



OAS | **CICAD**



**INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION
CICAD**

**SIXTY-SECOND REGULAR SESSION
December 13 - 15 , 2017
Washington, D.C.**

**OEA/Ser.L/XIV.2.62
CICAD/doc.2333/17
14 December 2017
Original: Español**

THERAPEUTIC JURISPRUDENCE:

“DRUG TREATMENT COURTS (DTC) FOR ADULTS AND JUVENILES”

Therapeutic Jurisprudence:

“Drug Treatment Courts (DTC) for adults and juveniles”

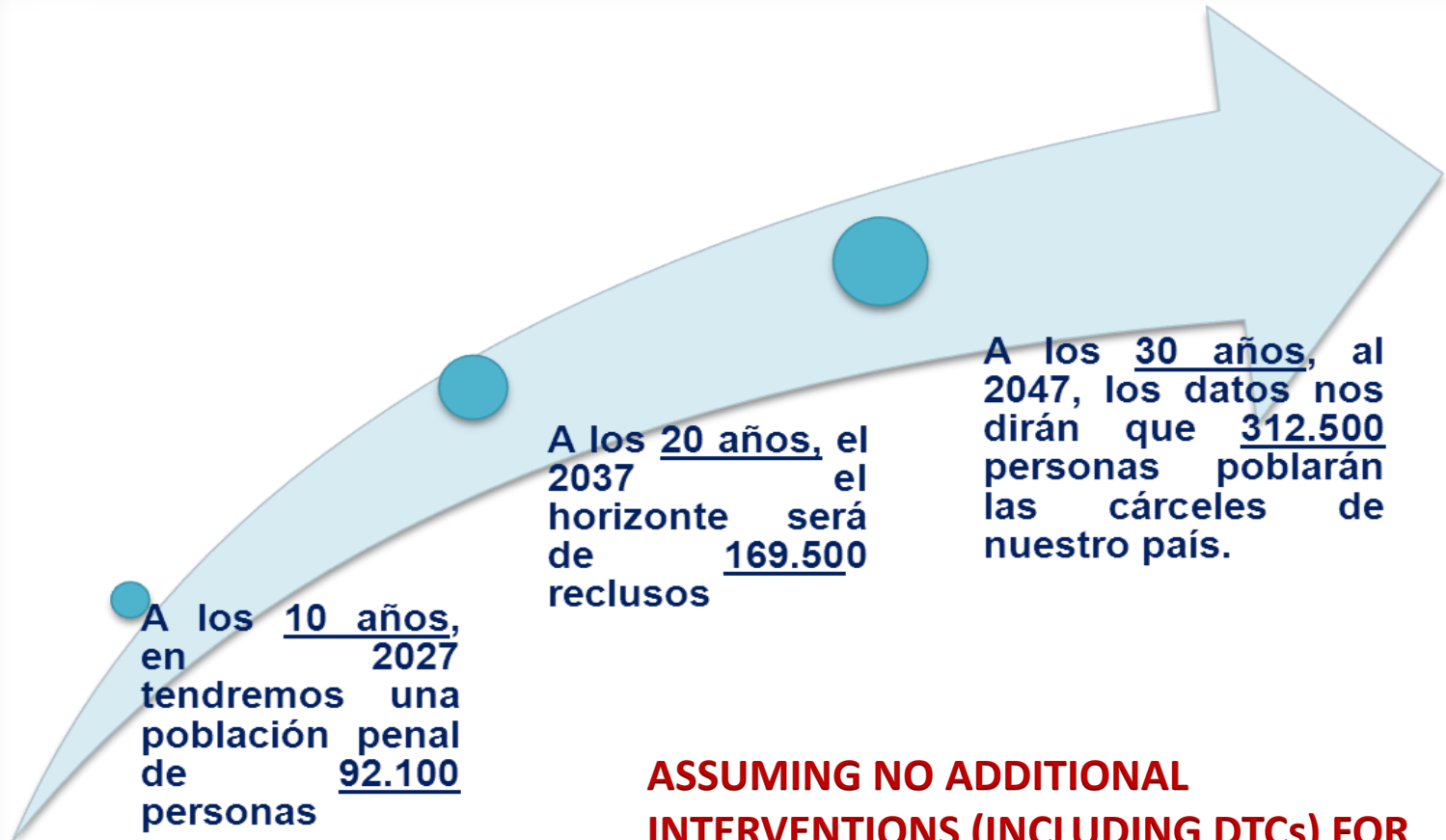
SIXTY-SECOND REGULAR
SESSION

December 13-15, 2017
Washington, D.C.



Luis Toledo Ríos
Director, Lawyer - Narcotic and
Psychotropic Substances Illicit Traffic
Unit, National Prosecutor's Office Chile

Projection of prison population in Chile in 10, 20 y 30 years



A los 10 años, en 2027 tendremos una población penal de 92.100 personas

A los 20 años, el 2037 el horizonte será de 169.500 reclusos

A los 30 años, al 2047, los datos nos dirán que 312.500 personas poblarán las cárceles de nuestro país.

ASSUMING NO ADDITIONAL INTERVENTIONS (INCLUDING DTCs) FOR PROBLEMATIC DRUG CONSUMERS UNDER IDEAL DTC CONDITIONS

What is Therapeutic Jurisprudence?

Therapeutic jurisprudence is the “study of the role of the law as a therapeutic agent.” It focuses on the impact of the law on the emotional spectrum and psychological well-being of people. So far, the law has not paid much attention to this area. Therapeutic jurisprudence focuses our attention on this underestimated aspect; humanizing the law and by considering the psychological, emotional, and human side of law and legal processes.

Therapeutic Jurisprudence: An Orientation
David B. Wexler

Drug Treatment Courts (DTC) are a program developed through the spaces of hearings within the ordinary sessions of criminal courts; these are not special courts.



Legal Framework

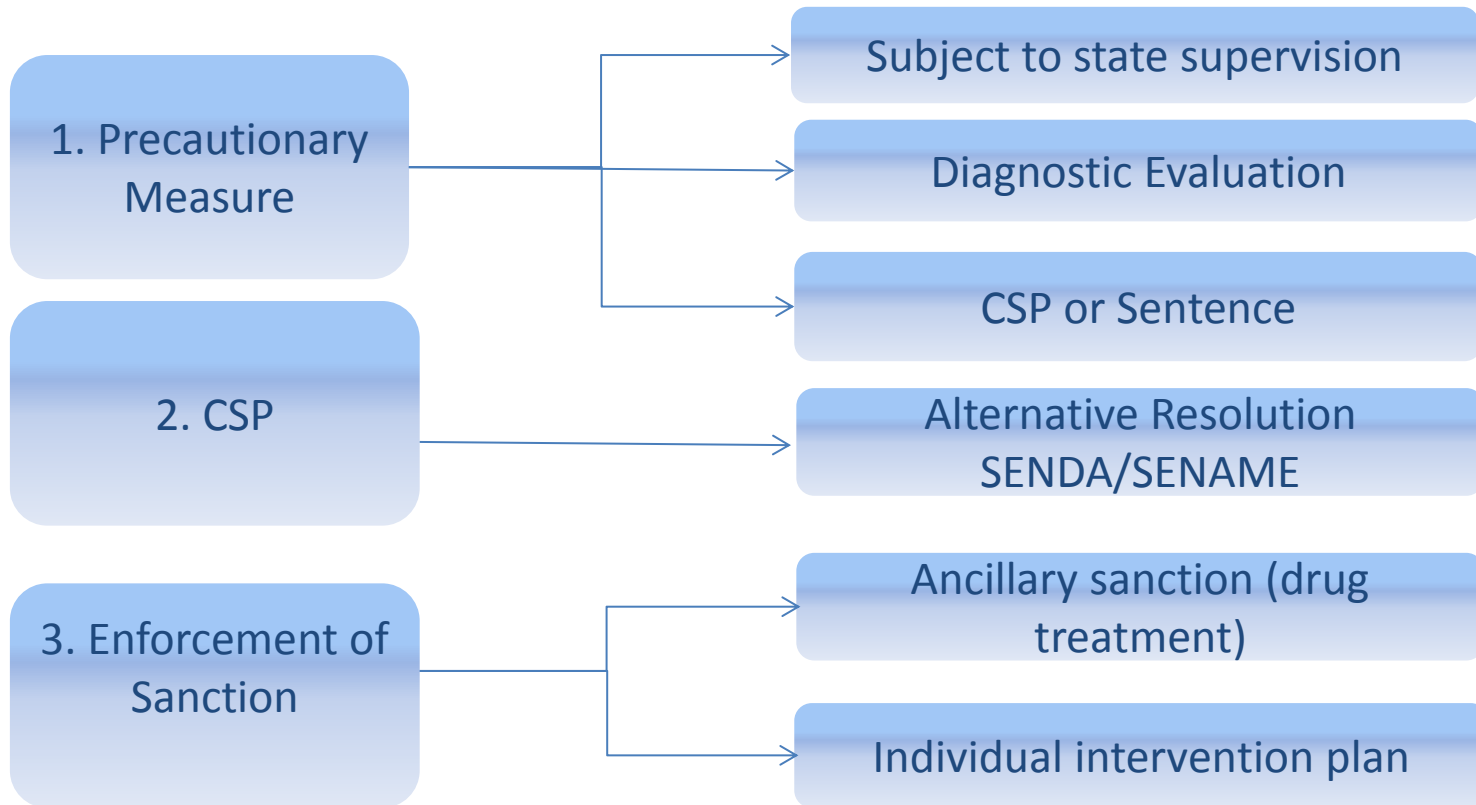
Adults

- The legal framework that governs them is the alternative exit to the criminal process, known as “conditional suspension of the procedure,” in which the initial driver is the Office of the Public Prosecutor per the Chilean model.

Youth

- The means to entry include:
 - a) Precautionary Measures (MCA, by its spanish acronym)
 - b) Conditional suspension of the procedure (CSP)
 - c) Sanction (acesory or individual intervention plan)

DTC FLOW CHART IN YOUTH



Existence of guidelines to avoid over-intervention for juveniles

Objectives

- Addressed to offenders whose crimes are related to the problematic use of drugs and/or alcohol;
- Seek to reduce criminal recidivism; the rehabilitation of the candidate and his/her social integration.

History of the Chilean Model

DTC's in Chile emerged in 2004 with a pilot in the city of Valparaíso. The first program arose from the commitment of the following stakeholders: judges, prosecutors, lawyers, defenders and public and private agents, such as the Paz Ciudadana Foundation, the National Council for the Control of Narcotic Drugs (CONACE), today SENDA and the Ministry of Health. The main milestone is the conclusion of a framework agreement in March of 2012. Since then, 29 adult TTD programs have been implemented in the courts of guarantee across the country.

History of the Chilean Model

Its expansion has been gradual; currently covering 10 regions of Chile, 29 Courts have been assigned this methodology of work in the adult population, in the following cities:

1. Arica
 2. Iquique
 3. Antofagasta
 4. Coquimbo
 5. Valparaíso
 6. Viña del Mar
 7. Metropolitan Region
 8. Rancagua
 9. Curicó
 10. Concepción
 11. Temuco
- 28 DTC's for Youth (Except in Temuco)



Gradual Implementation of Juvenile DTC

- Rancagua: Monday, November 28, 2016
- Arica and Parinacota: Thursday, April 6, 2017
- Biobío: Wednesday, April 12, 2017
- Coquimbo: Friday, May 3, 2017
- Tarapacá: Friday, May 26, 2017
- Maule: Wednesday, May 31, 2017
- Antofagasta: Thursday, June 29, 2017
- Valparaíso: Thursday, July 6, 2017
- Metropolitan Region: Tuesday, August 01, 2017

Benefits of DTCs for Youth

- The initial evaluation [of the defendant] allows identification of risk factors to guide intervention and avoid recidivism.
- An individual intervention plan is established according to the information researched in the evaluation.
- The judge's role changes from an adversarial one to the role of facilitator, which bolsters the trust of the minor with respect to the proceedings.

Benefits of DTCs for Juveniles

- The juvenile is held accountable through a non-paternalistic approach, which supports the sense of self-responsibility.
- The conditional suspension of the procedure allows to monitor and maintain the intervention for at least one year, which supports compliance with the treatment.

Critical factors for the success of the DTC in youth

The development of this model in the comparative field has allowed the identification of certain critical success factors to consider:

1. Personal and family characteristics of the juvenile;
2. Legal variables, recidivism treatment and relapses;
3. Adequacy of the supply of treatment regarding the problems of consumption presented by the juvenile;
4. Coordination of social networks of the juvenile, mainly with the school that he or she attends.

In general, models developed in other countries indicate that:

- Better results are obtained at younger aged participants.
- **Women** have better levels of adherence to the programs than men.
- The time of adherence to a program is positively correlated with the periods of abstinence and reintegration of the juvenile.

Catalogue of Crimes

- The National Prosecutor has instructed that the use of SCP should be prioritized, if the juvenile presents problematic drug use, and if there is an adequate local supply for treatment.
- Reference is made, among other situations, to the crime of violent robbery with intimidation, for cases involving suspected juveniles without habitual criminality, when no weapons of any kind have been used, with two or more extenuating circumstances, and no aggravating circumstances, this exit may be considered appropriate.

Performance criteria

Adolescent Criminal Responsibility. SCP

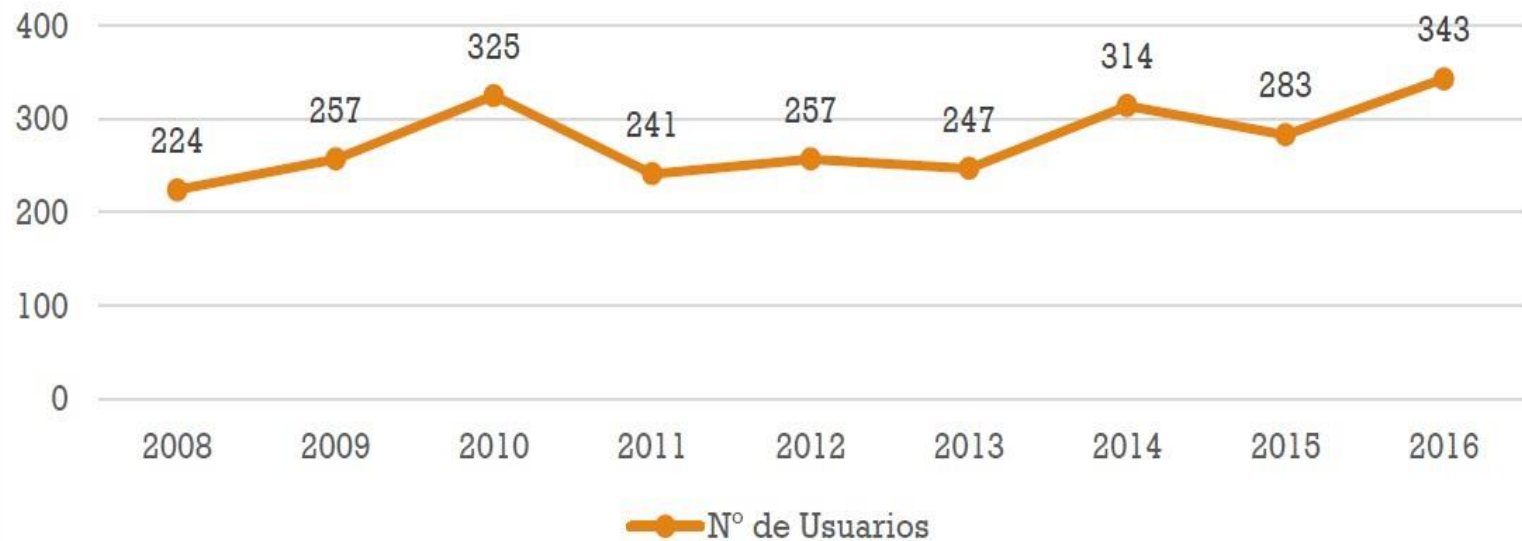
The instructions of the National Prosecutor are based on a criterion of maximum severity, where conditional suspension is possible, notwithstanding less serious crimes that may impact the Project, as follows:

- Robbery with intimidation
- Robbery with violence
- Robbery in an inhabited place
- Robbery in a uninhabited place
- Robbery by surprise
- Robbery in national property
- Micro-trafficking (trafficking of small quantities of drugs)



Participants per year

N° de usuarios ingresados por año al Programa de TTD



DTC Results for adults?

The statistical data show that the DTC in the adult population (29 TG), at the level of criminal recidivism (understood as a new formalization) have had a satisfactory result. It should be noted that the average monthly expenditure per inmate in the penitentiary system during 2013 was USD 662. International evidence shows that the monthly cost of a DTC program is approximately 167 USD.

Recidivism of the accused dismissed and successful graduates of the TTD until March 30, 2016

- **Imputed admitted to the TTD in 2014 and dismissed with successful exit from the TTD program, as of March 30, 2016 61 100%**
- **Criminal recidivism (new formalization) as of March 30, 2016, of defendants admitted to the TTD program in 2014**

	7	11%
--	----------	------------

And that they were dismissed and successfully graduated from the program

Charged non-recidivists admitted in 2014 and who were dismissed with successful exit from the TTD program, as of March 30, 2016 54 89%

Source: Judiciary, TTD Follow-up Unit

EXPERIENCE IN THE DRUG TREATMENT COURT PROGRAM IN CHILE. IN ADULTS INCOME YEAR 2014

Court session time

- **60** minutes on pre-trial
- **22** minutes in court session with DTC stakeholders present.
- Total **82** minutes per month.

Types of crime

- In current year.
- **33%** larceny

Gender

- **12%** women
- **88%** men

Cost of prisons

- An inmate costs **900** dollars per month versus **300** dollars per month for DTC.

Recidivism

- **9%** recidivism.
- **81%** of graduates stayed out of the judicial system for the next year

INTERINSTITUTIONAL AGREEMENTS

- 1.- A Model agreed in JDTC was approved;
- 2.- Signature of an Interinstitutional Protocol (Memorandum of Understanding) by the PJUD, DPP, MINJU, SENDA, SENAME y MP (by its Spanish acronyms);
- 3.- The JDTC started in 28 Criminal Courts that currently have DTC for adult population;
- 4.- A joint training for the participants of the program was developed at the start of the DTC in each Court.

Therapeutic Jurisprudence:

“Drug Treatment Courts (DTC), in adults and youth”

SIXTY-SECOND REGULAR
SESSION

December 13-15, 2017
Washington, D.C.



Luis Toledo Ríos
Director, Lawyer - Narcotic and
Psychotropic Substances Illicit Traffic
Unit, National Prosecutor's Office Chile