

## **The concept of the Drug Treatment Court**

### **Introduction**

It was due to the high incidence of crime in Jamaica committed by persons while under the influence of Drugs that the Jamaican Parliament in 1999 created the Drug Court (Treatment and Rehabilitation of Offenders) Act which came into effect in 2001 along with the Drug Court (Treatment and Rehabilitation of Offenders) Regulations. The Act created a Court which was to be different from the other courts throughout the island of Jamaica with its primary mandate being the treatment rather than the trial of individuals. The Drug Court was designed to tackle the drug problem in the society. The object of the Court is to reduce the incidence of drug use and dependence by persons whose criminal activities are found to be linked to such dependence, to reduce the level of criminal activity that results from drug abuse and to provide such assistance to those persons as will enable them to function as law abiding citizens. It is a joint venture between the Ministry of Justice, the Court Management Services and the Ministry of Health and to this end at the inception of the programme a Memorandum of Understanding was signed by both Ministries which meant that persons from both Ministries would work together with a common aim being to engage in the treatment and rehabilitation of these individuals. The Drug Court applies the tenets of Therapeutic Jurisprudence by offering an alternative to incarceration. It reverses the priority of the Courts and focuses on rehabilitation as a priority. The goal is to break the vicious cycle of drug addiction and to reduce recidivism with the aim of promoting social stability.

The Drug Court began as a pilot project in 2001 and was slated to last for one year but eleven years later the Drug Court still remains a part of our justice system. This is no doubt a testament to the dedication of the professionals who are involved in the Drug Court and also a testament to the lives that have been touched. The initial aim was for Drug Courts to be set up in Kingston, Montego Bay and Spanish Town. To date only two such Courts have gotten off the ground, one at the Corporate Area Resident Criminal Magistrates Court and the other in the Montego Bay Resident Magistrates Court. This is no doubt because Drug Courts require significant resources in order to be sustained.

## **Procedure in Court**

The Drug Court is presided over by a Resident Magistrate and two Justices of the Peace one of whom must be a female. This is no doubt because women are viewed as the gentle sex and perhaps it is thought that they will be more sensitive to the needs of the Drug Court participants. The Justices of the Peace bring with them their knowledge of life in Jamaica and their everyday experiences in dealing with the participants. The Resident Magistrate is the Chairman and therefore has a supervisory role. The Resident Magistrate heads the legal team which consists of the Justices, the Clerk of the Court and Defence Counsel and two probation officers. There is also a Treatment Provider team which is headed by the Consultant Psychiatrist and includes a Counsellor and an Administrative secretary. All these professionals have separate and distinct roles. The team in Kingston is indeed blessed with a group of professionals some of whom have been with the programme since its inception and have dedicated invaluable time to this programme sometimes going beyond the call of duty. The Drug Treatment Court sits every Wednesday afternoon at 2 o'clock. Prior to the commencement of Court there is a pre-court meeting where all team members are present and the participants on the list for the day are discussed and their progress monitored.

## **Eligibility requirements**

The Drug court is available to anyone who fits the eligibility requirements which are as follows

- (a) If the person is charged with a relevant offence which is any offence triable by a Resident Magistrate. (persons charged with non drug related offences can also benefit)
- (b) If the person appears to be dependent on the use of drugs
- (c) If the person is at least seventeen years of age
- (d) If the person is not suffering from any mental condition that could prevent or restrict the person's active participation in a prescribed treatment programme.

Where a person is referred to the Drug Court the Resident Magistrate shall ascertain whether the person is an eligible person and then explain to the person the reason why he is being referred to the Drug Court and the consequences of such referral and also require the person to signify in writing his consent to being referred. The Resident Magistrate then explains to the person that he will be assessed by an approved treatment provider in order to determine his suitability for participation in a prescribed

treatment programme. If the person agrees to undergo such assessment the case is then adjourned to facilitate the carrying out the assessment. A probation report is also prepared and submitted to the court outlining the personal circumstances of the offender. Where the approved treatment provider recommends to the Drug Court that a drug offender is suitable to participate in a prescribed treatment programme, the programme then commences.

The participant is thereafter required to attend the Maxfield Park Health Centre in Kingston where the Treatment Provider Team takes over. They attend two days for the week Tuesdays and Wednesdays. All of them receive both individual and group counseling and mandatory urine testing for drugs. On Wednesday afternoons they attend the Drug Court and their progress and the urine results are presented. Rewards and sanctions are discussed. When the participant arrives in Court the court is informed in open Court as to his progress and if the participant is doing well he is commended. If he is not doing well he is sanctioned or he is given a stern warning. Sanctions vary and include withholding a promotion or even being kept in custody for a short period of time. All participants are required to take part in this programme for at least six months. If they successfully complete the programme, they become eligible for graduation. The graduation exercise usually takes place in Court and sometimes at other venues and the participants are encouraged to bring family members or friends with them. They are usually pleaded as the offence which had brought them before the Court. If the plea is one of guilty, they are given a probation order for at least twelve months with no conviction recorded against them. This ensures that for twelve months after they leave the programme they are monitored on a regular basis by a probation officer. If however the plea of the participant is one of not guilty the matter will be disposed of by virtue of entering "No Order" which is an order which brings the proceedings to an end without any criminal record. All of the team members addresses the graduates and gives them words of encouragement. In addition there is usually a guest speaker who encourages them even further. The graduates are presented with a Certificate and a gift.

The Drug Court in Kingston is fortunate to have a group of persons who have dedicated themselves to being friends of Drug Court participants. They are known as AFAFOSA which is the Association of Friends and Families of Substance Abusers and it is a nonprofit organization who has taken up the gauntlet to make a difference in the lives of those who have become victims of substance abuse. Their mandate is to assist in their rehabilitation in the most humanely effective way possible while preventing the deterioration of their minds with the attendant consequences for themselves and society as a whole.

Their motto is "He is not heavy, he is my brother" and their objectives include assisting the Court to locate suitable jobs for the participants while in the programme and afterwards and provide counseling and also to fund activities in the Drug Court Programme.

## **Challenges**

It is quite farcical to think that all participants will graduate. And indeed it is only a few of them who do in fact graduate. Many of them fall by the way side for various reasons. Some of them simply drop out, they stop coming and they are not heard from. There are others who are removed from the programme either because of a lack of interest or that they continually test positive and cannot live up to the requirements of the programme. There are others who have sought to use the programme for their own advances others who have manipulated it. Indeed we recognize it is not an easy road that they are treading. We encourage them to get involved in useful activities and in fact for some they are provided with an opportunity to engage in training programmes. Statistics have shown that from the year 2001 to April of 2010 there have been 313 offenders referred by the Court, 160 of them have been admitted. Of that number only 60 have graduated.

As a Court there have been many challenges. Although the dedication of the personnel knows no bounds, that has to be assessed in conjunction with the limited resources available. Our success is not measured by numbers but rather in the quality of the graduates and their re-entry into society to regain their rightful place. We remember one of the first graduates of the programme who on his own volition was a guest speaker at the last graduation and who spoke to the graduates so they could really understand. We remember the graduate who attended with his two young daughters who were in tears to see the turn around their father has made so that they could truly look to him as their role model. We will not forget the graduate who expressed in no uncertain terms that this is the best thing that ever happened to her and encouraged her fellow participants to remain focused. And indeed there are many more that time does not permit me to mention. We recognize too that even the ones who never make to graduation still benefit from the counseling sessions and the comradery involved.

## **Conclusion**

Throughout the years it has become abundantly clear that Drug Courts require partnerships in order to be sustained. It is important that partnerships be formed with the community, the legal fraternity, NGOs and of course the NCDA. We have recognized that forming such partnerships will enable the Drug Court to increase the resources available to the participants whether vocational, educational or even spiritual so that at the end of the programme the individual can re-emerge into society as not only a law abiding citizen but also one who has a valuable contribution to make to society.

**Stephane Jackson-Haisley**

**Resident Magistrate**

**Drug Treatment Court**

**Corporate Area Resident Magistrates Court**