



A Policy to Establish Drug Treatment Courts in Trinidad and Tobago



Organization of
American States



Inter-American Drug Abuse
Control Commission

Canada 

Foreword



I am pleased to identify with this policy document on the establishment of Drug Treatment Courts in Trinidad and Tobago. That I am able to do this speaks volumes to the hard work and dedication of so many who have supported and partnered with the Judiciary of the Republic of Trinidad and Tobago in making this project possible. It puts us well beyond the dream that led to the inauguration of a pilot Court in San Fernando in south Trinidad earlier this year, to the reality of fully functional, permanently established courts in various parts of our jurisdiction, assisting the country in solving one of its most challenging social ills. Very important also is that we are able to share our experience and our approach in advancing this particular project with other jurisdictions. It is my hope that the dissemination of this document will assist in guiding them in investing in similar efforts and setting them on a path towards success. How could that success be measured? As I indicated when I promised Trinidad and Tobago such a facility last year, experience in our hemisphere with locations beset by significant drug problems, has shown that the system of Drug Treatment Courts is an approach that ultimately leads to a significant reduction in the number of repeat offenders and a resultant decrease in the number of prisoners and persons appearing before the Courts. This

in turn saves considerable amounts of money that could be redirected to other programmes. Of greater importance is the fact that it saves lives as it returns healthy persons to the community who are able to function in a harmonious and supportive manner in their families, and, by extension, their communities. Accordingly, the benefits of the operations of Drug Treatment Courts are not limited to the drug offender. They embrace wider society because of an approach that involves an expanded response to an acute problem. That is why I wish also to pay special tribute to our collaborators, both hemispheric and local, in government and at the level of civil society, whose partnership has brought us this far. I look forward to the continued co-operation of all as we seek to consolidate the gains thus far from this project, and it is my hope that more and more jurisdictions will see the value of adopting and embarking on such programmes.

Ivor Archie
Chief Justice, Republic of Trinidad and Tobago

Acknowledgements

The Steering Committee wishes to acknowledge the following persons and organisations, without whose contribution, this policy document which will determine the way forward for the Adult Court and proposed Juvenile Drug Treatment Court Pilot Project would not be possible.

The Chief Justice, the Honourable Justice Ivor Archie and the Judiciary

It is said that “a leader has the vision and conviction that a dream can be achieved. He inspires the power and energy to get it done. His role is to raise people’s aspirations for what they can become and to release their energies so they will try to get there.” The Drug Treatment Court and this policy document represent the realisation of a vision which the Honourable Chief Justice had and it is the fulfilment of a promise which he made to the citizens of the Republic of Trinidad and Tobago.

Organization of American States

Dr. Jose Miguel Insulza, Secretary General of the Organization of American States; Ambassador Albert Ramdin, Assistant Secretary General; Ambassador Adam Blackwell, Secretary for Multidimensional Security; Ambassador Paul E. Simons, Executive Secretary, Inter-American Drug Abuse Control Commission (CICAD). We express our deepest and heartfelt thanks for supporting the Drug Treatment Court Pilot Project in Trinidad and Tobago. We have received much assistance and encouragement from your organisation and in particular from Antonio Lomba and his team, along with Dr. Riyad Insanally and his team at the Port of Spain office. We look forward to our continued relationship under the Memorandum of Understanding.

The Honourable Minister of National Security

It is through the efforts of your team and the Government, that the Memorandum of Understanding to strengthen the Drug Treatment Court Pilot Project was signed. Additionally, the National Drug Council has been supportive of the work of the Steering Committee and has provided administrative and other support for meetings, workshops and various events.

The Honourable Minister of Justice

We are grateful for your support and commitment to this Project. The officers of your Ministry worked tirelessly to ensure that the Policy Document was reflective of the inputs of the multidisciplinary contributions of the Committee.

Court Executive Administrator

Ms. Michelle Austin and all other members of the Judiciary who were in any way connected with providing support for this project.

Mr Justice Kofi Barnes

A huge thank you to Justice Barnes, his team, and the Canadian Association of Drug Treatment Court Professionals (CADTCP). It is difficult to not be infected by Justice Barnes’s passion for the Drug Treatment Court.

We thank the Government of Canada, the Canadian High Commission and the United States Embassy in Port of Spain for the training opportunities which allowed members of the Steering Committee and others to view and understand their role in the implementation of the Drug Treatment Courts in Trinidad and Tobago.

Sincere thanks to the members of the Steering Committee. Thank you for accepting the call to serve on the Committee, and for ensuring that we delivered on the mandate that was placed upon us by the Honourable Chief Justice. The accomplishments of this Drug Treatment Court project are an example of what can be accomplished if there is collaboration among the various disciplines, and more importantly, when "egos are left at the door".

*Justice Geoffrey Henderson
Chairman
Drug Treatment Court Steering Committee*

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Introduction

Substance abuse has become a very serious problem in many communities across Trinidad and Tobago. An increase in drug abuse and drug trafficking in our country correlates to a dramatic rise in drug-related crime and violence. Drug abuse, is however not simply a crime affecting the individual and community; but a disease that pulls users into a downward spiral of dependency often supported by finance gained by criminal or illegal activity.

Given this reality, there is therefore a need for a paradigm shift away from routine imprisonment of drug offenders, to alternatives offered through drug courts, since treating addiction and providing the offender with life skills has been shown to reduce relapse and recidivism.

In this regard, the Government and the Judiciary of Trinidad and Tobago have acknowledged that it is necessary to explore treatment alternatives to incarceration for drug-dependent offenders, which would involve the diversion of substance-abusing offenders from prison into treatment and rehabilitation under judicial supervision. Such an initiative will be best achieved through the establishment of Drug Treatment Courts. By increasing direct supervision of offenders, coordinating public resources, and expediting case processing, treatment alternatives to incarceration can help break the cycle of criminal behaviour, alcohol and drug dependency, and imprisonment.

Background

The Caribbean Drug Treatment Court (DTC) project is a collaborative effort coordinated by the Organization of the American States (OAS), through the Inter-American Drug Abuse Control Commission (CICAD) of the Secretariat for Multidimensional Security, and funded by the Government of Canada.

Under this project, the Caribbean will see the introduction of judicially supervised treatment for some types of drug dependent offenders. Its broad aims are to:

1. Curb substance abuse and its social consequences in the Caribbean by developing treatment programmes for drug dependent offenders as an alternative to imprisonment; and
2. Reduce repeat offences among persons addicted to drugs.

At the NADCP Conference in July 2011, the Honourable Chief Justice of T&T, Justice Ivor Archie, made a commitment to the introduction of a DTC Pilot Project in T&T by 2012.

Justification for a Drug Treatment Court in Trinidad and Tobago

Courts in isolation cannot effectively deal with certain types of drug offenders. A critical need exists in this country for the criminal justice system to reduce the incidence of substance abuse and the crimes resulting from it. Baseline research has indicated that over the past twenty years, Drug Treatment Courts have proved to be effective in not only helping many countries to reduce crime and high incidence of relapse into drug use, but has also served to curtail the economic costs of incarceration. The data from a number of studies conducted in the Western Hemisphere and Europe, shows that heavy drug use is found more frequently among offenders than among the general population. Offences committed under the influence of drugs or alcohol, according to self-reports in some countries, represent an even higher percentage of crimes. Also, given the compulsiveness of drug addiction, it continues and is often aggravated after entry into prison. In the United States, according to a report from the National Institute on Drug Abuse (NIDA), an estimated 70 % of individuals in state prisons and local jails have abused drugs regularly, compared with approximately 9% of the general population. In Trinidad and Tobago, statistical data from the Trinidad and Tobago Prison Service indicate that the number of persons incarcerated on drug related offences in 2011 have increased from the reported figures of 2009¹.

Some studies indicate that treatment cuts drug

¹ In 2009 1145 males; 45 females; and 2 lads were incarcerated for drug related offences whereas in 2011, 1229 males; 36 females and 4 lads were reported as incarcerated. (Source: TTPrS NIS/Stats Department 2012)

abuse in half, reduces criminal activity by up to 80 percent, and reduces re-arrests up to 64%. However, less than a fifth of these offenders receive treatment for their drug dependence.

Rehabilitation of Participants

DTC will assist with rehabilitation (drug and alcohol) of persons to enable them to become law abiding and productive members of society.

In a recent Department of Justice study in the United States, drug court participants reported 25% less criminal activity and had 16% fewer arrests than comparable offenders not enrolled in drug courts. Additionally, 26% fewer drug court participants reported drug use and were 37% less likely to test positive for illicit substances².

Viable Alternative to Incarceration

Drug courts operate to divert non-violent offenders with substance abuse problems from incarceration into supervised programmes with treatment and rigorous standards of supervision and monitoring. Treatment programmes are developed as an alternative to imprisonment thereby easing the overcrowding in our Prisons.

In the United States of America results of a Drug Treatment Alternative to Prison³ (DTAP)

² National Institute of Justice. *NIJ Multisite Adult Drug Court Evaluation: Executive Summary*. U.S. Department of Justice [2011]. Available: <http://www.urban.org/UploadedPDF/412353-multi-site-adult-drug-court.pdf>

³ Zarkin, Gary A., Laura J. Dunlap, Steven Belenko & Paul A. Dynia, "A Benefit-Cost Analysis of the Kings County District Attorney's Office Drug Treatment Alternative to

programme indicated that 57% of DTAP participants were rearrested for any offence at least once in the follow-up period compared with 75% of the comparison group. Similarly, only 42% of DTAP participants were reconvicted of any offence compared with 65% of the prison comparison group. Finally, only 30% of the DTAP participants had a new jail sentence (compared with 51% of prison comparisons) and only 7% had a new prison sentence (compared with 18% prison comparisons).

Benefits to the Judicial System

DTC's will assist in caseload management by seeking to reduce the backlog of cases in the Courts. Success of drug treatment programmes will inadvertently impact positively on the heavy and increasing workload of our Courts. More countries around the world (USA for example) are implementing strategies to reduce the burden of drug-involved offenders on their criminal justice and corrections system. A DTC also serves to reduce the burden and costs of repeatedly processing low-level nonviolent offenders through the Nation's courts, jail and prisons.

Additionally, prosecutors report that the drug court programmes have reduced police overtime and other witness costs, as well as jury expenses that would have been required if these cases proceeded to the High Court. In the US for instance, these drug courts provide \$2.21 in direct benefits to the criminal justice system for every \$1 invested⁴. When targeting more serious, high

risk offenders, the average savings increased even more, benefitting the criminal justice system \$3.36 for every \$1 spent⁵.

Benefits to Prosecutors and the Police

Prosecutors and police in many of the jurisdictions in the United States of America which have developed drug court programmes report that the Drug Court provides their agencies with a more effective response to substance abuse and is a significant alternative to the "revolving door" syndrome that has frequently resulted from the traditional case process. Defendants are no longer released back into the community and back using drugs shortly after arrest but, rather, placed in a rigorous, court supervised treatment programme which carries an important message to the community regarding the seriousness of illegal drug use. In a number of jurisdictions, prosecutor and/or police agencies have contributed asset forfeiture funds to drug programmes to augment available treatment resources.

Benefits to Juvenile Drug Offenders

Recognising that juveniles in Trinidad and Tobago are a high risk group and should be treated accordingly, provision needs to be made for a DTC that shall deal solely with juvenile drug offenders. A juvenile drug court shall provide intensive but flexible supervision of juvenile participants and increase communication and coordination between treatment, and the various support services to assist youths with:

- Parenting skills
- Gaining academic qualifications (literacy / Levels / vocational)

Prison (DTAP) Programme, "Justice Research and Policy, Vol. 7, No.1 (Washington, DC: Justice Research and Statistics Association, 2005),p.20.

⁴ Bhati, Avinash Singh, Roman, John K., Chalfin, Aaron. "To Treat or Not to Treat: Evidence on the Prospects of Expanding Treatment to Drug - Involved Offenders." *The Urban Institute* [2008]. Available: <http://ncjrs.gov/pdffiles1/nij/grants/222908.pdf>

⁵ See footnote 3 supra.

- Mental health referrals
- Anger management
- Stress management
- Housing referrals
- Counselling for youths as well as their families
- Employment assistance

Developing mentor relationships within the community to support them after they leave the drug court programme e.g. Pastor, Community elder, respected relative

The DTCs will intervene with juveniles in the early stages of addiction to assist with rehabilitation

in developing positive relationships with their families, community and to enable them to eventually lead crime and drug free lives. The family bond of juvenile offenders is strengthened as families work in collaboration with the programme to provide additional support and mental security to these juveniles. Family involvement is a key element when compared with an adult drug court.

It is recognised that while sobriety is a primary objective of the drug court programme, no participant can successfully complete the programme without addressing these needs relating to his /her long term rehabilitation.

Goals of the DTC

The enabling legislation for the Drug Treatment Court should provide that accountability and rehabilitating treatment, in addition to or in place of, conventional and expensive incarceration, will promote public safety; the welfare of the individuals involved; will reduce the burden upon the public treasury; and will benefit the common welfare of the country. The goals of the Act shall include:

1. to enhance community safety and quality of life for citizens;
2. to reduce recidivism;
3. to reduce substance abuse;
4. to increase the personal, familial, and societal accountability of drug offenders;
5. to restore drug offenders to productive, law-abiding, and taxpaying citizens;
6. to promote effective interaction and use of resources among criminal justice and community agencies;
7. to reduce the costs of prison
8. to improve the efficiency of the criminal justice system by enacting an effective methodology.

As a general proposition, a drug offender should not be permitted to exit the criminal justice system until he or she has undergone an assessment and an appropriate form of treatment. The decision as to whether that treatment is provided in jail, prison, or elsewhere should be made by the courts based not only upon traditional sentencing criteria but also upon the professional diagnostic

assessment of each drug offender and the specific recommendations of the assessment. The criminal justice system should be used constructively to motivate drug offenders to accept treatment and engage in the treatment process.

While working in drug treatment court reshapes the traditional roles of judges and lawyers, ethical duties do not significantly differ from those in traditional courtrooms. Drug court judges and lawyers must adhere to the standards set forth in the Legal Profession Act, Chapter 90:03 and its Code of Ethics. The proper exercise of the roles of judge or lawyer in the drug court need not conflict with the professionals' ethical obligations and can enable judges and attorneys to fulfil the highest aspirations of their professional ethics while embarking on an innovative way to break the cycle of substance abuse and crime. Drug court judges and attorneys must remain continually cognizant of the due process rights guaranteed to all citizens and the state's substantial interest in maintaining effective and efficient judicial and penal systems.

It should be noted that participation in the DTC programme ought not to be considered a sentence – participation in the DTC programme is an intervention.

How will the DTC Programme work?

Model

The Trinidad and Tobago Drug Treatment Court (DTC) should be based on a post adjudicatory model where a drug offender must take responsibility for his actions by first pleading guilty to the offence before being permitted to participate in any drug treatment court programme.

Jurisdiction of court

The Chief Justice shall designate an appropriate Court in any of the magisterial districts as a DTC and shall appoint or assign one or more Magistrates whom he considers to be specially qualified to deal with cases before the DTC. The DTC shall have the jurisdiction and powers similar to Courts of Summary Jurisdiction.

Participation in DTC is voluntary, with the consent of the prosecution, and shall be pursuant to a written agreement which must be fully explained to the drug offender and signed by him.

DTC's, through the swift application of incentives and sanctions, provide the criminal justice system with the unique ability to substantially reduce substance abuse and its associated crime while increasing public safety, reducing recidivism, and supporting the fair administration of justice. "Close monitoring of attendance, substance use, and criminal activity, combined with the imposition of increasingly severe sanctions for successive infractions, are at least partly responsible for the success of drug courts, and similar probation programmes and indirect evidence appears to support the theory that the severity and certainty

of criminal justice sanctions are related inversely to the likelihood of criminal recidivism"⁶. Absent this swift application of incentives and sanctions, drug courts lose their coercive power and therefore, their effectiveness.

Therefore where the court finds that the drug offender:

- a. is performing satisfactorily in drug court;
- b. is benefiting from education, treatment and rehabilitation;
- c. has not engaged in criminal conduct; or
- d. has not violated the terms and conditions of the agreement;

It may grant reasonable incentives⁷ to the drug offender.

Where the court finds that the drug offender:

- a. is not performing satisfactorily in drug court;
- b. is not benefiting from education, treatment or rehabilitation;
- c. has engaged in conduct rendering him or her unsuitable for the programme;
- d. has otherwise violated the terms and conditions of the agreement; or
- e. is for any reason unable to participate;

⁶ Marlowe & Kirby, 1999

⁷ Discussed in greater detail at pages 29 to 30 of this Policy.

It may impose reasonable sanctions⁸ under the written agreement. The court may also incarcerate or expel the drug offender.

Upon successful completion of a DTC programme, a drug offender's case shall be disposed of by the DTC judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the DTC. This may include, but is not limited to a reprimand and discharge of the matter under section 71 of the Summary Courts Act Chapter 4:20; probation; or a reduced period of incarceration.

It should be noted that DTC judges ought to be given jurisdiction over all of the DTC matters throughout Trinidad and Tobago so as to enable them to deal with DTC matters that may have originated in another magisterial district. This will also enable certain DTC participants, who may wish to have their matter transferred from one DTC Court to another⁹ for a specific reason, to do so.

Each DTC so designated by the Chief Justice shall establish a drug treatment court team (DTC team). The DTC team shall consist of the following members who shall be assigned to the drug court:

1. The judge, or magistrate who must be trained and qualified to deal with such cases;
2. An attorney at law as designated by the Director of Public Prosecutions;
3. The defence attorney; the duty counsel;

⁸ Discussed in greater detail at page 28 of this Policy.

⁹ It is envisioned that there shall be a DTC Court in San Fernando in the first instance and then Port of Spain, Tunapuna and Tobago.

or legal aid attorney appointed to defend the drug offender;

4. A police officer designated by the Commissioner of Police;
5. A representative from the department of probation;
6. A representative from the approved substance abuse treatment providers
7. Any other persons selected by the DTC Team.

The DTC team shall conduct an initial assessment of all the relevant information on the eligible participants identified by the DPP to determine their suitability for the programme. If the DTC team considers the offender to be an unsuitable candidate, the offender will not be accepted and will be sent back to the originating court for his/her matter to be heard.

The DTC team shall conduct a weekly team meeting prior to each drug court session to discuss and provide updated information regarding drug offenders. After determining their progress or lack thereof, the DTC team shall discuss the appropriate incentive or sanction to be applied. If the DTC team cannot agree on the appropriate action, the court shall make the final decision during the DTC hearing based on information presented in the meeting.

The supervising substance abuse treatment agency shall forward timely information to the drug court concerning the drug offender's progress and compliance or non-compliance with any court-imposed terms and conditions.

Nothing contained in the legislation shall confer a right or an expectation of a right to participate in

DTC nor does it obligate the DTC to accept every drug offender. Neither the establishment of DTC's nor anything therein shall be construed as limiting the discretion of the prosecutor to act on any criminal case which he or she deems advisable to prosecute.

Eligibility for admission into the DTC programme

Procedure after arrest for Specified Offence

Capturing the right offender population i.e. those who are addicted, substance-abusing offenders, can prove to be a difficult task. Therefore where a person is arrested and charged with a specified offence and the arresting officer has reasonable cause to believe that the person is dependent on any drug or substance, the arresting officer should include his suspicions giving rise to that belief in a prescribed form or check list which would form part of the DTC Case Docket¹⁰.

Offences applicable (Specified Offences)

Offenders who are charged with committing any offence involving the use of violence or a weapon; or who have a criminal history of violent offences generally do not qualify for the DTC programme.

The specified offence should be a **non-violent criminal offence** under the Summary Offences Act Chapter 11:02; certain offences under the Dangerous Drugs Act, Chapter 11:25; certain offences under the Motor Vehicles and Road Traffic Act Chapter 48:50; certain offences under the Larceny Act Chapter 11:12; and any other

¹⁰ The check list can include certain things such as whether the offender was found with drugs or any drug paraphernalia on him; or whether he has any previous convictions or pending charges of those Specified Offences delineated herein.

summary offence (excluding section 36 of the Summary Offences Act Chapter 11:02) or an offence that is by virtue of any written law both an indictable offence and a summary conviction offence, where there is demonstrable drug dependency and where the DPP recommends admission¹¹.

Again, as matters are decided upon a case by case basis, care must be taken to avoid stringent exclusionary rules as to eligibility criteria in this regard. For instance, the difference between those who deal for profit and those who deal to support drug habits should be acknowledged. Those who deal drugs or traffic for profit must be excluded. Those who deal to support their habits are doing so because of their addiction. Some of the methods of distinguishing between profit-seeking and addicted dealers are through the weight of drugs involved in possession and dealing offences, substance abuse assessments, and through the input of law enforcement intelligence.

Juveniles

Young people are a very specific target audience as many come before the courts for truancy or being termed as uncontrollable under section 44(4) the Children's Act Chapter 46:01. Many times the underlying factor of these Court appearances is that the young person may be abusing alcohol

¹¹ These offences may be a Schedule to the enabling legislation and can be found marked as Appendix A at pages 45 to 46 of this policy document. Offences such as some of those found in the Larceny Act Chapter 11:12 and drug offences like simple possession and possession for the purpose of trafficking (at the street level) are generally considered to be committed by individuals who are trying to feed an addiction. The addition of offences under the Motor Vehicles and Road Traffic (Amendment) Act, to wit driving whilst under the influence of alcohol was added as this is also an offender who should be targeted.

or drugs. To this end, any young person coming before a Court for being uncontrollable or for such specified offences herein, or where there is a reasonable belief that the young person may be addicted to drugs, the Court shall also cause the relevant and necessary steps to be taken for the young person to be considered for entry into the DTC programme.

In the case of juveniles, parental permission must be obtained for participation in the programme. Permission may be given by a parent or guardian in such cases¹².

Application for admission

Drug offenders can be referred to participate in the programme. Referrals can come from anyone – parents, guardians, spouses, probation officers, parole officers, prosecutors, defence attorneys and police officers¹³. All drug offenders need to submit an application to participate in the Programme regardless of whether they have been referred or not. They must plead guilty to their offence and thereafter submit to an assessment and complete and submit an application form which shall all form part of the case docket that shall be reviewed by the Office of the Director of Public Prosecutions (DPP). Any offender with a clear demonstrable mental health illness ought not to be considered by the Court for participation in the programme.

An offender (adult or juvenile) wishing to be admitted into the DTC programme, shall be

¹² *With respect to juveniles, it is recommended that because of their age and risk factors that upon successful completion of the DTC programme, they be allowed to apply to the Court to have their records expunged which in turn will have obvious benefits to their future employment and career opportunities.*

¹³ *In Canada Police Officers are viewed as the main source of referrals to the DTC programmes in the various provinces.*

required to submit to a drug test under controlled conditions within twenty-four (24) hours of indicating his intention to enter the programme by pleading guilty and signing the waiver accepting the conditions to enter the programme. In the case of a juvenile, parental consent or the consent of a guardian shall be first obtained before such a test is done. In instances where a juvenile has no functioning parent or guardian, the Court may appoint an attorney, or a Duty Counsel to look after the interests of the child.

Any offender under the legislation, who applies to participate in DTC and who is subsequently released on bail, must submit to the drug test and assessment as a pre-requisite to participate in the programme.

The results of this drug test¹⁴ can be used to assist the prosecutor in determining whether the offender is a true substance abuser or merely feigning substance abuse in order to participate in the DTC programme and avoid more severe consequences before the criminal courts. In order to prevent any undue prejudice to the offender should they be later determined by the DPP to be ineligible for participation in the DTC programme, any such results from the drug test ought not to be admissible in any subsequent criminal proceedings arising from their ineligibility.

The Assessment

An offender upon application to enter into the DTC programme shall be required to undergo an assessment if:

¹⁴ *The Forensics Science Centre is responsible for the testing and must provide the results to the DPP and the substance abuse treatment providers with the results within seven (7) days of testing. See Appendix B for a sample Chain of Custody Form and Drug Screen Report that the Forensic Science Centre shall be utilising.*

1. the results of the drug test conducted upon application are positive;
2. the offender requests an assessment;
3. the offender admits to substance use or abuse within the year preceding the arrest for the present charge;
4. the present charge involves a violation of the controlled substances or driving or being in charge of a vehicle while blood alcohol levels exceed the prescribed limit; or
5. the offender has, within the past five years been convicted, or received a suspended imposition of sentence involving a violation described above in (4);

In this regards an “assessment” shall mean a diagnostic evaluation to determine whether and to what extent a person is a drug offender under the enabling legislation and would benefit from its provisions. The assessment shall be conducted by an approved substance abuse treatment provider in accordance with the standards, procedures, and diagnostic criteria designed to provide effective and cost-beneficial use of available resources.

The assessment must also determine whether the drug offender may have a mental condition that will exclude his active participation in the DTC Programme. If the results of this assessment show that the offender has an active and untreated mental health condition, the DPP who is the recipient of the assessment results, shall determine that the offender is not a suitable candidate and shall exclude that person from participation in the programme. The DPP may also submit the assessment results to the Court with a recommendation that the offender receive

treatment for his mental health illness. The Court upon receiving such a recommendation can remand the offender to St. Ann’s or any other mental health treatment institute for treatment.

The court may also order an offender to undergo an assessment there is reason to believe the offender is a substance abuser or would otherwise benefit from undergoing an assessment.

The assessment shall include recommendations concerning the offender’s need for substance abuse treatment; and the appropriate and available course of treatment necessary to address the offender’s needs.

Unless otherwise ordered by the court, the drug test results and assessment of an offender shall be submitted to the Office of the Director of Public Prosecutions within seven (7) days of the offender’s initial appearance before the Court.

The DPP has final discretion

The offender’s eligibility is determined by the DPP. The DPP under the Constitution is the office holder who has the power in any case to institute and undertake criminal proceedings against any person before any Court in respect of any offence against the law in Trinidad and Tobago; and to discontinue at any stage before judgement is delivered any such criminal proceedings begun or undertaken by himself or any other person or authority¹⁵. Similarly in Canada¹⁶, it is the Crown Attorney who makes such a decision and it is viewed that the Crown Attorney’s role in this regard is to act as a “gatekeeper” for the DTC programme, as it is the prosecutor who has the final discretion with respect to the nature of the

¹⁵ Section 90(3) of the Trinidad and Tobago Constitution

¹⁶ As well as in the United States.

offence and/or the applicant's criminal record. Eligibility is determined on a case by case basis upon a review of the offender's charges, criminal antecedent and substance abuse history.

The DPP in exercising his discretion in this regard may also have consideration to the following factors:

1. the age of the offender;
2. the offender's previous convictions;
3. the status, educational background and employment of the offender;
4. the offender's character antecedents, associations and social ties;
5. the nature and extent to which the offender has fulfilled obligations imposed on him by previous orders of the Court;
6. the nature and extent of the offender's substance addiction
7. any other factor which appears to be relevant.

Therefore a criminal record may not necessarily keep an applicant from being considered for the programme, however the type of criminal record should be considered¹⁷.

Where the DPP determines that participation in drug court will not benefit the offender, or the offender is not an appropriate candidate¹⁸,

¹⁷ *Eg where the Offender is a known gang member who has been previously convicted for offences involving a weapon or violence he may not be considered eligible for the DTC.*

¹⁸ *Where for example the DPP has examined the nature of the offence and deemed him to not be a suitable applicant (eg where the case involved the use of extreme violence or*

notwithstanding a recommendation by the assessment that the offender participate in such treatment programme, the DPP shall record its determination in the offender's confidential treatment file and make a general finding on the record that the offender is ineligible to participate in drug court. Upon a rejection of the application by the DPP, the offender's matter remains in the Court for sentencing or the offender has the option of changing his plea and going to trial.

Admission to the DTC programme

Where:

1. an assessment reveals that an offender is a substance abuser, and the court recommends that the drug offender participate in drug court;
2. the court has reason to believe that participation in drug court will benefit the drug offender by addressing his or her substance abuse
3. the drug offender shows his consent to participate in the programme through pleading guilty and submitting a signed agreement to participate or waiver¹⁹, and
4. the Office of the Director of Public Prosecutions determines that the offender is eligible and consents to the drug offender's participation in the programme;

A Court shall order a drug offender to participate in drug treatment court and the matter shall be transferred to the DTC accordingly.

the quantum of drugs and circumstances clearly show that the offender was trafficking and not just 'using' the drugs).

¹⁹ *Which can be a prescribed form and added as a Schedule.*

It should be noted that at section 13A of the Summary Courts Act Chapter 4:20, it states that:

“For the purposes of the Dangerous Drugs Act, notwithstanding any enactment to the contrary, the Director of Public Prosecutions whenever he considers that having regard to all the circumstances it is desirable to do so in the interest of securing the more expeditious hearing and determination of cases, may in any case, transfer proceedings from a Summary Court to any other Summary Court.”

In this regard, it is suggested that this particular section be suitably amended to include reference to the Drug Treatment Court and its enabling legislation so as to empower the DPP to seek to have matters transferred in order to be dealt with by the DTC.

Where a request for consent to participate is made to the offender and he does not respond

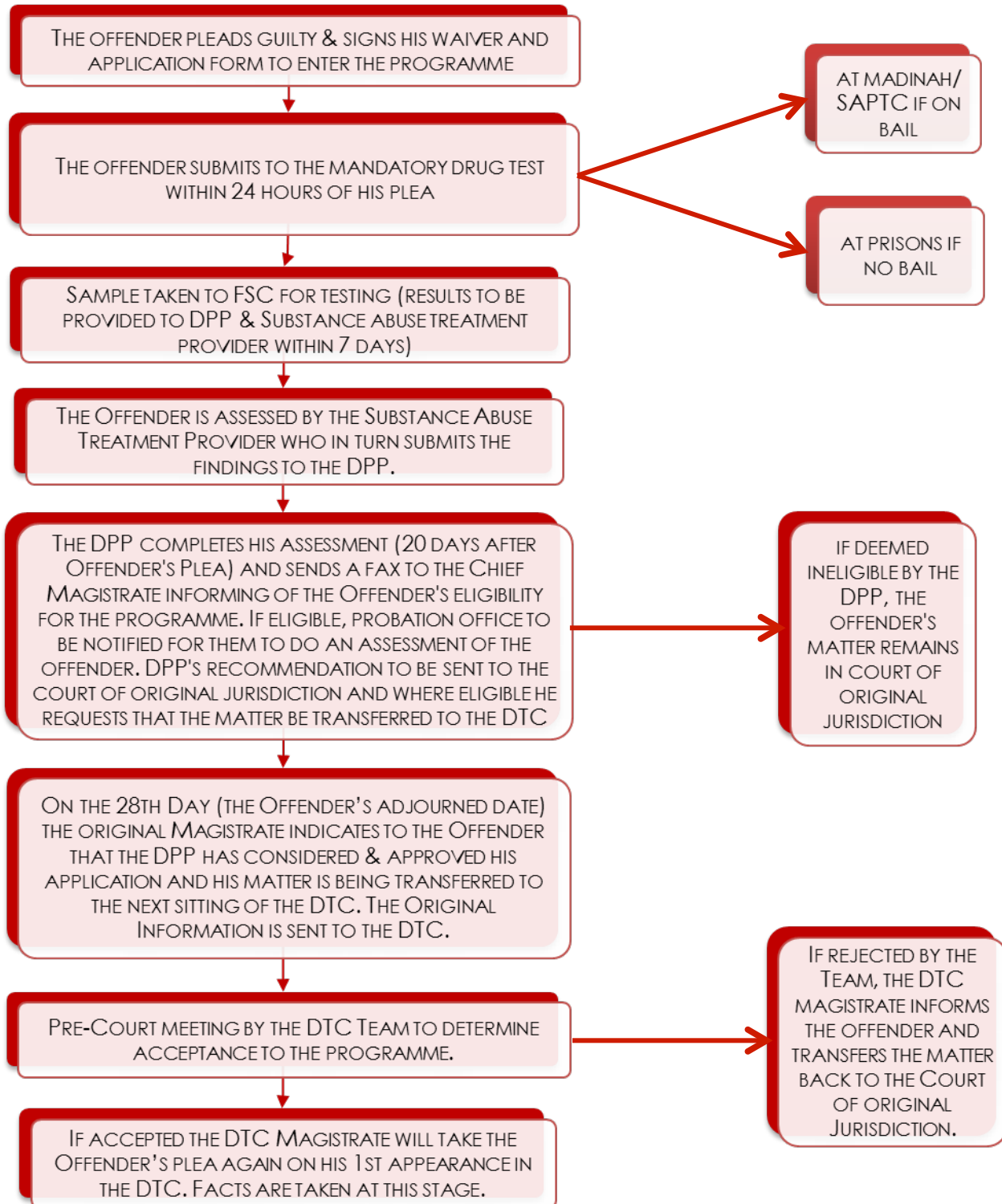
or fails to show his consent by refusing to sign the prescribed form within twenty-four (24) hours after such a request is made, he ought to be deemed to have refused submission into the programme.

An offender who subsequently refuses to enter the programme shall thereby be dealt with as if he had never applied to enter into the DTC programme and may thereby undergo a criminal trial and be convicted and sentenced accordingly.

When the drug offender makes his first appearance in DTC, the presiding DTC judge shall on the recommendation of the State Prosecutor and with the offender’s written agreement conduct a brief enquiry to ensure that the offender understands what is required of him. Upon entry into the DTC programme the drug offender shall thereafter be referred to as a “participant”.

DTC Admission Process Flow Chart

35 Day period between the Offender's Appearance in Court and his 1st Appearance in the DTC. In that 35 Days the following must occur:



Conditions imposed

Once a participant to the DTC programme has signed the Agreement to Participate or the Waiver²⁰, he shall be required to comply with one or more terms and conditions that the DTC shall be authorised to impose. These terms and conditions are as follows:

- The participant must enter, regularly attend and successfully complete a substance abuse treatment programme for a period specified by the DTC. The DTC may designate the minimum number of times per week that the participant should attend;
- The participant shall comply with all rules and regulations of the prescribed programme²¹;
- The participant shall perform a period of community assistance projects as prescribed by the DTC;
- The participant shall submit to routine and random drug testing and/or substance abuse evaluation which may be conducted during the probationary period;
- The participant shall have sufficient periods of clean time where his drug/substance abuse tests come back negative and he must actively participate in treatment in order to progress in the DTC programme;
- The participant shall obey all of the conditions of his bail;

- The participant shall keep all information about other participants confidential;
- The participant shall not act as an informant on the basis of information obtained as a result of participation in the DTC programme;
- The participant shall advise the DTC and his probation officer of all outstanding and any new criminal charges against him;
- The participant shall at all times be **honest** about any relapses and drug/alcohol use whilst participating in the DTC programme; and
- Any other condition that the DTC deems to be appropriate under the circumstances.

Where juveniles are involved as participants the DTC may further impose the condition that they shall attend school and that they shall abide by a curfew to be set by the DTC.

The participant shall also make frequent DTC appearances wherein the treatment provider shall make regular reports as to his progress. Such a progress report shall include, in any case where the participant fails to comply with any directions given by the approved treatment provider or any specified condition, the nature of the non-compliance (where for example the participant has failed a drug test), and the effect or likely effect on the offender's successful completion of the prescribed treatment programme.

Variation of conditions

The DTC may from time to time on the recommendation of the approved treatment provider or the Prosecution, vary or revoke the

²⁰ See Appendix C attached for the Application and Waiver Form to be used by the Judiciary of Trinidad and Tobago.

²¹ See Appendix D attached for the Rules of the DTC to be adopted.

conditions it has imposed upon the participant, including conditions of bail.

Violation of conditions

If the DTC finds that the drug offender:

1. Is not performing satisfactorily in the DTC programme;
2. Is not benefitting from education, treatment or rehabilitation;
3. Has engaged in conduct rendering him unsuitable for the programme;
4. Has been proved to have lied to the Court about his drug use where s/he has failed a drug test;
5. Has otherwise violated the terms and conditions of the agreement; or
6. Is for any reason unable to participate;

The DTC may impose reasonable sanctions under the written agreement that was entered into between the DTC and the participant. Such sanctions may include but are not limited to:

- Staying until the end of the DTC hearing;
- Extension of time in the DTC programme;
- Verbal and or written apologies to the Court and group;
- Essays or book reports;
- Enhanced curfews;
- Changing conditions of bail;
- More frequent drug testing;
- Taking away driving privileges;

- Increased community assistance projects;
- Increased court appearances;
- And increased supervision.

Additionally, in more severe circumstances, an offender who violates any conditions imposed pursuant to the enabling legislation may also be liable to revocation of bail, or may face expulsion from the DTC programme where upon expulsion his matter may be transferred back to the substantive court where he may be sentenced in accordance with the punishment required for the offence.

These severe instances will include but are not limited to:

- Where the participant tampers with a urine sample;
- Where the participant possesses, uses or traffics drugs or drug paraphernalia whilst attending a DTC programme at approved treatment centres and lies to the Court about it;
- Where the participant abandons the programme;
- Where the participant is involved in physical violence whilst attending any of the DTC programmes at approved treatment centres; or
- Any other grounds the DTC may find sufficient.

Arrest Warrant

Where the offender fails to appear at a DTC hearing when he is scheduled to do so, the Court

may issue a warrant authorizing a police officer to arrest the said participant and bring them before the DTC to be dealt with accordingly.

Compliance with Conditions

Both compliant and non-compliant behaviour must be acknowledged by the DTC. Therefore, just as non-compliance results in admonishment or sanctions from the Court, so to should compliance to the conditions imposed result in commendations or incentives by the DTC.

Thus a DTC may grant reasonable incentives under the written agreement if it finds that a participant is performing satisfactorily; is benefiting from education, treatment, and rehabilitation; has not engaged in criminal conduct; and has not violated the terms and conditions of the agreement. Reasonable incentives may include but are not limited to:

- praise from the judge;
- applause from the court;
- being permitted to leave the DTC hearings early;
- graduation certificates;
- early graduation from the programme;
- fee reduction or waiver of fees;
- reduced contact with a probation officer;
- coupons or gift certificates for groceries; coffee; movies; etc;
- less court appearances; or
- lifting of curfew.

Termination of DTC Programme

The DTC shall terminate a prescribed treatment programme in relation to a participant where:

1. the approved substance abuse treatment provider recommends that the participant is ready for graduation and he has successfully completed the programme and the Court agrees;
2. the participant requests the DTC to terminate the programme or abandons the programme;
3. based on the report of the approved substance abuse treatment provider, the DTC is satisfied that there is no useful purpose to be served by the participant's continued participation in the prescribed treatment programme²²; or
4. Upon completion of an expulsion hearing, the DTC is satisfied that the participant should be expelled from the programme.

Where the DTC has terminated the prescribed treatment programme, the records of any tests performed on the participant shall not be admissible in evidence in any proceedings against him.

As soon as may be reasonably practicable after the termination of a prescribed treatment programme, the participant must be brought before the DTC to be dealt with accordingly. Where the approved substance abuse treatment provider recommends that the participant is ready

²² Adopted from Jamaica's Drug Court (Treatment and Rehabilitation of Offenders) Act No 40 of 1999, section 12.

for graduation and the DTC Team and the Court agree, the participant's case must be disposed of by the judge in the manner prescribed by the agreement. The participant is thereby eligible for *Graduation*.

Graduation

Graduation from the DTC is based upon a positive recommendation from the approved substance abuse treatment provider that the participant is suitable and ready for graduation and has completed all the necessary treatment. The DTC team and the Court must first approve this recommendation. In order to determine an individual's suitability for graduation, some of the factors which the approved substance abuse treatment provider may take into consideration are:

1. completion and compliance with all phases of treatment;
2. remaining substance abuse free for a minimum of ninety days by returning negative drug test results for that period;
3. securing of appropriate accommodation;
4. securing of employment, schooling or appropriate volunteer work.

The DTC team must also consider the participant's record and history whilst s/he has been in the programme before deciding whether the participant is eligible for graduation.

Participants who successfully graduate from the DTC may have their matter determined as the Court sees fit. This may include a period of probation, restitution and/or fines.

Post-Graduation

DTC participants who are placed on probation must also be ordered to return to the DTC on at least a monthly basis and report to the judge about their recovery. The probation officer shall monitor their compliance and liaise with the approved substance abuse treatment providers to provide the court with a complete picture of the DTC graduate's performance. If the participant experiences difficulties in remaining sober, the DTC must have the power to vary the terms of the probation order to provide additional support for the graduate, including enhanced treatment and more frequent court attendances.

Substantial Compliance

Provision must be made for those participants who for various reasons are unable to achieve all the DTC programme requirements and therefore may be prevented from graduation, but who nevertheless have made valuable progress in the DTC. These participants may have secure employment and stable housing, but may be unable to eliminate drug use entirely²³. Providing these participants have remained in the programme for at least eighteen (18) months, they will be eligible – upon recommendation from the approved substance abuse treatment provider – to be terminated from the DTC programme. The DTC may therefore exercise its discretion to give such participants a non-custodial sentence and a period of probation and they will instead of graduating, receive a "Certificate of Compliance". Such participants will also be subject to continued monitoring by the Court.

²³ Example the participant may have entered the DTC owing to an addiction to heroin, but at the time of programme completion he may now have eliminated the use of heroin but may be using marijuana on occasion.

Expulsion Hearing

Where the Prosecutor, substance abuse treatment provider or any member of the DTC Team recommends expulsion, they may, by Motion for Expulsion seek to expel the participant from the programme and the DTC may hold an expulsion hearing where the participant must show cause as to why he ought not to be expelled from the programme.

The Motion for Expulsion will be discussed at the DTC Team meeting out of the presence of the DTC judge and with the participant present. Upon a majority of the vote, a recommendation for expulsion will be made to the DTC judge.

If the DTC Team recommends expulsion, the matter will be set for a hearing before the DTC judge the following week. The Motion for Expulsion hearing will be on record in court. The Expulsion Hearing does not abide by the normal rules of evidence and admissibility. It is to be based upon reports provided by the approved substance abuse treatment provider or the probation officer who is supervising the participant; or reports from the police where appropriate. The participant should be given an opportunity to be heard and if s/he so desires, to call witnesses. S/he should also be given the opportunity to be legally represented if he so desires. If the DTC judge agrees that there is a basis to grant the Motion for Expulsion, findings and conclusions will be made on the record and the participant will be removed from the programme. The DTC judge may then proceed to hear any pleas in mitigation before sentencing the expelled participant in accordance with the punishment required for the offence he committed. In instances where upon expulsion, a DTC participant may seek to change their plea to one of not guilty, the DTC judge may exercise his discretion to send the matter back to the Court of Origin for a determination.

Immunity from Prosecution for certain offences

As one of the core fundamentals of drug court treatment is honesty, and as participants are asked to be completely honest about drug use based on the “harm reduction model”²⁴ it is essential that any admission of drug use to the treatment provider or to the court will not result in a new criminal charge. To this end, a person shall not be liable to prosecution for any offence comprising the unlawful possession or use of drugs as a result of any admission made for the purpose of seeking a referral to the DTC; for the purpose of satisfying the DTC that he should participate in a prescribed treatment programme; or in connection with the supervision of the prescribed treatment programme. Further, any such admission shall not be admissible in evidence against the person making it, in any proceedings brought as a result of the admission.

Provision of Information and Confidentiality

Provision of Information

Every approved substance abuse treatment provider shall notify the DTC of any failure by a participant to comply with the prescribed treatment programme.

²⁴ “The Harm Reduction model is a set of practical strategies that reduce negative consequences of drug use and unsafe behaviours by incorporating a spectrum of strategies ranging from safer use to managed use to abstinence. Different substances or behaviours may lie on different parts of a continuum for the same person. The focus of attention is not the drug use or behaviour itself, but on the harm associated with it.” *Harm Reduction as a Model of Intervention and treatment: Theory, Definition and Approaches to Working with LGBT Populations*, by Keith Enders

The provision of information in accordance with the enabling legislation ought not to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct on the part of the person furnishing it. Neither should it give rise to any action for defamation against that person. Provision of information ought not to constitute a ground for civil proceedings for malicious prosecution or for conspiracy where such information has been provided in good faith.

Further, any qualified person who obtains, in a medically accepted manner, a specimen of breath, blood, urine, or other bodily substance pursuant to the provisions of the enabling legislation or any other written law should not be liable in any civil action.

With the exception of proceedings before the DTC; or in support of, or in answer to, any allegation made in proceedings against a person in relation to the exercise of his functions under the enabling legislation, any such information provided about a participant whilst he is in the DTC programme shall not be admissible in any proceedings before a court, tribunal or committee; and a person shall not be compellable in any such proceedings to disclose any such information or to produce any such document that contains the information.

Upon signing the Agreement to enter the DTC Programme, a participant shall be taken to have authorized the provision of protected information by an approved substance abuse treatment provider to the DTC and by any member of staff of the DTC to any other member of staff or DTC Team member.

Confidentiality

Anyone receiving drug test results, an assessment, or other personal medical information shall maintain that information in accordance with

confidentiality laws and any breach thereof shall be a punishable criminal offence with a suitable penalty attached. Participants too should be bound by confidentiality in terms of DTC Hearings and the proceedings that take place therein and any unauthorised disclosure of such information should be penalised in accordance with the enabling legislation.

In Camera Hearings

All DTC Hearings shall be held *in camera* as the matters divulged therein should be kept in strictest confidence as the DTC participants are encouraged to talk about their drug use and habits. Whilst not in *sensu stricto* an *in camera* hearing as other participants of the DTC will be present during the proceedings as well as the DTC team members, certain members of the public, and more particularly the press ought not to be allowed in to the courts or to report on the proceedings therein. By necessity the DTC proceedings ought to be private as participants will be asked to share and divulge things of a personal nature (e.g. drug use and what may have led them to use; some participants may even inadvertently state where they may have obtained their drugs and from whom and this may put them at risk from a dealer who does not wish his name to be known), and treatment providers will also be divulging to the Court sensitive matters about the participant's treatment. The very nature of the DTC is therefore such that it should be held *in camera* as this engenders trust among the participants to feel more comfortable about opening up before the Court and would better serve the public interest in this manner. In the end, the DTC Judge will have the final say as to who should be excluded from the court.

It shall be an offence to publish or broadcast any matter involving participants in the DTC. Any person found guilty of such an offence shall be liable upon conviction to a fine of fifteen thousand dollars and to imprisonment for two years.

Resource Requirements

Suitable Court room facilities

Adequate Court room facilities need to be identified. One in South Trinidad is in the process of being designated for the purposes of establishing the DTC pilot-project later this year. However, it is anticipated that with the success of this pilot-project that other DTC Courts will be required.

Training and Sensitisation

The aforementioned members of the DTC Team all need to be properly trained and sensitised about what is expected of them in their respective roles and functions in the DTC Team. For the judge, the prosecutor and the defence attorney, a DTC presents a dramatic and dynamic shift from the adversarial system that the courts in Trinidad and Tobago currently adhere to.

Further, police officers and probation officers also need to receive training and more particularly sensitization of what the DTC's function is. It is anticipated that similar to the Canadian jurisdiction, that police and probation officers will be the main source of referrals²⁵ to the DTC programme as they are the ones who are in the communities and are cognizant of who can be regarded as suitable candidates for the DTC programme.

Approved Substance Abuse Treatment Providers

Substance Abuse Treatment Providers need to be sourced and identified (by the Ministry of Health) for the purposes of providing assessments and continuous treatments to DTC participants. Such providers are critical to the success of the DTC Programme as they assist in monitoring and evaluating the progress of participants. Half way houses or residential facilities run by such treatment providers are also essential as one of the requirements of graduation is that the participant must have stable housing.

Funding

Funding for the DTC programme is vital to its management. Funds need to be allocated to training as well as to provision of equipment in terms of kits used to conduct drug testing of all participants. Funding for residential facilities, treatment centres and half-way houses ought also to be sourced.

²⁵ See Footnote 11 *supra*.

Conclusion

The introduction of a DTC in Trinidad and Tobago will mark a vast departure of the traditional roles, responsibilities and relationships from the traditional adversarial model of justice that this country follows.

A United Nations Office on Drugs and Crime document entitled, "Drug Treatment Courts Work!"²⁶ lists the following DTC success factors:

- Effective judicial leadership of the DTC team.
 - Strong interdisciplinary team collaboration - each maintaining professional independence.
 - Good knowledge of addiction, treatment and recovery by justice system team members, and of criminality by the healthcare members.
 - Operational manual for consistency and efficiency.
 - Clear participant eligibility criteria, with objective screening of potential participants.
 - Detailed assessment of each potential participant.
 - Fully informed/documented consent of each participant to be admitted to DTC.
 - Speedy referral of participants to treatment and rehabilitation following arrest.
- Swift, certain and consistent sanctions for noncompliance and rewards for compliance.
 - Ongoing DTC programme evaluation and willingness to make improvements.
 - Sufficient, sustained and dedicated DTC funding.
 - Changes in underlying substantive or procedural law, if necessary or appropriate.

The success of DTC's can be measured perhaps not only in terms of dramatic reductions in criminal behaviour by those involved in the programme, but also by a significant reduction in drug use. The positive effects may not only have an impact on the criminal justice system, but it is believed that it should also positively impact upon the health system as well. In Canada for instance it has been found that most of the DTC participants demonstrate a significant improvement in their physical and mental health.

A meta-analytic examination of DTC's was done in August 2006 by the Department of Justice Canada in order to determine whether or not DTC's reduce recidivism²⁷. The results of this meta-analysis, which includes data on more than 17,000 offenders within 66 individual programmes, provided clear support for the use of drug treatment courts as an effective method of reducing future criminal behaviour among offenders with substance abuse

²⁶ http://www.unodc.org/pdf/drug_treatment_courts_flyer.pdf

²⁷ "A Meta-Analytic Examination of Drug Treatment Courts: Do They Reduce Recidivism?" Report prepared by the Department of Justice Research and Statistics Division, August 2006, Jeff Lattimer, Kelly Morton-Bourgon and Jo-Anne Chretien.

problems compared to traditional responses²⁸.

Regionally, in a press release by the Caribbean Community (CARICOM) Secretariat on February 3rd 2011, entitled, "DRUG TREATMENT COURTS WORKING IN JAMAICA BUT ... JUDGES CALL FOR MORE RESOURCES" the Chief Justice of Jamaica, the Honourable Zaila McCalla reported the successes of two Drug Treatment Courts in Kingston and St James, Jamaica. However, she identified the lack of necessary resources to build capacity in those courts as a major problem. The Chief Justice also stated that more than 200 persons had graduated from the drug treatment programme in both parishes and had demonstrated 'monumental changes' in their lifestyle. This, she said, was impressive and had served to convince her that this alternative to imprisonment of drug dependent offenders was working. She also emphasized that substantial resources, human, financial and otherwise, were critical to sustaining those courts and reiterated her call for the establishment of more Drug Treatment Courts in Jamaica and for more resources to strengthen the existing ones²⁹.

While DTC's are not a 'magic bullet' that will solve all substance abuse problems in the community, they offer an effective alternative to the traditional approach of incarceration for many persons who are dependent on drugs. The reduction in crime ensuing from the use of these courts results in both cost savings to the community and increased public safety. DTC's provide necessary drug treatment to the persons in our society who are the most in need of treatment and yet the least likely to receive it. The combination of judicial supervision and immediate and intensive drug treatment offers the best hope for many substance abusers to achieve a continuous reduction and eventual elimination of their drug habit. Studies have demonstrated that the longer an individual remains in treatment, the greater the probability that s/he will abstain from drug use.

²⁸ *The Conclusion of the meta-analysis did point out that there were several important additional findings and caveats. First, "it appears from the results of this meta-analysis that youth may not be suitable candidates for DTCs. Additional research is warranted, however, given the low number of studies using a youth sample to further examine a possible age effect. Second, longer follow-up periods should be used in DTC research as it is likely that the benefits of DTC participation increase with time. In fact, the current findings suggest that sustained behavioural changes are a likely outcome of DTC participation. Third, programmes that provide services for one year to eighteen months are associated with improvements in recidivism compared to shorter or longer programmes. It is therefore reasonable that services provided to DTC participants should be structured to range between one year and eighteen months."* at page 14, *supra*.

²⁹ http://www.caricom.org/jsp/pressreleases/press_releases_2011/pres35_11.jsp

Appendices

Appendix A – Specified Offences for the purpose of admission to the Drug Treatment Court

- Offences under the Summary Offences Act, Chap 11:02
 - Offences involving violence generally excluded
- Offences under the Dangerous Drugs Act, Chap 11:25
 - Sections:
 - 5(1) – Simple Possession of drugs
 - In this case, a Defendant may not qualify for the programme in circumstances where, although the quantum falls below that specified in section 5(9), the exhibit is packaged in such a manner to suggest that it is intended for more than personal use. For example, 300g of marijuana contained in 100 small plastic packets. (s. 5(9)- 20g of heroin, 10g of cocaine, 500g of opium, 30g of morphine, 1kg of cannabis(marijuana))
 - 5(4) – Trafficking and Possession for the purpose of trafficking
 - In this case, inclusion in the programme depends upon some 'evidence' the defendant engages in this type of activity out of necessity to feed an addiction.
 - 5(7) – Possession on any school premises or within 500 m thereof
 - 5(17) – Possession of device/ drug paraphernalia
 - In this case, a Defendant may qualify for the Programme where, but for the proximity of the defendant to the school, this would be a clear case of 'Simple Possession'. For example, 5g of marijuana in a student's pocket, or 10g of marijuana in two foil packets on someone's person at a football match during the school vacation.
- Offences under the Motor Vehicle and Road Traffic Act, Chap 48:50
 - Section 70 – Driving under the influence of alcohol
 - Section 70A – Driving or attempting to drive or being in charge of a vehicle where breath/blood alcohol concentration level exceeds the prescribed limit (35 micrograms of alcohol in 100 millilitres of breath, 80 milligrams of alcohol in 100 millilitres of blood)
- Offences under the Larceny Act, Chap 11:12
 - Offences listed in the Second Schedule to the Summary Courts Act, Chap 4:20 (Indictable Offences for which adults may be tried by consent by a Summary Court under section 100 of that Act)

Excluding section 27 (Burglary), sections 28 and 29 (Housebreaking) and section 24 (robbery) and section 30 (possession of housebreaking implements)

- Any other Summary Offence (excluding section 36) or an offence that is by virtue of any written law both an indictable offence and a summary conviction offence, where there is demonstrable drug dependency and where the DPP recommends admission.

Appendix B – Chain of Custody Form

Trinidad and Tobago Drug Treatment Court	
Chain of Custody Form	
Submitter's Ref	
Sample: Urine/Blood	
Name: Surname	
Given Names	
Signature	
Date	
Time	
Name of Supervising Officer	
Signature of Supervising Officer	
Number, Rank and Name of Receiving Officer	
Signature of Receiving Officer	
Location	

Thank you for your participation.

Trinidad and Tobago Drug Treatment Court Drug Screen Report

On the, the following urine sample of was examined for the presence of (ETHYL) ALCOHOL, COCAINE, CANNABINOIDS, OPIATES, AMPHETAMINES and their metabolites using Enzyme Immunoassay Drug Testing strips.

Results

	Positive	Negative
ETHYL ALCOHOL	<input type="checkbox"/>	<input type="checkbox"/>
COCAINE	<input type="checkbox"/>	<input type="checkbox"/>
CANNABINOIDS (Marijuana)	<input type="checkbox"/>	<input type="checkbox"/>
OPIATES	<input type="checkbox"/>	<input type="checkbox"/>
AMPHETAMINES	<input type="checkbox"/>	<input type="checkbox"/>

Analysed by:

Date:

Examined by:

Date:

Appendix C

DTC Application & Waiver

<p style="text-align: center;">Judiciary of Trinidad and Tobago Drug Treatment Court of Trinidad and Tobago</p>

Application and Waiver

I, _____ understand that I am charged

with: _____

on Information(s) _____

I have reviewed with a lawyer the Report(s) to the Magistrate containing a summary of the evidence against me. I have spoken to a lawyer about the charge(s) including what defences there are to the charges(s), if any, and/or any weaknesses in the evidence against me.

I do not want a trial.

I choose to take part in the Drug Treatment Court of Trinidad and Tobago (DTCTT). I understand I must:

- Plead guilty
- Give information about my background
- Give my history of drug use
- Undergo drug testing (urinalysis)
- Be honest, open and willing to participate in an intensive treatment programme.

I understand that I must qualify for and be accepted into the (DTCTT) Drug Treatment Court of Trinidad and Tobago. To be accepted I understand that within 28 days from the date of my entry into the DTCTT, I must complete various assessments to determine my eligibility for the DTCTT. The assessments include meeting as required with a probation officer, treatment centre provider, and psychologist.

Following completion of my assessments and within 28 days of the date of my entry into the DTCTT, my acceptance in the DTCTT must be confirmed by the Director of Public Prosecution (DPP) and by me. This 28 day period may be extended with the consent of the Magistrate.

If I do not complete the assessment within the required period, I may be opted out of the DTCTT. I understand that at any time before I am formally admitted into the DTCTT I can leave the DTCTT if I want. In either case my guilty plea will be struck and my charge(s) will be returned to the regular court system. If I am not in custody the bail I had before I entered the DTCTT will be reinstated. If I am in custody and require a bail hearing when I leave the DTCTT, my application for bail will be determined in the regular court system. If I was detained before I entered the DTCTT, the detention order will be reinstated.

If I am not formally admitted into the DTCTT, everything I have said or done during this application process will be kept confidential and can never be used against me in court.

If I am formally admitted into the DTCTT, I understand that I will be supervised by a Magistrate. I will be required to complete all phases of the DTCTT, which typically takes 12 – 18 months.

The Court will decide if and when I have successfully completed the DTCTT. By choosing to participate in the DTCTT, I agree to waive my right to be sentenced as soon as reasonably possible. I understand and give my consent to my sentencing being delayed until completion of, or discharge from, the DTCTT.

I understand that with the help of the DTCTC (Drug Treatment Court Treatment Centre) staff I will get an individualized treatment plan. My treatment plan will require me to attend regular treatment sessions and may include other treatment- related obligations as determined by the DTCTC staff and the Court.

I understand that I may be discharged from the DTCTT:

- **If I tamper with a urine sample;**
- **If I possess, use or traffic drugs inside or within a one block radius of the DTCTT and/or DTCTC;**
- **If I possess drug paraphernalia at the DTCTT and/or DTCTC; or**
- **If I am involved in physical violence at the DTCTT and/or DTCTC.**

I understand that the DTCTC must be a safe place, free from illegal drugs and violence.

I understand that while being assessed, and once I am formally admitted into the DTCTT, I must:

- Make frequent Court appearances

- Agree to regular reports on my progress from the DTCTC staff to the Court
- Attend regularly for counselling and medical care as directed by the Court and the DTCTC staff
- Undergo random drug testing
- Obey the conditions of my bail
- Keep all information about other participants confidential
- Not act as an informant on the basis of the information obtained as a result of participation in the DTCTT programme and
- Advise the Court and the DTCTC staff of all outstanding and any new criminal charges against me.

I understand that I have the right to apply to the Court to change my bail conditions.

I understand that if I do not go to Court or attend the DTCTC (Drug Treatment Court Treatment Centre), or elsewhere, as required, a warrant for my arrest may be issued, my bail may be revoked and/or I may be discharged from the DTCTT.

I understand that I will have to sign a Treatment Contract with the DTCTC staff, which Contract forms part of the rules and obligations of DTCTC. Failure to abide by that Contract may be considered a breach of my bail.

I understand that if I do not follow all of the conditions of DTCTT including the terms of my bail, the Treatment Contract and DTCTT rules, the Court, after giving me an opportunity to explain, may impose a sanction, including but not limited to:

- Increasing the number of my court appearances
- Ordering me to remain in Court until it is finished for the day
- Increasing the number of drug tests
- Ordering me to complete Community Service Work
- Changing any other conditions of my bail
- Extending the time that I must spend in the DTCTT
- Revoking my bail for up to eight days and possibly longer if I am charged with a new offence and want to continue participating in the DTCTT and
- Discharging me from the DTCTT programme.

I further understand that the Court has the discretion, in consultation with the Treatment Provider staff, the Magistrate, Probation Officer, and Defence Counsel, to increase or decrease my counselling appointments as required and to order me to attend a detox centre, recovery house or residential centre.

I understand that while I am participating in the DTCTT, members of the DTCTT team will meet and discuss my case before each Court appearance. As a condition of being allowed to participate in the DTCTT, I waive my right to be present at those meetings. I am satisfied that DTCTT duty counsel or my lawyer will represent my interests.

I understand that neither the results of my drug testing nor any statements about my drug use that I make during counselling or treatment will be used to support a charge of any offence.

I understand that once I have been formally admitted to the DTCTT, I may leave at any time, but if I choose to leave the DTCTT before graduation, I will be sentenced by one of the DTCTT Magistrate.

I understand that my involvement in the DTCTT may form part of an evaluation study of the DTCTT itself. If this is the case, my identity will be kept confidential.

I have read and understand this form. I want to participate in and be assessed for the DTCTT.

Dated: _____ 20 ____, at _____ Magistrate Court.

Applicant: _____ Signature: _____

Defence Attorney: _____ Signature: _____

Appendix D – Rules of the DTC

Judiciary of Trinidad and Tobago Rules of the Drug Treatment Court and Treatment Centre

Rules of the Drug Treatment Court of Trinidad and Tobago and Treatment Centre (DTCTT/TC)

While attending the Drug Treatment Court of Trinidad and Tobago and Treating Centre (DTCTT/TC), I hereby agree to obey the following rules:

1. I will keep the peace and be of good behaviour.
2. I will report to the DTCTT/TC and obey all the rules and participate in all treatment including attendance at detoxification, residential, or other treatment programmes as directed by the DTCTT Team.
3. I will reside as directed, provide my current address and not change my residence with prior permission of the Drug Treatment Court of Trinidad and Tobago.
4. I will attend the Resource Centre for urinalysis as directed by the DTCTT.
5. I will not attend the DTCTT or TC while under the influence of alcohol.
6. I will provide urine samples as directed by the DTCTT team and will report to the DTCTT team as well as the resource centre staff who is taking my urine sample about any drugs that I have used in the last week
7. I acknowledge that tampering with urine sample may lead to me being discharged from the DTCTT programme.
8. I will sign such releases as are necessary to allow the treatment centre staff to access any information it considers necessary related to my treatment.
9. I will not use any drugs (not prescribed for me) on site at the (DTCTT/TC) or within one block of the (DTCTT/TC).
10. I will not bring any drugs to the DTCTT/TC which is not prescribed for me, and I will not have any drugs delivered to the treatment centre.
11. I acknowledge that engaging in disruptive or aggressive behaviour at the DTCTT/TC, including threatening, disrespectful, or derogatory comments or physical violence may lead to me being discharged from the DTCTT programme.
12. If I cannot attend the DTCTT/TC for any reason, I will advise the centre as soon as possible. If directed by

the DTCTT/TC team, I will provide a Doctor's note to confirm absences for medical reasons. I acknowledge that a warrant can be issued for my arrest if I fail to advise the DTCTT team of my absences from the DTCTT.

I, _____, have read and understand the above rules of the Drug Treatment Court and Treatment Centre (DTCTT/TC) and agree to abide by them. I understand that failure to abide by these rules is a breach of my Bail order and may result in a warrant for my arrest, changes to or revocation of my Bail Order, or my discharge from the Drug Treatment Court of Trinidad and Tobago.

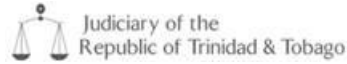
Dated

Participant's Signature

DTCTT team Member Signature

Appendix E – DTC Assessment Form

Judiciary of Trinidad and Tobago



DRUG TREATMENT ASSESSMENT FORM

This information is being collected for research purposes only. Your confidentiality will be respected.

Case Number:

1. Name: _____

2. Last Name: _____

3. Religion: _____

4. Date of Referral: / /
Day / Month / Year

5. Date of Interview / Assessment: / /
Day / Month / Year

6. Gender: Male Female

7. Date of Birth: ____/____/____
Day / Month / Year

8. Address (last 30 days), town where you currently live _____

9. Where have you lived for the last 30 days?

Family Home	()
Own Home	()
Rental House/Apartment	()
Rooming/boarding house	()
Shelter/refuge	()
Squatting	()
Homeless	()
No response	()

10. With whom do you live? (You may tick as many options as necessary).

Father	()
Brother / Sister	()
Stepfather	()
Girlfriend / Boyfriend	()
Mother	()
Stepmother	()
Wife / Husband	()
Friend	()
Other Relative	()
Alone	()
Other	()
No Response	()

11. Marital status

Single	()
Married	()
Divorced	()
Separated	()
Living together	()
Widow/widower	()
No response	()

12. Do you have children? _____ (Yes) _____ (No)

13. Are there any orders barring you from interacting with your children? _____ (Yes) _____ (No)

14. Did you maintain regular contact with your children in the 6 months prior to your current incarceration? _____ (Yes) _____ (No)

14.1 If 'yes' what are the ages of the children that live with you (if under the age of 18)

14.2 If 'yes' what are the ages of the children that do NOT live with you (if under the age of 18)? _____

14.3 Who is the child/are the children living with if they are under the age of 18?

With other Parent	()
With other family member	()
With an individual who is not a family member	()
With a foster family	()
With an adoptive family	()
In a treatment facility/detention home	()
Runaway/Missing	()
Other	()
Don't know	()

15. Educational level (highest level achieved)

15.1 Number of completed years of education: __ years

15.2 Level achieved

Primary	()
Secondary	()
Vocational	()
University/Tertiary	()
Never attended school	()

16. Current employment (last 30 days)

Working	()
Self-employed	
Working and studying	()
Unemployed	()
Not working/student	()
Homemaker	()
Not working/retired (retiree, disabled)	()
Not working (other Please specify)	()
No response	()

17. Instant Offence

All charges that are being referred to the drug court.

- Procession of Drugs
- Larceny
- Loitering
- Possession of Paraphernalia
- Praedial Larceny
- Trespassing
- Simple Possession

18. Previous Offences

Are there any other matters before the court? _____ (Yes) _____ (No)

If yes, please state _____

How did you come here seeking treatment?

Referral from another drug treatment program	()
Referral from a general health center (hospital, ER, metical referral, etc)	()
Referral from Social Services or others (churches, community services)	()
Referral from National Drug Councils	()
Referral from prison or juvenile detention center	()
Referral from the justice system or police department)	()
Referral from employer	()
Encouragement from friend(s) or family member(s)	()
Voluntarily (self referral)	()
Referral from school system	()
Other, specify	()
No response	()

19. How many times have you ever been treated for drug or alcohol use?

I have been treated _____ times

20. Most recent type of treatment for drug abuse (please tick all that applies)

Outpatient	()
Residential	()
Day clinic	()
Self-help group (e.g. AA, NA)	()
Detox Unit	()
Psychiatric Unit	()

21. What is the main substance for which you are seeking treatment? _____

22. What is the most frequent route of administration for this specific drug?

Oral	()
Smoked	()
Day Clinic	()
Inhaled	()
Injected (intravenous or intramuscular)	()
Other, specify	()
No response	()

23. At what age you first started to use drug? _____

24. Types of drugs you have used in the last 30 Days

1. Alcohol (beer, wine, whiskey, vodka)	()
2. Opioids	
2.1 Heroin	()
2.2 Methadone	()
2.3 Other opioids	()
3. Cocaine	
3.1 Cocaine	()
3.2 Coca paste (basuco, paco)	()
3.3 Crack	()
4. Stimulants	
4.1 Amphetamines	()
4.2 Methamphetamines (MDMA) and other derivates	()
4.3 Others stimulants like	()
5. Hypnotics and Sedatives	
5.1 Barbiturates	()
5.2 Benzodiazepines	()
6. Hallucinogens	
6.1 LSD	()
6.2 Others like	()
7. Inhalants	()
8. Cannabis/ganja	()
9. Anabolic steroids	()
10. Abuse of prescribed medication	()

25. Judicial information

25.1 Have you been arrested in the last year? _____ Yes _____ No

25.2 How many times were you arrested in the last year? _____

26. Mental Health History

26.1 Violence

Previous history of violent acts	()
History of family violence	()
Reports violent thoughts	()

26.2 Suicide

Previous suicide attempts	()
Previous thoughts of suicide	()

27. History of treatment for psychiatric conditions

27.1 Have you ever been treated for psychiatric conditions? _____ Yes
 _____ No

27.2 If 'yes', please indicate the conditions(s)

28. Prior Abuse

Previously emotionally abused	()
Currently emotionally abused	()
Previously physically abused	()
Previously sexually abused	()
Currently sexually abused	()

29. Contagious disease history

Have you ever been tested for any of the following?

Disease					Result			Are you in treatment now?	
	Yes	No	Don't Know	Does not wish to respond	Positive	Negative	Pending	Yes	No
HIV/AIDS									
STD'S									
HEPATITIS B									
HEPATITIS C									
TUBERCULOSIS									

For Official Use only

30. Eligibility Determination

Willing to participate? ___Yes ___No

Determined eligible to participate? ___Yes ___No

(LS/CMI) Risk Assessment Completed? ___Yes ___No

(LS/CMI) Risk level

Low risk	()
Medium risk	()
High risk	()

31. Patient Placement after assessment

(Please check more than one answer, if apply)

Type of treatment	()
Outpatient	()
Residential	()
Day Clinic	()
Self-Help group (e.g. AA, NA)	()
Detox Unit	()
Psychiatric Unit	()
Referred to other facility (please specify)	()
Drop out	()
No response	()

Interviewer signature: _____ Date: _____

Sign



Organization of
American States



Inter-American Drug Abuse
Control Commission

Canada

This document has been drafted by the Government of Trinidad and Tobago under the umbrella of the OAS's Drug Treatment Court in the Americas Initiative. This program is being carried out by the Organization of American States (OAS) through the Inter-American Drug Abuse Control Commission (CICAD) of the Secretariat for Multidimensional Security (SMS) and funded by the Government of Canada through the Anti-Crime Capacity Building Program (ACCBP), and administered by the Department of Foreign Affairs and International Trade (DFAIT). The content of this publication does not necessarily reflect the position of the Government of Canada or the OAS.

