the participant, community workers, and other participants all are welcome to attend. Having these mealtimes together is seen as an important feature. An interview participant proposed that there should be preferably five (5) such centres in the province.

**Post-Program Supports:** The DTCs in both Regina and Moose Jaw have an “alumni program” that is open to those who have completed the program, as well as their families. This serves as an additional follow-up resource and offers continued support for the alumni as well as peer support for participants. Two alumni are in university social work programs, and one of these is expected to qualify for a job with the DTC.

**MHC**

**Police Referrals:** The MHC team made early investments in outreach and education to the policing community. Formerly, the police may have been reluctant to make referrals to MHC, especially in the case of charges of assaulting police. Currently, a mental health worker is partnered with a police officer. This has helped in the reduction of stigma, and the police are now referring people to the MHC.

**E. Evaluations**

Evaluations have been conducted of each of the DTC and MHC programs. Funding for the conduct of proper evaluations is an identified issue. While universities have assisted in conducting some evaluations and the federal government has funded some DTC evaluations, there has not been uniformity in the methodological approach. The provincial Therapeutic Courts Oversight and Standards Committee would like to address education and evaluation, but lack of funding is a barrier to these initiatives.

**Regina MHC:** This evaluation was intended to be more of a formative investigation than an evaluative process and outcome project. It established a baseline of data for future research and evaluations, examining 79 participants who were seen by the Regina MHC between November 2013 and November 2015. The report helpfully includes first-hand observations of researchers who watched the Court in action. The evaluation

concluded that the Regina Mental Health Disposition Court is producing positive outcomes for participants.

Stewart, M., & Mario, B. (2016), "Regina Mental Health Disposition Court: A formative investigation", Regina, SK: University of Regina

**Saskatoon MHC:** This Court had an extensive evaluation in 2020 which concluded that overall, arrest recidivism was low for clients involved with the Court. However, a large proportion of the recidivism appeared to have been from administration of justice offences. The report found "there is strong evidence of over-supervision and over-punishment by the MHS Court (i.e., increased detection of non-compliance due to greater supervision by the MHS Court compared to the traditional justice system). The concern was expressed that due to the increases in offences, "defence counsel may advise clients to take their chances with the traditional criminal justice system, meaning that the Court may not be fully accomplishing its goals of diverting clients out of the traditional criminal justice system." The report also documented "fewer clients had police contacts, were victims of crimes, or arrested in the 2-years following their MHS Court entry. Clients were able to access several mental health services and treatments post-Court entry, while their hospitalizations and emergency room utilizations declined in the 1-year post-Court entry period."

Zidenberg, A., Kerodal, A. G., Jewell, L. M., Mathias, K., Smith, B., Luther, G., Wormith, J. S. (2020). *Evaluation of the Saskatoon Mental Health Strategy (MHS) Court: Outcome and cost analysis*. Centre for Forensic Behavioural Science and Justice Studies - University of Saskatchewan, Saskatoon, SK.  
<https://cfbsjs.usask.ca/documents/mhs-court-draft-outcome-evaluation-report-final.pdf>

**DTCs:** Both DTC evaluations found that the respective courts were effective in reducing crime for court participants; in generating cost savings (due to reduced expenditures on incarceration, reduced costs associated with investigation and prosecution of new offences, and reduction in property crimes committed to support substance use); and in improving participants' health and well being. The Moose Jaw evaluation observed that the instability of funding for program components added to participants' stress as they became concerned about the availability of long-term supports.

Regina Drug Treatment Court: Smithworks Survey Solutions, (2009). *Focussed on Essentials: Supplementary Outcomes Report for the RDTC's First 36 Months*.

Mafukidze, J., (2016). Moose Jaw Drug Treatment Court Evaluation.

## **F. Publicly Accessible Information**

The following websites provide publicly accessible information for specific courts and programs:

Courts of Saskatchewan. (2021, April webpage). *Regina DTC*:  
<https://sasklawcourts.ca/index.php/home/provincial-court/adult-criminal-court/rg-drug-court>

Courts of Saskatchewan. (2021, April webpage). *Moose Jaw DTC*:  
<https://sasklawcourts.ca/index.php/home/provincial-court/adult-criminal-court/mj-drug-court>

Courts of Saskatchewan. (2021, April webpage). *Regina MHC*:  
<https://sasklawcourts.ca/index.php/home/provincial-court/adult-criminal-court/regina-mental-health-disposition-court>

Courts of Saskatchewan. (2021, April webpage). *Saskatoon MHC*:  
<https://sasklawcourts.ca/index.php/home/provincial-court/adult-criminal-court/saskatoon-mental-health-strategy>

## APPENDIX YUKON

As of December 31, 2019, the Yukon had a population of 41,761. The majority (32,774) live in Whitehorse, the territorial capital. 23.3% of the population who live in private households identified themselves as Aboriginal. The land area of the Yukon is 474,712.68 square kilometres and in 2016 had a population density of 0.1 people per square kilometre. Watson Lake (pop. 790) is located a five-hour drive from Whitehorse.<sup>81</sup>

Interviews were conducted with a Judge, Crown and a program coordinator.

### A. General Information

	Year Est.	Funding	Sitting frequency	Participants	Team Members	Evaluation
<b>Wellness Court</b>	2007	Fed. & Territorial funding	Bi-weekly	30-35 average Cap at 40	<ul style="list-style-type: none"> <li>• Judge (D) (two backup judges)</li> <li>• Crown (R - PT)</li> <li>• Duty counsel (R-PT)</li> <li>• Treatment Staff</li> </ul>	Yes, in 2011, 2014

*Note: The legend under column "Team Members" is as follows: (D) – Dedicated, (R) – Rotational, (PT) – Part time*

### B. Number of Therapeutic Courts

The Yukon has one therapeutic court which is part of the Yukon Territorial Court, called the "Community Wellness Court" (CWC), which is located in Whitehorse and was established in 2007. Informally, its catchment area also includes participants from outside the town who are transferred there for a bail hearing and who meet the suitability criteria for the Court. For participants in the latter category, the expectation is that they will gradually reintegrate with their home community and thereafter be monitored by the Court through the circuit court sittings of the Territorial Court.

Consideration is being given to opening a satellite CWC in Watson Lake, subject to community resources being available.

### C. Funding Model

The CWC is supported through both federal and territorial funding.

### D. Distinctive Features

**Blended Court:** The CWC blends both an MHC and a DTC. Although the CWC does not travel, the Court can accommodate people from distant communities. Once the

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<sup>81</sup> [Yukon Bureau of Statistics; Statistics Canada, 2016, Yukon; Statistics Canada, 2016, Watson Lake](#)

participants are stabilized, they return to their community and are monitored through circuit court appearances. The challenge for those participants is the availability of services in the smaller communities outside of Whitehorse.

***A manager and separate location:*** The CWC has a manager who supervises the CWC team. The team operates out of the Justice Wellness Centre, a drop-in facility located in close proximity to the Whitehorse courthouse. It was important that the Centre be separate from the courthouse. CWC staff prepare a report about the suitability of a participant for CWC referral.

***Medical Services:*** The CWC physician holds weekly clinics for CWC clients. A referral is done for any participant who does not have an established relationship with a family physician or if the client wishes to have a new doctor. The physician will treat patients for ongoing medical issues and will offer a full medical check-up. The doctor also can assist with detoxification at the Whitehorse General Hospital for a participant with severe drug addiction.

***Data:*** The CWC manager reports to the Director of Court Services and collects data to track trends specific to the CWC. The current manager has noted a 60% increase in the number of participants presenting with major substance abuse issues. In the past, the substance most commonly abused was alcohol, while the most common mental health issue was depression. This has changed due to the increased presence of opioids and related mental health issues such as drug-induced psychosis. The CWC manager is looking to augment her team in order to meet these new problems and different treatment needs.

## **E. Evaluations**

Two evaluations have been done: in 2011 and 2014. The 2011 evaluation, done by the Canadian Research Institute for Law and the Family, concluded that the CWC “has been successful at reducing the underlying issues related to wellness and by so doing also reduced the probability of reoffending”. Further, after interviewing a number of the participants who had been referred to the CWC, the authors concluded that “the CWC program has had a profound effect on reducing their underlying issues of addictions and mental health problems and thus has contributed significantly to helping them change their lives and become more productive and active members of their communities.”

These successes were confirmed again in the 2014 report.

Hornick, J.P., Kluz, K., Bertrand, L.D. (2011, October). *An Evaluation of Yukon’s Community Wellness Courts.*, Submitted to Yukon Justice.

[https://www.yukoncourts.ca/sites/default/files/documents/en/cwc\\_final\\_report\\_05-10-11.pdf](https://www.yukoncourts.ca/sites/default/files/documents/en/cwc_final_report_05-10-11.pdf)

Hornick, J.P. (2014, May). *An Evaluation of Yukon’s Community Wellness Court, June 2007 to December 2013.* Submitted to Yukon Justice.

[https://www.yukoncourts.ca/sites/default/files/documents/en/cwc\\_evaluation\\_june\\_2007\\_to\\_december\\_2013.pdf](https://www.yukoncourts.ca/sites/default/files/documents/en/cwc_evaluation_june_2007_to_december_2013.pdf)

**F. Publicly Accessible Information**

There are two websites where the public can find information:

Yukon Community Wellness Court. (2021, April webpage).

<https://www.yukoncourts.ca/en/courts/community-wellness-court>

Public Safety Canada. (2018, March). *Wellness Northwest Territories and Yukon.*

<https://www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntr/dtls-en.aspx?i=10192>