Ethical Issues In Drug Treatment Court

Overview

- Traditional Justice Roles
- How does drug treatment court change our roles?
- How does the way drug treatment court works shift how we deal with other professionals?
- Does this shift undermine our own professional responsibilities or can they co-exist with drug treatment court?
Traditional Justice Roles

- Based on practice and perception
- Adversarial, with definite sides
  - Judge: Unbiased, Trier of fact
  - Crown Prosecutor and Defence Counsel: Opponents on opposite sides
  - Police: Protectors of public safety, responsible for putting the criminals away
  - Probation: responsible for keeping ex-convicts out of trouble
  - Treatment Providers: Not part of the justice system, their focus is client centered and the less the court involved the better

Drug Treatment Court Approach

- Client Focused
  - Aim is to encourage accused to engage in addiction treatment
- Based on Team Approach
  - Collaborative process
  - Treatment/Court partnership
  - Decision making based on consensus
What Can This Mean for Each DTC Member of the Team?

The Changing Role of the Judge

- Direct leadership of the team and program
- Direct oversight of offender compliance with program; requires direct interaction and communication with clients in court
- Input of others, not in court, determines how the Judge deals with accused
- Usually the same judge in DTC
The Judge

Issues

- Judge viewed more as a mother/father figure: clients don’t want to disappoint them, afraid to be honest
- Judge may feel they have lost decision making role

The Judge

- Ability to be impartial not impacted
- Input from others can aid in decision making; provide full picture
- Final decision is still the Judge’s: in court and after client’s input
The Unique Role of the Crown

- Prosecutors: responsible for making sure those who break the law are held responsible.
- In DTC, they are allowing offenders who would otherwise never be released on bail, or would go to jail, into DTC program.

The Crown

- Crown maintains role as Gatekeeper
- Reviews program to ensure that public safety concerns are addressed
- Allow Crown the ability to address accused who are not accepting responsibility themselves:
  - request sanctions where participants do not comply with program requirements
  - request expulsion if no treatment progress or new criminal charges
The Conflicted Role of Defence Counsel

- Defence mind set- “only one on the accused’s side” - hard to let go of
- Often statutorily prescribed responsibilities to not only take instructions from client but to act in client’s best interest
- What if client’s instructions conflict with their best interests?-often happens in DTC

The Defence Counsel

- Ensure client understands the program: not just legal requirements but also treatment and court expectations
- If client opts to stay in the program, encourage and support the client’s participation and compliance with program conditions
- Participate in all pre-court meetings and court appearances and advise the client of all information related to them
Treatment Providers

- Already client centered: client choosing to seek treatment
- In DTC treatment has to overcome some philosophical hurdles around:
  - mandated treatment
  - client/therapist confidentiality

Treatment Providers

- Court can help in working with Treatment to develop understanding of court and how court works
  - Recognize the client's need to address not only their addiction problem but also their legal issues
  - Develop understanding that sharing of client information can allow solutions that best suit client's needs
The Probation Officer

- Role becomes more involved in DTC: not just involved post sentence; not just breaching people
- In some DTC’s, may act as Case Manager for program participants
- How do you engage Probation officers beyond traditional role?

The Probation Officer

- Acts as liaison between the DTC and field probation officers
- May conduct home visits to determine program participant’s compliance with bail and ensure safe living environment
- As part of the initial application screening process can provide information to the Crown on the applicant’s probation compliance and incarceration history
- Provide information to the judge on the participant’s compliance with probation orders
Police

- Safety of the Public is paramount responsibility
- Are Police putting the safety of the Public at risk by supporting DTC?

Police

- Safety of the Public is also a goal of the DTC that Police engagement can foster
- Know the accused better than others in the DTC program, as such
  - can refer drug addicted offenders to DTC program
  - can provide valuable input during the initial screening of DTC applicants
- Provide input in fashioning bail conditions
Police

- Assist in community supervision and advise of any public safety concerns
- Provide frequent updates on suspected criminal activity of participants
- Assist the DTC with the apprehension of participants when bench warrants issued

How to make DTC Collaboration Work?

- Identify the idea of one unified Drug Treatment Court Team with a common goal
- Maintain open and regular communication
- Engage those with a belief in the DTC approach
- Ensure a clear understanding of others’ roles, standards and priorities
- Facilitate joint planning re: policies and procedures