Drug Treatment Courts: The Chilean Experience

November, 2006

Introduction

In Chile, as in many other countries, drug abuse and crime are closely related. In order to study this relationship, last year a research\(^1\) was conducted using the I-ADAM methodology, with the support of Chilean National Police, the Judiciary and the Embassy of the United States. The study results highlight this relationship: 3 out of 4 arrestees for violent and property crime have used some illicit drug before committing their crime. The results also establish the close relationship between the use of cocaine or base paste\(^2\) and violent crimes (especially robbery and drug dealing). In addition, the study reveals that people that abuse cocaine commit crimes more frequently than others using other drugs. Self report studies conducted by Conace\(^3\) and Chilean Prison Service also emphasize the incidence of drug abuse in incarcerated population, concluding that an important number of inmates show a high level of drug and alcohol dependence.

In Chile, the availability of long term treatment programs for general population is limited. Conace studies indicate that out of the nearly 200,000 estimated drug abusers, only 12,000 have a chance to get treatment. In offender population, the supply of treatment satisfies less than 1% of the demand. From an incarcerated population of 400,000, less than 400 receive the treatment they require.

In the above stated situation, the creation of drug treatment courts in Chile is not only an opportunity, but a priority.

Initial development

Currently, there are two pilot projects based on the Drug Treatment Court (DTC) Model operating in Chile, and one more in the planning process. The first of them, located in Valparaíso\(^4\), started in the year 2004 due to the interest of judges, prosecutors and defenders in applying the DTC model, which they manifested upon attending a conference organized by Fundación Paz Ciudadana and the U.S. Embassy in Santiago, where Judge Laura Safer explained the model, its results, and her experience as a judge of a drug court in the Bronx, New York. After this event, judges, prosecutors, defendants, Conace, and the local Psychiatric Hospital of Valparaíso (treatment provider), coordinated by Fundación Paz Ciudadana, began working on issues such as the different legal options set forth in Chilean law to divert offenders to treatment, the coordination of procedures, and the assessment of available treatment. In October 2004, a formal agreement was signed by the institutions involved in this process, which establishes the grounds of the program. During 2005, the pilot project processed its first cases. In June 2005, and with the support of the United Nations Office on Drugs and Crime (UNODC), the team of professionals that coordinated the pilot project in each participating institution traveled to the United States to learn about the experience of Drugs Courts in the State of Florida.

---

2 Base paste or “pasta base” in Spanish is a cocaine derivative commonly used in South America.
3 Conace is the Chilean Office of Drug Control Policy.
4 Valparaíso, with nearly 275,000 residents, is the second largest city in Chile.
On the other hand, during 2005 the South Metropolitan Prosecutors Office expressed its wish to develop a similar program, inspired by the international experience and the Valparaíso pilot project. Although with some differences with the Valparaíso project, and after many efforts undergone to coordinate the different institutions involved, by the end of 2005 the second Chilean pilot project based on the DTC model started operating in Santiago.

The third pilot project is finishing its planning process and will begin to operate on December, 2006. Its jurisdiction covers the northern and center areas of the City of Santiago.

In addition, and with the support of UNODC and Access Project, during March 2006 a group of experts and drug court professionals from Canada and the United States visited Chile to participate in a seminar and visit the mentioned pilot projects. The group had the chance of being part of the first graduation hearing of an offender that received treatment within the pilot project in Valparaíso. Nearly 15 persons have been given the chance to participate in the projects. Currently, the most important restraint on the number of beneficiaries is the limited access to places in treatment programs.

Challenges

The two pilot projects have, on the one hand, generated much interest in the CDT model and, on the other, revealed the main challenges that the model must overcome.

*Legal challenges:* Until now, the pilot projects have represented a problem-solving innovation, making use of a diversion figure which is part of the country’s new criminal justice system. This figure, that allows suspending the procedure for a period of time and imposing a condition to be fulfilled by the offender, can only be applied to first offenders whose crime is punishable with less than 3 years of prison. These conditions restrict the use of the program significantly, because it leaves out potential candidates —many cannot apply to it because of their records—, and it also restricts the incentives that can be used to help the candidates succeed in the program.

*Challenges related to the supply of treatment:* The quality, availability, and specialization of treatment are currently insufficient. In the near future, training in DTC model will be necessary, especially for treatment suppliers.

*Challenges for institutions and organizations:* To date, the success of the pilot projects has rested upon the good will of the local players. There are no institutional incentives to guarantee the sustainability and growth of the program in the future. In addition, there are problems related to the coordination among participating institutions, especially in relation to operational aspects, which is why the conduction of the programs must be strengthened. Regarding the hearings, they are still being held in an adversarial context, and it is necessary to ensure more prominence to the direct relationship between the judge and the offender.

The pilot projects and the seminar held with international experts last March allowed to expand the interest in the Drug Treatment Court Model in Chile.

---

5 The South Metropolitan Prosecutors Office is located in South Santiago, Chile’s capital city.
In April 2006, Conace and Fundación Paz Ciudadana organized a working group, composed of representatives of the different institutions involved, which will prepare a proposal on how to transform the Drug Courts scheme into a national policy. The institutions involved in the working group include the Ministry of Health, the Department of Internal Affairs, the Ministry of Justice, the Attorney General’s Office, the Public Defense Department, and the Judiciary. The team’s mission is to analyze the challenges that need to be addressed, and the different aspects that need to be developed (i.e., legal, financial, clinical, and organizational), in order to expand the application and use of Drug Courts in Chile. The group has been working regularly and has delivered important products, such as flowcharts and a demand estimation of Drug Courts.

The national public budget for year 2007, that has recently been approved by the National Congress, considers a 100% increment for drug treatment provision, which is managed by Conace. Besides the financial support, this institution has committed its participation and technical advise, that will give a great boost to this project and may be the first step in introducing DTC in public policies against crime and drug abuse.