

Healing Justice:  
A New Architecture for Therapeutic Justice  
Administration in Kentville, Nova Scotia

by

Katherine A. Kirkpatrick

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## DEDICATION

For my parents -

You have always been my greatest cheerleaders and I would be lost without your unwavering support. You are both, among so many wonderful things, such incredible examples of the compassion, wisdom and courage that exist in health care and in the law.

Thank you for everything. I love and admire you both more than words can say.

## CONTENTS

Abstract.....	v
Acknowledgements.....	vi
Chapter 1: Introduction .....	1
Chapter 2: Social Issues Are Justice Issues.....	5
Drug Addiction – The Global Context.....	5
The Impact of Addiction in Canada .....	8
The Opioid Epidemic Brings Addiction Home .....	11
Drug Addiction’s Impact on the Justice System .....	14
Chapter 3: The Canadian Criminal Justice System .....	19
Fundamental Principles .....	19
The Law in Action.....	21
History of the Courts .....	23
Order in the Courts.....	28
System Under Pressure .....	32
Chapter 4: Therapeutic Jurisprudence - A Foundation for Healing.....	38
Therapeutic Jurisprudence, Background .....	38
Therapeutic Jurisprudence, Applied.....	39
Therapeutic Jurisprudence, Critiqued.....	41
Therapeutic Jurisprudence, Validated.....	42
Chapter 5: The Drug Treatment Court.....	44
Background.....	44
Best Practices.....	47
The Drug Treatment Court Team .....	48
Basic Structure .....	49
Program In Action.....	50
Case Study: The Drug Treatment Court in Kentville, Nova Scotia .....	54
Chapter 6: The Therapeutic Process - A Framework for Healing.....	61
Participant Profile.....	61

Drug Treatment as a Network Response .....	72
Chapter 7: Architectural Case Studies .....	74
<i>Fortress or Sanctuary</i> Research Report.....	74
Collingwood Neighbourhood Justice Centre .....	78
Vancouver Law Courts .....	82
Oral Criminal Court .....	85
The Jardin Plume .....	88
Integral House.....	91
The Louisiana Museum of Modern Art .....	93
Chapter 8: Formulating the Response .....	95
A New Courthouse Typology .....	95
Chapter 9: Healing Through Architectural Strategy.....	97
Healing Environments – Architecture’s Role.....	97
Design Tools.....	99
Program .....	105
Chapter 10: Selecting a Site, Finding a Network, Establishing a Response.....	113
The Site - Kentville, Nova Scotia .....	113
Finding a Network .....	116
Establishing a Response - Site Strategy .....	117
Chapter 11: A Therapeutic Courthouse For Kentville.....	120
Public Space, Healing Landscape .....	123
The Therapeutic Courtroom.....	131
Integrated Treatment .....	132
Chapter 12: Conclusion .....	146
Appendix: Observing Kentville's Court-Monitored Drug Treatment Program.....	149
References .....	155

## ABSTRACT

The Canadian criminal justice system is exemplary but imperfect, particularly for society's most vulnerable members. Increasingly, therapeutic methods of justice administration are using focused rehabilitation as an alternative to incarceration. This shift acknowledges that illness and personal circumstances can sentence individuals to repeated encounters with the justice system, and that treatment can disrupt that cycle. The law can be a therapeutic agent, but its efficacy is undermined and underserved by traditional courtroom architecture. This thesis proposes a new type of courthouse that combines judicial and therapeutic functions, and that engages with the surrounding community. Architectural strategies are employed to create healthier spaces, and to cultivate improved relationships between individuals, the justice system and their communities.

Using the court-monitored drug treatment program in Kentville, Nova Scotia, as a test case, this thesis asks: how can the architecture of the courthouse physically and psychologically better support therapeutic forms of justice administration?

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## CHAPTER 1: INTRODUCTION

Canada is defined by many great things, one of which is the strength of its institutions that are designed to reflect and defend the best of our shared ideals. Our criminal justice system is one of the fundamental pillars of our society, and aims to ensure we all live in a community that is fair, safe and free. Ours is a system that exists to protect Canadians through rehabilitation and sometimes through punishment. Many Canadians will live their entire lives having almost no interaction with our justice system and some will, for better or worse, lead lives that are defined by those interactions.

This is particularly true for some of the most vulnerable in our society. Our police stations, prisons and courthouses are routinely filled with people who have committed crimes not because they are hardened criminals but because of overwhelming illness that is often exacerbated by personal circumstances. When individuals suffering from addiction, mental illness or other challenges beyond their control are sentenced to time in prison, everyone loses. Rather than promised rehabilitation, many enter into a repeating pattern that, left untreated, can sentence the individual to a lifetime of encounters with criminal behavior, the police and the justice system. This pattern comes with a social and economic cost borne by all Canadians.

Increasingly, communities across Canada are looking to therapeutic methods of justice administration. A key example for this thesis is the drug treatment court, where focused rehabilitation is being explored as an alternative to incarceration. A marriage between justice, health and social services, these innovative courts offer an “alternative

to the traditional criminal justice response by aiming to address the underlying problems that contribute to crime” (Newfoundland Department of Justice and Public Safety 2017, 2). In the therapeutic court environment, traditional courtroom dynamics are reordered - the priority is shifted from applying judgement to addressing the individual’s underlying problems holistically, with the support of a multidisciplinary team. It is not just about the law; it is also about the mental and physical health of the individual participants.

Architecture has a significant role to play in the therapeutic court environment. Similar to the patient-centred care strategies implemented in health care, architectural tools can be employed to design spaces that nurture healing and diffuse stress in a range of capacities. Currently, therapeutic courts perform their functions in traditional courthouses ill-equipped to meet their objectives and separated from most of their associated therapeutic components. There is potential to fundamentally reorient the courthouse, to integrate therapeutic program and to encourage public participation, all so these courts can better achieve their objectives and so they might foster a healthier environment for all involved.

The intention of this thesis is to develop a framework for therapeutic courthouses which could be implemented across Canada, either as stand-alone institutions or as additions to existing infrastructure. Specifically, this thesis asks the question: how can the architecture of the courthouse physically and psychologically better support therapeutic forms of justice administration?

Several chapters provide background information necessary to



understand the specific circumstances addressed in this thesis. Chapter 2 summarizes the challenges drug addiction presents for individuals and their communities; it elaborates on the specific strains that addiction and associated crime place on our justice system. Chapter 3 is an introduction to the Canadian criminal justice system, outlining its fundamental principles and obligations, and explaining its processes. This chapter includes a brief history of the courthouse in Atlantic Canada, and summarizes the major challenges that the justice system currently faces. Chapter 4 establishes therapeutic jurisprudence as the theoretical foundation upon which therapeutic courts rest. Chapter 5 explains the structure, composition and functioning of the drug treatment court, using the existing program in Kentville, Nova Scotia, as a case study. Chapter 6 expands on the treatment and rehabilitative aspects of therapeutic court programs, summarizes the social and environmental conditions experienced by program participants, and speculates on how additional program might simultaneously facilitate healing and community building.

Chapter 7 presents a series of architectural case studies relevant to the research and design of this project. Chapter 8 explains the preliminary response to the thesis question - that a new courthouse typology must be created. Chapter 9 introduces the architectural strategies, developed through research, which intersect with relevant programmatic components to create a network of healing spaces. Chapter 10 establishes Kentville, Nova Scotia, as the site for this project. Chapter 11 is the presentation of the therapeutic courthouse, comprised of three programmatic zones – court, treatment and public - that work together, across scales, to create a network of healing spaces. The court, absent

of embedded hierarchy, is designed for a team-centered environment that balances transparency and formality. The treatment zone integrates intensive, private healing spaces with areas for flexible group treatment activities. Woven throughout the building and the surrounding healing landscape are dedicated public spaces, designed to invite the community in, so that it might support and invest in the therapeutic court program to their collective benefit.

## CHAPTER 2: SOCIAL ISSUES ARE JUSTICE ISSUES

### **Drug Addiction – The Global Context**

In 2015, the United Nations Member States adopted the *2030 Agenda for Sustainable Development*, which provides a shared framework for social, environmental and economic progress. The Agenda, which builds on decades of similarly-focused work by the UN and its members, is categorized into 17 Sustainable Development Goals which together are an urgent call for all countries to work together to achieve sustainable global advancement (United Nations 2016, 2). The Sustainable Development Goals recognize that achieving overarching targets like ending poverty require that associated factors such as health, education and inequality, be addressed simultaneously. While the Goals prioritize reaching the poorest and most vulnerable first, there is the recognition that all countries, both developing and developed, have progress to make. Even wealthy nations have yet to fully empower women, eliminate discrimination or address complex issues like mental illness and addiction, and so the Goals have objectives for all societies (United Nations 2016, 2). The *2030 Agenda for Sustainable Development* is a recognition that “the dignity of the individual is fundamental” and pledges to leave no one behind (United Nations 2016, 48).

The third Sustainable Development Goal is to “ensure healthy lives and promote well-being for all at all ages” (United Nations 2016, 4). In addition to such objectives as achieving universal health care, improving maternal and child health, and reducing non-communicable and environmental diseases, this goal also seeks to improve preventative measures and treatment for those suffering with substance abuse, including

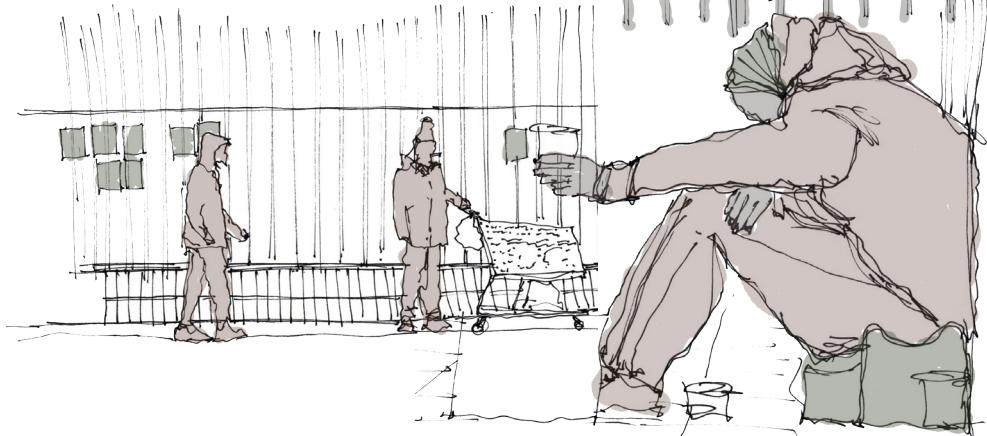
FRACTURED COMMUNITY



CRIME & PUNISHMENT



VULNERABILITY & LOSS



Narrative collage of drug addiction's impact on individuals and their communities.

the harmful use of alcohol and drug addiction (United Nations 2016, 4). Often misunderstood, drug addiction is defined by the World Health Organization as a “multi-factorial health disorder that often follows the course of a relapsing and remitting chronic disease” (United Nations Office on Drugs and Crime/ World Health Organization 2008, 1). Like many health disorders, it is often exacerbated by the determinants of health experienced by the addicted individual, including education, income and physical health. Over time, addiction can rob an individual of their physical, mental and emotional health, and destroy family and community bonds. Addicted individuals are more likely to be surrounded and influenced by other addicts and criminal activity, and to come in contact with the police. They are also more likely to experience addiction-related unemployment, violence, trauma, homelessness and premature death. Unlike many health disorders, addiction is often poorly understood, and therefore may not be recognized as the complex health problem that it is.

According to the United Nations, drug addiction is truly a global issue. Globally, approximately 31 million people experience a level of drug dependence that exposes them to harm and could benefit from some form of treatment (United Nations Office on Drugs and Crime 2018, 7). Almost 11 million of those individuals are injection drug users, and are exposed to HIV and hepatitis C at significantly greater rates than the average population (United Nations Office on Drugs and Crime 2018, 7). While the costs of addiction borne by addicted individuals and their families are enormous, its impact reaches far beyond individual communities. The *World Drug Report* estimates that in 2015, 17 million years of healthy life was lost due to drug addiction through

disability and premature death (United Nations Office on Drugs and Crime 2018, 7). The impacts of drug addiction are far-reaching and include family violence and child abuse, increased victimization, diminished public safety, and declining social and moral values systems (Lyman and Potter 2003, 6). Drug addiction can also result in increased contact with law enforcement and the criminal justice system.

### **The Impact of Addiction in Canada**

It is assumed that most Canadians will have some type of interaction with a psychoactive substance at some point in their lifetime; for most people, those interactions are limited to alcohol, tobacco, prescription medications and cannabis. Their use is principally medicinal or recreational, and the implications range from negligible to minor (Health Canada 2018b, 5). For the smaller percentage of Canadians who use harder, more addictive drugs, such as cocaine, heroin and methamphetamines, the consequences tend to be much more serious. In Canada, addiction is one of the most significant social issues facing Canadians. Approximately one in ten Canadians has a substance abuse problem involving drugs, alcohol or both; the statistics are fairly consistent across the country, with Prince Edward Island and Quebec having slightly lower rates of addiction than Nova Scotia and Saskatchewan, which record the highest instances of addiction but only marginally (McGill University - Substance Misuse Program 2018).

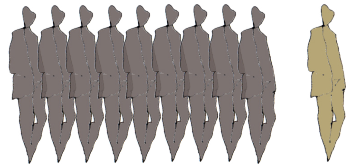
While the social costs of addiction can be difficult to quantify, there are some ways to objectively measure their impact. According to the Canadian Substance Use Cost and Harms Report, substance abuse costs all Canadians \$38.5 billion per year; this equates to roughly \$1,100 spent for each Canadian



Globally,  
**31 million people**  
suffer from drug use disorders

**11 million people**  
are injection drug-users, and are  
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population

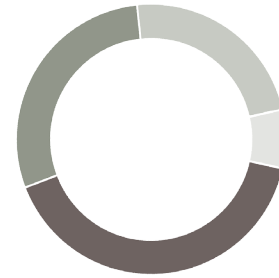
In 2015,  
**17 million years**  
of healthy life lost due to  
drug use disorders



**1 in 10** Canadians have a substance  
abuse problem (alcohol and/or drugs)

In 2012,  
**660,600**  
Canadians reported experienced harm  
due to their illicit drug use:

- Physical health
- Home life & relationships
- Housing
- Friendships & social life
- Legal - interactions with Criminal Justice System**
- Employment
- Financial position
- Difficulty learning

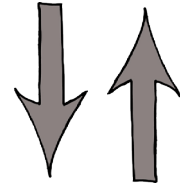


Lost productivity \$15.7 billion (40.7%)  
Healthcare \$11.1 billion (29.0%)  
Criminal justice \$9.0 billion (23.3%)  
Other direct costs \$2.7 billion (7.0%)

*Cost of Substance Abuse (Canada, 2014)*



Since 1991, police-reported  
crime has decreased **50%**



... and drug-related  
crime has increased  
**50%**

**40-50%** of crimes committed by federal and provincial inmates  
are attributed to the use of drugs and/or alcohol

People with substance abuse  
problems commit an average of  
**7** crimes per week

**2/3**

...of crimes are committed by  
individuals under the influence  
of drugs and/or alcohol

While virtually all federal offenders consume drugs and/or alcohol...

**1/3**      **1/3**      **1/3**

... of Canadian federal  
inmates show no signs of  
problematic substance use

... of federal inmates  
have low-severity  
substance abuse

... of federal inmates  
have severe substance  
use problems

Compiled statistics illustrating the breadth and severity of drug addiction in Canada (CCSA Scientific Working Group 2018; Health Canada 2012; United Nations Office on Drugs and Crime 2018).

regardless of age (CCSA Scientific Working Group 2018, 9). Alcohol and tobacco account for approximately 70% of the total cost; various drugs account for the balance, with opioids incurring the greatest drugs-related costs. The report, which evaluates Canadian statistics from 2007 to 2014, notes that the costs and harms of substance use are generally trending upwards. For example, the per-person costs associated with substance use increased 5.5% during the period of study, rising from \$1,025 in 2007 to almost \$1,100 in 2014 (CCSA Scientific Working Group 2018, 4).

The economic impact of substance abuse is measured in four broad categories. Lost productivity, measured as the lost value of work due to premature death, long-term disability, absenteeism and impaired workplace performance, accounts for \$15.7 billion (CCSA Scientific Working Group 2018, 9). Health care-related costs, accounting for \$11.1 billion, include hospitalizations, emergency room visits, specialist treatments for substance abuse disorders and prescription drug costs. In 2014, almost 22,000 hospital stays across the country were attributed to various forms of drug abuse (CCSA Scientific Working Group 2018, 20). Substance abuse has a direct financial impact on the criminal justice system, increasing the burden on police, the courts and correctional institutions, estimated at approximately \$9 billion (CCSA Scientific Working Group 2018, 29). It is estimated that 43% of crimes that are partially attributed to substance use, such as some cases of theft or arson, would not have occurred if the individual had not been either seeking or already under the influence of alcohol or other drugs (CCSA Scientific Working Group 2018, 9). Other direct costs related to substance abuse account for \$2.7 billion, and include research and prevention, motor vehicle damage, and employee



assistance programs such as drug testing and workers' compensation (CCSA Scientific Working Group 2018, 41).

In 2012, almost 660,600 Canadians reported experiencing at least one type of harm because of their illicit drug use, a rate that has remained relatively unchanged since 2004 (Health Canada 2012). Health Canada defines drug-related harm in eight broad categories: physical health, home life and relationships, housing, friendships and social life, legal problems, employment, financial position, and difficulty learning (Health Canada 2012). With respect to addiction, there is a direct correlation between the harm experienced by the addicted individual and the harm transferred to society. For example, when an individual's addiction results in legal problems – perhaps they are charged with drug possession and sentenced to a short term in jail – that is a cost borne by all Canadians as an increased expense to the criminal justice system. It also harms the individual, in large part because drug-related harm is interrelated; time in jail can negatively impact one's relationships, employment, housing, financial position, and physical and mental health. In the words of Dr. Oleg Chestnov, an Assistant Director-General with the World Health Organization, the harmful use of drugs has “devastating effects on individuals, families and their communities and [has] enormous socioeconomic impacts at national and global levels. We have a shared responsibility to prevent and reduce this burden” (World Health Organization 2018).

### **The Opioid Epidemic Brings Addiction Home**

Drug addiction, like mental illness, can be an invisible disease; in many cases, it can be nearly impossible to identify the early warning signs or to find meaningful help when it is

needed. While global rates of substance use have remained fairly steady, the landscape of drug use and addiction has changed dramatically in recent years. Often referred to as the “opioid epidemic,” the unprecedented escalation of addiction to opioids in recent years has captured national and international attention, exposing the indiscriminate extent of addiction and the vulnerability of those exposed to this startlingly addictive class of drugs.

Opioids are a class of narcotics that are most commonly used to treat pain and improve general function. The two main forms are natural, which are derived from the opium poppy and include heroin and morphine, and synthetic, such as hydrocodone, oxycodone and fentanyl. Depending on the type and potency of opioid, tolerance and dependence can develop quickly, and increasing doses are required to prevent withdrawal symptoms. Heroin has had a strong and defining presence in Canadian cities like Vancouver and Montreal for decades but synthetic opioids like fentanyl are relatively new. Often, these synthetic drugs are legally produced prescription medications but enter the market illegally and for non-medical use. “Fuelled by over-prescription, widespread availability, weak controls and a lack of public information, prescription drug abuse has, in recent years, emerged as one of the biggest drug control challenges in North America” (International Narcotics Control Board 2018, 75). Synthetic forms can also be made illegally; they are often mixed with heroin, cannabis and other drugs, and sold to users unaware of the contents of the drugs they are consuming (United Nations Office on Drugs and Crime 2018, 11). Whether knowingly or unknowingly consuming such potent and addictive drugs, the results are the same - substantial increases in the number of people becoming addicted, as well as

overdosing and dying (International Narcotics Control Board 2018, 71).

According to the *Canadian Alcohol and Drug Use Monitoring Survey*, 410,000 Canadians reported abusing pharmaceutical opioids in 2012; this figure is almost double relative to the previous year and speaks to the escalating prevalence of opioid use in Canada (Health Canada 2012). While it is almost impossible to estimate the number of people currently suffering from opioid addiction, Health Canada has recently begun publishing the crisis's mortality statistics. In 2017, there were almost 4,000 opioid-related deaths in Canada, a 33% increase over the previous year (Health Canada 2018a). Opioid-related deaths occurred in every province and territory, and in both urban and rural communities. In 2017, an average of 17 people were hospitalized in Canada for opioid-related poisonings per day, and rural rates of hospitalization were two-and-a-half times greater than in larger cities (Health Canada 2018a). In Nova Scotia, there were 63 opioid-related deaths in 2017, consistent with the province's average over the past seven years (Province of Nova Scotia n.d.).

The opioid epidemic has widened the range of people suffering from addiction, and in many cases has helped give faces, names and stories to the people in countless communities across this country who might otherwise endure addiction anonymously. One of those stories belongs to Danielle MacPherson, a young woman from Howie Centre, Cape Breton, who has become one of the faces of addiction and recovery in Nova Scotia. In a series of profiles produced by the CBC, MacPherson recounts her journey from being a healthy high school student to hardened drug addict (Chiu

2017a) (Chiu 2017b). In 2008, during a championship soccer game, MacPherson injured her knee and took a teammate's prescribed hydromorphone to manage the pain and finish the game. Driven by a dream to eventually play varsity soccer, MacPherson continued to use prescription medication to manage pain and eventually became addicted. Over the course of the next eight years, her addiction progressed from ingesting pills to injecting them, sometimes as frequently as every half hour.

In spite of continued success, including earning both a university degree and a diploma in addictions counseling, Danielle MacPherson had become a drug addict, and it was taking a significant toll. After progressing to cocaine and fentanyl use, she survived eight overdoses, six suicide attempts, prolonged periods of homelessness, and she lost connection with her family. Mental illness compounded her addiction. She was eventually arrested for mischief and assault; that arrest would ultimately become a catalyst for her recovery. The overarching message of MacPherson's story, one that is consistent with so many people made victim by their addictions, is that there are many pathways to addiction and it consumes people from all walks of life. Every person suffering from addiction is someone whose health, dignity and life deserves to be saved, and behind each of them is a family and community adversely impacted. In Danielle MacPherson's words, "no one wants to be a drug addict.... It can happen to anybody" (Chiu 2017a).

### **Drug Addiction's Impact on the Justice System**

One of the harms associated with drug addiction is that it can result in increased contact with police and the criminal justice system, and there is an established connection

between illegal drug use and crime. While crime rates across Canada have steadily decreased, drug-related crime has correspondingly increased. Since 1991, police-reported crime has decreased nationally by 50% while drug-related crime has correspondingly increased by approximately the same amount (Statistics Canada 2015). Much of this crime is committed in service of addiction. It is estimated that between 40 and 50% of crimes committed by federally and provincially-incarcerated inmates are directly related to their use or abuse of drugs and/or alcohol (Pernanen, et al. 2002, 9). Further, approximately 75% of crimes are committed by individuals under the influence of drugs and/or alcohol (Pernanen, et al. 2002, 24). 80% of federal offenders in Canada have either past or current substance abuse issues (Department of Justice 2018b). When someone addicted to drugs is prepared to commit a crime in service of their addiction, they commit an average of seven crimes per week (Pernanen, et al. 2002, 7). Often, these gainful crimes are non-violent in nature, and include minor theft, drug possession, property damage and prostitution.

Canadians expect their criminal justice system to apply appropriate punishment when it is fair, reasonable and warranted. For a vast array of crimes committed in this country each year, prison sentences meet those criteria. Prisons are, however, environments where the incarcerated are regularly exposed to drugs, to other inmates with significant substance use problems and to a more violent drug trade than exists on the street (Canadian Centre on Substance Abuse 2004). This is as true in Canada as anywhere else in the world, and occurs despite extensive efforts to limit and eliminate drugs in prisons. Virtually all federal offenders in Canadian prisons consume alcohol

or drugs, and a third of them are considered to have severe substance dependence issues (Canadian Centre on Substance Abuse 2004). Unfortunately, recent federal government cost-saving measures have included reducing funding for critical reintegration and release programs. In exchange for modest savings, the implications have had a profoundly negative impact on the services that help safely and effectively reintegrate individuals back into society, leaving them and their support networks more vulnerable (Correctional Investigator Canada 2015, 4).

Substance use is known to be a major factor in contributing to recidivism, which usually places them back in custody (Canadian Centre on Substance Abuse 2004). It is estimated that 53% of offenders reoffend within their post-release follow-up period, and that as many as 70% of those re-offences involve alcohol and other drugs (Department of Justice 2016). It is unrealistic and perhaps even inappropriate to expect police stations, jails and prisons to function as substitutes for treatment and rehabilitation for people with substance abuse issues. Sentencing these individuals to time in jail is ineffective. According to Bruce Winick, processing non-violent drug-related charges in criminal court and then sentencing those offenders to time in prison is essentially retributivist, doing little to address the underlying problems (Winick 2003, 1056). It does not change their behaviour and results in a revolving door of repeated, addiction-driven criminal activity.

Over the past three decades, there has been gradual recognition within the criminal justice systems of countries like Canada, Australia and the United States that it is worthwhile to re-examine the ways that offenders suffering

with substance abuse interact with the justice system. The United Nations and World Health Organization together recognize that “when a person with a drug use disorder comes into contact with the criminal justice system, it is an opportunity to encourage that person to receive appropriate treatment. This can be done... by a process of interaction between the criminal justice system and the health care system...” (United Nations Office on Drugs and Crime/ World Health Organization 2018, 3). It is a goal of Health Canada’s Canadian Drugs and Substances Strategy to “protect the health and safety of all Canadians by minimizing harms from substance use for individuals, families and communities (Health Canada 2018b, 7-8). In pursuit of that goal, the Government of Canada is advocating for modern and compassionate approaches that include addressing the root causes of problematic substance use, “reducing the stigma associated with substance use” and developing programs that “defend and promote the health, dignity and human rights of people who use drugs” (Health Canada 2018b). Our criminal justice system is currently studying ways to achieve these objectives by looking at human problems more holistically and forging connections between itself and other social support systems such as health care, education and employment (Department of Justice 2018).

Processing non-violent drug possession charges in the criminal courts and then sentencing the offender to prison:

- does not change the offender's addictive behaviour
- is essentially retributivist
- results in a revolving door of repeated addiction-driven criminal activity

Bruce Winick

Canada has a strong and healthy justice system. Our courts and justice system are looked to by many countries as exemplary. Yet, like every other human institutional endeavour, justice is an ongoing process.

It is never done, never fully achieved.

Chief Justice Beverly McLachlin  
Supreme Court of Canada

Drug addiction has devastating effects on individuals, families and their communities and have enormous socioeconomic impacts at national and global levels.

We have a shared responsibility to prevent and reduce this burden.

World Health Organization

Justice means more than simply applying the law without regard to the underlying social, economic and psychological factors. The formal justice system is ill-equipped on its own to deal effectively with the problems thrown on its doorstep.

Morris Rosenberg  
Deputy Minister of Justice and Deputy  
Attorney General of Canada

No one wants to be a drug addict...  
it can happen to anyone.

Danielle MacPherson  
Howie Centre, NS  
Nova Scotia Court Monitored Drug  
Treatment Program Graduate



Quotations supporting the argument that drug addiction is society's collective responsibility.



## CHAPTER 3: THE CANADIAN CRIMINAL JUSTICE SYSTEM

### **Fundamental Principles**

In her opening remarks of *The Challenges We Face*, former Chief Justice Beverley McLachlin of the Supreme Court of Canada wrote about the thousands of Canadians working to build and establish their visions of a just society – one that balances freedom and safety, fairness and common good (McLachlin 2008, 33). For Canadians, much of what constitutes a “just society” has been codified in *The Charter of Rights and Freedoms*, the constitutional bill that safeguards our most fundamental rights and guarantees certain protections under the law. As enshrined in *The Charter*, the law is our protection, guaranteeing citizens equality, the presumption of innocence and the right to due process, among other things (*Canadian Charter*, 1982 (b)). The law, and the criminal justice system that enforces it, are fundamental pillars of our society, providing formal processes aimed to protect the public, afford stability and offer avenues for dispute resolution that are accessible, efficient and fair. McLachlin elaborates that, “whatever our political persuasion or our particular conception of justice, there can be no doubt that Canadians today expect a just society. They expect just laws and practices. And they expect justice in their courts” (McLachlin 2008, 33).

There are several ways that our justice system is designed to meet its obligation of delivering just laws and practices. The system is inherently participatory; all citizens have a duty to at least have a basic understanding of the law (Department of Justice Canada 2017). It is living daily life lawfully that underlies a respectful and just society (Department of Justice

Canada 2000, 47).

Further is the structure of the system itself. The Canadian justice system is a combination of two legal traditions - civil law and common law - that work in tandem in our courts of law. The courts are the places where disputes are resolved, and it is through this process of dispute resolution that the courts interpret and establish laws for all Canadians.

The civil law tradition pertains to the principles and rules that have been codified as legislation, such as the *Criminal Code*, which is an act of parliament that defines crimes and outlines their respective punishments. For example, it is against the law to steal, and the punishment for committing theft over five thousand dollars is defined in the *Criminal Code* as a term of less than ten years in jail (*Criminal Code*, s.334(a)). It is also law that one of the objectives of our justice system is to assist in rehabilitating those who commit crimes; the *Criminal Code* further elaborates that “a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender,” and recognizes that “all available sanctions, other than imprisonment, that are reasonable in the circumstances... should be considered for all offenders” (*Criminal Code*, s.718). Rehabilitation is considered a fundamental component of maintaining “a just, peaceful and safe society;” it is also a fundamental component of this thesis (*Criminal Code*, s.718).

Canada also follows the common law tradition. This is a system, rooted in British custom, that is designed to respond to change by allowing the courts to interpret codified laws based on precedent (Department of Justice Canada 2018a). In these instances, when parties disagree on the law, the

courts look to relevant past decisions to determine the appropriate course of action. For example, the importance of rehabilitation is enshrined in law. It is not, however, defined in the *Criminal Code*, meaning that what constitutes rehabilitation is subject to interpretation. In cases where there are no relevant precedents, judges have both the obligation and the authority to make a determination. A judge could determine rehabilitation as meaning a range of things, from writing a letter of apology to professional therapy. A judge's reasoned decision, stated as an opinion of the court, may then become precedent for future cases. This means that the subtleties of the law are always being tested and negotiated, and it allows for a system of justice administration that progresses with time. In common law, the system has inherent flexibility that allows it to adapt to change. This is critically important because, as McLachlin argues, "like every other human institutional endeavour, justice is an ongoing process. It is never done, never fully achieved. Each decade, each year, each month, indeed each day, brings new challenges" (McLachlin 2008, 33).

### **The Law in Action**

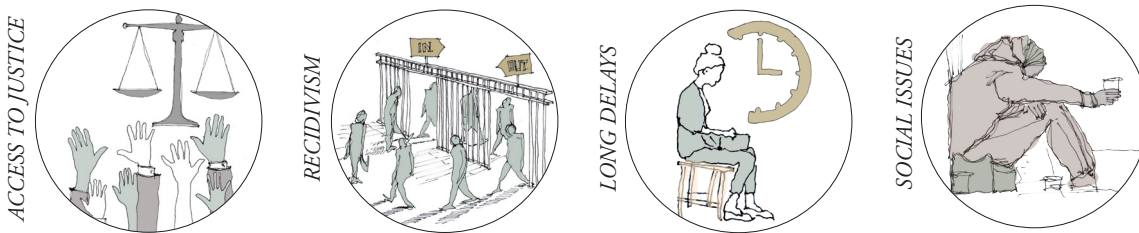
It is important to understand the fundamental principles of the Canadian justice system, and it is equally important to understand how the criminal justice system works. The Canadian criminal justice system is a partnership between policing, the courts, corrections and parole; these four parts work together in service of a safe society, from the time a crime is committed until the offender has been reintegrated into society (Correctional Services Canada 2008).

The traditional justice system is punishment-oriented and follows the same basic process for all offenders. When a

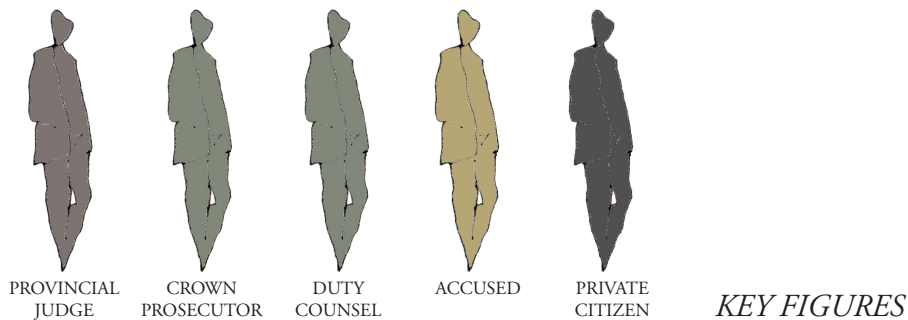
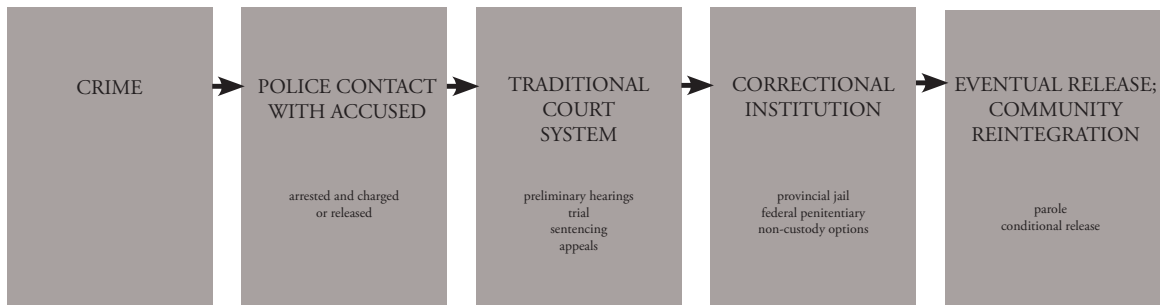
*The Four Parts of the Canadian Criminal Justice System*



*The Four Main Challenges Facing the Canadian Criminal Justice System*



*The Criminal Justice Process*



A summary diagram of the Canadian criminal justice system, including the criminal justice process and its key figures, as well as the main challenges the system faces.

crime has been committed, the police make contact with the accused, and will either release or arrest and charge them based on *Criminal Code* guidelines. Once formally charged, the accused hires or is assigned legal representation and enters the traditional court system where their case may proceed through a series of in-court appearances including potentially a trial. Should they be found guilty they will be sentenced and have the right to appeal the court's decision. As elaborated upon later in this chapter, the court process can be lengthy, expensive and prone to delays; these are major challenges facing our justice system.

Should an individual be found guilty and convicted of a crime, they are sentenced by the judge according to *Criminal Code* sentencing guidelines. When the seriousness of the crime requires incarceration, the individual is sentenced to a term in federal, provincial or territorial prison, under the direction of the correctional system. Convicted individuals will also interact with the parole system, either as their sentence, or after having served part of their term in prison, when they are living in the community while under supervision and with conditions. Like all parts of the justice system, parole, rehabilitation and effective reintegration are fundamentally important, relating directly to the safety and well-being of those within the justice system, as well as the broader communities to which they return.

### **History of the Courts**

Given the fundamental importance of justice administration to society, it follows that the courthouse is the place that conveys that significance. It is a place where the strength and legitimacy of our legal system are tested and reinforced every day, and where matters of substantial personal and social

importance are determined. According to Stephen Breyer, Associate Justice of the Supreme Court of the United States, courthouses and the public spaces around them “have great power to instruct or suggest, metaphorically or symbolically. Both in function and design, [these spaces] will embody and reflect principles that tell the public who use or see them something about themselves, their government and their nation” (Breyer 2006, 9). For these reasons, the courthouse has traditionally been considered a public space; we have a right to expect reasonable openness and accessibility to our courts, and to the decisions made within them. It is a way of participating in and ensuring collective confidence in the system’s efficacy.

Prior to the early 19<sup>th</sup> century, the courthouse as a stand-alone, recognizable building typology did not exist in Canada. As the colonies were becoming established, there was little money available for public buildings but there was a need for justice administration. Legal proceedings were held in churches, taverns, markets and even barns – any place that was conveniently located and offered enough space to accommodate the concerned parties and spectators (Hale 1983, 41). By the early 1800s, with the recognition that “there was a serious need for a distinct symbol of justice to represent and reinforce the new system of government,” cities and towns began constructing buildings for the specific use of the courts (Hale 1983, 45).

These courthouses were typically located in the centre of their respective towns and quickly became important civic buildings. Public notices and records were available inside, and people could watch the law in action if they chose. The courthouses’ exteriors were equally public and it was not

PRE-CONFEDERATION  
COURTHOUSES

1790s



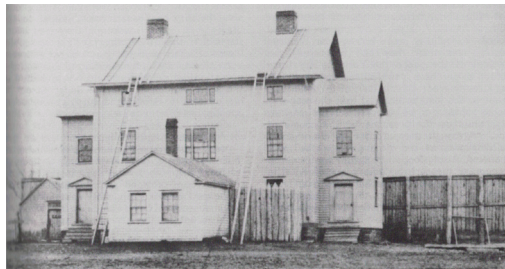
From the 1790s until 1829, court proceedings in Saint John, New Brunswick, were held at the Old City Hall in Market Square, sharing space with county administration, church services and the town market.

1805



The former Argyle District Courthouse in Tusket, Nova Scotia, remained in active use as a courthouse until the 1970s, and is the oldest surviving courthouse in Canada.

1832



The now-demolished courthouse in St. Eleanors, Prince Edward Island.

1856



Above: the exterior of the Pictou County Courthouse, and its interior, with formal decoration and elevated judge's bench.

1860



The Provincial Courthouse in Halifax, Nova Scotia - the first in Nova Scotia to be built of non-combustible materials (Wikipedia 2019).

Evolution of Canadian courthouses, pre-Confederation. (Hale 1983, unless otherwise noted).

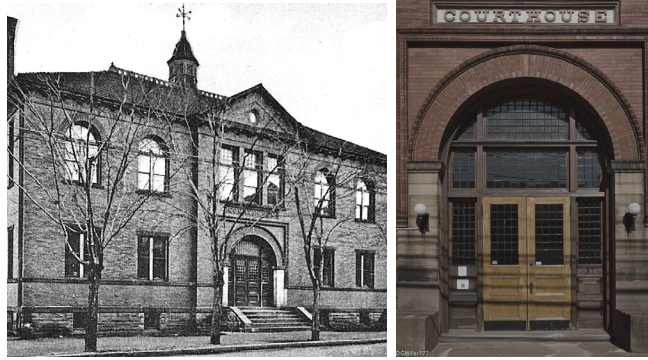
unusual for families to picnic on the grounds in favourable weather (Breyer 2006, 11). Other than churches, these buildings were often the only local places large enough to accommodate sizeable gatherings, and so it was not uncommon that the courthouse also served as a type of community centre for lectures, dances, performances and other gatherings (Hale 1983, 73). The earliest courthouses, like the now-demolished courthouse in St. Eleanors, Prince Edward Island, were wood construction and residential in form, often with minimal, classical details (Hale 1983, 43). The former Argyle District Courthouse in Tusket, Nova Scotia, was completed in 1805 and is the oldest surviving courthouse in the country. It remained in active judicial use until the mid-1970s.

Around the time of Confederation, as the judicial system became regularized, new buildings were required to accommodate the expanding needs of the courts and their associated offices. These buildings were also symbols of law and order for the new dominion, and were constructed in many major cities and towns to handle a broad range of criminal and civil legal issues (Hale 1983, 43). During this time there was a noticeable shift away from building forms that referenced church or residential architecture and towards a distinctively civic form. These new courthouses were rational and logical two-storey buildings - rectangular in form and symmetrical, often with significant façade ornamentation, including either Corinthian or Doric columns and massive cornices (Hale 1983, 61). Inside, court and county administrative offices surrounded the building's dominant feature, the courtroom, defined by high ceilings and formal decoration. The courtroom included a gallery for spectators at the back, and an elevated judge's bench at the front. The



*POST-CONFEDERATION  
COURTHOUSES and ELEMENTS*

1903



The former Kings County Courthouse, Kentville, Nova Scotia, and the courthouse's main entrance.

1936



The main courtroom at the Supreme Court of Canada in Ottawa, Ontario.

1971



The Halifax Law Courts complex.

1980



A courtroom at the Kentville courthouse.

Evolution of Canadian courthouses, post-Confederation. (Kings County Museum 2018; Miller 2012; Supreme Court of Canada 2017; Short 2017; Luck 2019; Starratt 2018).

Pictou County Courthouse and the Provincial Courthouse in Halifax are two examples, both built in the mid-1850s and similar in form, but constructed using different materials. Rural county courthouses, like in Pictou, were typically wood construction and built by local craftspeople, whereas the Halifax courthouse was built using local sandstone (Hale 1983, 60). Halifax's courthouse was the first in Nova Scotia to be built of non-combustible materials and to be large enough to formally include county and municipal offices (Hale 1983, 62). It was increasingly common thereafter that courthouses, like most other civic buildings, were built out of stone as a way of conveying institutional importance and continuity while pragmatically protecting contents.

### **Order in the Courts**

The exterior design of the post-Confederation courthouse building was driven by an increasing desire to reflect and instill confidence in institutional strength. The courthouse's interior arrangement was, however, driven by judicial function and has changed little since its establishment. The courthouse's interior is divided into three key types of spaces: courtrooms, access-restricted private spaces and public spaces. These areas vary in size and number depending on jurisdictional needs, but the relationships between them are constant, as are the prescribed ways that the various participants move through the courthouse's spaces. For example, judges and court staff, juries, and people in custody all occupy different, restricted parts of the courthouse, travel throughout the building using different circulation routes and enter the courtroom through separate entrances. By contrast, lawyers have designated spaces within the courtroom but use public entrances and circulation routes.

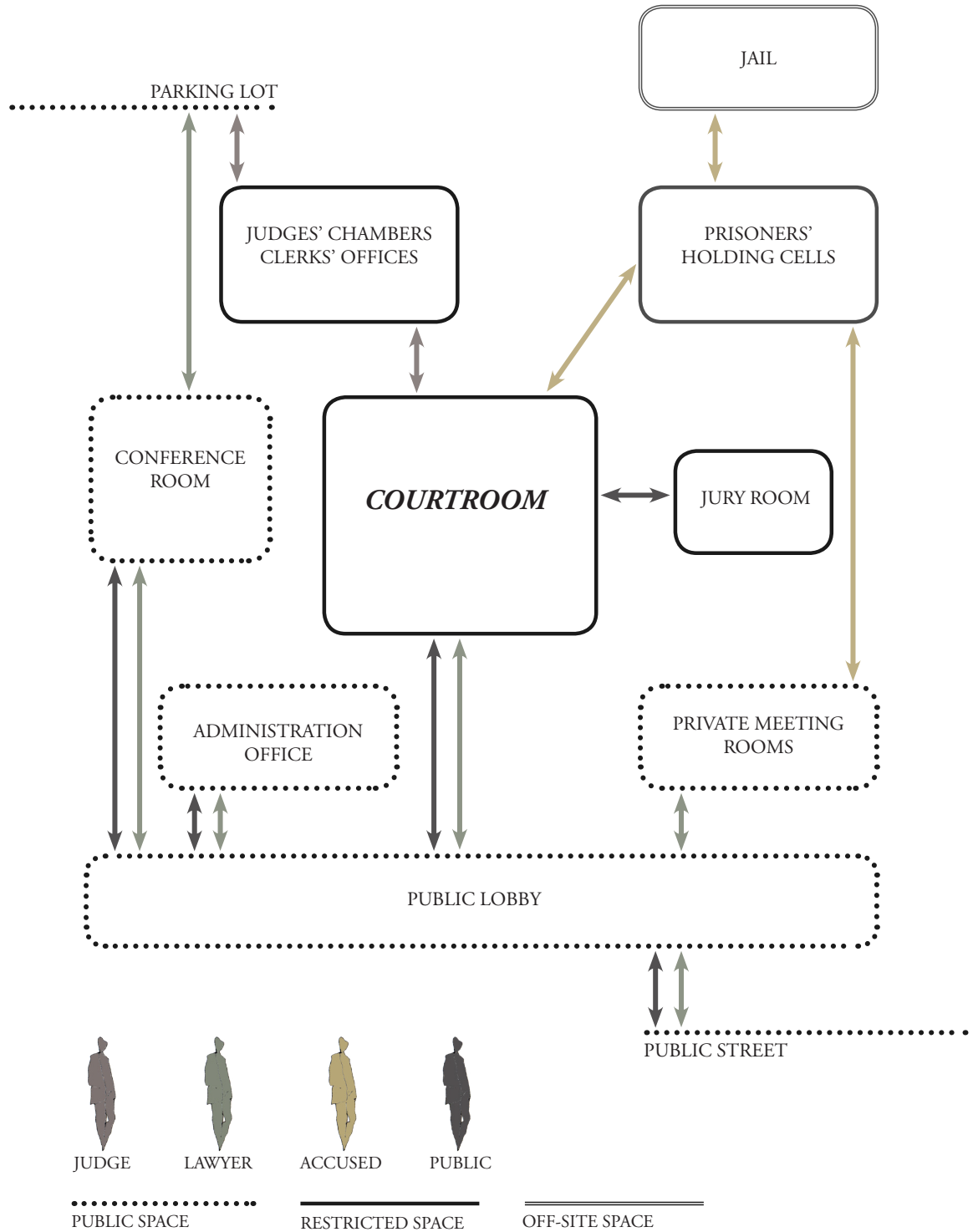


Diagram illustrating the movement of key figures through a typical courthouse.

Whether a single courtroom or one of dozens within a courthouse, the courtroom proper is the most significant space within the building; it is the place where parties meet, and justice is officially administered. Courtrooms may be ornately decorated or restrained, modest or grand, but they are always formal, and their architecture works to inform occupants about their respective roles and behaviour. The public gallery is at the back of the room and, as Norman Spaulding describes, the space becomes increasingly hierarchical and exclusive as one moves towards the front (Spaulding 2013, 20). Members of the general public sit at the back and the judge sits at the front, behind a bench and elevated above the rest of the room. The elevation of the judge is both symbolic and functional; it reinforces their position of authority and their role as arbiter, while also maximizing their abilities to be seen by all and to oversee everything happening in the room.

Other significant elements in the courtroom are the designated boxes for witnesses, court clerks and members of the jury, which are also raised above most of the room, but below the judge. As Spaulding asserts, elevation, ornamentation and partitions “serve to fix and hierarchically segment lay and expert role players” (Spaulding 2013, 20). A key example of this is the ‘bar,’ an iconic courtroom element that is a physical barrier, usually in the form of a low wall, that divides judges and lawyers from the general public. It originated in the Middle Ages at a time when court proceedings were frequently rough, and the safety of the judges and clerks was a concern (Winters 1972, 2). It evolved into a ledge that lawyers stood behind and held their books and papers during proceedings (Spaulding 2013, 13). While anyone might be able to sit in the gallery, only accepted

members of the legal profession and other key participants can sit at tables in front of the judge, on the other side of the bar. Lawyers no longer argue their cases standing at the bar; they sit at opposing tables, their backs to the gallery, on the far side of the bar, which has retained its place as a barrier.

The main public areas of the courthouse are the public entrance and lobby, as well as the gallery or observational space within the courtroom. Depending on the type of courthouse, there may also be municipal services offices that are publicly accessible. The exterior area by the main entrance is typically a place for people to wait outdoors, to smoke and to briefly escape the courthouse. The lobby provides a place for people to wait, to seek refuge from court proceedings and to meet with lawyers, all while under the supervision of security officers. It is also the most likely location for security screening to take place.

The private areas of the courthouse include the judges' chambers and their library, as well as offices for the court clerks and records storage. There is a secure room where the jury would be sequestered, as well as other ancillary spaces like meeting rooms. Courthouses also have jail cells to temporarily hold those waiting for court appearances, as well as offices for the law enforcement who supervise them.

Courthouses built in recent decades, such as Halifax's Law Courts complex, completed in 1971, have been confronted with the challenge of embodying society's civic values while simultaneously responding to the judicial system's present-day needs for more space and better security, among other things (Breyer 2006, 10). Achieving modern-day security needs, for example, especially in buildings not designed to

accommodate them, can result in highly segregated and impersonal spaces, and possibly even ones that no longer feel truly public. According to Justice Breyer, the challenge is to find balance between the civic virtues of early community-centered courthouses and the modern judiciary's needs; past failures have resulted in "courthouses that looked not like significant public buildings but like faceless office buildings. Some looked like prisons" (Breyer 2006, 10).

Adding to this challenge is the justice system's inherent reluctance to change, at least so far as it extends to the courthouse environment. In describing lawyers' and judges' affinity for tradition, William Fort acknowledges that courthouse architecture is "an area of judicial and bar responsibility which has been grossly neglected. Tradition has governed both design and arrangement – even though today's needs and conditions... are totally different" (Winters 1972, 4). Certainly some of this can be attributed to the very nature of the justice system; it is designed to look backward to precedent and to tradition for each critical decision. It is inherently difficult to look forward at the same time, especially if there is the belief that doing so might undermine the efficacy of the entire system. It is, nevertheless, important to critically examine the role of the courthouse in modern society; courthouses are, according to Justice Breyer, the types of buildings that can help us live better as a community and preserve trust in our public institutions (Breyer 2006, 12).

### **System Under Pressure**

The Canadian justice system is one of the fundamental pillars of our society, and ours is exemplary. Yet, in spite of its many strengths, as former Chief Justice Beverley McLachlin reminds us, justice is, like every other human endeavour, "an ongoing

process. It is never done, never fully achieved” (McLachlin 2008, 33). Most Canadians will live their entire lives having almost no interaction with our justice system but some will lead lives defined by those interactions. In pursuit of its mission to balance the rights of Canadians with the obligation to protect safety and security, our formal justice system has become large, complex and intimidating. It is also a system that is trying to respond to the needs of an increasingly diverse and nuanced society. In 2000, the Department of Justice recognized that “the formal justice system is ill-equipped on its own to deal effectively with the problems thrown on its doorstep... [Justice is more than] formal, adversarial proceedings designed to find guilt or innocence, and winners and losers” (Department of Justice Canada 2000, i). The traditional model has resulted in backlogged courts and insufficient rehabilitation resources; somewhere along the way, the individual has been pushed aside.

In speaking about the administration of justice, William Fort remarked that “justice is an abstract ideal. To administer it is a concrete problem” (Winters 1972, 4). Identifying the challenges facing the justice system as concretely as possible is a critical part of facilitating the system’s ongoing process of improvement. The main challenges facing Canada’s justice system include: the challenge of access to justice; the challenge of recidivism; the challenge of delays in the justice system; and the challenge of dealing with deeply rooted, endemic social problems. In seeking solutions to these issues, Morris Rosenberg asserts that it is about more than greater access to courts and formal legal proceedings, it is about developing “partnerships with communities and across disciplines and institutions” (Department of Justice Canada 2000, i).

The issue of access to justice is about the ability to “seek and obtain equitable remedies, using a fair, transparent and accountable process before formal or informal institutions of justice” (Canadian Bar Association n.d.). According to McLachlin, even “the most advanced justice system in the world is a failure if it does not provide justice to the people it is meant to serve,” and so access to justice is critical (McLachlin 2008, 34). People struggle to access justice for a variety of reasons, including finances. Middle class Canadians, ineligible for legal aid, are often faced with grim prospects: use family assets, represent themselves or give up (McLachlin 2008, 34). Even when legal aid is provided, it still seems as though the system advantages those with significant financial resources and disadvantages those without. Any court proceedings are costly, and long trials are especially so. When faced with these options, it is not difficult to imagine some people feeling as though they cannot effectively access justice. While this is true for victims, it can be equally true for those charged with crimes, and especially so for those so frequently in contact with police and the courts that they, themselves, become victims of the justice system.

It is often assumed that when someone commits a crime, they should go to jail; if nothing else, it should serve to discourage recidivism. This attitude has led to mandatory minimum sentencing policies that increasingly use prisons to control crime while significantly decreasing judicial discretion during sentencing (Gendreau, Goggin and Cullen 1999, 3). While a prison sentence does provide punishment by revoking a person’s freedom, studies have shown it may not be as effective a deterrent as once thought. Time in prison can actually result in slight increases of recidivism, where the



“barren, inhumane and psychologically destructive nature of prisonization [can make] offenders more likely to recidivate upon release” (Gendreau, Goggin and Cullen 1999, 1).

Lower risk offenders are also more negatively affected by time in prison than their higher risk peers (Gendreau, Goggin and Cullen 1999, 1). If the way offenders are managed does not effectively deter crime then it is contributing to a waste of resources for police, the courts and the corrections system. It is also not acting in the best interest of public safety.

The justice system is also challenged by numerous delays, one of which is the amount of time it takes for cases to be seen through to completion before the courts. While the number of criminal cases being tried in court has decreased almost twenty percent since 2010, the typical time to complete a case has increased. The national median case completion time is 127 days; it is even higher in Nova Scotia, at 170 days (Department of Justice Canada 2017). Delays occur for a number of reasons, including case complexity and resource limitations. Delays also occur because approximately twenty five percent of matters heard before the court relate to relatively minor administrative offences, including failing to attend court-mandated appearances and failing to comply with court orders (Department of Justice Canada 2017).

Delays are problematic for reasons beyond inconvenience; because the Charter guarantees a trial within a reasonable time, serious cases can be stayed or dismissed when those delays impact an individual’s Charter rights (McLachlin 2008, 37). It also means long periods of incarceration for those awaiting trial, decreased reliability of witnesses and other evidence, and prolonged periods of stress for all involved. As McLachlin states, when “the delays increase, swift, predictable

justice, which is the most powerful deterrent of crime, vanishes. The personal and social costs are incalculable” (McLachlin 2008, 37). In seeking solutions, the courts have, in recent years, looked to non-traditional processes, including mediation, restorative justice and therapeutic courts as ways of more appropriately managing cases and allocating resources.

The third major challenge facing the justice system is the endemic social problems endured by many who appear before the courts. As many police officers can attest to, drug addiction, which is often accompanied by mental illness, significantly increases an individual’s likelihood of having repeat encounters with law enforcement. Offences are usually minor but night after night, jails are filled with people who, rather than being hardened criminals, are addicted, mentally ill, or both; after spending a night or two in jail, they are released and the cycle repeats again (McLachlin 2008, 38). As a society, we are constantly learning and evolving; we know more now about addiction and mental illness than we ever have and so it is only appropriate to apply that sensitization to the justice system’s treatment of those individuals.

One response has been the implementation of “problem-solving” or therapeutic courts, which seek to address the underlying, total causes of an individual’s behaviour rather than just the resulting criminal activity. These experimental courts are collaborative and interdisciplinary, and seek to address the complex social problems that are often unaddressed in the conventional justice system. In response to the challenges of addiction and mental illness, jurisdictions across Canada are “adapting our criminal law court procedures to better meet the realities of endemic social

problems and better serve the public” (McLachlin 2008, 39).

The Canadian justice system helps protect and deliver a just society. While William Fort and others have spoken of the system’s reluctance to change, the Department of Justice’s Expanding Horizons national symposium found “that there is a tremendous appetite for change among leaders from both inside and outside the justice system” (Department of Justice Canada 2000, 1). With that appetite comes the need to “rethink our attitudes and our expectations about who owns law, about what it can realistically accomplish, and about how it can most effectively be deployed to promote a more just society” (Department of Justice Canada 2000, 3). Among the Department of Justice’s long-term objectives is to the commitment to making “justice processes more citizen-centered, and more focused on communities,” to explore how the traditional system can adapt to change, and to “find real solutions that respond to the needs of victims, offenders, communities and all affected by the justice system” (Department of Justice Canada 2000, i).

## CHAPTER 4: THERAPEUTIC JURISPRUDENCE - A FOUNDATION FOR HEALING

### **Therapeutic Jurisprudence, Background**

The Canadian criminal justice system has a duty to deliver on its obligation of providing a just society for all Canadians. It also has to rise to meet the challenges and pressures that the system faces, including better serving those whose addictions and illnesses have helped make them victims of the justice system. As Morris Rosenberg stated, “justice means more than simply applying the law without regard to the underlying social, economic, and psychological factors.... New ideas have entered the discourse, widening the scope... and affecting the way we think of justice.... It is not enough to treat [justice] as solely a matter of courts and formal legal proceedings” (Department of Justice Canada 2000, i).

Emerging from this appetite for change is therapeutic jurisprudence, the theoretical framework that “recognizes how legal and judicial practices can be reshaped to have therapeutic potential” (Newfoundland Department of Justice and Public Safety 2017, 2). Therapeutic jurisprudence is an interdisciplinary methodology that studies the law and its interactions with other social forces to understand how those relationships result in either beneficial and therapeutic or harmful, anti-therapeutic outcomes (Winick 2003, 1063). First developed by Bruce Winick and David Wexler in the late 1980s, therapeutic jurisprudence began as a research method, and has evolved into guidelines and recommendations about how the quality of the law can be improved. Their work helped recognize that the law has the capacity to work against those it is intended to help, and informs ways that

the law can be reshaped to mitigate the anti-therapeutic outcomes that can negatively impact the psychological health of those affected (Winick 2003, 1062). Through evidence-based research and interdisciplinary scholarship, therapeutic jurisprudence has introduced willing members of the legal profession to alternative ways of thinking about and practicing the law.

Winick and Wexler began their research with mental health law, and as the discourse gained support, contributors have evolved therapeutic jurisprudence to include criminal, family, environmental and health law, as well as psychology and the behavioural sciences, among others. Therapeutic jurisprudence has been instrumental in recognizing the roles that legal actors, including judges, lawyers and police officers, play; “whether they know it or not, these legal actors are therapeutic agents, affecting the mental health and psychological well-being of the people they encounter in the legal setting” (Winick 2003, 1062). For example, the way judges interact with people appearing before them in court can have significant impact on the individual’s well-being; therapeutic jurisprudence discourse offers insights and suggestions for reshaping those interactions to “increase their therapeutic potential and avoid the risk of psychological harm” (Winick 2003, 1064). Ultimately, therapeutic jurisprudence is the foundation on which a growing movement is built – one that seeks to move the law towards a shared goal of a more comprehensive, humane, compassionate and healthy way of managing complex legal matters (Winick 2003, 1064).

### **Therapeutic Jurisprudence, Applied**

Increasingly communities are looking to alternative,

problem-solving methods of justice administration. One of those alternative methods, underpinned by therapeutic jurisprudence, is the therapeutic court. Also known as a problem-solving court, these courts are specialized programs that offer an “alternative to the traditional criminal justice response by aiming to address the underlying problems that contribute to crime” (Winick 2003, 1064). Instead of sending some groups of offenders to jail, therapeutic courts take into account the complex social problems that are often unaddressed in the conventional justice system. In these therapeutic courts, the priority is shifted away from applying judgement to addressing the individual’s underlying problems holistically, with the support of a multidisciplinary team. It is not just about the law – it is also about the mental and physical health of the individual participants. The goal of therapeutic courts, consistent with the goal of applied therapeutic jurisprudence, is to “reduce recurring court involvement by focusing on rehabilitation” (Newfoundland Department of Justice and Public Safety 2017, 2).

Since 1998, therapeutic courts have slowly been introduced into the traditional justice system, first to manage cases involving mental illness and drug addiction, and have recently expanded their scope to include other forms of substance abuse and family-related issues. The proceedings in problem-solving courts are completely different than in traditional criminal cases, including the objectives and the outcomes. In keeping with therapeutic jurisprudence principles, even the roles of the legal actors are shifted; judges become coaches, and work alongside lawyers, social workers and health care professionals to support participants (Newfoundland Department of Justice and Public Safety 2017, 3). It is a system that can work in the best interests of many, including

the accused, the communities they are part of and, ultimately, the justice system itself.

### **Therapeutic Jurisprudence, Critiqued**

There are criticisms of therapeutic jurisprudence, both as an ideological framework and as applied in the form of therapeutic courts. Some of these criticisms, such as issues around constitutionality and the due process rights of the individual, have been the subject of significant discourse. The solutions to those issues are not straight forward and will have to be determined through legal processes. Some of the criticisms, however, can be alleviated through architectural solutions. For example, some believe that specialized courts place enormous strain on resources by taking courtroom space away from criminal proceedings. Further, because therapeutic courts require a consistent judge, there is an increased burden on the judiciary (Toki 2017, 4). Creating a separate courtroom space for therapeutic court proceedings would lessen the burden on criminal courtrooms. Further, the designated therapeutic court could share many of the judicial and ancillary spaces. By keeping judges' chambers and other key spaces shared and unified, courthouses may become more efficient and responsive while also alleviating some of the burden.

Other criticisms of therapeutic jurisprudence include issues of transparency, hierarchy and equal access to programs (Toki 2017, 5-7). Transparency is both real and perceived; while the courts work to ensure fair, transparent processes, perceived transparency can be implemented by improving access to courthouses and by creating opportunities to look in and participate. Critics argue that therapeutic courts disrupt and undermine the power relationship between judge

and offender (Toki 2017, 5). However, it can be argued that this disruption is fundamental; when previous strategies or responses are no longer effective, change is required. Therapeutic courts deliberately reorient the court's dynamics in pursuit of different outcomes. Finally, rigorous screening processes currently help determine program eligibility; this is done to protect public safety and to invest in those candidates who have a reasonable prospect of success. This, combined with constrained resources and limited capacities, inevitably means that some worthy participants may be excluded. As acceptance for and implementation of therapeutic courts grows, they may become not an alternative to but rather an integral part of the justice system, able to reach increasingly more people.

### **Therapeutic Jurisprudence, Validated**

Therapeutic courts work. Overall, therapeutic programs have a more positive impact on those with substance abuse issues than the traditional justice system does alone (Canadian Centre on Substance Abuse 2007, 7). Participants who successfully complete their programs are more likely to find longer-term success with abstinence and recidivism than those who do not, and even those removed from their programs still derive some benefit from that participation (Canadian Centre on Substance Abuse 2007, 7). Meta-analyses of drug treatment court programs in Canada, Australia and the United States have found reductions in recidivism rates ranging from 7.5% to 26% (Canadian Centre on Substance Abuse 2007, 7), (Newfoundland Department of Justice and Public Safety 2017, 9). An additional study of Vancouver's drug treatment court found a "decrease of over 50% in the number of unique [drug treatment court] participants



sentenced for drug related offences in the two year period following their involvement” with the therapeutic court program; there was no significant change in the control group (Newfoundland Department of Justice and Public Safety 2017, 9). It is important to note that in some circumstances, recidivism rates were only reduced while participants were in treatment. This speaks to the importance of community support, aftercare and post-program maintenance for participants (Canadian Centre on Substance Abuse 2007, 7).

There is perhaps no one better positioned to speak about the efficacy of therapeutic courts than a former participant. After her addiction led to her arrest, Danielle MacPherson was accepted to the opioid-specific drug treatment court program in Dartmouth, Nova Scotia, in early 2016. Calling the program the second chance she needed, MacPherson said she looked forward to her court appearances and to the community of support cultivated there (Chiu 2017b). As a result of her successful therapeutic program participation, MacPherson gained employment and stable housing, began volunteering with a self-help group for offenders, and has taken steps to reconnect with family. MacPherson’s struggle with addiction is shared by thousands among us; her opportunity for recovery and redemption can be shared with thousands more through the thoughtful application of therapeutic judicial practices.

## CHAPTER 5: THE DRUG TREATMENT COURT

### **Background**

This thesis focuses on the drug treatment court, which is the therapeutic court type most prevalent in Canada. The subsequent explanation and analysis of the court is informed by relevant literature and through the experience of observing the Court Monitored Drug Treatment Court Program in Kentville, Nova Scotia, a detailed account of which can be found in Appendix A.

Drug treatment court (DTC) is a specific type of therapeutic court that provides judicially-supervised treatment instead of incarceration for non-violent adults whose criminal activities are directly related to their substance abuse problems (Newfoundland Department of Justice and Public Safety 2017, 1). The establishment of the court is predicated on the belief that addiction is a disease, often exacerbated by personal circumstances, and that left untreated, can sentence the addict to a lifetime of encounters with criminal behavior, the police and the justice system. DTC programs are designed to fit within the existing legislative framework of the Criminal Code, which states that “a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender,” and recognizes that “all available sanctions, other than imprisonment, that are reasonable in the circumstances... should be considered for all offenders” (*Criminal Code*, s.718). Rather than just sending offenders to jail, these courts work within the justice system to reduce criminal behavior, healing people in the process. By prioritizing treatment of the individual over punishment for their specific actions, the court’s objectives are to reduce the

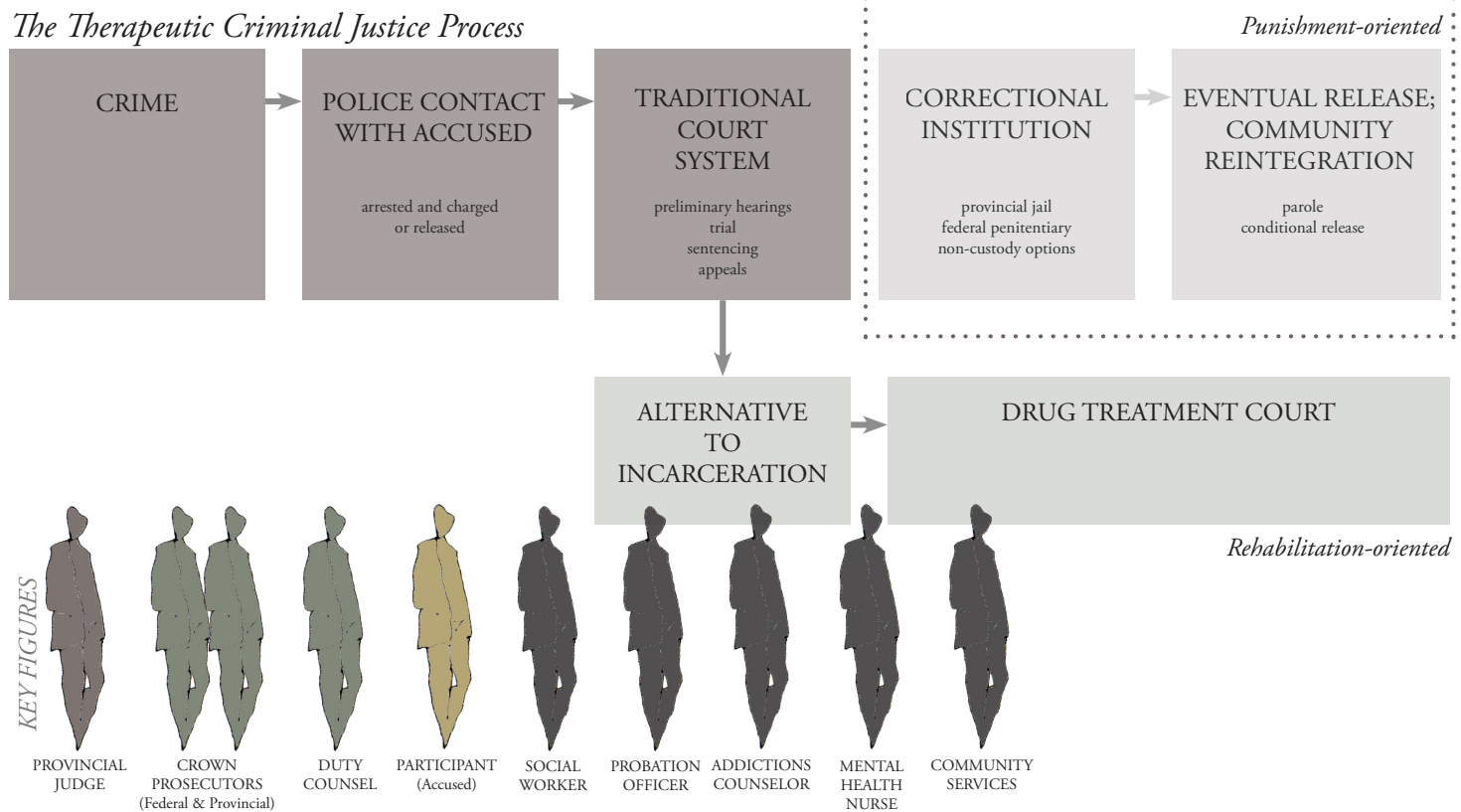


Diagram of the therapeutic criminal justice process as it diverges from the traditional justice process, and the therapeutic court's key figures.

## The Drug Treatment Court Process

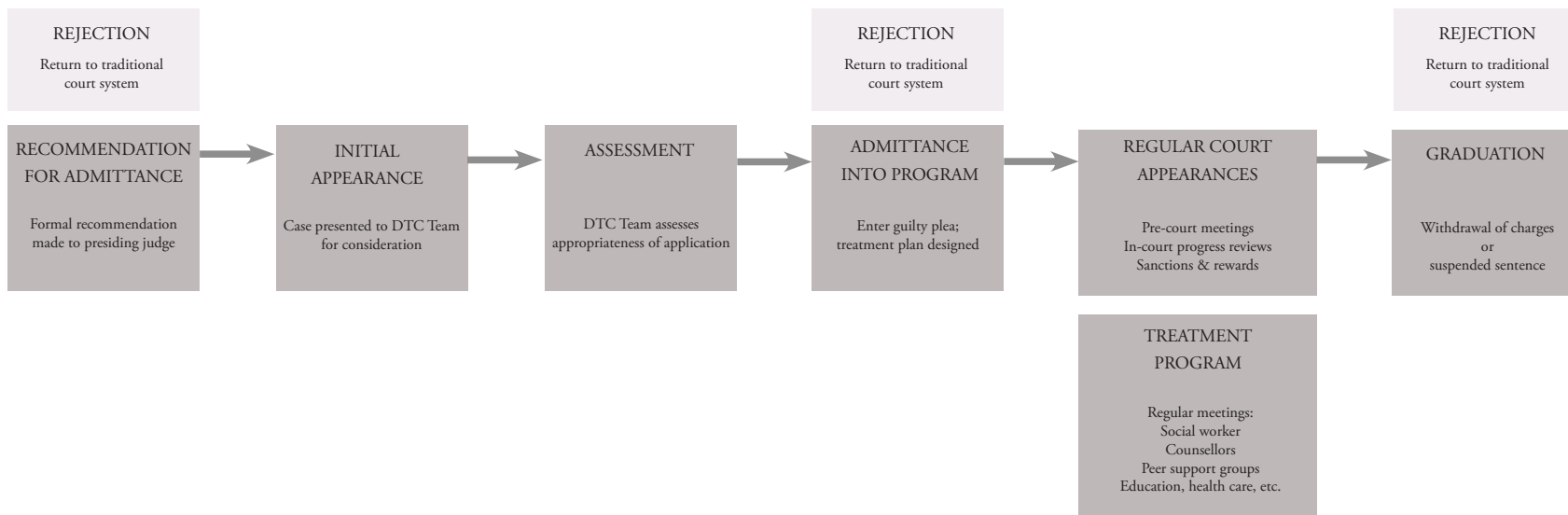


Diagram of the drug treatment court process, from recommendation for admittance to graduation, the completion of the program.

likelihood of repeated criminal behavior and interaction with the justice system.

The first Canadian DTC program started in Toronto in 1998 and a second program was established in Vancouver in 2001. Both of these programs were pilot projects aimed at testing the role that court-supervised treatment programs could have as part of a larger, national crime prevention strategy. In 2003, the drug treatment court model became an official part of the Department of Justice Canada, as well as the National Anti-Drug Strategy. By 2010, DTCs were fully operational in Edmonton, Winnipeg, Ottawa and Regina, with the programs' processes and outcomes subject to regular evaluation. Support for this model of therapeutic justice administration has continued to grow, with programs now existing in many major Canadian cities, including St. John's, whose court began hearing cases in November 2018. In Nova Scotia, drug treatment courts currently exist in both Kentville and Dartmouth. The program in Kentville began in 2014 and Dartmouth's, which deals specifically with opioid addiction, began hearing cases in 2015.

### **Best Practices**

The specifics of drug treatment court programs vary across courts and regions but all programs have a shared basic structure. There are strict requirements for participants in exchange to which they receive support from a team of lawyers, counsellors, social workers, advocates and other professionals. The United Nations Office on Drugs and Crime has identified best-practices for this type of problem-solving program, which include the marriage of comprehensive, holistic treatment services with the court, as well as program flexibility and appropriate planning for

after-care (United Nations Office on Drugs and Crime 1999, 9). A participant's crimes must be related to their addiction, court proceedings must have ongoing judicial supervision and take a non-adversarial approach to decisions (United Nations Office on Drugs and Crime 1999, 9). Additionally, programs should seek to establish partnerships with the community, which can strengthen the treatment and social services offered to participants, as well as help identify eligible offenders early (United Nations Office on Drugs and Crime 1999, 9). Canadian programs have additional specifications, including that participants must be considered non-violent, are required to plead guilty to the charges against them, and their participation in the program must be approved by the drug treatment court's team (The Courts of Nova Scotia n.d.). Consistency at every stage of the process is considered best practice, and so a program is ideally presided over by the same judge and with the same team members participating (Newfoundland Department of Justice and Public Safety 2017, 15).

### **The Drug Treatment Court Team**

Therapeutic court programs are team-based in their approach and seek to gather all concerned parties around the same table. This is a stark contrast to the adversarial approach of traditional courts, where people are positioned on opposing sides. The composition of therapeutic court teams varies from court to court, but there are some consistent members: the judge, crown prosecutors, defense counsel and, of course, the participants. Programs are coordinated by a designated social worker who oversees participants' treatment plans and is one of their key advocates. Depending on the size and complexity of the program, there may be other social workers, including

those specializing in community services, as well as addictions and mental health counsellors, public health professionals and parole officers. Many programs draw on existing community resources, such as peer support networks, and it is foreseeable that relevant members of community groups could become part of the team as well. Collectively, this group is known as the drug treatment court team (DTCT).

### **Basic Structure**

The DTC process begins when the accused – an individual with charges pending against them – is recommended for admission into the program. The recommendation is typically made by a doctor, police officer, lawyer or even the accused themselves - someone with knowledge of the program who recognizes the connection between the accused's criminality and their addiction. The case is presented to the DTCT for consideration, and the program's crown prosecutor reviews the accused's case to determine if there would be a reasonable prospect of conviction should the case go to trial. Based on the crown prosecutor's recommendation, the DTCT assesses the appropriateness of the accused's application. If approved by the team, the accused makes their initial appearance in front of the drug treatment court; to participate, they are required to, among other things, plead guilty to the charges against them. After satisfying those criteria, they are formally accepted into the DTC program; at this point, they are now referred to as a participant and the team's social workers begin the process of designing a customized treatment plan. If the accused's application is rejected, or if they choose to not participate, they are removed from the program and their case returns to the traditional criminal justice system.

Participation in a DTC program is intensive, requiring regular court appearances and random drug testing. It also requires full participation in their treatment program, the frequency and intensity of which varies relative to their circumstances, progress and stage in the program (The Courts of Nova Scotia 2019). The total amount of time an individual will spend under the supervision of a DTC program is highly variable because the treatment component is so individualized, but most programs range from one year to upwards of eighteen months; Chapter 5 will elaborate further on the specifics of the drug treatment process (Newfoundland Department of Justice and Public Safety 2017, 9).

### **Program In Action**

A DTC program creates a strong partnership between legal proceedings and substance abuse treatment. To that end, there are two main parts to a typical program – regular in-court appearances and individualized treatment plans. In Kentville, court appearances occur every two weeks and follow the same two-stage process – the pre-court meeting and the in-court appearance. During the pre-court meeting, the judge, prosecutors, defence counsel, social workers and other relevant members of the DTCT (Steadman et al. 2013) meet to privately discuss each participant's progress; the participants are not present at these sessions. These meetings have the potential to be contentious, particularly when the participant has had a setback in treatment, such as a failed drug test or missed appointment. As each case is discussed, the various team members are required to balance their respective obligations to their clients, to the success and integrity of the program, and to the broader issue of public safety. For each case, various recommendations are made to



the judge, whose decisions about each participant and their progress will be revealed in court.

Following the pre-court meeting, there is an intermission of approximately one to two hours. During this time, participants have begun arriving for court and are typically waiting in the courthouse lobby. Social workers and defense counsel use the break to briefly meet with their clients individually, and help prepare them for their court appearances. At the designated time, the in-court session is formally convened. All participants and members of the drug

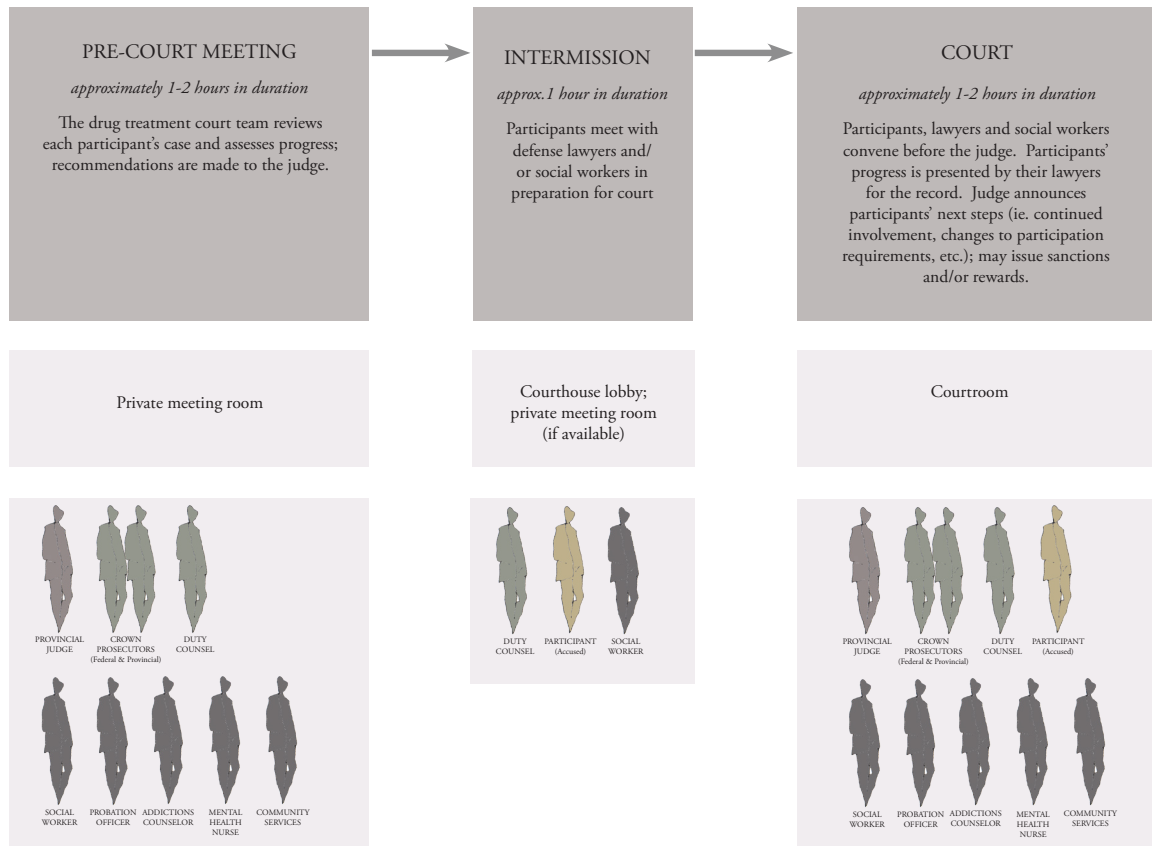


Diagram of the in-court appearance process for the drug treatment court.

treatment court team present themselves in the courtroom. Each session begins with the judge addressing the room. Then, the defense counsel calls each of their clients forward, one at a time. The participant leaves their seat in the gallery to stand at the courtroom's bar, facing the judge. Their lawyer speaks on their behalf, providing a status update to the judge, noting any progress or difficulties encountered since their previous appearance, and making a recommendation about their program participation to the judge. All of this would have been discussed in the pre-court meeting, but is now being presented in front of the participant and becomes part of the public record. The judge typically engages in a brief conversation with the participant before announcing their decision about the participant's next steps in the drug treatment court program.

Participants' compliance is typically managed through a system of sanctions and rewards, which are issued at the discretion of the judge. Sanctions could include writing a short essay or a short period of house arrest, and rewards range from verbal praise to gift cards worth 5 or 10 dollars (Henry J. Steadman et al. 2013, 3-4). Both sanctions and rewards are deliberately modest; research has demonstrated that smaller, consistent acknowledgements of changed behavior are more impactful in these types of situations than larger, less frequent ones (Henry J. Steadman et al. 2013, 3-4). This speaks to the importance of regular status updates and progress check-ins between participants, their treatment team and the court, so that corrections can be made and praise offered when both are maximally effective. Regular drug testing is also a critically important component of the program; participants are required to abstain from drug use but the court's harm-reduction philosophy recognizes that

some relapses are inevitable during recovery (Newfoundland Department of Justice and Public Safety 2017, 15).

For each participant, the ultimate goal is graduation from the program, which occurs when they have satisfied the court's criteria. This typically includes a prescribed period of abstinence from drugs, successful completion of their treatment program and demonstrated stability within the community, including reliable housing and employment (Canadian Centre on Substance Abuse 2007, 4). When participants make their final appearance in the drug treatment court, they are formally sentenced for the charges they pled guilty to at the beginning of the program. Because of the participant's successful participation in the program, crown prosecutors are typically lenient, seeking significantly lower sentences than under traditional circumstances, such as a period of community supervision, rather than jail time (Canadian Centre on Substance Abuse 2007, 4). A participant's graduation is marked by a ceremony, where the participant, their family and supporters, members of the court and other participants gather to celebrate.

Not all participants graduate from a drug treatment court program. For example, some are removed from the program for failing to comply with the court's requirements, for incurring new charges or for being dishonest with the court (Canadian Centre on Substance Abuse 2007, 4). Once terminated from the drug treatment court program, the individual returns to the traditional criminal justice system to be sentenced for the crimes they pled guilty to at the beginning of the program.

### **Case Study: The Drug Treatment Court in Kentville, Nova Scotia**

Currently, Canadian drug treatment court sessions are held in traditional provincial courthouses, and the therapeutic components are held in various places throughout the community; in spite of the partnership between legal proceedings and treatment, these functions are separated. This separation is not intentional but rather the result of circumstance as most drug treatment court programs are relatively new, and the resource-constrained legal and health care systems are required to work with existing resources. Therapeutic courts function in these environments but a case study of the drug treatment court program in Kentville, Nova Scotia, reveals ways that the traditional courthouse is ill-equipped to meet the program's objectives.

Participants begin each in-court session by entering the courthouse through the courthouse's main doors. Once inside, depending on proceedings in other courtrooms, there may be an active security checkpoint which they have to pass through. This heightened level of security, common in traditional criminal courthouses, is typically not required for drug treatment courts given their rigorous screening process and the non-violent nature of the participants' crimes. While the safety of everyone at the courthouse is paramount, the presence of security nonetheless sends a message about enforcement and surveillance that runs counter to a rehabilitative, non-punishment-oriented justice environment.

Participants gather in the narrow, dark lobby, which has limited seating; the only option is to sit in a long row, facing one another. The lobby is also the place where participants meet with their lawyers and social workers before court;

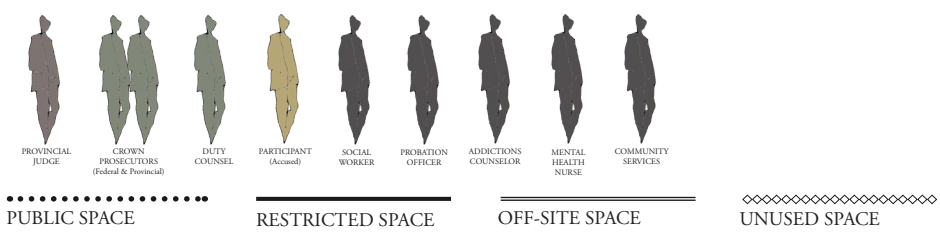
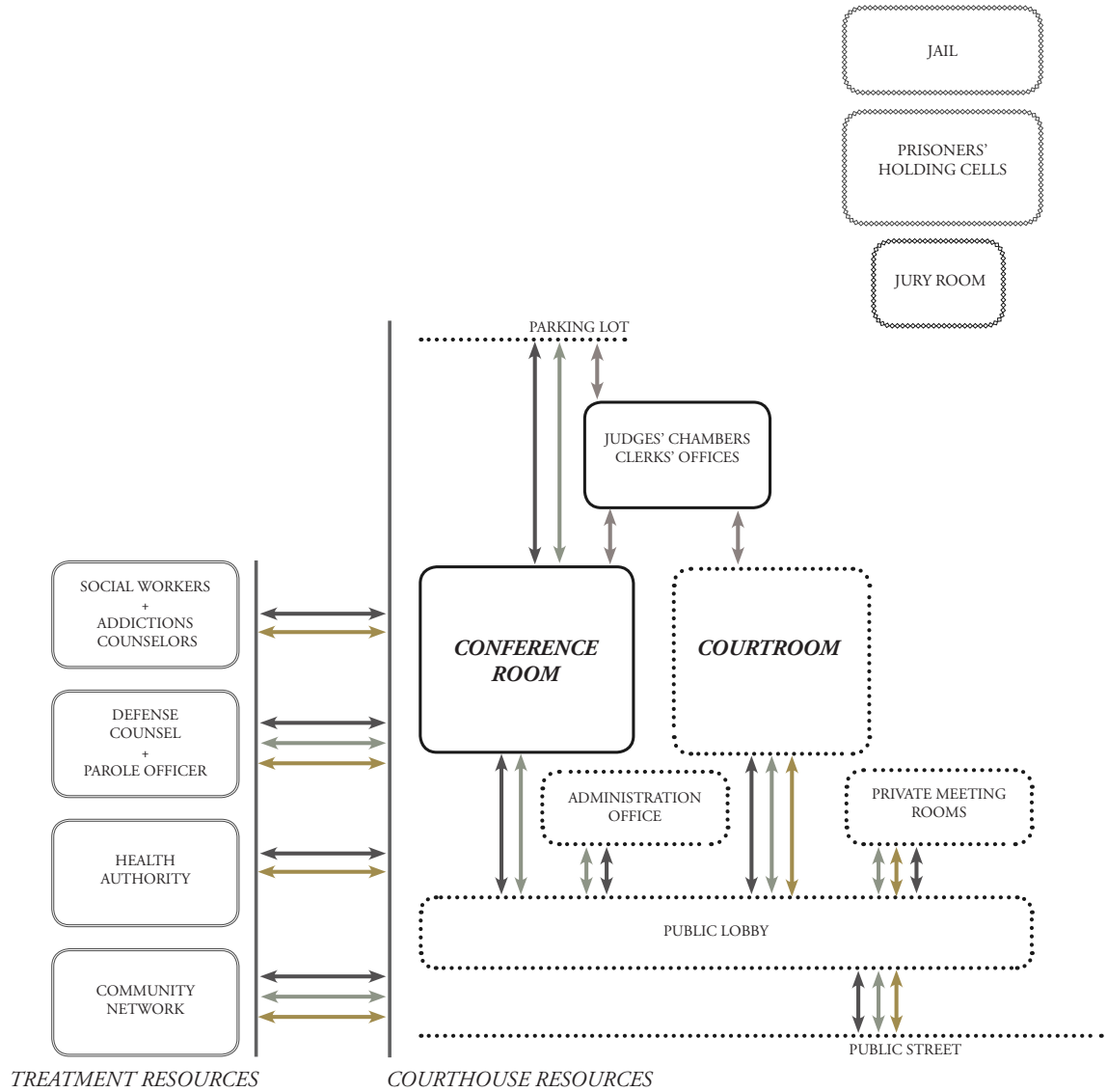
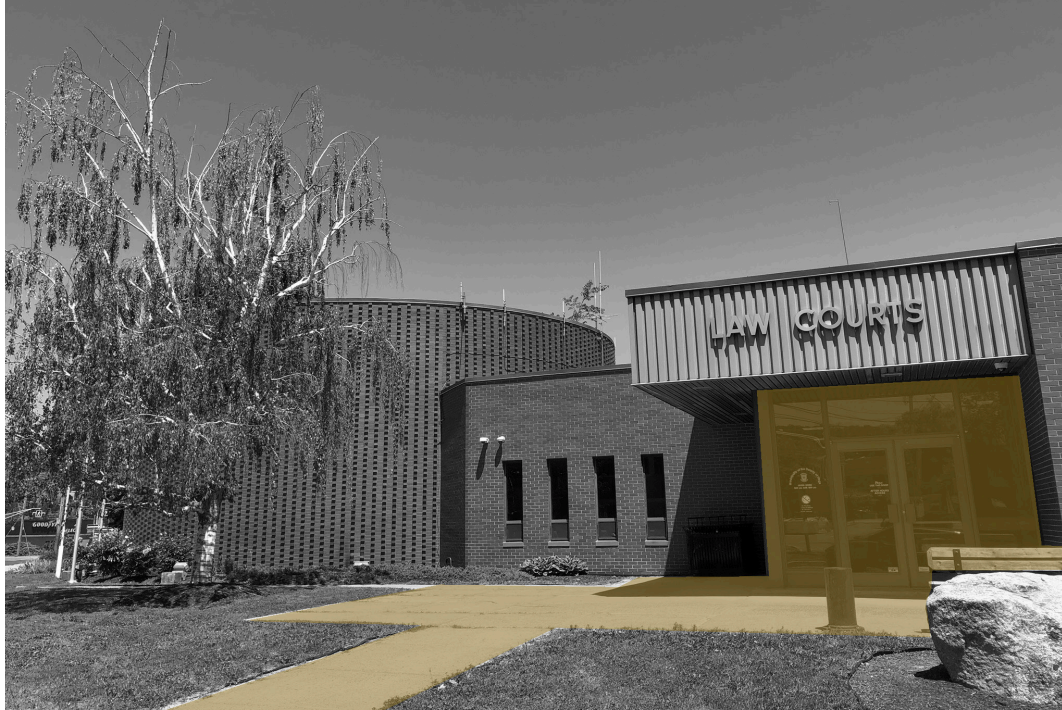


Diagram illustrating the movement of the drug treatment court's key figures through a typical courthouse. The importance of some spaces have shifted, some now go unused, and many are located off-site and often a considerable distance away.



Analytical photographs of Kentville's Provincial Courthouse. Top: the courthouse's main entrance is easily located but the exterior is minimally landscaped, with no places to sit. Bottom: the courtroom's hierarchical furniture divides the room (Base photo from Starratt 2018).

seating is limited and there is neither a place for private discussion nor for a moment of repose.

The courtroom, where the judge, lawyers, members of the treatment team and participants gather, is a traditional, unmodified courtroom. Participants tend to sit on one side of the gallery, treatment team members on the other, and the various lawyers sit at their respective tables on the far side of the bar. The room is appropriately sized for approximately 25 people that are typically involved in a program of Kentville's size. The courtroom has high ceilings and walls clad in diagonal wood paneling; it is well-lit but with no windows or skylights, it has no connection to the outdoors and is a very inwardly-focused space.

The judge enters the room from their designated entrance and sits at the bench. From this position, they are elevated above the room. In the traditional courtroom, this hierarchy is important; it helps reinforce their role as an arbiter and is a position of control for the person who oversees and controls the room. In the therapeutic court, however, the judge's role is no longer so straightforward; while they still have authority, they are positioned as a coach in a collaborative process (Newfoundland Department of Justice and Public Safety 2017, 3). Their elevated position and the room's furniture all add to the physical and symbolic distance placed between the participant and their coach. As the judge speaks to each participant, they are speaking across a significant distance and over a number of other people, and it seems to make the participant appear as a solitary and vulnerable figure in the room, rather than one with the support of a team. When the judge presents a reward, they descend from the bench and make their way to the centre of the room to stand in

front of the participant. Even though the bar still physically divides them, the close proximity offers a completely different, more personal dynamic that serves the participant-coach relationship better than the traditional courtroom's configuration.

The courtroom's configuration is also problematic for the defense lawyers. The courtroom configuration is oriented towards the judge because it is to the judge that all courtroom proceedings are directed. However, in drug treatment court, defense counsel addresses not only the judge but also regularly turns to speak to and gesture towards the participant and various team members. The dynamic is more inclusive; rather than talking about the participant, the individual is included in the conversation. The position of the lawyers' table relative to the judge's bench and gallery seems to work against the lawyers. They are constantly turning back and forth between the judge and gallery, always having their backs to one or the other. It seems that a better configuration could make this conversation more comfortable for all involved.

The pre-court meeting, a critical component of the drug treatment court program, meets in a board room in the courthouse's basement. It is private, which is important, but it is also windowless and uninspiring. It, like the adjacent common room where graduation celebrations are held, is placeless. They are rooms that could be anywhere; they have no meaningful connection to the court or the program.

In addition to highlighting ways that the traditional courthouse is ill-equipped to serve the drug treatment court's objectives, the case study at Kentville also revealed the extent to which the courthouse is no longer a truly public





Analytical photographs of Kentville's Provincial Courthouse. Top: several meeting rooms in the courthouse's basement are used by the drug treatment court for meetings and celebrations, such as graduations. Bottom: the courthouse is surrounded by parking, with no designated places to sit and with no formal connection to the existing recreational trails network.

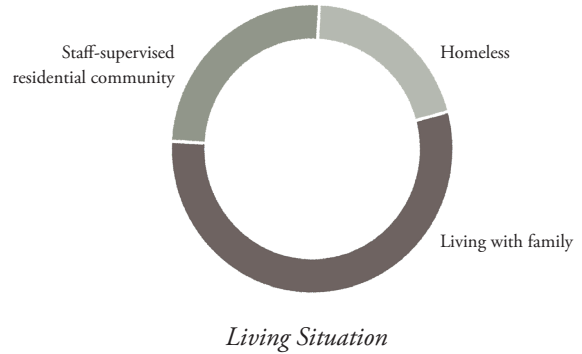
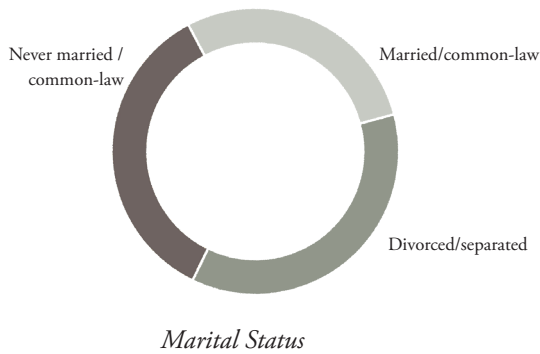
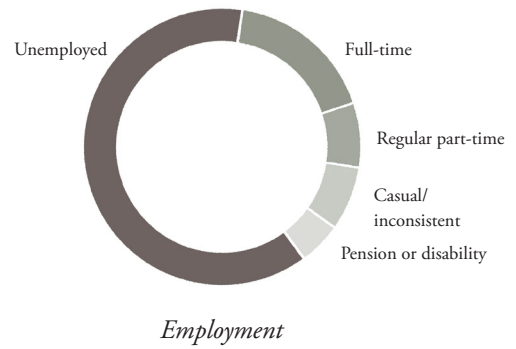
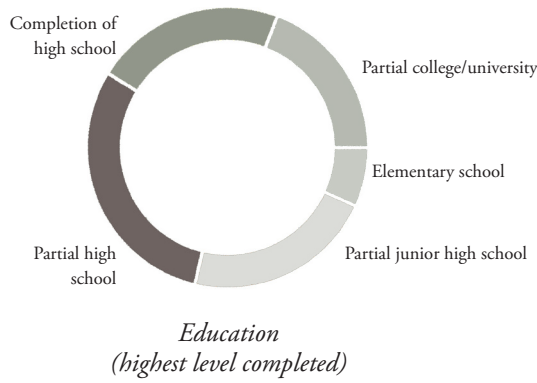
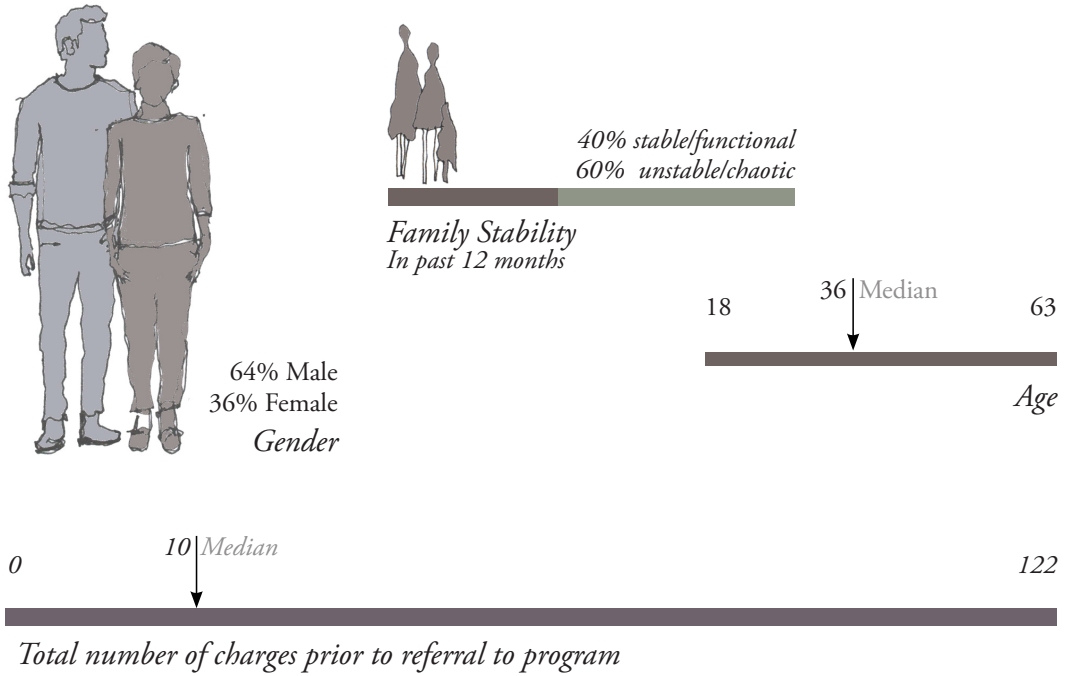
building. Courthouses may technically still be public places but they are not places members of the public necessarily feel comfortable. They are not places people would go without a reason. While judges and lawyers, familiar with the nuances of both the physical building and legal processes, may find it navigable, the courthouse is unwelcoming and unfamiliar to outsiders. This is not unique to Kentville but the courthouse there highlights this condition particularly well. There is no outdoor space for people to gather or regroup. The lobby's compact size makes wayfinding relatively easy but it is an uncomfortable and uninspiring place to wait. There is no privacy offered to people who are experiencing justifiable stress. There is no invitation or consequential opportunity for the public to engage with their justice system. Kentville courthouse demonstrates how the traditional courthouse seems ill-equipped to meet the objectives of the drug treatment court.

## CHAPTER 6: THE THERAPEUTIC PROCESS - A FRAMEWORK FOR HEALING

There are internationally recognized best practices informing the structure and practices for therapeutic courts, which Canadian programs follow. In Canada, the overall administration, selection criteria and in-court processes vary little from court to court but the treatment components vary depending on the region, treatment provider, available resources and on other local conditions. Court-monitored treatment programs are outpatient-based; should residential care be needed, referrals are typically made in the earliest phases. The following chapter describes a hypothetical treatment progression for a participant in a drug treatment court program, which is an amalgamation of details from specific programs, including the drug treatment courts in Toronto, Ontario, and Winnipeg, Manitoba, and the mental health court in Dartmouth, Nova Scotia.

### **Participant Profile**

Therapeutic court participants face significant challenges, which have contributed to their circumstances and which can undermine their success in a treatment program. For example, in Nova Scotia, the majority of participants have not completed a high school or junior high school education and as a result, unemployment rates at the time of admittance into a program are high (Campbell et al. 2015). Participants have been charged an average of 9 times, which compounds their difficulty in finding work. While many participants have had some contact with family in the year prior to starting the program, most of those familial relationships are considered unstable and chaotic (Campbell et al. 2015). This is particularly concerning as the majority of participants



Key characteristics of therapeutic court participants, at time of referral, in Nova Scotia, which helps demonstrate the profound challenges they face (Campbell et al. 2015).

are living with family and so escaping that chaos is all but impossible. Some are homeless and nearly 70 percent have insufficient financial resources to support basic living requirements (Campbell et al. 2015). It is important that any therapeutic court program helps participants meet and solve the complex personal challenges they face; without achieving stability, any measurable degree of success is surely impossible.

### **The Healing Process**

Most therapeutic court treatment programs are administered by a single treatment provider; in Nova Scotia, for example, these programs are under the auspices of the Nova Scotia Health Authority (Waters 2011, 28). Other treatment resources, such as community-based initiatives, are introduced as availability and demand allows. Best practices in drug treatment courts recommend that treatment follows the Risk-Need-Responsivity model, which has been used in Canada and around the world since 1990. This model has demonstrated success in rehabilitating criminals and those with serious addiction, and has three core principles (Newfoundland Department of Justice and Public Safety 2017, 23). First, treatment should match the level of services to the participant's risk of re-offending. Second, criminogenic needs should be assessed and targeted during treatment. Finally, every opportunity to maximize the participant's ability to learn from treatment should be pursued; this can be achieved through cognitive-behavioural treatment, and by tailoring their treatment interventions to the participant's learning style, motivation, abilities and strengths (Newfoundland Department of Justice and Public Safety 2017, 23).

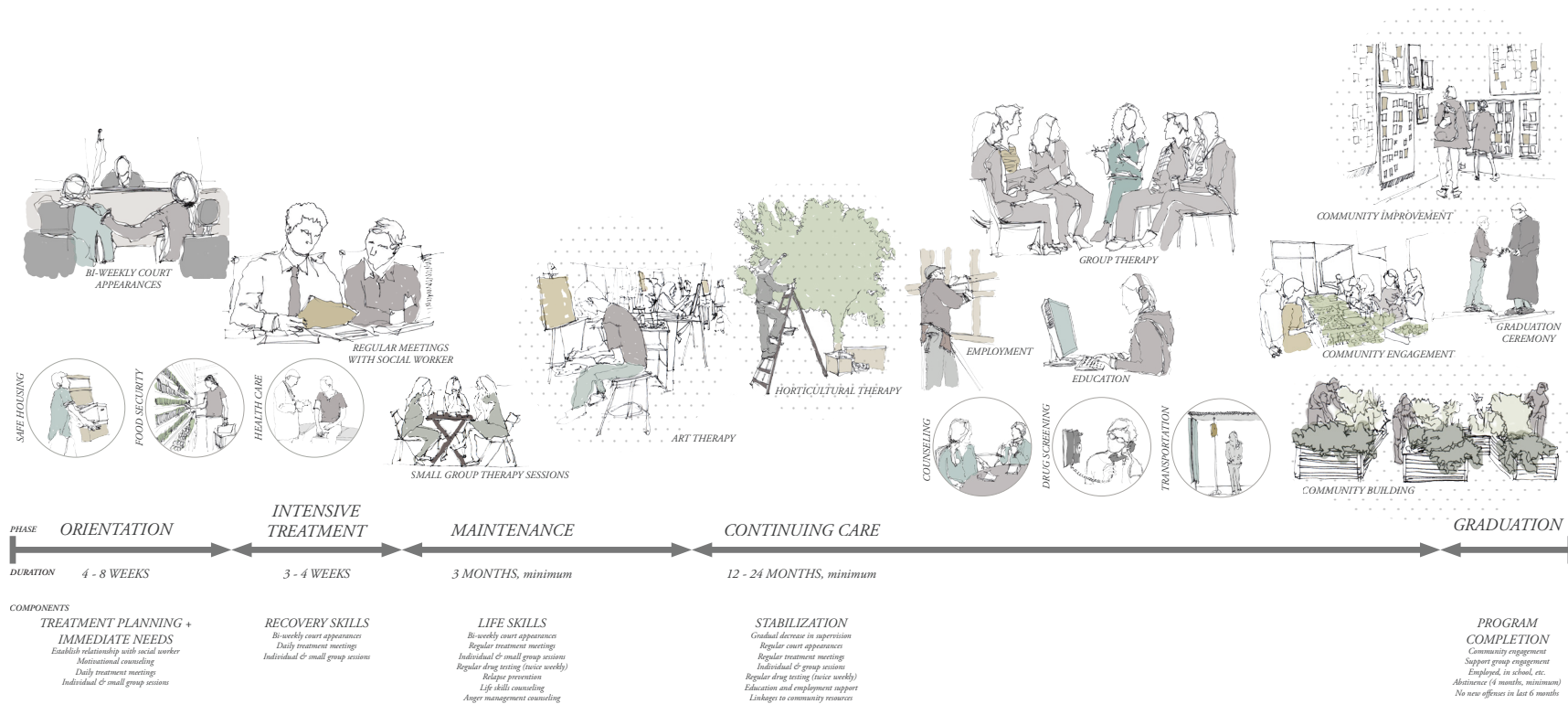


Diagram of the drug treatment court's therapeutic system - its major phases, durations and associated activities. Enlargements of key sections are included on the following pages.



BI-WEEKLY COURT APPEARANCES



REGULAR MEETINGS WITH SOCIAL WORKER



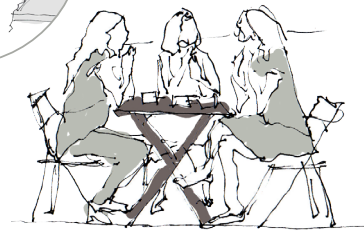
SAFE HOUSING



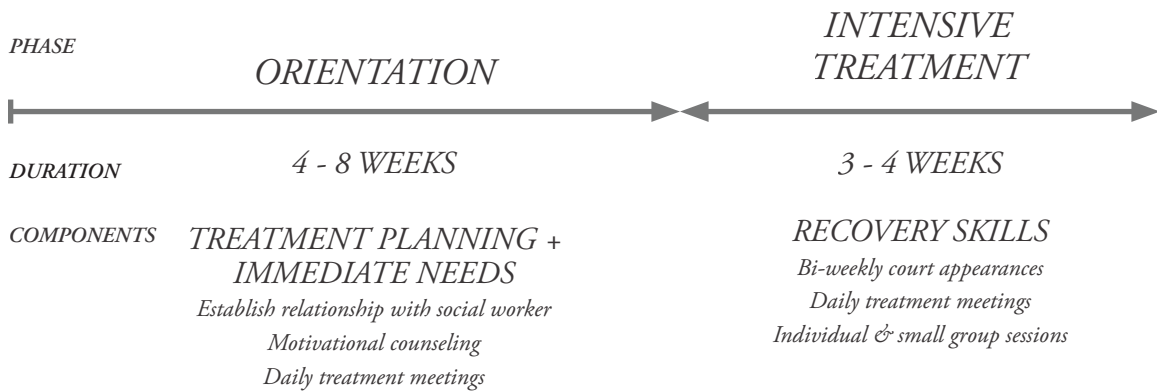
FOOD SECURITY



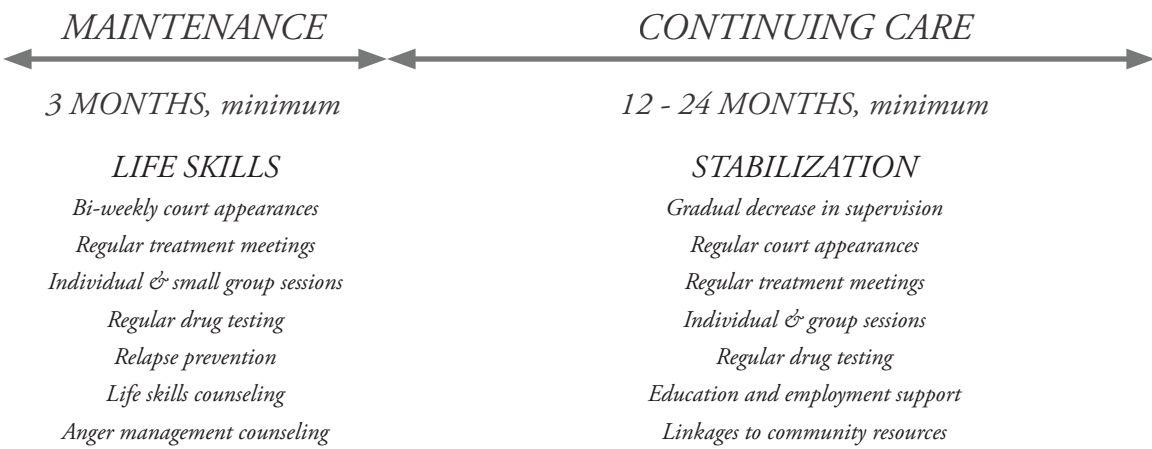
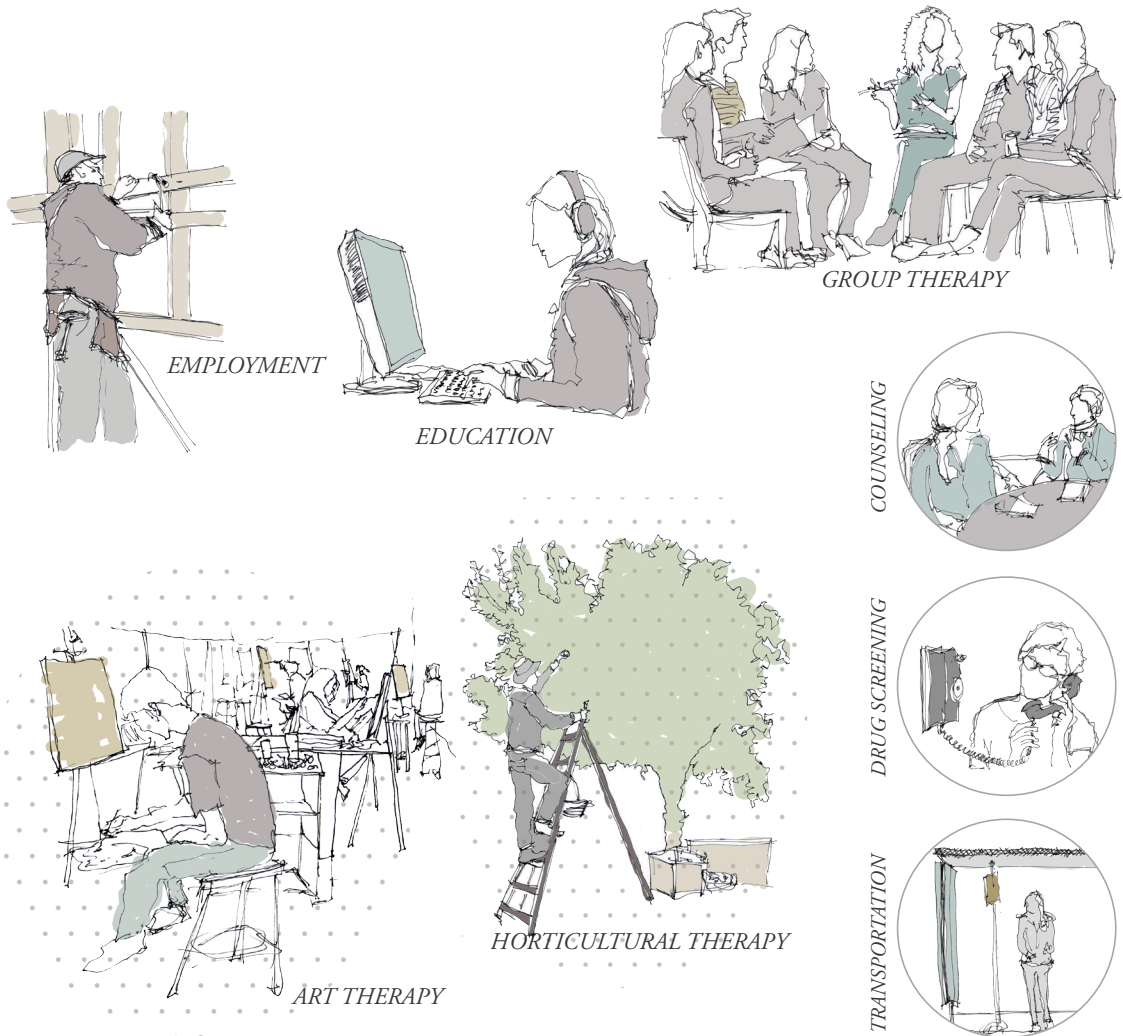
HEALTH CARE



SMALL GROUP THERAPY SESSIONS



Therapeutic system - enlargement. Phases, duration and components of a drug treatment court program, including associated activities.



Therapeutic system - enlargement. Phases, duration and components of a drug treatment court program, including associated activities.





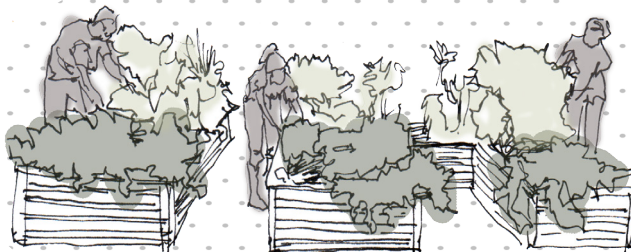
COMMUNITY ENGAGEMENT



COMMUNITY IMPROVEMENT



GRADUATION CEREMONY



COMMUNITY BUILDING

### GRADUATION



#### PROGRAM COMPLETION

*Community engagement*

*Support group engagement*

*Employed, in school, etc.*

*Abstinence (4 months, minimum)*

*No new offences in last 6 months*

Therapeutic system - enlargement. Phases, duration and components of a drug treatment court program, including associated activities.

Treatment programs consist of a series of phases, including orientation and assessment, intensive treatment, stabilization and, finally, graduation. Generally speaking, the process begins with the most private and inward-focused care, becoming progressively group-oriented and outwardly-focused. Once a participant has been accepted into a program, they meet with their designated care provider, usually a social worker or specialized addictions counselor, to determine the best course of treatment. As they embark on their individualized treatment plan, the court receives regular progress updates.

Each participant's journey through a therapeutic court's treatment program begins with the orientation or assessment phase, the goal of which is to identify and meet the participant's most immediate needs, plan the appropriate course of treatment, and establish the relationship between participant and social worker. During the orientation phase, which typically lasts four to eight weeks, participants attend daily one-on-one treatment meetings, receive motivational counseling and may participate in small group sessions (Waters 2011, 28). Participants begin the rhythm of attending drug treatment court, usually once per week at this stage, to have their progress monitored by the DTCT.

If the orientation phase is to help meet the participant's immediate needs, then it is important to understand those underlying causes and have available the appropriate resources. Housing and food security are two common immediate needs; treatment providers can help address them through housing and income assistance programs, and with community partners. Access to health care is also important, as many participants are suffering from a range of medical

issues at the beginning of their programs (Waters 2011, 31). An effective treatment program should have a mechanism for referring participants to a medical provider, especially considering that most participants do not have a family doctor (Waters 2011, 31). Health care should extend to include mental health because even if participants do not have a diagnosed mental illness, many have experienced profound trauma, and a comprehensive treatment plan must recognize and address this.

Routine drug screening is part of every treatment stage. Ongoing monitoring of participants' drug use is considered to be a major factor in the success of drug treatment court programs (Waters 2011, 31). Participants are accountable to the court, which may offer positive reinforcement for clean screens or honesty regarding drug use, as well as apply sanctions for failed tests or dishonesty. During the orientation phase, two screenings per week is not uncommon, and the frequency of mandatory testing decreases as participants progress through their programs and have demonstrated consistent improvement. All drug treatment programs must recognize that recovering from addiction is not a smooth process; relapsing should be expected and processes put in place to support participants in dealing with setbacks and sanctions (Waters 2011, 31). Complete abstinence from illicit drugs is the ultimate goal and a sustained period is a requirement for graduation.

The second phase of a therapeutic program focuses on intensive treatment. This phase, lasting approximately three weeks, emphasizes recovery skills. In addition to biweekly court appearances, participants attend individual and small group therapy sessions, which may be daily or several times

per week as necessary. Sessions use the cognitive-behavioural therapy approach, which is considered the most effective in dealing with addictions issues; that emphasis on “matching clients to services, having sufficient treatment duration... and providing a continuum of services...” is maintained throughout the program (Waters 2011, 30).

The third phase, the maintenance phase, lasts a minimum of three months, and focuses on life skills. During this time, participants’ treatment focuses on lifestyle changes and strategies for success, including relapse prevention, goal setting and other related forms of counseling (Waters 2011, 56). As is appropriate, participants may actively engage in volunteering, education or employment. Regular court appearances, as well as individual and group treatment sessions, are maintained during this time.

The fourth, and longest, phase is continuing care, which is a minimum of 12 to 24 months in duration. Continuing care focuses on stabilization, and is characterized by a gradual decrease in supervision. Regular court appearances, once biweekly or even weekly, may now be only monthly, and the frequency of both private treatment sessions and drug screening may similarly decrease. Group sessions become a forum for discussions about lifestyle and personal issues, and create an environment for participants to form peer networks and support each other (Waters 2011, 56). Participants receive continued educational and employment support, and connections to community resources are made. Some programs also offer gender-specific groups, which can be particularly helpful in connecting single mothers with stabilizing resources (Waters 2011, 57).

The final phase of a court-monitored drug treatment program is graduation. Program completion is the recognition that the participant has satisfied all of the court's requirements, including a sustained period of abstinence from all illicit substances, usually of several months (Waters 2011, 57). Further graduation criteria include being employed, in school or actively involved in volunteer work; no new criminal charges in the program's final months; maintaining stable housing; and being engaged with the appropriate support and community groups (Waters 2011, 29). A participant's graduation is often marked with a small celebration, with all members of the drug treatment court team, fellow participants and family or friends present. The graduating participant may be presented with a certificate of completion; given the low rates of secondary school completion, the graduation ceremony is an incredibly significant recognition of accomplishment. Graduating from a therapeutic court program also means that one's charges are either withdrawn or stayed, and while there may still be a period of community supervision, that particular case is considered resolved.

For most therapeutic court participants, their involvement with the treatment court ends at their graduation (Waters 2011, 29). This means that many aspects of their support network, as well as access to resources that aided in their success, also end. This speaks to the importance of peer and community support, and engagement, so that former participants can develop a network of program alumni and other allies to support them in their post-court continuing care.

## **Drug Treatment as a Network Response**

The importance of community in the success of a therapeutic court cannot be overstated. Most participants come from deeply fractured social groups and re-establishing – or building for the very first time – community bonds is an important part of their recovery. The process of community development starts in court, where participants in the same program attend regular court sessions at the same time. This allows participants to become familiar with one another and also to benefit from the feedback, rewards and sanctions that others receive. This ongoing contact between participants and their treatment providers extends to group treatment sessions and eventually alumni groups, and works to ensure that no participant falls between the cracks (Waters 2011, 29).

Community support is critical for the very existence of therapeutic court programs. These courts divert candidates away from the traditional punishment-oriented system and into programs that many would consider too alternative and insufficiently retributive for the crimes committed. For therapeutic courts to be successful, they require the support of an informed community who sees their benefit and is willing to endorse their continued existence (Newfoundland Department of Justice and Public Safety 2017, 25).

Ongoing community support is also important for the long-term health of a therapeutic court program. In the United States, many drug treatment courts started with strong support networks but over time, the participation of those supporting agencies began to decrease. Providing the opportunity for the courts to nurture those relationships is so important because, “in the long run, the best advocate for the drug court, apart from the participant, is the community that

the program serves” (Waters 2011, 32).

In the context of therapeutic court programs, community support can best be thought of as a network response. There are connections between the court and treatment that only involve participants and the treatment court team. There are, however, multiple opportunities to extend beyond the minimum or prescribed base of support. The court’s treatment programs can partner with existing support groups; for example, participants may be encouraged to branch out and join Narcotics Anonymous at an appropriate point. In turn, the local Narcotics Anonymous branch could help the court reach ideal candidates. Rather than being separate networks, they can work together to share resources as is appropriate. There are similar opportunities with more community-specific endeavours. Kentville, for example, is home to a campus of the Nova Scotia Community college, which trains people to enter vocations like carpentry, baking, automotive repair and landscaping. A community college like that could be an incredible partner for a treatment program, as it offers pathways to education, employment and, therefore, long-term stability. Identifying and involving a range of allies, both traditional and unorthodox, can strengthen a treatment program, increase its depth and capacity, broaden its range and bolster its support.

## CHAPTER 7: ARCHITECTURAL CASE STUDIES

The following is a series of case studies that have helped inform the architectural and programmatic components of the project. These case studies include: the *Fortress or Sanctuary* research report; the Collingwood Neighbourhood Justice Centre in Melbourne, Australia; the Law Courts in Vancouver, British Columbia; the Oral Criminal Court in Pátzcuaro, Mexico; Jardin Plume in Normandy, France; Integral House in Toronto, Ontario; and the Louisiana Museum of Modern Art in Copenhagen, Denmark.

### ***Fortress or Sanctuary* Research Report**

One of the foundational case studies for this project has been *Fortress or Sanctuary: Enhancing Court Safety by Managing People, Places and Processes*, the 2014 survey report led by David Tait for the Australian Research Council. The report provides an opportunity for Australia to reflect on the significant changes its justice system has experienced in recent decades. In the mid-1970s, the Australian court system began to shift towards increasingly using specialized, problem-solving tribunals in a broad range of situations. This contributed to the construction of many new court buildings across the country, beginning in the 1980s. Many of these new buildings implemented radical and progressive architectural strategies to communicate priorities of reconciliation and transparency, such as letting natural light into the courtroom and creating stronger visual links to parks and nature (Tait 2014, 25).

The report's central concerns were to investigate how the issues of security and safety are manifested in the architecture



and processes of Australian courthouses. The report defines these terms broadly and includes not only necessary protection from physical harm but also issues of psychological and cultural safety (Tait 2014, 8). Many courthouses are, as a measure of practicality, built to facilitate high-security proceedings – the fortress end of the spectrum – but they often fail to acknowledge their role as a sanctuary (Tait 2014, 10). In particular, the report focuses on the experiences of children, victims and at-risk individuals as they navigate the justice system and the courthouse. Specific emphasis is placed on how court users and staff experience various types of stress, anxiety, fear and frustration as a direct result of their interactions with court processes, and how the traditional courthouse environment can exacerbate and embed those experiences. The report provides a thorough analysis of courthouse spaces, drawing from a range of Australian and international examples, and makes recommendations about how those spaces could be better used and designed.



Port Augusta Court Complex  
Port Augusta, Australia

- Building exterior has symbolic function, conveying access and public confidence
- Incorporate gardens and/or views to nature where possible to help reduce stress and anxiety
- Outdoor spaces should be clean and well-maintained to communicate safety and civic pride



Manukau District Court,  
South Auckland, New Zealand

- A variety of waiting options, including places to wait alone, can minimize anxieties
- Maintain sight lines for security purposes
- Design waiting areas with natural light and views to nature, places to smoke and places for children to play

Two key areas of the typical courthouse, with analytical notes: the approach to the building and the waiting areas (Tait 2014).



Amtsgericht Tempelhof-Kreuzberg  
Family Court  
Berlin, Germany

- Significant space: place where the public gets a window into the justice system
- Courtroom should be welcoming and generously sized to decrease tension and increase space between parties
- Introducing natural light and plant material can help diffuse stress



Commonwealth Law Courts  
Melbourne, Australia

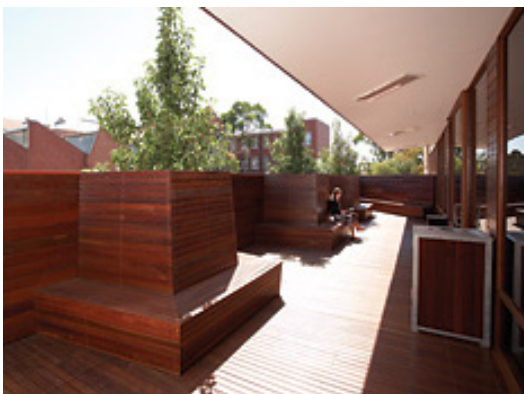
- Meeting rooms should be private enough to respect the nature of the discussions
- Meeting rooms can be the centrepiece of a court building, and can symbolize different parties coming together to find a resolution
- Visible meeting spaces can suggest public concern for private disputes

Two key areas of the typical courthouse, with analytical notes: the courtroom and the semi-private meeting areas (Tait 2014).

## **Collingwood Neighbourhood Justice Centre**

The Collingwood Neighbourhood Justice Centre in Melbourne, Australia, is a community-oriented facility that seeks to transform justice delivery and foster strong community through its program and its architecture. Serving a socioeconomically diverse district, the Neighbourhood Justice Centre, also known as the NJC, is housed in an unobtrusive former factory whose adaptive reuse was overseen by Lyons, a Melbourne-based architecture firm, in 2007. The NJC functions as a courthouse, treatment centre and village square, combining a single courtroom with meeting areas and offices for legal representatives, therapeutic support workers, drug and alcohol treatment, a mental health clinic, financial and housing assistance, and education and training support teams. The building also includes public spaces like an open foyer, outdoor garden, small cafe and children's play area.

The design and function of the Neighbourhood Justice Centre are permeated with the influences of therapeutic jurisprudence, in a particular application known as community justice. The community justice model "broadly refers to all variants of crime prevention and justice activities that explicitly include the community in their processes and set the enhancement of community quality of life as a goal" (Karp and Clear 2000, 323). By making community-level outcomes the central focus, emphasis is placed on systemic patterns and social conditions, rather than on individual incidents (Karp and Clear 2000, 234). Community justice operates at the neighbourhood level, views crime as a series of solvable problems, decentralizes authority and gives priority to improving a community's quality of life (Karp and Clear 2000, 327-329).



Key areas of the Collingwood Neighbourhood Justice Centre: the back elevation with integrated stair and garden addition (Lyons Architecture 2019); the courtroom (Neighbourhood Justice Centre 2019); the outdoor garden (Johns 2009); and public lobby (Johns 2009).

There are many examples within the NJC of these practices put into action, perhaps none more so than the courtroom. To best serve the community and the community justice model, the centre had to be a recognizably welcoming, safe and non-confrontational place. Placing the courtroom front and centre risked identifying the building as a stereotypical courthouse, so it was instead located on the middle floor and out of sight; only those who need the courtroom even know it is there (NJC Neighbourhood Justice Centre 2019). Floor-to-ceiling glass doors provide a direct view into the courtroom and provide an unusual degree of transparency. This allows people to familiarize themselves with the room and its occupants before entering, and offers a view into an “environment that is otherwise hermetically sealed and often wholly foreign” (NJC Neighbourhood Justice Centre 2019).

The courtroom’s interior is similarly open. Large windows let in natural light and provide views to the neighbouring buildings; when the windows are open, ambient noise from the busy street below can even filter in. This connection to the community was deliberate. First, it introduces an element of the ordinary into the courtroom, which can make it more familiar and therefore less stressful. Second, it establishes a connection between the decisions made in that room and the community, reminding everyone that “decisions made in the room affect many people, and hint at what can be lost and what can be gained” (NJC Neighbourhood Justice Centre 2019).

Traditional courtroom hierarchy is minimized in the NJC’s courtroom. The judge’s bench is considerably lower than in a traditional court, although a physical barrier is maintained between the judge and others in the room. Defendants,

offenders and their legal representatives sit together at a table in front of the judge's bench. According to the NJC, the court encourages participation during hearings, and this configuration facilitates that dialogue (NJC Neighbourhood Justice Centre 2019).

Beyond the courtroom, other strategies have helped make the building more accessible to the community. All staff offices are visible to the public, a reference to the principles of “transparency in justice and community ownership” of the NJC (NJC Neighbourhood Justice Centre 2019). Circulation paths have been streamlined as much as possible, so that staff and citizens share pathways. The public are also free to explore the building and, with exception of private offices and quiet rooms, can use rooms in the NJC without explicit permission. The restricted quiet rooms are special spaces reserved for women attending court for family violence matters. In these spaces, they are offered privacy to meet with lawyers and wait for court; their children can play in sound-proof play areas where they are within their mothers' sight but protected from sensitive conversations (NJC Neighbourhood Justice Centre 2019). A larger, more public children's playroom, located on the ground floor next to security, is a place to meet with clients who have children and host supervised parental visits.

The Collingwood Neighbourhood Justice Centre demonstrates that the justice process, both administratively and architecturally, can be different. To improve community life, solutions must be integral components of the neighbourhoods they serve. Place matters, and there are many examples within the NJC of justice protocol bending to acknowledge and create space for the needs of its citizens.

## **Vancouver Law Courts**

While modern law courts are typically in located city centres, few can be as central and as public as the Vancouver Law Courts, a landmark of the downtown core. Designed by Arthur Erickson and completed in 1980, the Law Courts are at once a 35-courtroom legal complex, major civic centre, public square, pedestrian mall and sprawling public garden (Inglauer 1981, 106). One of the concrete building's defining features is its seven-storeys tall space-frame structure, clad in green-tinted glass, that creates a 50,000 square foot indoor public atrium. The courthouse's main entrance leads from the street up into the atrium, which is above street level and serves as the courthouse's lobby, and it is from there that visitors can access courtrooms above or outdoor gardens beyond.

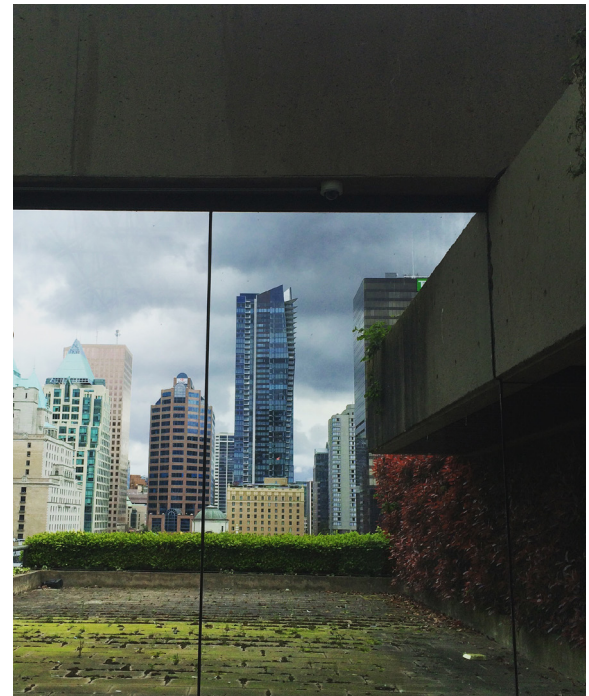
The central vertical circulation is highly visible and is accessed directly from the atrium; it connects to a series of tiered floors, each with greenery-filled waiting areas in front of their courtrooms. Erickson felt that the way the accused were treated in traditional courts – held in basement cells and without access to natural daylight, for example - was too archaic and conditioned them to feel guilty by the time they actually arrived in court (Inglauer 1981, 106). In response, corridors in the Law Courts are as open as possible so that everyone can see where they are going. That transparency to the street means that "...justice will be part of the education of our citizens" (Inglauer 1981, 106).

Gardens are an integral component of the Law Courts, and their landscape design was led by Cornelia Oberlander of Erickson's office. The atrium is filled with potted trees and plantings help create a privacy screen to the courtrooms. Outside, elevated above the street, elaborate rooftop gardens



with mature trees and plantings, and long reflecting pools create an environment that is a respite from both the city and the courts. Simultaneously, it gives the transparent courthouse building a feeling of extending far beyond its walls, such that you “feel there is no barrier” (Inglauer 1981, 112). The gardens are, as well, truly accessible by way of Erickson’s signature ‘stramps’ - ramps woven through wide stairs.

The Vancouver Law Courts is a significant precedent because it is such a successful example of public life and the administration of the law co-existing. Sensitive matters of high security and privacy can occur inside the courthouse without infringing on people’s abilities to occupy the garden. In turn, the garden creates a gentle, calming retreat and introduces a year-round palette of natural materials into the courthouse.



Key areas of the Vancouver Law Courts: the rooftop gardens integrate mature trees with places to sit; plantings provide a buffer between the public path and office spaces; the atrium, elevated above the street and main entrance, allows access to the courtrooms beyond; and views to the gardens beyond create quiet places for waiting and meeting.

## **Oral Criminal Court**

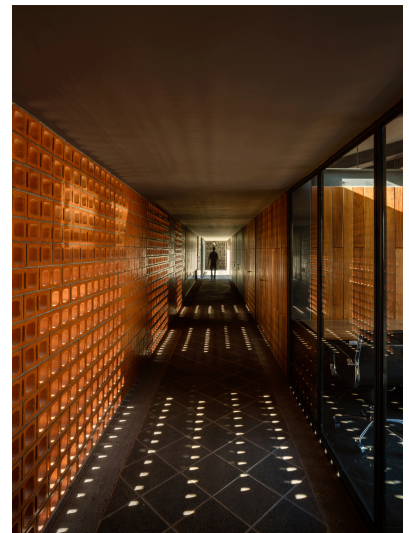
In 2008, constitutional reform dramatically changed Mexico's criminal courts from a closed-door, written tradition to a system of public, oral arguments, similar to Canada. This change, required to be in effect by 2017, is intended to make the justice process faster, more efficient and, most of all, more transparent. This dramatic change ushered in a new era for Mexican courthouses, and created opportunities to help people understand and navigate their transformed justice system. In 2012, Taller de Arquitectura Mauricio Rocha + Gabriela Carrillo completed the Oral Criminal Court in Pátzcuaro, Mexico, giving the region a new courthouse designed to manage this transition. The Oral Court had to house some traditional activities during the system's transition and then become the home for all new legal proceedings.

The single-storey courthouse is a series of five pavilions, each with different functions, that are terraced to follow the gentle slope of the site. The building is protected within a solid stone wall; the concept was a secure walled city and an open town within (Troy-Henderson 2017). The solid perimeter contains common circulation and security checkpoints designed to have no sense of barrier. Inside, the pavilions are arranged in a series of horizontal bands, alternating with garden spaces in a repeating rhythm of solid and void (Troy-Henderson, 2017). The pavilions contain two trial courts, as well as waiting areas, holding cells, various meeting spaces and judicial offices, and the gardens create breathing space between them while introducing natural light and exterior views into each interior space.

The Oral Criminal Court had to communicate transparency, equality, democracy, justice and dignity, while creating a

sense of belonging; the courthouse had to create a new formal language (Godin 2017). Natural and local materials were used at every opportunity. The volcanic stone wall and terracotta roof tiles speak to local building tradition. Large expanses of glazing let in light and maintain views to the adjacent gardens. Perforated brick along circulation routes achieves a balance between transparency and privacy. Inside the courtrooms, high ceilings communicate a sense of formality, which is tempered by the introduction of light and wood cladding.

The Oral Criminal Court acknowledges the dual role buildings can have in ushering in significant change and creating an atmosphere of reassurance and belonging. The building is the result of extensive research and consultation on the part of the architects. Gabriela Carrillo acknowledges that the project would not have been possible without the support of a local judge, who accepted their “proposals to change the values embedded in courthouse architecture” (Godin 2017).



Key areas of the Oral Criminal Court: a band of open garden acts as a buffer between pavilions containing meeting rooms and offices; low windows let light into the wood-wrapped trial courtroom; and a combination of perforated brick and glazing balances privacy and transparency along circulation routes (Godin 2017).

## **The Jardin Plume**

The Jardin Plume is a contemporary garden landscape in Auzouville-sur-Ry, in France's Normandy region. Sylvie and Patrick Quibel purchased the seven acre property in 1996 when it contained only an old orchard and pasture, and used those existing elements as the basis for their garden's design (Jardin Plume 2019). The Jardin Plume is a series of gardens, each with a distinct identity, but the largest and most central is the orchard garden.

To create this garden, the healthy parts of the orchard remained and some new trees were planted as necessary, and wide, orthogonal paths were mowed to create places for walking, working and sitting. What remains of the pasture are large, square garden beds, corresponding to the rhythm of the orchard. The Quibels nurtured the indigenous plants found in the pasture and neighbouring roadways, such as buttercups, clovers, meadow geranium and rampion bellflowers, and worked to incorporate various ornamental grasses (Jardin Plume 2019). They also planted bulbs, like allium, wild hyacinth and daffodils. The result is a complex mix of colour and texture that has interest in all but the depths of winter, and that has subtle variation from square to square. Even in winter, when flowering plants have died back, bare trees, perennial grasses and evergreens provide sculptural interest.

The Jardin Plume is evidence that indigenous plants, when thoughtfully cultivated and arranged, can create intricate and dynamic landscapes, and that the rhythm of a working orchard can form the structure for a beautiful, complex and yet comprehensible garden.



Key aspects of the Jardin Plume: orchard and pasture are the garden's major elements, and beds of grasses and seasonal flowers are fit into the structure that the orchard provides; wide mowed paths define edges and provide places to walk and sit (Jardin Plume 2019).



Key aspects of the Jardin Plume: year-round appeal and a variety of textures. A truly successful garden must have interest in every season, and sculptural trees and perennial grasses help accomplish this; soft plant material adds colour, variety, texture and movement to contrast against trees, hedges and other hard, fixed elements (Jardin Plume 2019).



## **Integral House**

Integral House is a private residence located in the Rosedale neighbourhood of Toronto, Ontario. Designed by Brigitte Shim and Howard Sutcliffe, and completed in 2009, Integral House is widely considered to be one of the most architecturally significant residences in Canada. Low profile and opaque from the street, the house opens up to the ravine and woodlands beyond with incredible transparency. While it has many unique features, it is the central space that serves as an inspiring precedent for a public building.

One of the client's requirements was for a public performance area; the home's central space can accommodate 150 people, with more on the overlooking mezzanine balconies (Maude 2016). The central space has a strong connection to the surrounding landscape, with delicate glazed curtain walls curving through the site. Vertical oak fins control the amount and intensity both of the natural light coming into the room and of the outward views.

The use of oak introduces warmth to an otherwise very restrained material palette of concrete, glass, stone and brass. The curved curtain wall brings indoors and outdoors together in an expansive and gentle way, allowing both natural light and the woodlands to become materials within the building.



Key aspects of Integral House: a double-height public performance space; overlooking mezzanines create enclosed spaces below; restrained material palette; natural light infiltrates in a variety of ways and intensities; oak fins control views to the surrounding ravine and woodlands (Maude 2016).

## **The Louisiana Museum of Modern Art**

The Louisiana Museum of Modern Art, located outside Copenhagen, Denmark, is as significant because of its architecture and landscape design as it is for the modern and contemporary art collections it displays. The sprawling museum, a complement to the well-established property's existing villa, was designed and built in stages by Jørgen Bo and Wilhlem Wohlert. It is an example of 1950s modernism - a low, horizontal and minimal series of buildings, connected by glass corridors, that achieves a balance between art, architecture and landscape (Hughes 2014).

The Louisiana Museum provides visitors with a range of experiences and places to discover. Some galleries have soaring ceilings and floor-to-ceiling glazing looking to the gardens or ocean beyond. Others have windows tucked into small niches, whose lower ceilings offer a sense of escape.

The building's material palette of exposed timber, brick, stone and other wood accents allows both the displayed artwork and surrounding landscape to share centre stage.



Key aspects of the Louisiana Museum: floor-to-ceiling glazing connects galleries to the surrounding landscape; timber structure; natural light from above through clerestory windows; and consistent views to the outdoors as a wayfinding device (Hughes 2014).

## CHAPTER 8: FORMULATING THE RESPONSE

### **A New Courthouse Typology**

As a result of investigation into the intersection between therapeutic forms of justice administration and courthouse architecture, this thesis asks how the architecture of the courthouse can better support therapeutic forms of justice administration. The response is to create a new type of courthouse – one specifically designed for the individuals and the activities that comprise therapeutic court programs, and one designed to support the individual within the institution. The drug treatment court, which is a model that combines justice, health and social services into a hybrid system, is being used to test this idea.

This new courthouse typology is achieved through a combination of three key strategies. First, a purpose-designed courthouse is to be integrated with a specialized out-patient treatment centre. Locating these elements together will lead to a more streamlined and resource-efficient system, and will ideally allow the justice and treatment aspects to form an even stronger partnership. Second, a number of architectural strategies are to be implemented across the project to create an environment that promotes physical and psychological health. These strategies inform the spatial and material composition of the building to create safe, healthy, productive spaces for all of its occupants. Finally, community is invited into the building, and the courthouse becomes a fully public place. A hallmark of the new courthouse typology is its unprecedented degree of transparency, all for the mutual benefit of the treatment court and the community.

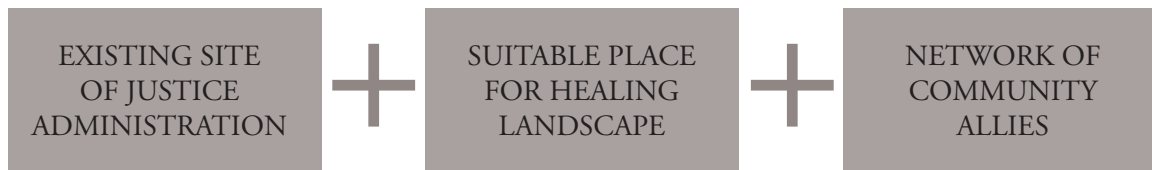
A therapeutic courthouse like the one this thesis proposes is not a site or community-specific proposition. Rather, it is one that could exist anywhere that the following three conditions are met. There must be an existing courthouse or place of justice administration, there must be a suitable place to create or nurture a healing landscape and, finally, there must be community allies with which to partner. When these three conditions are satisfied, a community is ideally situated to host a therapeutic courthouse.



*THE DRUG TREATMENT COURT: A HYBRID SYSTEM*



*THERAPEUTIC COURTHOUSE TYPOLOGY: STRATEGIES*



*THERAPEUTIC COURT: LOCATION SELECTION CRITERIA*

Diagrams demonstrating 1. The drug treatment court is a hybrid system of three institutions; 2. The therapeutic courthouse typology is achieved by combining three strategies; and 3. A therapeutic courthouse can be located wherever three conditions are met.

## CHAPTER 9: HEALING THROUGH ARCHITECTURAL STRATEGY

### **Healing Environments – Architecture’s Role**

The environments in which we live have profound impacts on us. They can help us achieve physical and psychological health, and encourage us to form connections to places and to other people. The inverse is also true; poorly designed environments can increase stress and anxiety, contribute to poor health, divide communities and further entrench stigmatized social groups. A version of this contrast can be found in the study of healthcare facilities. Hospitals used to be designed for the benefit of its doctors and nurses but negative reactions to those institutional environments led to change; current best practices have shifted both the administration and design of hospitals towards patient-centred care strategies (McCullough 2010, 45). Placing patients and their families at the centre of facility design has resulted in positive effects on the healing process and has also contributed to improved working conditions for many staff (McCullough 2010, 45).

Patient-centred design aims to create healing spaces by using objectives that can be applied to a facility of any scale, from an urban teaching hospital to a ten-bed rural hospice. Healing environments are defined as places “to heal the mind, body and soul,” “where respect and dignity are woven into everything,” and where “...illness and healing define the moment and the building supports those events...” (McCullough 2010, 45). There is no precise list of criteria defining a healing environment, but they are generally considered to include things like natural light, privacy, views of nature, positive diversion, access to social support, options

and choice, and the elimination of such environmental stressors as glare and noise (McCulloch 2010, 47).

Architecture has a significant role to play in the therapeutic court environment, and can take cues directly from patient-centred healing environments. Currently, therapeutic courts perform their functions in traditional courthouses. They are designed for the administration of traditional forms of justice, and are ill-equipped to meet therapeutic objectives. Many courthouses are not, for example, typically designed to help visitors feel safe and secure, or to help them manage their stress and anxiety. Further, they are separated from most of their associated therapeutic components. There is potential to fundamentally reorient the courthouse, to integrate therapeutic program and to encourage public participation, all so these courts can better achieve their objectives and so they might foster a healthier environment for all involved.

This chapter presents a series of concepts that give structure and substance to a therapeutic courthouse. Design tools are a series of architectural elements that should be considered and applied at every appropriate opportunity. Program - the types and uses of spaces, and their relationships to each other - is partially fixed and partially flexible, depending on local conditions. Fixed aspects include a courtroom, private treatment spaces and ancillary spaces, whereas flexible aspects could, for example, incorporate existing recreational activities. A therapeutic courthouse should accommodate the different capacities in which people will occupy it. These capacities can be understood as scales of occupation; the courthouse's design should include places for individuals, groups and the general public. Finally, a therapeutic courthouse should have an anchoring device, which is something that connects interior



and exterior spaces together, defining and grounding a space and its activities. This project proposes the use of tables as anchors. These concepts can be implemented in many situations; they can direct the design of a new courthouse or, as conditions allow, be incorporated into the renovation or relocation of an existing facility.

### **Design Tools**

Similar to patient-centred care strategies implemented in health care, a number of design tools can be employed with the therapeutic court participant in mind to design spaces that nurture healing and diffuse stress. These design tools, informed by research about healing environments, environmental stressors and psychological health, are: access to nature, views to the outdoors, natural light, natural materials, legibility, transparency, privacy, variation and a non-hierarchy.

One of the first steps to creating a healing environment is to provide some type of direct access to nature. The healing effects associated with directly experiencing natural environments is often overlooked, and yet can have profoundly positive impacts on psychological health. Research indicates that experiencing nature consistently results in positive change, including reduced stress, lowered pain levels, faster recoveries and improved emotional well-being (McCullough 2010, 63-64). Outdoor areas provide opportunity to reflect, retreat, socialize and, in some settings, even engage in gardening or other recreational activities. Well-maintained natural areas can reduce crime, aggression and violence, as well as strengthen community bonds and bolster pride of place (Kaplan and Kaplan 2003, 1487). As a site's conditions allow, access to nature could be as simple as a



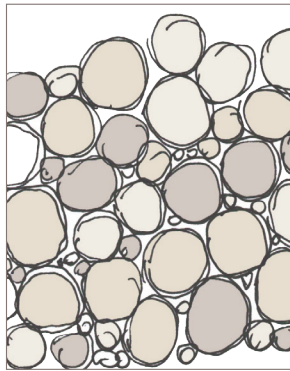
*ACCESS TO NATURE*



*VIEWS TO OUTDOORS*



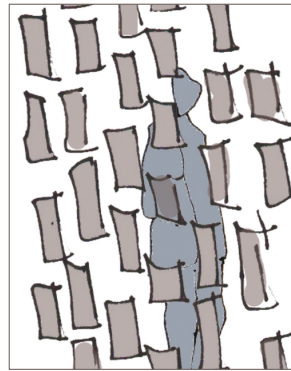
*NATURAL LIGHT*



*NATURAL MATERIALS*



*LEGIBILITY*



*TRANSPARENCY*



*PRIVACY*



*VARIATION*



*NON-HIERARCHY*

Diagram of the therapeutic courthouse's design tools: access to nature, views to the outdoors, natural light, natural materials, legibility, transparency, privacy, variation and non-hierarchy.

well-landscaped front entrance or balcony, or as substantial as a garden with meandering paths and places to sit.

Views to the outdoors are an important component of healing environments, regardless of whether or not a physical outdoor space is part of the site. When people cannot see to the outdoors, for example while in a windowless waiting room or office, they experience high rates of anxiety, depression and delirium (Schweitzer, Gilpin and Frampton 2004, s-76). Humans are predisposed to find scenes of nature restorative, and it has been proven that “environments with views to nature and plants reduce anxiety and stress that lead to fear, anger and violence” (VanBuren, Berger and Fausss 2019). Views to the outdoors can be a positive distraction, especially during particularly tense activities like waiting for court or during a difficult counselling session (McCullough 2010, 60). Providing views out can also aid in wayfinding, as they help people orient themselves.

Providing views to the outdoors has an added benefit, in that it allows for the introduction of natural light. The amount and quality of light in a healing environment has many benefits, including reducing spatial disorientation, and combating depression, irritability and fatigue (McCullough 2010, 54). Additionally, relying on natural light can reduce many of the design and maintenance issues associated with artificial light, including glare and flicker (Schweitzer, Gilpin and Frampton 2004, s-75). At every opportunity, interior spaces should have some access to natural light through either windows or skylights and, depending on the exposure, allow occupants to control the intensity of light entering the space.

The construction and finishing materials used in buildings

like hospitals and courthouses are opportunities to invite nature inside, and to give due consideration to tactility and acoustic properties. An interior wall could be clad in gypsum wallboard, which is neutral and standard, but it could similarly be covered in local wood strapping; the latter absorbs more sound, has a reduced environmental impact and is, arguably, more interesting to look at and even touch. The same considerations should be applied to other surfaces like furniture, door handles and flooring – any surfaces that people might touch or stand on. The definition of natural materials can be expanded beyond finishes and furniture to include living indoor plants and trees. Bringing aspects of the garden indoors, sustained by natural light and fresh air, themselves considered natural materials, provides year-round access to elements that decrease stress, add sensory interest and significant variety.

A building that is disorienting or easy to become lost in will not be comforting or conducive to lower stress. In fact, healthcare research has demonstrated that a fear of getting lost is the single greatest source of stress for patients and visitors (Kaplan and Kaplan 2003, 1486). When environments are easy to navigate, people will be eager to explore and wander, which leads to discovery and learning (Kaplan and Kaplan 2003, 1485). A therapeutic courthouse must, therefore, be legible and have clear wayfinding; its occupants must be able to find their way around comfortably and easily. Occupants should feel welcomed and invited to wander, explore and occupy public spaces, and there should be no ambiguity about spaces that are private or restricted. This means using orienting devices like landmarks, clear sightlines and views to outdoors, as well as clear and direct signage, to help people find their way in as straight-forward a manner as possible.

Transparency and legibility go hand-in-hand. A building that is transparent from the street gives visitors a sense of what lays beyond the front door, of where they might need to go once inside, of the number of people already gathered in a room, and perhaps even what might be found on the far side of the building. Historically, courthouses have been weighty stone buildings, using a solid and imposing architectural language to convey the permanence and strength of the institution. The inverse can, however, be just as powerful. Transparency implies openness and can represent the fairness, honesty and integrity all citizens expect from their justice system. It can also make spaces safer by improving sightlines. Transparency can be incorporated to a building's façade and to its interior spaces, can offer varying degrees of opacity, and can even be something building occupants control.

Privacy is as important as transparency, particularly for those occupying a public building. Therapeutic court programs are intensive and demanding, and it should be expected that participants would need the occasional respite. There is very little room for the privacy of a participant's personal information; everyone on the drug treatment court team knows of their challenges and setbacks, and many of these issues even become part of the public record. When a participant engages in a treatment session or meeting, their dignity must be respected, and so private spaces should be incorporated as necessary. This attitude of privacy and respect should be extended to include public places such as waiting areas and outdoor rooms, so that participants and members of their support teams can speak in comfort.

Variation is about giving people choice and is a way of achieving environmental control. When the fear of becoming

lost is mitigated, people are attracted to environments that allow exploration, especially when they have the ability to retreat to the familiar (Kaplan and Kaplan 2003, 1485). Additionally, variation in environment has been shown to reduce instances of depression and social withdrawal, as well as improve emotional and cognitive functioning (Schweitzer, Gilpin and Frampton 2004, s-74). A therapeutic courthouse should include a variety of experiences so that people may explore and retreat. For example, while waiting for court, people should have a variety of places to sit, whether it is out in the open or someplace more private, in a crowd or alone, near a window or somewhere more secluded, and even the option of sitting outdoors. Having the ability to choose from a variety of experiences gives people a sense of control and calmness, which can be especially important for those who may have very little control in many aspects of their lives.

Finally, courtrooms for therapeutic programs should be non-hierarchical. Traditional courtrooms are designed to reflect the hierarchical relationships embedded within the justice system. Spatial separation is reinforced through modulations of the ground plane, and through the types and placement of furniture elements (Kirke 2009, 129). Eliminating the physical separation that isolates and elevates the judge, as well as reducing the distance between participants and their support systems, can have a profound impact on proceedings. A different room configuration will remind everyone that their roles in that space are different, and aligns the courtroom's architecture with the therapeutic court's non-hierarchical, collaborative philosophy.

Combined, these design tools create environments that actively contribute to healing by creating safe and restorative

places to both receive treatment and to work. They also help individuals manage the profound stress that attending court and treatment participation places them under. These design tools can and should be used at every appropriate opportunity; they have value independently and can be combined for even greater effect.

### **Program**

A therapeutic courthouse is made up of three programmatic areas: court, treatment and public, that work together, across scales, to create a network of healing spaces. Many of the programmatic elements required for the court area are fixed. For example, there must be a courtroom and places for people to wait for court, as well as administrative and records offices, and judges' chambers. Therapeutic court programs need a private room to hold pre-court meetings. Ideally, there would also be private places for visiting lawyers and other professionals to work. These programmatic areas can be cross-referenced with the design tools to maximize their therapeutic potential.

The treatment area requires mostly meeting rooms to accommodate various sessions, as well as private offices for care providers and other staff members, and places for participants to wait. When consolidating treatment into a single location, additional program such as a small health clinic, a library and work stations with computers could be considered.

Introducing the public into the therapeutic courthouse provides opportunity to add program that can simultaneously facilitate healing and community building. Any program added should nurture healing and diffuse stress in a range of

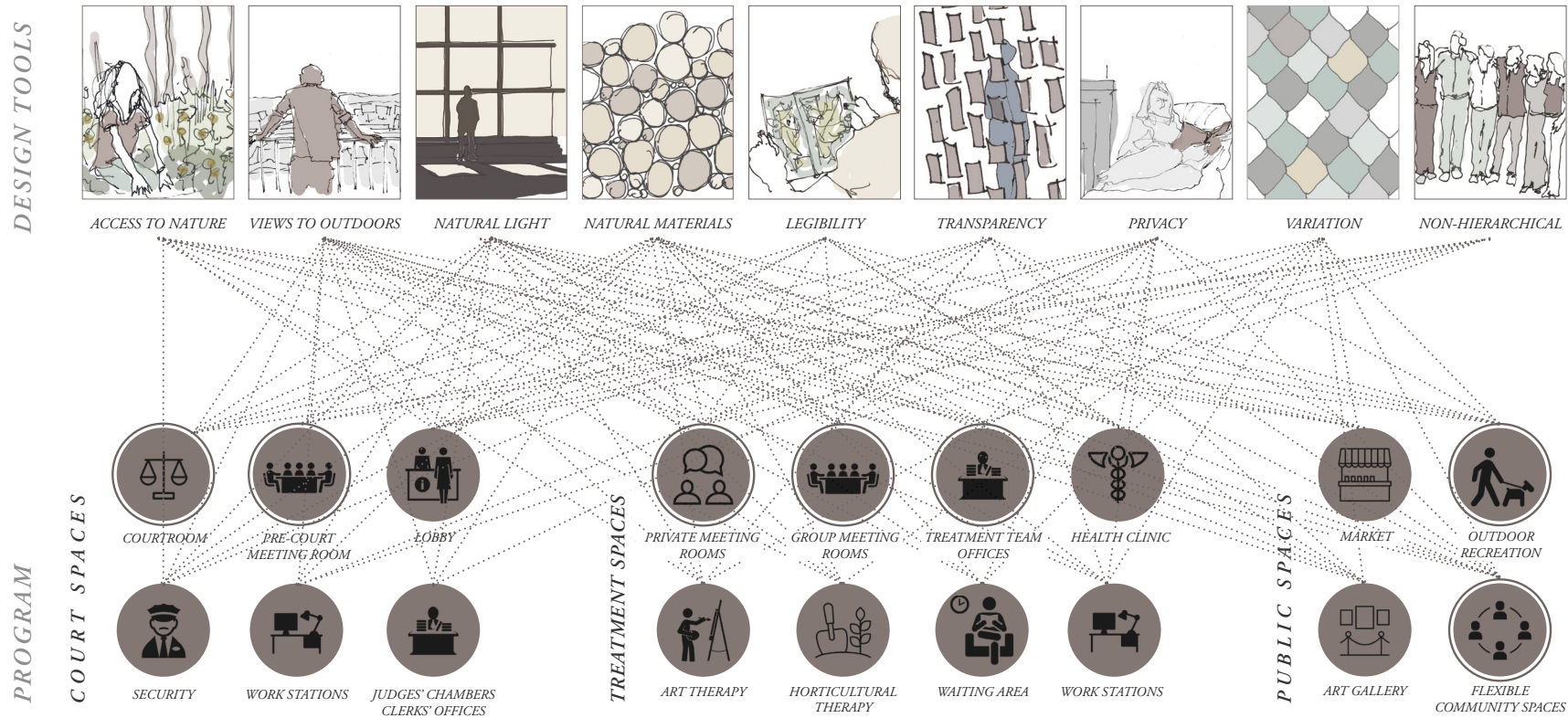


Diagram of the therapeutic courthouse's design matrix, which cross-references design tools and associated program.



capacities, while also serving a community broader than the immediate courthouse. It is a place where there is significant flexibility, and where local conditions and resources can influence the program.

Therapeutic courthouses could include dedicated places to make and exhibit artwork. Few environments are complete without displayed art; it is a positive distraction that beautifies a space, adds visual interest and can bring calmness to otherwise stressful environments (McCullough 2010, 61). Artwork can also have therapeutic value for its producers, as it can provide an outlet for self-expression. The Mental Health Court in Dartmouth, Nova Scotia, invites graduates to display their work on the court's "Wall of Hope" in acknowledgement of their progress, and so that it might encourage and inspire others; this initiative could be formalized in a therapeutic courthouse (The Courts of Nova Scotia 2019). Art allows us to engage in dialogue and to learn from one another. Permanently displaying artwork produced by program participants can help educate the public about the program and its participants, while also serving a therapeutic role. It is a programmatic addition that benefits both treatment and community.

When therapeutic courthouses prioritize access to nature and natural environments, there is the opportunity to incorporate those elements with a therapeutic activity. Horticultural therapy is a practice that uses plants, gardening and the garden landscape to promote health and well-being for individuals and groups, recognizing the interactions between people and gardens have positive therapeutic benefits (Canadian Horticultural Therapy Association 2019). Gardening has many benefits. It gives gardeners a

sense of responsibility and allows them to be nurturers, and it connects them to other living things, encouraging them to be less insular (Rayner 2015). It provides an escape and a physical outlet, and reminds them to live in the present moment, lessening anxiety (Rayner 2015). Gardening can give a sense of control and accomplishment, even for the most novice gardeners working with minimal equipment. The end result of these efforts, whether a collection of outdoor pots or an elaborate ornamental garden, can be shared. Introducing horticultural therapy to a therapeutic court program provides a beneficial outlet for participants, and the gardening spaces they produce can, in turn, be public places that benefit the whole community.

### Scales of Occupation

Within the three programmatic areas of court, treatment and public, the therapeutic court functions at three scales of

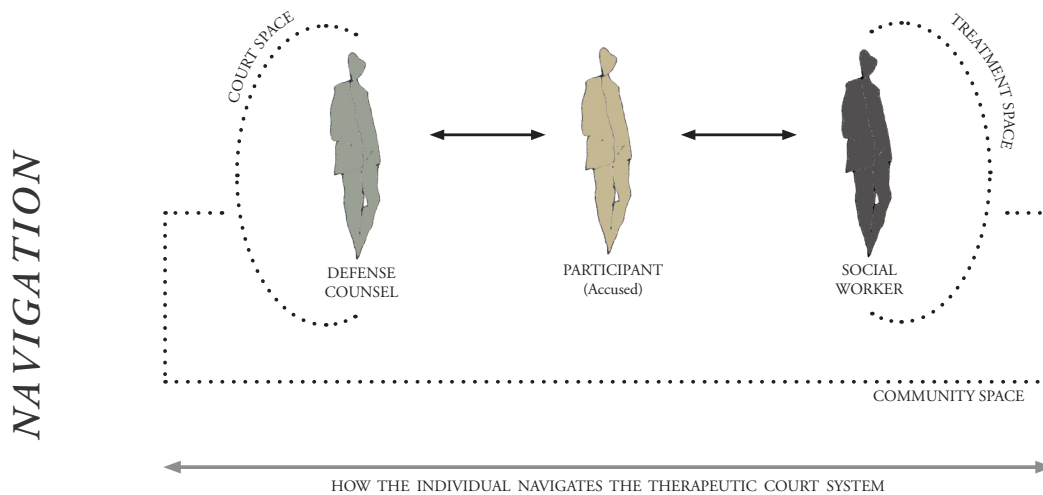


Diagram of the participant's immediate support network. Guided by their social worker and their defense lawyer, the participant navigates their therapeutic treatment program and the justice system.

occupation. These scales should be considered, in concert with the design tools, when designing interior and exterior spaces.

The participant scale is about the one-on-one healing and justice processes, which occurs between the participant and their care provider or lawyer. It is the most personal and private, and is a situation where the participant most needs a sense of control and comfort. Participant-scale activities occur in private treatment rooms and in any other space where a participant might most need refuge.

The team scale is about the small groups that both deliver and receive care. This scale is about encouraging participation and about everyone taking a seat at the table. Activities at this scale are semi-private, and include the pre-court meetings between justice and health stakeholders, as well as the small group treatment sessions.

*THREE SCALES*

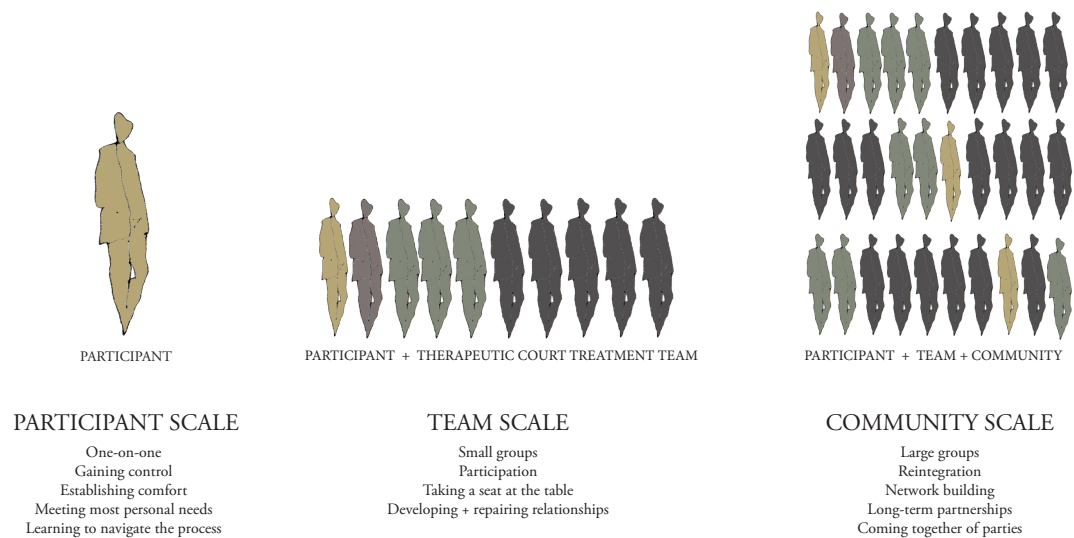


Diagram of the therapeutic courthouse's three scales of occupation: participant scale, team scale and community scale.

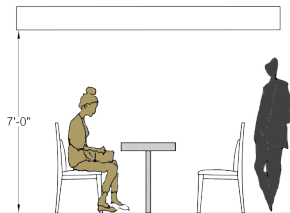
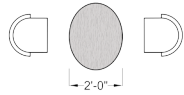
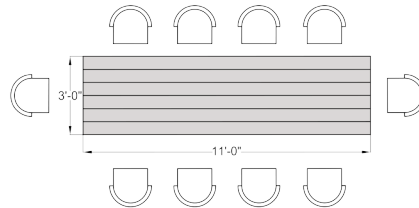
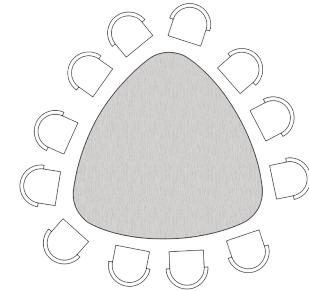
The community scale is about the interactions between the participant, the team and the general public. It is the most public of scales and demands a degree of transparency and access. Community-scale activities occur in the courtroom, as well as in other public places like the lobby or waiting area and gardens.

### **Anchors – A Family of Tables**

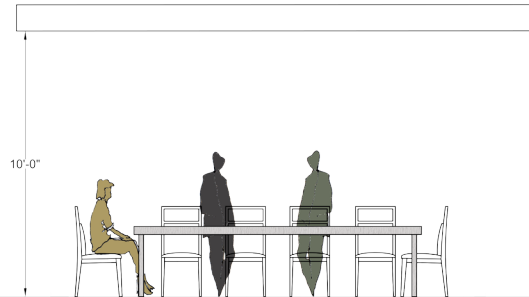
Anchors are a family of objects that define and ground a space and its activities, and connect interior and exterior spaces. For the therapeutic courthouse, where so many activities happen when people gather together, the anchoring elements are a series of tables.

Traditional courtrooms are hierarchical, with the judge sitting at a table above the rest of the room, and they separate people spatially. In this context, the table is a furniture element that can either reinforce hierarchy or work to eliminate it. Tables can be communal gathering places where people join, share, work, teach, learn and heal. Having a place at one of those tables literally means you have a voice, and there is a sense of empowerment and belonging implicated there. That sense of belonging is such a large part of what the therapeutic court is all about. In the therapeutic courthouse, there are three types of tables, which correspond to the programmatic areas and scales of occupation.

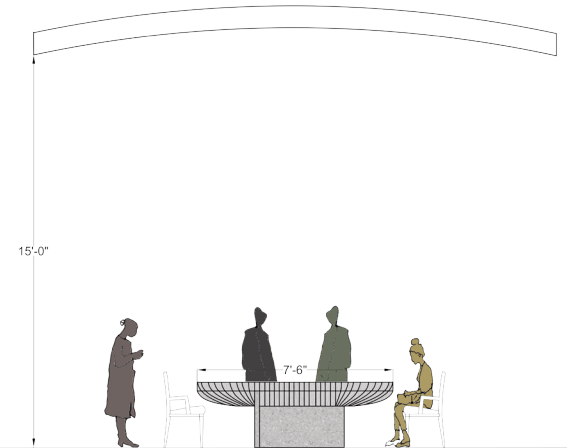
The participant scale table accommodates two people, sitting across from one another. Taking direction from the design tools, this table is wood, with curved edges, and is always located next to a window. The specific uses of this table can then begin to inform the design of the surrounding space; because this table serves the most private scale, it should, for



PARTICIPANT SCALE



TEAM SCALE



COMMUNITY SCALE

Diagram of the therapeutic courthouse's anchoring elements - a family of tables, which correspond to the programmatic areas and scales of occupation.

example, be in a space where the ceiling is lower than average, enhancing the feeling of enclosure. These participant scale tables are located in the court's waiting area and in each treatment office, and are the place where the participant and their social worker can have a private conversation or engage in treatment sessions.

The team scale table accommodates up to 10 people. These tables have to accommodate flexibility; they have solid wood tops but collapsible metal frames so that they can be moved and stored as needed. The team scale tables are located in the pre-court meeting room, as well as in the various group treatment rooms and throughout the building's public spaces. They are also places where group treatment sessions can happen, as well as art making exercises, and more public activities like seasonal markets or graduation ceremonies.

The community scale table accommodates up to 15 people and is found only in the centre of the courtroom. This is the table around which justice is administered. Its teardrop shape is a reference to the oval table configurations found in some First Nations and Aboriginal courts. In Australia, it has been found that "whilst it is initially unsettling for judicial officers to sit at the table and at the same level as all the participants... the oval is an extremely inclusive, one might even argue, warm, shape (Kirke 2009, viii). At the community scale table, everyone is gathered at the same place and there is no embedded hierarchy, only opportunity for open dialogue and healing.

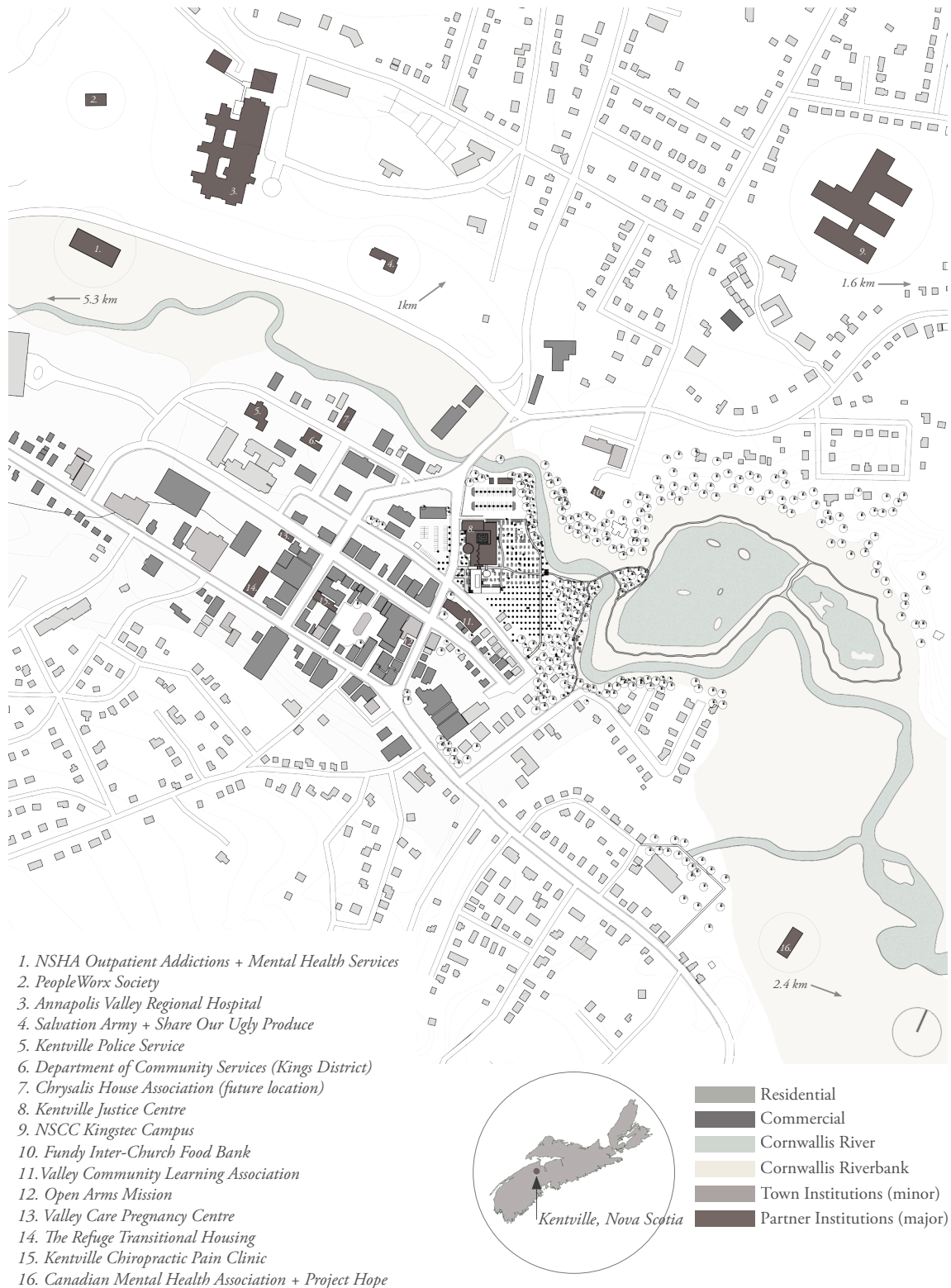
## CHAPTER 10: SELECTING A SITE, FINDING A NETWORK, ESTABLISHING A RESPONSE

### **The Site - Kentville, Nova Scotia**

Drug treatment court programs currently exist in many major Canadian cities, and the proposed response of a purpose-designed therapeutic courthouse could exist anywhere across the country that required it. Kentville, Nova Scotia, has been chosen as the test site for this concept. It is the ideal test location for three key reasons: the town has an existing drug treatment court program - need has already been established. There is an existing network of allies and resources from which to draw. The surrounding landscape provides the ideal place on which to test the project's ideas about nature as a mechanism for both healing and community building.

The town of Kentville is located in Nova Scotia's Annapolis Valley, one of the oldest and most productive agricultural areas in North America (Town of Kentville 2019). The town has a rich history, having first been settled by the Mi'kmaq and then the Acadians, before becoming a British settlement. Kentville is known as Kings County's shire town, and has maintained its prominent position since the 18th century because of its proximity to agriculture, the Minas Basin and, later, because of the Dominion Atlantic Railway (Town of Kentville 2019).

Present-day Kentville is still the Valley's administrative centre, home to County offices, the regional hospital, a local police service and the courthouse. The town is home to approximately 6000 residents, has a robust network of parks and trails, and is host to several agriculturally-related community festivals each year (Town of Kentville 2019).



Map of Kentville, Nova Scotia. Included are town resources that are either current or potential allies for the therapeutic court's network (base photograph from Google Maps 2019, converted to a town plan by the author).





Photographs of Kentville, Nova Scotia. The town's Cornwallis Inn (upper left-hand corner) has been a landmark for almost a century. Low-rise brick buildings are the dominant building type. The former courthouse (lower left-hand corner) is now a museum and the former United Church (lower right-hand corner) is home to the regional library.

## **Finding a Network**

A therapeutic court program requires a network of allies and resources to support its activities. Kentville, because of its size and position as a regional administrative centre, has a number of resources that support the existing drug treatment court program, as well as several others that could become allies to an expanded therapeutic network. These include health authority clinics, education and employment resources, community services offices, and transitional housing. The Map of Kentville includes many town resources, both current and potential allies for the therapeutic court's network.

The existing drug treatment court program relies on the Outpatient Addictions and Mental Health Services offices, run by the Nova Scotia Health Authority. These offices are located more than five kilometres from the courthouse, a considerable distance for participants to travel on a daily basis. This is one example of an ideal network ally to locate within a therapeutic courthouse.

The therapeutic courthouse can expand its network in ways that directly impact both the treatment program and the site's architecture. The Nova Scotia Community College has a campus a short distance from the existing courthouse which offers many vocational programs, including automotive repair, culinary arts and construction trades. These programs can provide program participants with an education and a pathway to meaningful employment.

The college also has several programs in landscaping and horticulture, which can connect participants with the region's active agricultural sector. There is also the opportunity to join the educational aspect (learning about horticulture) with

treatment (healing through horticulture). This can translate directly to the site and its gardens, where various aspects of a treatment program can overlap.

### **Establishing a Response - Site Strategy**

In determining the most appropriate siting strategy for the therapeutic court, three different responses were identified. The first response is that the three main elements – therapeutic court, therapeutic infrastructure and traditional courthouse – remain distinct. These elements may be separate buildings on the same site or on different sites; either way, there is a distinct degree of separation between them. This response is not acceptable because it is not consistent with therapeutic court best practices which mandate that treatment services be married with the court (United Nations Office on Drugs and Crime 1999, 9). Rather, it speaks to a parceling up of the justice system, where rehabilitative and punishment-oriented streams diverge. It also risks increasing pressure on the justice system by further constraining existing resources. By creating a series of distinct, seemingly private elements, the justice system would become more enclosed and less public.

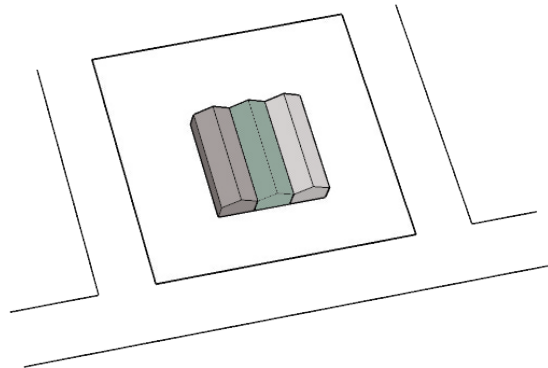
The second response is to position the justice and treatment elements as neighbours, achieved by co-locating the traditional and therapeutic courts, with therapeutic resources on an adjacent site. This is essentially a formalization of the current system; the key difference is in creating a specialized therapeutic courtroom within the traditional courthouse. This response is acceptable but not ideal, as it does not achieve a full integration of the court with treatment.

The third response is to position the three elements as partners on a shared site. This could take the form of an

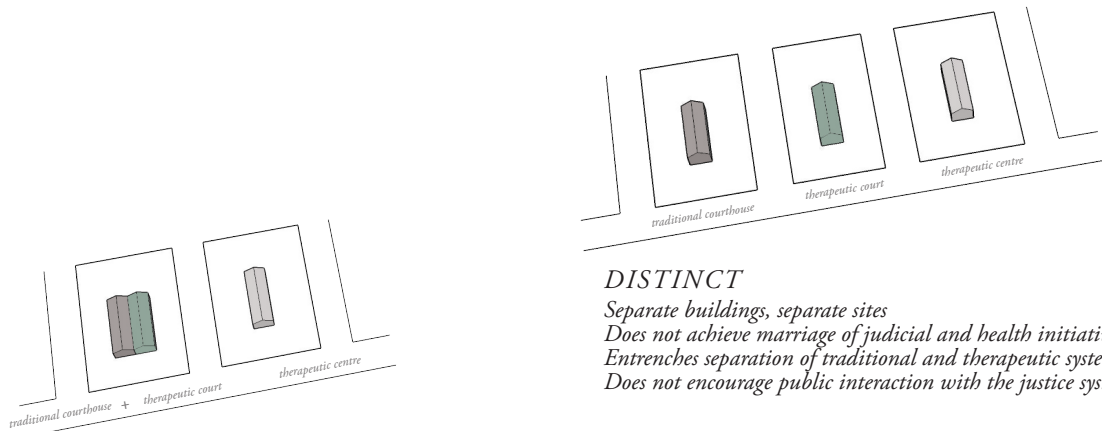


*Therapeutic court: location selection criteria*

*Therapeutic court: site selection criteria*



**PARTNERS** *Traditional courthouse + Therapeutic court*  
*Integrated building on shared site*  
*Achieves marriage of judicial and health initiatives<sup>+</sup>* *Therapeutic centre*  
*Encourages sharing of resources*  
*Brings all parties to the table*  
*Invites and integrates the public into the program and site*



**DISTINCT**  
*Separate buildings, separate sites*  
*Does not achieve marriage of judicial and health initiatives*  
*Entrenches separation of traditional and therapeutic systems*  
*Does not encourage public interaction with the justice system*

**NEIGHBOURS**  
*Courts together on one site; therapeutic resources on neighbouring site*  
*Introduces specialized court environment into judicial system*  
*Does not achieve marriage of judicial and health initiatives*  
*Could further stigmatize participants attending treatment*

Diagram of the three major strategies for connecting the therapeutic court and its associated treatment functions with the traditional court.

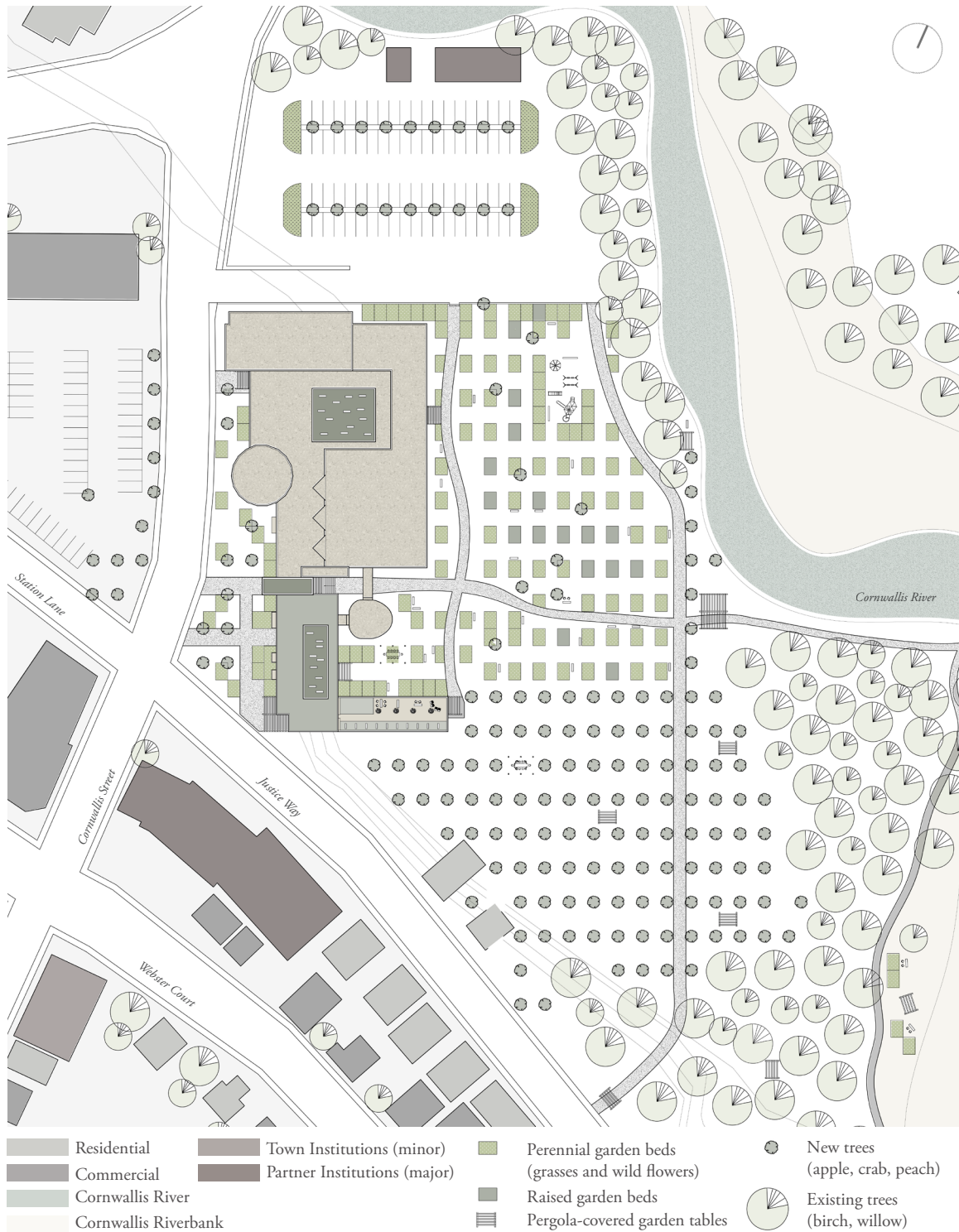
entirely new development or as an addition to an existing traditional courthouse; this thesis is the investigation of the latter. This response is the most acceptable and it is also the most radical. It inserts an exclusively rehabilitation-oriented element into the traditional system and brings all parties around the same table. Rather than parceling up the justice system, it creates opportunity for the traditional system to increasingly use therapeutic and rehabilitation resources. It also utilizes existing program, such as judges' chambers and records offices, responsibly, and avoids duplicating and further straining resources.

This project deliberately situates the therapeutic court within the public realm. This is necessary for several key reasons. First, therapeutic court programs are, at their core, about rehabilitation and reintegration, which cannot be achieved in isolation from the very community that participants need to rejoin. These programs are reliant on community allies; easy dialogue between the program and the partners delivering social services like adult education, employment, counselling, support networks, and access to food and safe housing can be facilitated in a public space. These strong connections to community can also help identify early those at-risk individuals who might benefit most from this type of treatment. Finally, the long-term success of therapeutic court programs requires a general public that accepts these initiatives as part of their justice system. This acceptance can be achieved by inviting the public into the building. By offering access and transparency, and by educating the public about these programs and their societal value, we can start to shift perceptions away from exclusively punishment-oriented applications of justice administration, while also returning the courthouse to the public realm.

## CHAPTER 11: A THERAPEUTIC COURTHOUSE FOR KENTVILLE

It has been demonstrated that the architecture of the traditional courthouse neither physically nor psychologically adequately supports therapeutic forms of justice administration. This thesis proposes that a new courthouse typology designed for therapeutic programs. The therapeutic courthouse is a hybrid system, combining justice, health and social services, and uses specific architectural strategies and community integration to achieve its objectives. The therapeutic courthouse typology can exist anywhere that meets the predetermined criteria; this thesis uses the drug treatment court in Kentville, Nova Scotia, as its test. The town of Kentville is the ideal test location for three key reasons: the town has an existing drug treatment court program, and so need has already been established; there is an existing network of allies and resources from which to draw; and the surrounding landscape provides the ideal place on which to test the project's ideas about nature as a mechanism for both healing and community building.

The therapeutic courthouse in Kentville is an addition to their existing Provincial Courthouse building. The majority of the original building remains intact, including its courtrooms, judges' chambers and ancillary spaces, as well as the Kings County municipal offices that share the building. The therapeutic courthouse is sited to partner with the existing building, providing a healthier, improved experience for participants, and fostering a stronger connection to the town and to the surrounding landscape – all in service of the court's therapeutic outcomes.



Site map of the therapeutic courthouse (to the south), the existing Provincial Courthouse to which it is attached (to the north), and the healing-working garden, which covers the remainder of the site and connects to both the town and an existing network of recreational trails (to the east, not pictured) (base photograph from Google Maps 2019, converted to a town plan by the author).

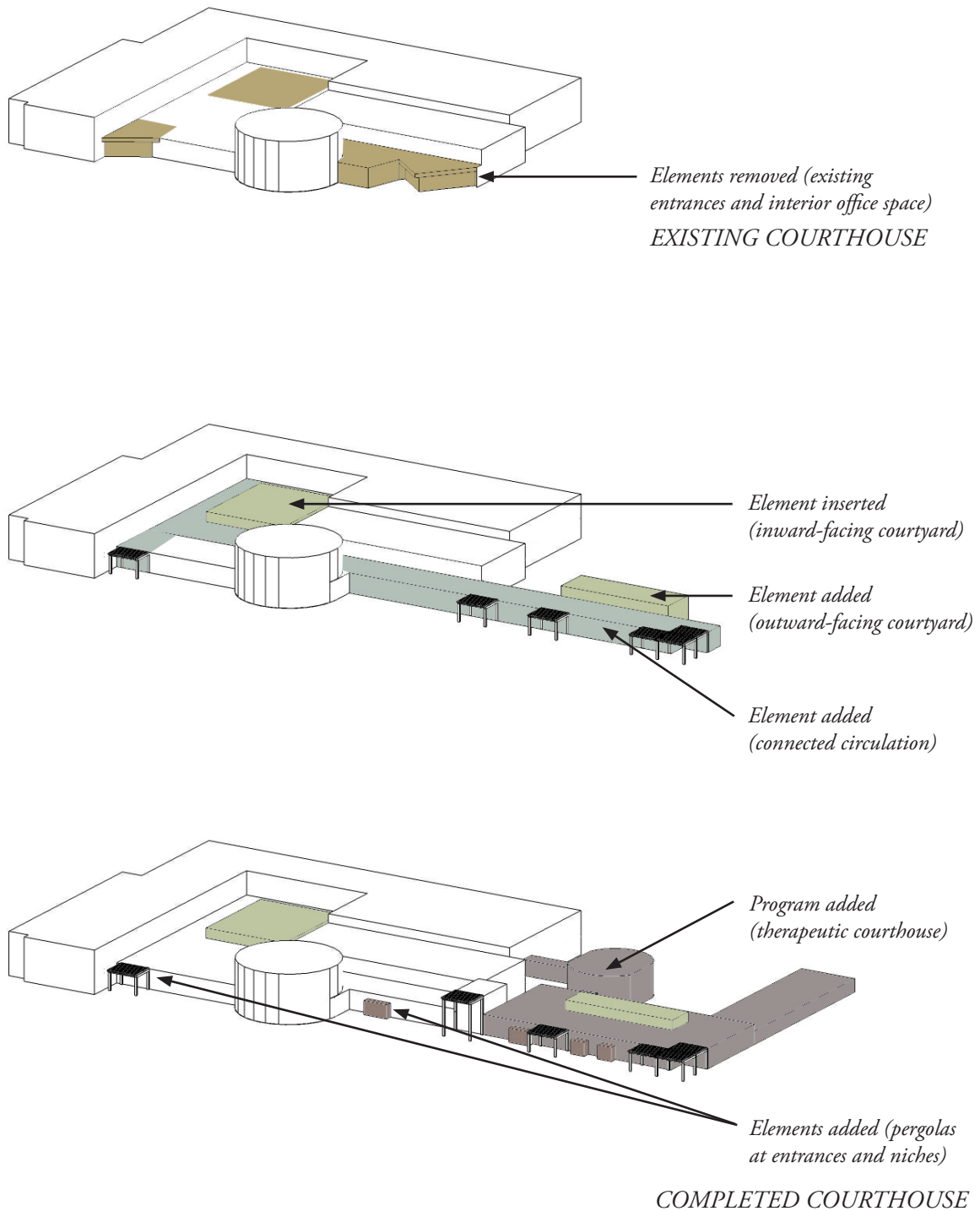


Diagram of the changes made to the existing Provincial Courthouse. Some elements were removed, including the existing main entrances and a central block of office space. Two courtyard spaces were added, connected by public circulation. Finally, in the completed courthouse, therapeutic program has been added, including public niches and pergolas to denote the new entrances.

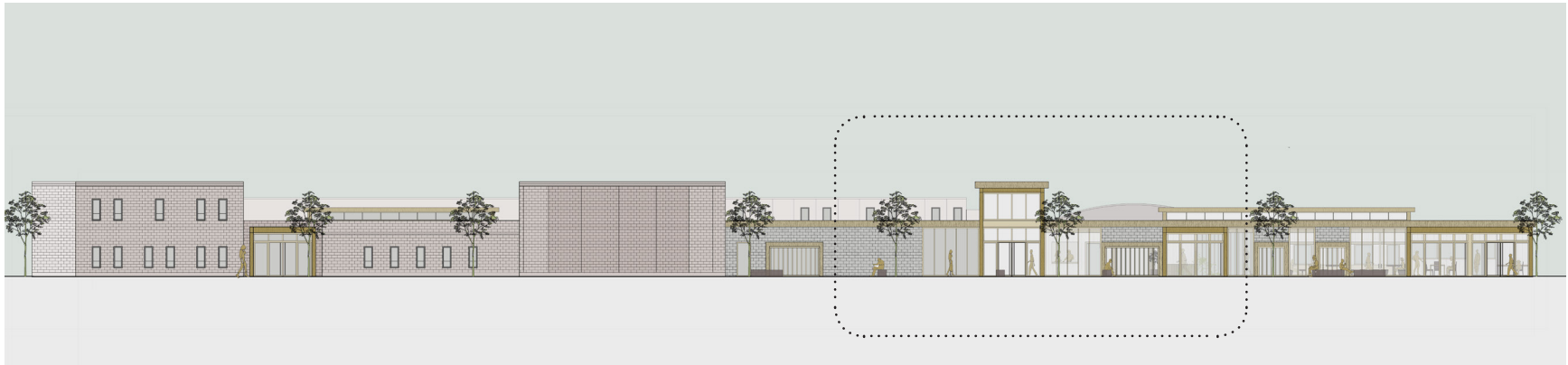


The decision to locate the new courthouse on the same site as the existing, and to physically connect them, was a deliberate one. It inserts an exclusively rehabilitation-oriented element into the traditional system, and brings all parties around the same table. Rather than parceling the justice system, it creates an opportunity for the traditional system to increasingly use therapeutic and rehabilitation resources. The buildings are now linked, sharing an entrance. An appropriate degree of separation is maintained between the old and new, recognizing the different justice environments contained in each and respecting the different degrees of security concerns. The difference in environments is reflected in the facade. The secure traditional court is clad in opaque brick, whereas the open therapeutic court is transparent; a wood-and-glass window wall system allows people to see inside and through to the gardens beyond.

The joined courthouses are further connected by a pair of complementing interior courtyards. Both courtyards are flooded with natural light from thin skylights and clerestory windows, and contain places to sit amongst trees and plants. Each courtyard speaks directly to the nature of its courthouse; one is open and the other is quite closed. On the therapeutic side, the courtyard has its own views to the outdoors and is surrounded by shared public spaces, making it an active place. In contrast, the traditional side's courtyard is inward-focused, surrounded by offices. It is a quiet and secure place, intended as a respite.

### **Public Space, Healing Landscape**

The therapeutic courthouse's largest programmatic area is the public one, which includes both interior and exterior spaces. The public area begins at the street where stone paths, the



Elevation. The traditional courthouse is on the left and the therapeutic courthouse is on the right. The dashed line indicates the part of this drawing that is enlarged on the following page.



Elevation - enlargement. The opaque brick facade of the traditional courthouse is on the left. The new shared entrance is in the centre, and the transparent facade of the therapeutic courthouse is on the right, with the curved roof of the courtroom visible beyond.

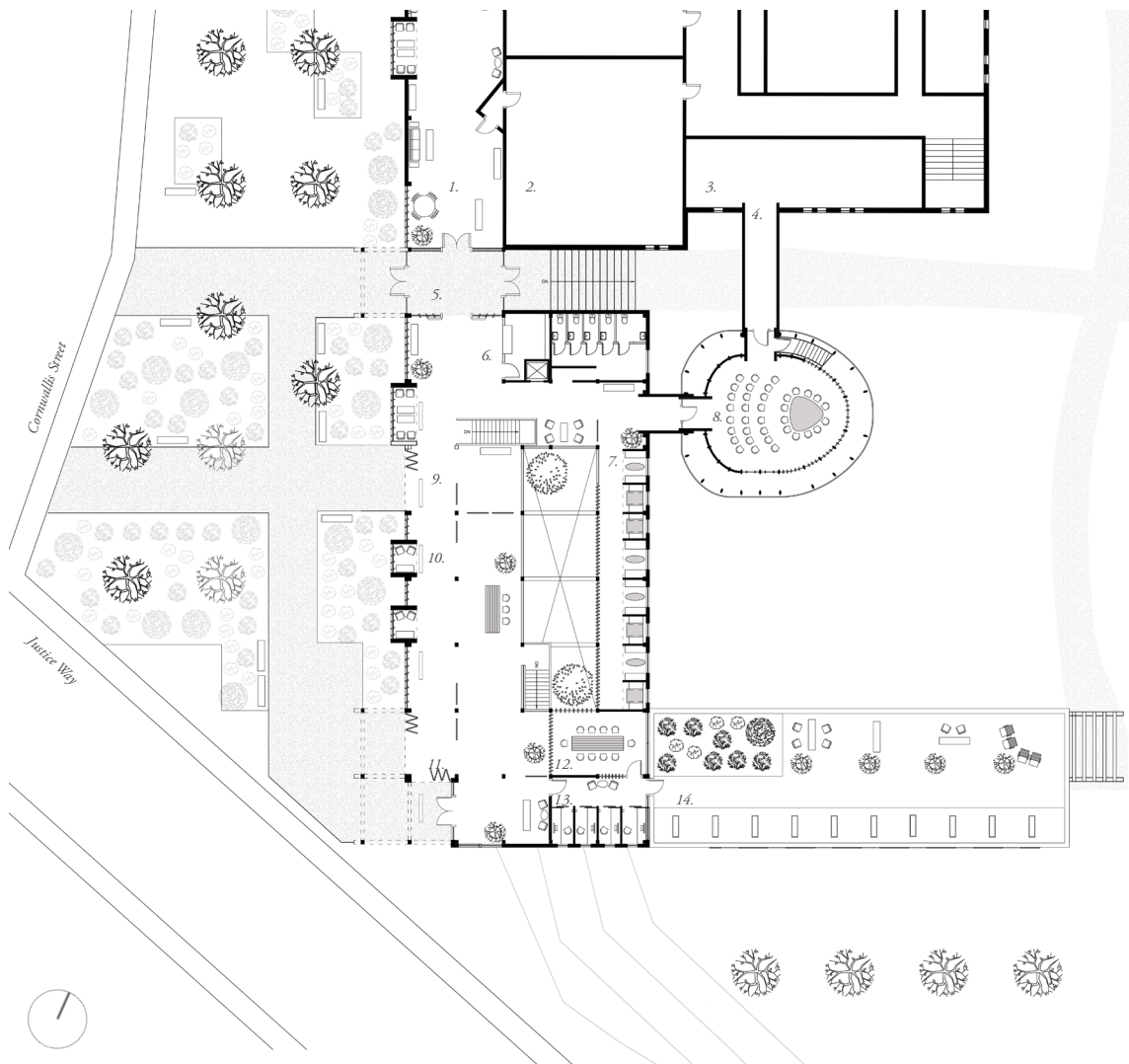
same local granite material as the flooring throughout the building's interior, lead visitors to the building's new main entrance. These paths also connect to an entrance closer to the treatment wing, as well as to seasonal openings along the building's façade. The paths cut through garden beds containing a few flowering trees, as well as hydrangeas and ornamental grasses, chosen for their year-round interest.

Once inside the vestibule, visitors have a choice. They can go left and into the traditional courthouse, straight through and down to the garden, or right, into the therapeutic courthouse. Secure doors allow courthouse access to be controlled, mitigating any security concerns and maintaining a dedicated public right-of-way through to the gardens.

The public face of the courthouse is its gallery. This long stretch of flexible public space is, at times, a public living room, a location for town meetings and the off-season home of the town's market. It is also a gallery, where artwork produced by treatment court participants is permanently displayed for all to experience. The flexibility of the gallery is reflected in its furnishings; team-scale tables, benches and the display boards are all portable, maximizing versatility. Small group-sized niches, which are little seating alcoves for up to four people, face the street and front gardens. These niches are places anyone can occupy and serve as semi-public respites.

The central courtyard connects the gallery with the building's lower level and offers an alternative route to the main garden. The building's elevator and stairs are located here, reinforcing the courtyard's role as a wayfinding and orienting device.

In what was once a parking lot, a working-healing garden



- |   |  |  |
|---|--|--|
| 1. New lobby, existing courthouse               | 6. Information + security                    | 11. Seasonal entrance                  |
| 2. Courtroom (traditional), existing courthouse | 7. Semi-private lobby + meeting area (niche) | 12. Pre-court meeting room             |
| 3. Judges' chambers, existing courthouse        | 8. Therapeutic courtroom                     | 13. Private satellite lawyers' offices |
| 4. Judges' pedway to therapeutic courtroom      | 9. Public gallery + flexible community space | 14. Public rooftop garden              |
| 5. Main entrance                                | 10. Public waiting area (niche)              |  |

Ground floor plan.

connects the building with the network of recreational trails beyond. The site section shows how the building and its gardens work together to create a range of occupiable exterior spaces. It also reveals the courthouse's material palette which, informed by the design tools, include natural finishing materials and a careful selection of flowers, shrubs and trees.

An exterior courtyard is formed between the therapeutic courtroom and the building's treatment wing, and is a sheltered place for people to relax, wait and enjoy the gardens. There is an outdoor team-scale table for group treatment sessions and community picnics. A sunken meditation garden is found under the elevated courtroom, with the exposed wood columns adding an extra layer of screening and interest.

The southern part of the garden is a working orchard, a familiar scene in this part of the province, planted with a variety of fruit trees. The orchard follows a predictable rhythm of alternating rows of trees and wide grass paths, making it a comfortable place to wander. Several outdoor rooms are nestled within the orchard, where team-scale tables and small seating areas are tucked under pergola structures.

The northern part of the garden contains a series of large garden plots, some planted with perennial shrubs and grasses to give the garden year-round interest. Others are raised garden beds; the working orchard and these raised plots can serve both horticultural therapy and community garden initiatives. As in the working orchard, wide paths encourage meandering and exploration. It's here, in the garden, where people walk, meditate, work the land and play, that people can make connections. The garden can serve as a place of healing and repair for participants and for the community.



Site Section and the project's complete material palette. The section includes Kentville's existing recreational trail network, which includes a pedestrian bridge across the Cornwallis River. The material palette includes the existing natural landscape of mature trees and the materials of the existing Provincial Courthouse building. An enlargement of the public thoroughfare and integrated gardens is included on the following page.



Site Section - enlargement. At right, the therapeutic courthouse's public thoroughfare, which connects the town with the landscape. At left, the integrated healing and working garden, with outdoor rooms that are shared between the treatment program and the general public. Below the section is the material palette of natural materials and landscaping.



## **The Therapeutic Courtroom**

The courtroom is the most formal part of the building – as it should be – but has undergone a considerable transformation. The courtroom is easily located from the lobby and is on a path that, through a series of thresholds, takes the public from the street directly inside; this is especially evident in the critical section. The courtroom is private from the lobby but is transparent along the east and south sides. Thin floor to ceiling windows allow natural light to flood in, and allow for different views out to the gardens beyond, giving people a mental escape and distraction at times of stress. The courtroom has become a pavilion in the garden with an unprecedented degree of transparency.

The courtroom is non-hierarchical, with an unobstructed and continuous ground plane. This also extends to the room's furnishings, with everyone sitting around the curved, community-scale table for proceedings. This reinforces the collaborative nature of the program and reminds everyone, including the judge, that in this court their roles are different. This arrangement better facilitates dialogue - especially between parties who wouldn't normally talk in a traditional court. The shape of the room is also curved, informed by the shape of the table, which allows the small gallery to partially encircle the table; they are no longer at arm's length.

The courtroom maximizes its use of natural materials. For example, the tabletop surface and chairs are made of apple wood; there is a direct connection between the surfaces you touch and the orchard you can see beyond. The local granite floor is the same material found throughout the rest of the building, as well as the exterior pathways, including the ones visible in the gardens beyond.

The waiting areas are another specially designed part of the court area. There are open places to sit in the lobby but there is also a row of semi-private niches, removed from the public lobby. Each has its own window overlooking the garden and a lowered ceiling to enhance the feeling of enclosure. These niches allow participants a sense of privacy and refuge, and they are places where participants can speak discretely with their lawyers and social workers before court. These conversations happen over the participant-scale tables located in each wood-wrapped niche.

People in the waiting area niches are still visible, which minimizes security concerns. The interior courtyard provides a buffer between this area, the gallery and the rest of the public lobby. The majority of the courtyard's perimeter is enclosed with a vertical wood railing. At the location of the niches, these thin slats become full height, further enhancing the niches' privacy without sacrificing transparency, material continuity or the transmission of natural light.

### **Integrated Treatment**

The therapeutic courthouse's treatment area includes offices for social workers, counsellors and other professionals, gathered together in a long wing on the lower floor. Each team member has a private office with a dedicated space for one-on-one treatment sessions. These session spaces are a cousin of the waiting room niches, with the same table and ceiling detail, material palette, and a view to the outdoors.

Patterned wooden screens provide a degree of privacy between the office entrances and the more public corridor, which also contains semi-public niches for up to four people, as well as a series of individual work stations.



1. Flexible group treatment + community rooms
2. Sunken meditation garden
3. Atrium living room
4. Private group treatment or community room
5. Public health clinic

6. Waiting area
7. Reception
8. Semi-private meeting area
9. Social worker's office
10. Private work area

11. Community services worker's office
12. Semi-private work area
13. Addictions counselor's office
14. Public community garden room
15. Semi-private outdoor meeting space
16. Semi-private community garden room

Garden level floor plan.

The lower level has a series of meeting rooms, where group sessions, art therapy, yoga or other activities can take place. These spaces receive natural light from thin skylights above and through the patterned partition screens. These sliding screens can divide the space into a series of smaller rooms. Alternatively, they can be folded back and stored to create a large open area. When open, these spaces have views and access to the garden. The rooms contain team-scale tables, which can support a range of activities and can be collapsed and stored as needed.

The treatment area also includes a small health clinic and the pre-court meeting room – the space where program stakeholders regularly meet and assess the progress of each participant before court. From the pre-court meeting room, team members have views of the healing landscape and of the therapeutic courtroom. In this wood-wrapped room, gathered around their team-scale table, they are surrounded by architectural references of their program's philosophy of collaboration, transparency and community.



Critical Section. An enlargement of this drawing is included on the following page.



Critical Section - enlargement.



Longitudinal section drawing. The traditional courthouse is on the left and the therapeutic courthouse is on the right. The dashed lines indicate the parts of this drawing that is enlarged on the following pages.



Longitudinal Section - enlargement. This drawing shows the traditional courthouse's internal courtyard, which has been inserted into the existing Provincial Courthouse building. This courtyard is inward-focused, surrounded by offices, and is a quiet and secure respite within a busy institution.





Longitudinal Section - enlargement. This drawing shows the therapeutic courthouse's courtyard, which has both views and direct access to the gardens beyond. The courtyard is surrounded by shared public spaces, making it an active place.



Vignette One - Approaching the therapeutic courthouse from the street. Front gardens provide places for people to sit and plants soften views into the building. A pergola frames the seasonal entrance, with opened doors and a continuous ground plane inviting people in. The building is transparent; the glass-and-timber wall system allows people to see through to the atrium and gardens beyond.



Vignette Two - The gallery and public living room. A place where participants' artwork is displayed, and a place where people can sit, wait and just be. The highly flexible space serves community events, including town meetings and markets. The adjacent interior courtyard connects the gallery to the garden below, and acts as a buffer between these spaces and the more private waiting area beyond.



Vignette Three - The waiting area niches. These spaces provide places to wait, and to have private conversations with lawyers and social workers before court. Each anchored with a participant-scale table, these wood-wrapped niches, and with lower ceilings and views to the garden, are places to retreat from the stress of court and treatment.



Vignette Four - The therapeutic courtroom. A non-hierarchical space where the treatment court team gathers with participants around the community-scale table to administer justice. Floor-to-ceiling glazing provides views to the garden and allows natural light to flood in.



Vignette Five - The group treatment room. A series of patterned sliding screens the garden level into a series of small group treatment rooms. When open, these spaces have views and access to the garden. The rooms contain team-scale tables, which can support a range of activities and can be collapsed and stored as needed.



Vignette Six - The working-healing garden. Providing places to garden and wander, the garden is a combination of planted flower beds and rows of fruit trees. Framed by pergolas, garden rooms provide places to sit and reflect, or gather around team-scale tables for community-building events.

## CHAPTER 12: CONCLUSION

As the architectural manifestation of one of our society's fundamental pillars, courthouses should be places that reflect our shared values and bring justice to us all. And yet for many among us, they are fortresses, hierarchical and retributivist, that must make justice seem very far away. Therapeutic forms of justice administration are rehabilitation-oriented solutions to some of our most complex health, justice and social challenges. These innovative programs deserve a progressive courthouse, designed in alignment with their objectives and philosophies, and one that better physically and psychologically supports therapeutic justice administration.

This thesis has demonstrated the need for and potential of the therapeutic courthouse, and has tested its hypotheses by designing an addition to the Provincial Courthouse in Kentville, Nova Scotia. This hybrid institution is one that combines court with treatment, and that invites the public in.

The architectural strategies – the design tools, program development, scales of occupation and anchoring elements – are all components that can influence courthouses today and well into the future. On their own, these strategies are not radical. Some could be implemented today with only a modest budget, political will and a receptive audience. As courthouses undergo maintenance, other strategies could be incorporated into future renovations; in that way, the change could be incremental. When existing facilities need replacing and new courthouses are being built, the strategies developed in this thesis could inform every stage of the process, from site selection to finishing materials. This thesis demonstrates



that therapeutic courthouses can partner with existing justice facilities, for their mutual benefit.

This thesis deliberately tests its hypotheses in a small town, and therefore demonstrates the minimum criteria and resources needed to support such a project. The vacant land adjacent to Kentville's Provincial Courthouse provided an almost unrealistically ideal site. The space available for an addition and gardens had no constraints, and it is unlikely that many communities would have such ideal site conditions.

A therapeutic courthouse could, using the same architectural strategies, exist in an urban setting and on a much more constrained site. Each design tool should be used but its application can be adjusted as site conditions allow. Access to nature, for example, could be provided in a rooftop garden, contained within an atrium or as a threshold between the street and the building's interior. It is the presence of the garden, and its role as a therapeutic and community-focused agent, that is fundamental, not its scale or complexity.

The partnership formed between justice, health and social services resources has a centering effect, where professionals and network allies gather to administer justice and therapy, and participants come to receive it. Effective treatment networks are active, constantly seeking new ways to serve participants and the community. One next step for an established therapeutic network is to incorporate a residential component. Safe, secure housing is an immediate need for many program participants, and its absence can be profoundly destabilizing, undermining their recovery. The relationship between the courthouse and housing would have

to be carefully considered, as it would impact many factors including site selection and public safety.

As our communities increasingly embrace therapeutic forms of justice administration, it will become ever more important to reconsider the court's physical environment. As architects, we know we can do better. With site strategy, architectural intervention and anchoring elements, the therapeutic courthouse becomes a place that not only facilitates rehabilitation but also nurtures it. This is a way to both heal the individual and protect the community, and it is one of the ways we can work together to build a more just society. This is how justice can be healed. More importantly, this is how justice can heal.

## APPENDIX: OBSERVING KENTVILLE'S COURT-MONITORED DRUG TREATMENT PROGRAM

Since 2014, a court-monitored drug treatment program has been operating at the Provincial Court building in Kentville, Nova Scotia. This program, serving carefully selected residents of King County, functions similarly to typical drug treatment courts across Canada. The program's participants are required to make regular appearances in court and to participate in individualized treatment plans. The court sits every two weeks and serves as the place where participants and their representing lawyers formally update the court on their progress.

I had the opportunity to visit Kentville's drug treatment court on 19 September and 3 October, 2018, and to observe the public in-court proceedings. During this time, I was also able to speak with several members of the program's team: Paula Taylor, federal crown prosecutor; Ingrid Brodie, provincial crown prosecutor; and Kara Andrews, social worker and coordinator of Kentville's court-monitored drug treatment program.

Each meeting of the court follows the same two-stage process. First is the pre-court meeting, held in the courthouse's basement meeting room. These sessions, lasting approximately an hour and a half, are private, restricted to the presiding judge, lawyers, social workers and any other relevant members of the treatment program; neither the program's participants nor any members of the general public are present at these meetings. The confidential nature of the meeting disqualified me from observing, but Ms. Taylor and Ms. Brodie provided insight into its purpose and general

format. In these sessions, each participant's case file is reviewed. The participant's duty counsel and social workers provide updates about any progress or setbacks. Prosecutors are responsible for ensuring public safety and likelihood of program completion. During this time, sanctions and rewards – who deserves them and what they should be – are also discussed. The judge receives this information, along with varying recommendations from the various lawyers; it is ultimately up to her to interpret the results of each pre-court meeting. Ms. Brodie explained that these meetings can often be quite contentious; while everyone is invested in the success of the participants and of the program, each party has its respective obligations and responsibilities.

The second stage is the court proceeding itself, convened at the same time each meeting. This typically results in approximately an hour-long break between the pre-court meeting and court proper. While the decisions are made in the pre-court meeting, the actual court proceedings are still important; there is a formality and ritual to appearing in court that reinforces the program's place as part of the justice system, and it is where things become public record. On 19 September, court proceedings started 30 minutes late and the small lobby was filled with people, some sitting and some standing. Defense counsel and social workers were having quick conversations with the program's participants; it seemed like something that ought to happen privately but the courthouse's two small private meeting rooms were occupied. Eventually, the sheriff announced that everyone could enter Courtroom 2, and so approximately 20 people made their way inside.

Once all were seated, with lawyers at their designated desks

and everyone else sitting in the gallery, the court clerk called, “all rise, the honourable Justice Cathy Benton presiding.” The judge walked in, in her formal court robes, sat behind the bench, and court was in session. She began by addressing the delay in the day’s proceedings, explaining that most of the participants were late. Judge Benton advised that budgeting for things like public transportation delays were the responsibility of each participant and that lateness could be misinterpreted as non-attendance. Should a participant not attend court, the judge would issue a warrant for their arrest and their place in the program could be in jeopardy. In this exchange, the judge was clearly positioning herself as a coach or mentor; she was the ultimate authority figure in the room and yet spoke directly to the participants in the gallery in a parental tone, simultaneously warning and encouraging.

It was then time for court proceedings to start. Defense counsel, in this case two legal aid lawyers each representing a portion of the 11 participants present, stood up and began introducing each case, one at a time, following a similar format each time. When a participant’s name was called, they stood up from their seat in the gallery and walked up to stand at the bar dividing the courtroom. Their lawyer would provide a brief summary of their progress and/or setbacks from the previous two weeks, and advise the judge that they should be allowed to continue and return to court in two weeks’ time. The judge would then ask the participant a question or two, and conclude by praising their ability to attend appointments and stay the course.

In each case, the judge would engage the participant in brief conversation. For example, once informed that a participant had recently found work, Judge Benton asked the participant

what work he had found and if he expected it would interfere with his required treatment appointments. She offered him advice about how to stay on track and manage his obligations and, satisfied with his response, agreed to see him back in court in two weeks' time. Each participant seemed reluctant to engage in conversation with the judge, offering very brief responses to her questions; it is easy to imagine that a combination of nervousness, uncertainty and unfamiliarity were contributing factors.

Another participant had missed two scheduled meetings with his social worker. That information had not been mentioned in court by his lawyer but must have been discussed in the pre-court meeting. Judge Benton informed him that he would be receiving a sanction – one additional individual therapy meeting. Another participant was also sanctioned, required to write a short essay about responsibility.

One participant was not present on 19 September, and it was revealed in court that he had been arrested only a short time prior. It seemed as though his whereabouts were not known during the pre-court meeting. Though much of what lawyers present in court is already known to them and the judge, in this case this was clearly new information. Without the participant present, his case was not discussed, but it seemed clear that his place in the program was in significant jeopardy, much to everyone's concern and disappointment. On 19 September, one new participant was admitted into the program. When called to come forward, her defense counsel informed the court that the participant had satisfied all screening measures, had been approved in the pre-court meeting, and understood that she would have to plead guilty to participate. Then, the judge took over and asked follow-up

questions to make sure the participant understood what she was getting into. The new participant then entered her guilty pleas, was formally admitted into the program, and invited to return in two weeks' time. On 3 October, she was present in court and seemed to have begun her integration into the program.

The final participant in the 19 September proceedings received a reward. When the participant stepped forward to the bar, Judge Benton stood up from her bench, gathered her court robes, and wove her way through the courtroom to stand in front of him. It is clearly not a path judges usually take in a courtroom, as it required considerable effort on her part. She stood in front of him, with the bar between them, shook his hand, and spoke to him from that spot. Judge Benton commended him for his outstanding progress over the past two weeks and informed him that during the pre-court meeting, it was determined that he was close to graduation. She then handed him a gift certificate – \$15 at Tim Hortons. While he seemed clearly embarrassed by the attention, he could not help but exclaim that he had never seen a gift card for so much. It was a truly meaningful exchange to witness.

Once returned to her bench, Judge Benton offered final words of encouragement to the participants, and court was adjourned. Some participants had a final, brief exchange with either their lawyers or social workers. On 3 October, everyone was invited to a community room in the courthouse's lower level for a going away party; Kara Andrews was moving on to a new job after having been with Kentville's drug treatment court since its inception. This gathering, which included participants, various lawyers and social workers, as well as Judge Benton and other colleagues of Ms.

Andrews's, offered a snap-shot of how program graduations are celebrated. There is certainly opportunity to improve or create a gathering place that is decidedly more celebratory and that encourages more interaction among those present. The speeches made by her peers made clear the profound impact of Ms. Andrews's work and the broader work of the drug treatment court.



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