

Unpacking the concept of 'therapeutic jurisprudence' and its relevance to the AOD community

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Focus of today

- Development of TJ and problem solving courts internationally
- The specialist court movement in New Zealand
- In-depth look the Alcohol and Other Drug Treatment Court (AODTC)
- Focus on the developing “legal accents” in the AODTC:
 - the pou oranga role (in its simplest sense cultural advisor)
 - peer support workers
 - 12 step fellowship support
- Emerging dilemmas and challenges for AODTC

Therapeutic jurisprudence (TJ)

- Field of legal inquiry that is focussed on assessing the law's positive and negative impact on people
- Origin in mental health law and how medico-legal processes impact on sense of self and wellbeing
- Now considered in many legal contexts
- Part of a wider comprehensive law movement

Collaborative/problem-solving courts

- Well developed in US, Canada, UK and Australia
- First drug court began 1989 in Miami provided a treatment disposition rather than prison
- 2,734 drug courts and 1,222 other problem-solving courts in US alone
- Key principles applied across these courts developed by the National Association of Drug Court Professionals....

10 Key components

1. Integrating alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach under which prosecution and defence counsel promote public safety while protecting participants' due process rights.
3. Early identification early and prompt placement of eligible participants in the drug court program.
4. Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Monitoring abstinence by frequent alcohol and other drug testing.

10 key components

6. A coordinated strategy governing drug court responses to participants' compliance.
7. Ongoing judicial interaction with each drug court participant.
8. Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education to promote effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations.

TJ and drug courts

- Grew up together in the US
- Key principles applied in courts often aligned with TJ
 - non-adversarial approach, consistency of judges and professionals, immediacy of treatment, and physical layout of court to foster communication
- Critical literature on flexible use of TJ and it being understood as synonymous with practices of drug courts
- TJ as a methodological tool for evaluation and legal reform NOT a philosophy that can explain away the courts

NZ specialist courts

- Led by a small group of dedicated judges
- Currently 27 specialist therapeutic courts
 - 2 AODTC pilots
 - 8 family violence courts
 - 13 nga kooti rangatahi
 - 1 youth drug court
 - 1 youth intensive monitoring group
 - 2 homeless courts
- No mental health court, community justice centres slowly developing

Our projects

- Three qualitative ethnographic projects:
 - Marsden funded project focused on the coming together of the ‘therapeutic’ with legal process. Involves three case studies of **AODTC**, New Beginnings Court and Te Kooti Rangathi
 - More recently, further University funded study on Nga Kooti Rangatahi across the North Island aiming to explore the incorporation of tikanga
 - Also interested in wider community support for these courts via University funded project

The Alcohol & Other Drug Treatment Court

Te whare whakapiki wairua: The house that uplifts the spirit

- In November 2012, the government funded two pilot Alcohol and Other Drug Treatment Courts (AODTC) in Waitakere and Auckland City
- Supported by \$1.93 million per year over five years
- Post-plea pre-sentence model
- Specialist district court within existing legislation
- Aims to: reduce reoffending; reduce drug and alcohol consumption and dependency; positively impact on health and wellbeing; and be cost-effective

- The professional team includes:
 - the AODTC judges, court co-ordinators, case managers, defence counsel, and police prosecution, pou oranga, probation officers and peer support workers
- Sits twice a week for full day (one day Waitakere, one day Auckland)
- Eligibility determinations consider potential participants against set of criteria > treatment plan created tailored to his or her needs > three phased program lasting 12-18 months
- At full capacity currently with 50 participants in each court

We said to ourselves this is an evidence-based model, it has been demonstrated to work; there are ten key components... It is not a recent epiphany that we have come up with; this is an evidence-based model (Judge #2)

We are not just setting up an American court here. We are taking the research from there and we are applying it here in a way that is organic, so it will take on a natural life of its own true to this place and the people who live here

(Judge #1)

Weaving strands: The role of the Pou oranga

- Supports Māori health and wellbeing
- Brings knowledge of Te Reo (Māori language), tikangā Māori (rules and customs) and addiction recovery

*It is about partnership and about participation with Maori, not the court dictating to Maori what the court will be for Maori
(Judge #1)*

- Opening and closing with waiata (song), karakia (prayer) and *Just for today* readings
- Supports participants and facilitates whānau (family) hui
- Ensures graduations integrate tikangā



*Twice yearly ceremonies are held for all graduates over the previous 6 months, where they receive acknowledgement of their continued commitment to their recovery with the presentation of a specially blessed pounamu (greenstone) taonga (“treasure” in this form, a pendant to wear around their neck)
(Judge #1)*



*These ceremonies are named 'He Takitini' meaning 'the many who stand together' which is very different terminology from the term 'alumni' frequently used in the US Drug Courts for graduates
(Judge #1)*



Peer support

- Lived experience of recovery journey with specialist training
- Support participants and increase understand the meaning of taking part in the program
- In practice, required to carry out many duties dictated by the court
- Worry that increased case loads for case managers leads them into treatment provision
- No clear career direction or progression in role

12-Step Fellowship

- Attendance at 12-step meetings strongly encouraged
- Strong support, indicated by “friends of the court” being present each week (two sittings)

That is unusual too, to have someone at the back of the court to stand up and say, “can I say something?” I mean more often than not the judge is going to say, “absolutely not! Sit down and if you don’t sit down and be quiet you can leave the room” (Judge #2)

Emerging challenges & dilemmas

1. Sustainability of specialist approaches

- Looking beyond the pilot: access to justice
- Mainstreaming of therapeutic approaches
- Lack of multi-disciplinary training
- Limited treatment providers and kaupapa services

2. The legal shaping of recovery

- Close up on case managers and peer support workers
- Recovery model developing in the court

3. The incorporation of tikanga and possible expansion of Māori leadership

Thank you for listening!

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