COSTA RICAN DRUG INSTITUTE
ALTERNATIVES TO INCARCERATION
COSTA RICAN DRUG INSTITUTE
(Instituto Costarricense sobre Drogas (ICD))

ALTERNATIVES TO INCARCERATION
THE ROLE OF THE ICD

• Plan, manage, carry out, coordinate, and supervise the revision and execution of the National Plan on Drugs, Money Laundering, and Terrorist Financing.

  a) Liaise with relevant private and public entities, as well as with national and international experts that carry out activities under the aegis of the National Plan on Drugs, Money Laundering, and Terrorist Financing, and provide them with all necessary technical assistance.

  b) Create, manage, coordinate, and assist with public policy and planning in the following areas:

    1) Illicit drug trafficking and use, as part of a broader, coordinated approach to this problem.
    2) Money laundering and terrorist financing.
    3) The illegal diversion of precursor chemicals and other essential chemical substances for narcotrafficking.
LEGAL BASIS OF THE ICD

LAW 8204 Law on Drugs, Psychoactive Substances, Unauthorized Use of Drugs, Other Related Activities, Money Laundering, and Terrorist Financing, as well as related Regulations

NATIONAL STRATEGY ON DRUGS AND RELATED CRIMES 2019 - 2029 (ENDDA, using its Spanish-language acronym)

Background:

United Nations General Assembly Special Session on Drugs (UNGASS 2016) Sustainable Development Goals (SDG)

ENDDA: To implement high-priority public policies that address the issue of drugs and related crimes.

Pillars (focused on the needs of the individual, which transcends traditional concepts of supply and demand)

- Drugs and Public Health
- Drugs and Human Rights
- Drugs and Crime
- Drugs and Human Development
FRAMEWORK FOR THE ICD’S ACTIVITIES IN THIS AREA

JUDICIAL BRANCH

Drug Treatment Program under Judicial Supervision (PTDJ, using its Spanish-language acronym): Restorative Justice

Study of Gender in the Criminal Justice System: Exploring evidence-based alternatives to incarceration for drug-related crimes.
FRAMEWORK FOR THE ICD’S ACTIVITIES

ALTERNATIVES TO INCARCERATION
COSTA RICA

Drug Treatment Program under Judicial Supervision (PTDJ).
HISTORY OF ALTERNATIVES TO INCARCERATION IN COSTA RICA

2011: The Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD OAS) proposes an alternatives to incarceration program.
Viability study

2012 Road map:

Drug Treatment Program under Judicial Supervision (PTDJ).
Part of the Restorative Justice Program, a more effective response to crime that respects human dignity and equal rights.
Restorative Justice

Definition:

“An evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities.” (United Nations)

Additionally:

• As a model focused on the individual, restorative justice improves human relationships.

• Restorative justice represents a culture of peace and responsibility.

• Restorative justice focuses on the needs, responsibilities, transformation, and reinsertion into society of both the victim and the defendant.
FRAMEWORK FOR THE ICD’S ACTIVITIES

History of Restorative Justice in Costa Rica:

• Modernization of the justice system (1995).
• Passage of Law 7727, Alternative Dispute Resolution and the Advancement of Social Harmony (1997).
• Approved by the Supreme Court, sitting *en banc*, as a key element of the institutional Strategic Plan (2012).
• Through the Code of Criminal Procedure, a mechanism for a reconciliation process and corresponding provisional stay of criminal proceedings is established.

FRAMEWORK FOR THE ICD’S ACTIVITIES

Differences

Retributive Justice

What law was broken?
Who broke the law?
How will we punish the lawbreaker?

Restorative Justice

What harm was caused?
What is needed to make restitution?
Who is responsible for making restitution?
PRINCIPLES OF RESTORATIVE JUSTICE

- Voluntary participation of the parties
- Confidentiality
- Active listening
- Respect for all participants
- Compliance with applicable judicial procedures
- Taking responsibility for outcomes
- Focus on restitution
FRAMEWORK FOR THE ICD’S ACTIVITIES

RESTORATIVE JUSTICE: AREAS OF APPLICATION

- Criminal justice
- Juvenile criminal justice
- Treatment Courts under Judicial Supervision (PTDJ)
FRAMEWORK FOR THE ICD’S ACTIVITIES

PTDJ:

**Legal**: Procedural mechanisms for restorative justice in the Code of Criminal Procedure

**Procedures** (Conditional/suspended sentences, minor crimes punishable by up to three years’ imprisonment)

- Provisional suspension of criminal proceedings (Article 25)
- Reconciliation (Article 30 j)
- Restitution (Article 30 k)

**Treatment**

**Public Health**: Interdisciplinary team from IAFA (medical professionals, social workers, and psychologists)

**Judiciary**: Psycho-social support team from the judiciary, public prosecutor’s office, and public defender’s office.
Restitution

- Agreements are aimed at providing restitution for the harm that was inflicted on the victim and the community.

- Agreements focus on the need for restitution and have the consent of all parties.

- Agreements also aim at reintegrating the offender into society, thus seeking to improve the social fabric.
Restorative Justice: Procedures

The following steps are an alternative to traditional criminal proceedings:

1. Request to move the case to the restorative justice program (can be made by defense counsel, the prosecutor, the victim, or the defendant)

2. Analysis and determination of the request’s admissibility (prosecutor or defense counsel)

3. Approval of the defendant

4. Approval of the victim (if applicable)

5. Psycho-social interviews (PTDJ, with participation of IAFA or JR)

6. Preliminary hearing

7. Restorative justice meeting

8. Judicial hearing to ratify the agreement

This process takes approximately one month
Stages of the Restorative Justice meeting

1. Welcome and introductions
2. Judicial hearing to ratify the agreement
3. Recess and preparation of the written agreement
4. Proposal for restitution made by the victim to the defendant
5. Input from the victim
6. Input from the defendant
7. Input from friends/relatives of the victim, from friends/relatives of the defendant, and from community representatives.
Restorative Justice meeting

The meeting is democratic. It places all participants on an even footing to facilitate dialogue aimed at recognizing the damage that the alleged crime has caused, and the manner in which it should be remedied.

The facilitator brings all of the participants together, creates a safe and supportive environment, and ensures that the proceedings follow applicable rules. Similarly, the facilitator is impartial. He/she does not make or influence decisions, focusing instead on encouraging the participants to communicate and develop their own resolution of the matter.

Interdisciplinary team

• Deputy prosecutor
• Public defender
• Psychologist
• Social worker
• Judge
Types of agreements

- Community service.
- Rehabilitation/drug treatment.
- Participation and/or attendance of peer-support groups.
- Donation(s).
- Economic restitution to the victim.
- An apology, etc.
- The judge/court certifies the agreement.
Follow-up

• The Restorative Justice program’s psycho-social team stays in frequent contact with the defendant, the victim, and the institutions that form the Program’s support network, which assist with the fulfillment of the agreement.

• The psycho-social team keeps the multidisciplinary Program team informed about the status and fulfillment of the agreement.

• If the agreement is not fulfilled, the judge/court will notify the parties and schedule a hearing to ensure compliance.
Accomplishments of the Restorative Justice Program (PTDJ):

Individuals assisted: 68*

Program graduates: 23 (21 men, 2 women)
Individuals terminated from the program (for non-compliance, failure to appear, work-related issues, or their own indecision concerning participation): 30 (27 men, 3 women)
Individuals who refused an offer to participate in the program: 4 men
Individuals whose request to participate was denied: 3 men
Individuals who passed away during the program: 1 man
Current participants: 6 men, 1 woman
Individuals waiting to enter the program: 1

Creation of protocols
Training of personnel
Program evaluations: CICAD and the University of Costa Rica

* The total number of participants is limited by the maximum capacity of the program that IAFA set at the outset of the pilot program, taking into consideration available resources.
ACCOMPLISHMENTS OF THE RESTORATIVE JUSTICE PROGRAM (PTDJ)*

- **1,137** Restorative justice meetings
- **1,087** Meetings resulting in an agreement
- **97%** Percent of participants satisfied with the Program
- **96%** Percentage of cases resulting in satisfactory outcomes
- **50** Meetings not resulting in an agreement

ACCOMPLISHMENTS OF THE RESTORATIVE JUSTICE PROGRAM (PTDJ)*

- **₡ 76,306,989** Payments to victims and institutions in the Program’s support network*
- **4,792** Organizations participating in the Program’s support network**
- **7,707.5** Hours of therapy*
- **198,652** Hours of community service*

*Source: Planning Department, Judiciary of Costa Rica, 2018

**Source: Restorative Justice Program Office of the Judiciary of Costa Rica, 2018
Current status of the Restorative Justice Program (PTDJ):

• Continued support of the Program for adults.

• Contracting of an NGO to provide outpatient treatment services to adults and juveniles (via a tripartite agreement about a Restorative Justice Program for adolescents between IAFA, the judiciary, and ICD).
Benefits of the Restorative Justice Program

- Comprehensive and specialized treatment for defendants with substance use disorders.
- A more humane, egalitarian, accessible, and efficient approach to criminal justice.
- Interagency cooperation (ICD, IAFA (health) y the judiciary).
- Lower cost when compared to traditional criminal justice approaches.
- Participant satisfaction (process evaluation, Costa Rica).
- Expansion of the scope of substance use treatment (per the Restorative Justice Law).
- Future expansion of the list of eligible crimes by the public prosecutor’s office.
- Opportunity to implement a Restorative Justice Program for juveniles.
FRAMEWORK FOR THE ICD’S ACTIVITIES

ALTERNATIVES TO INCARCERATION COSTA RICA

Study of Gender in the Criminal Justice System:
Exploring evidence-based alternatives to incarceration for
drug-related crimes
FRAMEWORK FOR THE ICD’S ACTIVITIES

Study of Gender in the Criminal Justice System:
Exploring evidence-based alternatives to incarceration for drug-related crimes

Overall objective:
To study the various alternatives to incarceration for minor drug-related crimes, both inside and outside the formal procedures of the criminal justice system. Participant data will be broken down by gender and other characteristics often associated with discrimination, such as LGTBI identity, to improve policies and programs concerning drugs and alternative justice models.

Phases:

1. Nine-month diagnostic study (in progress): Three months of information-gathering (about those accused of drug-related crimes) and six months of follow-up (related to opportunities to participate in alternatives to incarceration that are offered to study participants whose charged offenses are categorized as in flagrante delicto.

2. Overview of alternatives

3. Drafting of suggested responses

Selected jurisdiction: Courts in Heredia, Costa Rica, cases in flagrante delicto
FRAMEWORK FOR THE ICD’S ACTIVITIES

Study of Gender in the Criminal Justice System:
Exploring evidence-based alternatives to incarceration for drug-related crimes

CICAD
• Coordination with the judiciary (Restorative Justice)

OAS

ICD

Restorative Justice
• Public defender’s office, Courts in Heredia
• In flagrante delicto
FRAMEWORK FOR THE ICD’S ACTIVITIES

Study of Gender in the Criminal Justice System:
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Courts in Heredia, Costa Rica, cases *in flagrante delicto*

Number of interviewees, mid-August 2019 to present:

142 individuals (13 women and 129 men, including one person from the LGTBI community).

Interviewers have worked both morning and evening shifts.
FRAMEWORK FOR THE ICD’S ACTIVITIES

ICD resources invested in alternative to incarceration projects

Restorative Justice Program (PTDJ)

**Human resources:** technical and logistical support.

**Financial resources:** Psychological exams, drug testing kits, breathalyzers, meals for training workshops, graduation ceremonies, residential treatment slots in participating NGOs, plane tickets, lodging, etc.

Study of Gender in the Criminal Justice System

**Human resources:** technical and logistical support.
Thank you very much!

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