

DRUG TREATMENT COURTS

An effective solution to crime caused by substance abuse

By Hon. Peggy Fulton Hora,
former Judge of the Superior Court of California



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Judge Hora recently visited Tasmania, where she led an all-day workshop on 'Effective Judging' for the judiciary and spoke to the Tasmanian Law Society on ethics issues in problem-solving courts.

Drug treatment courts (DTCs) are an innovative criminal justice solution to alcohol and other drug-fuelled crime. They focus on the underlying issues that bring the defendant to court – more times than not, substance abuse and/or mental health problems – and redefine 'win' in terms of a court case. The object of a DTC is not to gain a conviction or an acquittal but, in a collaborative format, to focus on the treatment and recovery of the individual accused of a crime. A DTC provides a treatment plan that includes intensive case supervision, alcohol or other drug abuse treatment, mental health interventions, frequent urine tests and numerous visits to court for case reviews. It may also include life skills, parenting, and anger management classes; improved housing; and education and employment readiness. The judge/magistrate is the leader of a multi-disciplinary team made up of prosecution, defence, and community correction representatives; substance abuse treatment-providers, mental health professionals and law enforcement officers.

The first drug court in the United States (US) began operation in 1989 as a direct result of the so-called 'war on drugs' that

has led to one in a hundred US citizens being incarcerated. As of 2010, America – the 'land of the free' – had a total of 2.3 million people behind bars. This 'lock 'em up' mentality has caused state budgets to go askew so that in many states the Department of Corrections budget exceeds that of the Department of Education. There are currently about 2,500 drug treatment courts in the US and another 1,200 problem-solving courts, such as domestic violence, family wellness, mental health and driving-while-impaired courts.

TASMANIAN EXPERIENCE

Tasmanian prisoners tell an all-too-familiar story. They are overwhelmingly young, male, poorly educated and unemployed, with high rates of mental illness, substance abuse, disability and chronic disease.

According to Dr Frances Donaldson of the Risdon Prison Clinic, more than 60 per cent of those entering prison in Tasmania will identify alcohol and other drugs as being a significant contributor to their offending behaviour. These prisoners are also characterised by multiple mental and physical health co-morbidities. A review of male receptions at the prison in March and April 2008 showed

an astounding array of drug use alongside a diagnosed mental health problem. Almost three-quarters of Tasmanian prisoners have a substance abuse and co-occurring mental health disorder.

In Tasmanian prisons, the failure to address the drug and alcohol abuse and co-occurring disorders of incarcerated individuals is associated with recurrent offending behaviour, *with more than ten separate prison admissions being commonplace*. It costs the state \$307 per day (\$112,000 per year) to incarcerate the 1,700 people who come through the system annually. These outcomes cannot be expected to change unless both substance abuse and mental health conditions are adequately addressed.

Just as there is an over-representation of African Americans in jail or prison in the US, the Indigenous prison population of Tasmania is between 13 and 15 per cent, while the percentage of the general population is 3.5 per cent. Recent research has shown that US drug courts are helping to reduce the imbalance in prison populations. There is every reason to believe that culturally competent treatment and supervision would also help to reduce the numbers of Indigenous people in custody in Tasmania.

DTCs have been studied almost more than any other criminal justice initiative. There are 15 meta-analyses of hundreds of studies on DTCs, and the efficacy of adult DTCs has been proven beyond a reasonable doubt.

Drug treatment courts significantly reduce crime. Research shows that 75 per cent of DTC graduates remain crime-free for at least two years and, in one study, the reduction held for an astonishing 14 years. Crime is reduced as much as 35 per cent, more than any other sentencing option.

DTCs also save money. In the US, for every US\$1 invested, US\$3.36 is saved in criminal justice costs alone; overall savings equal US\$12 for every US\$1.00 spent. The State of California estimates savings of US\$48 million per year by funding drug courts rather than state prison beds.

Voluntary treatment compliance rates for the addicted individual are not very good. There is a 70 per cent drop-out rate for those not ordered by the courts into treatment. By contrast, DTCs are six times more likely to keep an offender in treatment long enough for them to make progress toward a law-abiding lifestyle. These figures are even more dramatic for methamphetamine abusers, who show an 80 per cent increase in treatment completion if they are in DTCs. And DTCs reduce methamphetamine use by more than 50 per cent, when compared to outpatient treatment alone.

A strong DTC plus substance-abuse treatment can reduce or eliminate substance abuse, help rebuild lives harmed by alcohol and other drugs, reduce prison costs and reduce the social, psychological and health costs to families and to society as a whole.

COURT-MANDATED DRUG DIVERSION PROGRAM

In Tasmania, the Court Mandated Drug Diversion Program was introduced in 2007 by amending the *Sentencing Act 1997* (Tas). It is based on the defendant having pleaded guilty, facing immediate imprisonment and being suitable

for treatment. This brand of DTC is currently capped at 80 places, and half of the state's magistrates preside over that calendar.

Early evaluations have been promising, but more work needs to be done in educating the public on the nature of the program and the positive results that can be achieved in reducing crime rates and thereby increasing community protection. Legal practitioners have, to a degree, embraced the solution-focused approach but, again, it is felt more could be achieved in that area with ongoing professional development and experience.

The state's version of a mental health court began as the Forensic Mental Health Diversion List in 2007, although it currently lacks a statutory basis. Magistrates rely on the *Bail Act 1994* (Tas) to direct defendants to comply with programs. The Forensic Mental Health Diversion program was honoured to receive recognition for its work in the Australian Crime Prevention Council awards in 2010. The list was introduced into the Launceston Magistrates Court in 2010 and results to date have been extremely promising; support for the list there has been very encouraging.

The DTC model is not limited to criminal cases. An excellent example of expanding the model is found in family treatment courts where parents have lost custody of their children due to child abuse and neglect. Uninformed people talk about 'victimless crimes', but anyone who has seen families torn apart by alcoholism and other addictions would dispute that characterisation. Because DTCs are holistic in their approach, family therapy, parenting classes and reunification for parents who have lost their children lead to the healing of these families. In a family treatment court, children spend less time in out-of-home placement, and parents are more likely to go to treatment and complete it.

In the future, Tasmania may see family treatment courts and driving-while-impaired courts addressing the recovery needs of high-risk, multiple drink-drivers and community courts that focus on other issues such as alcohol, homelessness and family violence. Problem-solving courts in Tasmania are blessed to have the strong support of Chief Magistrate, Michael Hill, and the Chief Justice.

For more information on drug treatment courts, see <http://www.allrise.org>. ■

Judge Hora is a global leader in the problem-solving courts movement and has written comprehensively on justice issues. She was appointed by the Premier of South Australia as 2009-10 Thinker-in-Residence to study and make recommendations on the Australian justice system. Judge Hora retired from the California Superior Court after serving 21 years, including presiding over the Drug Treatment Court. A former dean of the BE Within Judicial College of California, she has served on the faculty of the US National Judicial College for over 15 years. Judge Hora is a Senior Judicial Fellow for the National Drug Court Institute and a Judicial Outreach Liaison for the National Highway Traffic Safety Administration. Further information is available on her website at <http://www.judgehora.com>.