

Drug Treatment Courts – Overview and Standards*

In Saskatchewan, drug addiction often brings people into the criminal justice system. Experience has shown that, in many cases, until the underlying causes of criminality are addressed, conflict with the law continues. Drug Treatment Courts offer a therapeutic option to address drug addiction as an underlying cause of criminal activity.

The goal of Drug Treatment Courts is to assist offenders in finding sustained sobriety and address other criminogenic needs to break the cycle of involvement in the justice system. Success in finding sobriety through the wrap-around program offered in Drug Treatment Courts will reduce recidivism, lessen the pressure on the health system through healthier lifestyles, and have positive effects on the individual, families, and communities as a whole.

Drug Treatment Courts operate using a collaborative model. The Court handles a specialized caseload and requires a dedicated judge, Crown prosecutor, Legal Aid duty counsel, Probation Officer, Addictions Counsellor and a Social Services professional working together as a team.

Target Group

Drug Treatment Courts target offenders who are high needs and high risk. These are the offenders who are (1) addicted to or dependent on illicit drugs and (2) at high risk for criminal recidivism or failure in less intensive rehabilitative dispositions.

Eligibility and the Referral Process

Drug Treatment Courts are for adults who are facing criminal offences which are linked to an ongoing drug addiction. In order to be considered for Drug Treatment Court, an offender must be willing to enter guilty pleas to their offences.

Referrals come from the court, prosecutors, Legal Aid, other defence counsel, police and family.

The designated Crown prosecutor is the gatekeeper for referrals to the program. In assessing a case for referral to the Drug Treatment Court, the designated Crown prosecutor will consider the nature of the charges, criminal history, if any, and risk to the community. In most cases, offenders seeking entry into a Drug Treatment Court are in custody, therefore, the Crown must balance and weigh an offender's willingness to participate in such a program with community safety and public confidence in the administration of justice.

Individuals are encouraged to obtain legal advice from Legal Aid duty counsel or a private lawyer in order to determine whether they want to participate in Drug Treatment Court. After being released from custody and entering a Release Order, eligible participants are assessed by the Drug Treatment Court staff for approximately 30 days to determine if they can work with the participants.

Drug Treatment Court is for:

- property-related offences,
- drug offences where the primary motivation is to support an addiction,
- administration of justice offences,
- offenders facing a custodial sentence between 12 months and 2 years.

Drug Treatment Court is not for:

- offences involving serious violence or sexual assault,
- family violence cases or offences involving or relating to children/youth,
- firearms offences,
- offences with a mandatory minimum sentence,
- profit-motivated commercial drug trafficking,
- offenders with a history of serious violence,
- those individuals who have been unsuccessful in DTC within the past six months, and those who have graduated from a Saskatchewan Drug Treatment Court

Deferred Sentencing Model

The court operates on a deferred sentencing model. Individuals choosing Drug Treatment Court are required to accept responsibility for their offence(s) by pleading guilty before the judge. After guilty pleas have been entered before a judge, sentencing of the participant is delayed to allow the participant to stabilize in the community by adhering to a treatment plan. The court will require the participant to appear before the court every week or two weeks for approximately one year. The court will receive updates as to how the participant is doing on the treatment plan. Success with the treatment plan will be taken into account by the Crown and the Court during sentencing and will result in a reduced sentence.

Sentencing occurs when the participant is either discharged from the program or have successfully completed the program. Generally speaking, successful completion will see an accused who, without programming would have received a jail sentence, receive a community based sentence. The length and conditions imposed will vary depending on a number of different factors (e.g., criminal record, nature of the charges, length of custody they would otherwise have been facing, needs they may still have after completion of the program).

Pre-Court

Before court, there is a judicially led pre-court meeting. The purpose of the meeting is to share information about the participant, including general information, attendance, adherence to treatment plan and the results of drug testing. Pre- Court will be attended by: Judge; designated Crown prosecutor; Legal Aid duty counsel and other defence counsel; Probation Officer and Addictions Counsellor(s) who are working with the participant.

Court will be attended by all of the above and the participant, when required by the Judge. Court sits regularly – at least twice per month.

During court the Judge will attempt to interact in a meaningful way with each participant and encourage them to comply with their treatment plan.

A dedicated judge/Crown/Legal Aid duty counsel/ defence counsel ensures consistency of approach and safeguards protection of *Charter* rights.

To achieve success for all involved, it is essential that Drug Treatment Courts adhere to recognized and evaluated Drug Treatment Court principles. These principles include:

1. Drug Treatment Court Team. This involves bringing together justice, treatment, education and other community agencies to work collaboratively to offer evidence-based addictions and other programming to eligible participants within the justice system;
2. Using an integrated addiction treatment services within the umbrella of the justice system;
3. Using a non-adversarial and often collaborative approach, Crown prosecutors and Legal Aid (defense counsel), work to ensure public safety while protecting the *Charter* rights of participants;
4. Crown prosecutors and defence counsel reviewing files early in the process to identify appropriate and eligible candidates for the Drug Treatment Court program;
5. Providing a wrap-around program to participants with access to addictions treatment and other rehabilitative programs;
6. Objectively monitoring drug use of participants through witnessed and random drug screens;
7. Monitoring and tracking response to participants' compliance and non-compliance to objective standards;
8. Ensuring the use of swift, certain, and consistent incentives and sanctions to participants for compliance or non-compliance with those standards;
9. Consistent and regular judicial interaction through mandatory court appearances for each participant; and
10. Regular and continuing education for Drug Treatment Court partners to promote up-to-date knowledge about best practices and approaches

Planning Meetings – Required Partners

1. Provincial Court Judge
2. Ministry of Justice (Court Services)
3. Federal and Provincial Prosecutions
4. Legal Aid
5. Community Corrections (Probation Services)
6. Saskatchewan Health Authority
7. Municipal police and/or R.C.M.P.
8. Social Services
9. First Nations Justice and/or Health

At the planning stage, it is crucial to have at the table representatives from these Ministries/Agencies who are able to commit to providing programming and human resources.

Drug Treatment Court success is linked to successful adherence to key components for Drug Treatment Courts. To be successful, it is essential that Drug Treatment Courts in Saskatchewan use a collaborative team approach to provide a coordinated response to participants in the program. The treatment partner(s) play an important role in this team approach. Within the overarching criminal justice system, this collaborative team approach should provide an interdisciplinary program to high risk, high needs offenders.

MANDATORY DRUG TREATMENT COURT COMPONENTS

1. Eligibility Criteria:

Drug Treatment Court is for:

- property-related offences;
- drug offences where the primary motivation is to support an addiction;
- administration of justice offences;
- offenders facing a custodial sentence between 12 months and 2 years.

Drug Treatment Court is not for:

- offences involving serious violence or sexual assault,
- family violence cases or offences involving or relating to children/youth,
- firearms offences,
- offences with a mandatory minimum sentence,
- profit-motivated commercial drug trafficking,
- offenders with a history of serious violence,
- those individuals who have been unsuccessful in DTC within the past six months, and those who have graduated from a Saskatchewan Drug Treatment Court

Assessment of local needs:

- who is being targeted?
- what types of offences are they committing?
- are those appropriate for a community-based program?
- what sentences are they facing?

Eligibility criteria must be clear and documented

- eligible/non-eligible offences
- minimum/maximum incarceration range
- criminal history

2. Referral/Screening Process

- must be clear and documented with one point of entry through the Crown
- referrals can be from defence, Crown, police, family, former participants
- Crown is the gatekeeper for referrals to the program
- timely access to legal counsel so charges and disclosure can be reviewed
- plea agreement between Crown and defence must be in place; must include Crown sentence position without successful completion of program
- appropriate screening by programming expert (Court Manager) to assess openness/suitability for drug court program
- timely access to drug treatment court – engagement likely to increase with time access to this court and the services it can provide

3. Required Programming – evidence-based, patient-centered therapy

- case management treatment team
- access to local brief and social detox
- access to residential treatment facilities
- substance use disorder education in collaboration with Saskatchewan Health Authority

- minimum 6 to 10 hours per week in assessment and Phase 1
- 200 hours over the following 9 to 12 months
- behavioural self-control training such as Moral Reconciliation Therapy (MRT)
- motivation enhancement therapies
- process groups
- Cognitive Behavioural Therapy (CBT) evidence based modalities

4. Required Services (can be delivered on site or through existing community programs)

Resource scan to ensure the following services are locally available:

- addictions group counselling
- one on one counselling
- physical and mental health services (physician, dentist, psychiatrist, optometrist)
- criminal thinking (e.g., MRT)
- housing
- food bank
- self-help meetings (NA/AA; Smart Recovery)
- parenting/family counselling (requires positive working relationship with Child Protection, Social Services and often family law lawyers)
- day care (especially for pregnant or new moms)
- anger management
- life skills/employment skills
- education programming (upgrading; vocational; post-secondary)
- cultural programming and supports

5. Program Plan

- multi-phased program with a documented process to track and measure compliance and adherence to the program i.e., Track I (Transition), Track II (Stabilization), Track III (Maintenance), and Graduation
- measurable requirements to successfully complete each track must be clearly documented and shared with participants and program staff including minimum clean time and minimum time without re-offending
- progress in meeting requirements must be reviewed regularly with participants
- must include documented measurements to determine progress of recovery with ability to adjust the treatment plan

6. Abstinence and Accountability

- adherence to abstinence must be monitored by frequent, random and witnessed drug testing
- must have local laboratory testing available
- minimum two screens per week
- must be random and witnessed
- results must be received in a timely fashion and include drugs detected and creatinine levels
- must be established minimum clean time in order to graduate from programming (e.g., 90 days)

7. Coordinated written strategy to govern the Court and participant compliance with standards

- Handbook outlining requirements, rules and responsibilities of program (format must be easy to understand)
- Written policies and protocols for partners (to promote understanding of roles and coordination of services, strategy and information sharing)
- establish and document mission, values, vision, and program goals
- roles and responsibilities of partners must be clearly defined
- conflict resolution
- Outline of available sanctions and rewards for participants
- must be shared with participants and, for best results, consistently applied to all
- recognition that reward-based approach produces better results (confidence/self-esteem)

8. Court/Judicial Response

- court must sit regularly; minimum bi-monthly sittings
- pre-court meeting
 - led by judge
 - written current information on each participant provided to DTC team
 - review progress of each participant with reference to track requirements
 - discuss and plan court response by Judge
- participant attendance at each court date mandatory
- must be on-going judicial interaction with each participant
- dedicated Judge/Crown/defence counsel ensures consistency of approach, rapport with participants, and safeguards protection of *Charter* rights

9. Evaluation

- establish criteria to monitor and evaluate the achievement of the program goals and effectiveness of them
- data collection
- measuring and monitoring fidelity to model

10. Continuing Education

- plan for interdisciplinary education to promote effective drug court planning, implementation, and operation
- establish regular meetings for legal and treatment partners to understand process and language of each other
- review and focus on mission, values, vision and program goals
- team building to encourage collaboration and conflict resolution

11. Building Relationships with Partners

- developing partnerships between drug courts and community agencies, cultural supports, and community-based agencies enhances effectiveness of drug courts.

Getting Started – Required Checklist

Establish Multi-Disciplinary Drug Court Team, which shall include, at a minimum:

- Judiciary
- Prosecutions (Federal and Provincial)
- Legal Aid
- Community Corrections
- Saskatchewan Health Authority

Drug Court Team to develop written proposal, which shall include, at a minimum:

- Mission statement, vision, and program goals
- Defined (written) eligibility and screening process
- Local random witness drug testing location and staff
- Access to local brief and social detox facility
- Substance use disorder education
- Behavioural self-control training
- Written multi-track program plan
 - a. daily/weekly schedule (minimum 30 hours of programming per week)
 - b. court schedule
 - c. mandatory and measureable treatment milestones to move to next track
 - d. mandatory and measurable requirements for successful completion of program
- Handbook
- Written policies and protocols for all partners
- Training plan
- Physical requirements
- Staffing requirements (Court Manager/Coordinator)
- Capacity for Court based on available resources and needs
- An Alumni Group

*In so far as possible, Drug Treatment Courts in Saskatchewan shall follow the best practice standards as set out in Adult Drug Court Best Practice Standards Volumes I and II as published and revised by the National Association of Drug Court Professionals.