



CASE STUDY: IMPACT OF THE COVID-19 PANDEMIC ON THE NOVA SCOTIA WELLNESS COURTS

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

As part of its mandate, the Committee facilitates information sharing amongst Canada's courts – which includes highlighting useful practices emanating from individual courts, as appropriate – in recognition that such efforts can serve to promote coordination and collaboration in key areas to help restore court operations across the country.

ISSUE

Specialized court programs seek to improve justice outcomes for adults charged with a criminal offence by addressing the underlying causes of their behaviour, such as mental health or addiction issues. These programs are the result of local courts, health and justice officials, and community members identifying gaps in services and building partnerships together with community organizations and health authorities to develop an approach designed to meet those needs. While they vary in focus, all specialized court programs were impacted by the COVID-19 pandemic due to their in-person nature and lack of a formal support structure. This further marginalized participants in these programs, as they are often already vulnerable due to multiple intersecting factors such as mental illness or poverty.

On August 27th, 2021 the Action Committee heard from Chief Judge Pamela Williams of the Nova Scotia Provincial and Family Courts and Chief Medical Officer of Health for Nova Scotia Dr. Robert Strang, who shared their experience supporting specialized court programs during the pandemic.

This case study outlines the experiences of the Nova Scotia Wellness Court Programs, especially the Dartmouth Wellness Court, as examples of how well-established partnerships between multiple justice, health and social service agencies, and community organizations can weather a serious storm and remain a beacon for marginalized individuals during times of crisis.

THE NOVA SCOTIA EXPERIENCE

Due to swift implementation of public health measures, Nova Scotia experienced a delayed, but still severe, impact of the COVID-19 pandemic. These same measures could have had a devastating impact on specialized court programs, if not for the dedicated efforts of those involved.



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1. SPECIALIZED COURT PROGRAMS IN NOVA SCOTIA

There are approximately twelve specialized courts programs operating in Nova Scotia, serving communities in most regions of the province. The programs include drug treatment courts, domestic violence courts, and mental health courts located in Dartmouth (2009), Sydney (2012), Port Hawkesbury (2012), Kentville (2014), Amherst (2015), Halifax (2018), Wagmatcook (2018), Bridgewater (2019), and Truro (2020). Most of these courts receive no dedicated additional funding. However, the Kentville Court Monitored Drug Treatment Court is partially funded through a federal program and two domestic violence courts receive additional funding from the province to cover some of the costs associated with Nova Scotia Legal Aid, probation, victim services, and additional interventions such as counselling or group programming.

The programs take a relational approach, understanding that building and maintaining relationships is the key to success. The programs also use a collaborative and problem-solving approach, combining multiple services to develop a support plan unique to the needs of each participant. The judge-led court team—which is multi-disciplinary and usually includes a mix of mental health and addiction counsellors, social workers, occupational therapists, elders, and court staff, in addition to the Crown and defence—monitors the participant's progress to hold them accountable for their crime and assess potential risks to public safety, while steering the participant along the path to wellness within the community.

Unlike many other specialized courts across Canada, the Dartmouth Wellness Court does not necessarily require a guilty plea as a condition of eligibility for its programs, or render applicants automatically ineligible due to the seriousness of the offence alleged. Rather, the Court and its program partners assess each application on an individualized basis. This flexible approach allows them to balance public safety considerations with the needs and motivations of potential participants, and to strive towards outcomes that best align with the broader public interest. For example, the Court has found that, in some cases, a conviction might create disproportionate consequences that could further marginalize or criminalize certain persons, especially those without a prior criminal record, by creating additional stigma or difficulties in finding housing or employment.

While an acknowledgement of responsibility on agreed facts is required, if the Crown and defence agree, the facts may be adjusted to reflect the acceptance of responsibility. If a guilty plea is required, the Court and the prosecutor may agree to withdraw this plea and the corresponding charges upon a participant's successful completion of the court program. This could occur, for example, if a guilty plea is needed as an incentive to motivate a participant with a lengthy criminal record to engage actively in the program.

2. THE WELLNESS COURT PROGRAMS STEERING COMMITTEE

Because specialized courts were introduced organically in response to locally identified needs, there was initially no coordination of their implementation across the province. Each new program consulted with the previous one for some informal lessons learned but there was no consistent approach. A Wellness Court Programs Working Group (2015) and its successor, the



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[Wellness Court Programs Steering Committee](#), was established in 2019 in order to help provide guidance and support the delivery of specialized court programs across the province.

Relationships developed through this structured partnership will help inform strategic planning for specialized court programs, in part due to lessons learned, best practices and gaps identified during the pandemic.

2.1 A Multi-Stakeholder Partnership

The Steering Committee brings together multi-disciplinary partners to help coordinate programs and services in Nova Scotia's Wellness Courts, and build upon each other's expertise to support the design, development, implementation, operations, and evaluation of the programs themselves.

The Steering Committee is co-chaired by the Chief Judge of the Provincial Court and the Chief Public Health Officer of Nova Scotia. Its membership includes representatives from Nova Scotia Health, Mental Health and Addictions, Judiciary who preside over specialized courts, the Transition House Association of Nova Scotia, Mi'kmaq Legal Support Network, the Department of Justice Court Services, Correctional Services, and Policy, Planning and Research, Department of Community Services, provincial and federal prosecutors, Nova Scotia Legal Aid, the private defence bar, and past program participants. Representatives from the provincial Offices of L'nu Affairs (formerly Office of Aboriginal Affairs) and African Nova Scotian Affairs are also included to reflect the diversity of the province's population. They currently meet four times a year.

2.2 A Structured Model of Collaboration

Governed by [Terms of Reference](#), the Steering Committee promotes a consistent and coordinated approach to service delivery in specialized courts throughout the province. In pursuit of this goal, the Steering Committee seeks to clarify roles and responsibilities to promote collaboration and accountability among partners; support strategic planning to strengthen partnerships and improve resource allocation; define core competencies and training needs for members of specialized court teams to better serve participants; and develop [Best Practices](#) and [Evaluation Frameworks](#) for specialized court programs to measure results based on evidence. These results are [reported annually](#) to stakeholders.

2.3 Guiding Principles

The Steering Committee endorses a holistic approach to the design of wellness court programs, considering the needs of program participants. To do this, it applies a set of underlying principles including balancing public safety with the safety and autonomy of each participant; confidentially and informed decision-making; using a jurisdiction-by-jurisdiction approach which recognizes the different priorities, needs, and, of course, resources available in each community; and applying a recovery-oriented, trauma-informed, and culturally relevant approach.



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2.4 Addressing the Needs of Indigenous and Racialized Individuals

Indigenous and Black Nova Scotians are overrepresented in the criminal justice system but underrepresented in wellness court programs. For example, the Dartmouth Wellness Court found that, due at least in part to cultural or historical reasons, many potential participants do not have and may not wish to seek an official diagnosis of mental illness—a diagnosis necessary for entry into some wellness court programs. Therefore, the Steering Committee has engaged with identified communities to better understand and respond to unmet needs.

As a starting point to address cultural barriers, pinpoint cultural needs and promote a human-centred approach to the intake process for wellness court programs, the Steering Committee has created a [Cultural Competence Guide](#). It also works with communities to support the writing of *Gladue* sentencing reports and hold healing circles and circles of support to address Indigenous needs and cultural practices, and to create *Impact of Race and Culture Assessment (IRCA)* reports to help assess whether racialized persons qualify for specialized court programs and inform support planning.

3. IMPACTS OF THE PANDEMIC ON THE DARTMOUTH WELLNESS COURT

While the COVID-19 pandemic has affected all court users in one way or another, participants in specialized court programs have been more deeply impacted. For example, many participants have precarious housing situations and rely on a network of shelters. Shelters were forced to reduce the number of available spaces to operate safely in compliance with public health recommendations for physical distancing. This had the unintended consequence of further destabilizing safe housing access for participants, especially for people who had difficulty maintaining stable housing. Mental health supports were deemed essential and continued to operate, but access was sometimes delayed. In some cases, service delivery also shifted to a virtual model, creating additional barriers for both service providers and their clients.

Instead of seeing these barriers as insurmountable, the staff and partners of the Dartmouth Wellness Court saw these challenges as additional reasons to maintain contact with their program participants and to seek to understand their struggles.

Although courts in Nova Scotia did not hold in-person hearings for the first few months of the pandemic, specialized court programs were able to continue to operate by building upon the strong relationships program partners had forged prior to the pandemic. Core Team members (clinicians, probation officers and Crown and defence) and other service workers maintained frequent contact with participants. These efforts empowered many participants to continue to meet program requirements, such as counselling, and helped to minimize the risk of relapses linked to substance use or mental health crises. Even though there were no court appearances during that period, the judges, defence counsel and Crown counsel still received regular progress updates and were able to maintain, to the greatest extent possible, a relationship-based approach to wellness and a sense of continuity and stability for program participants.



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Nova Scotia started virtual court proceedings in mid-June 2020. During this period, the Dartmouth Wellness Court held virtual team meetings to share progress updates on individual participants. These virtual meetings allowed more support personnel to attend than had been possible in person. However, the Court quickly saw a necessity for participants to attend formally, to remind them they are still part of a court program, and that it is important to follow through on court-mandated programs and treatment. This started in late June 2020 with some, but not all, participants phoning in, with the assistance of defence counsel, and then transitioned to video appearances for participants who were sufficiently comfortable with and had access to technology.

For some participants, such as those with social anxiety or without reliable transportation or childcare, this move to virtual services to support their rehabilitation was welcome and improved their capacity to participate.

Other participants struggled with the change, those without access to the Internet or technology and those who need one-on-one, face-to-face social interaction. Virtual technology also made it more difficult for the court and program workers to monitor progress, for example in assessing whether the mental health of a participant was deteriorating. There was also no drug testing available for several months so, for a period, it was not possible to use that method to determine whether participants were using illicit substances, despite the important impact substance abuse has on the mental health of many participants.

Currently, all participants appear virtually for a weekly check-in by either phone or video; while not optimal, this is better than no contact at all. Face-to-face video contact is preferred to phone appearances whenever possible, as it allows the judge to observe the participant and their gestures, have a one-on-one conversation, and build a better relationship and rapport.

Importantly, access to, and comfort with, virtual and hybrid proceedings may provide an opportunity to eventually expand the Wellness Court Program by allowing the court in Dartmouth, for example, to connect to participants and local service providers in other regions.

4. KEYS TO SUCCESS

Nova Scotia, as a small jurisdiction, was well positioned to bring people and services together, to leverage existing professional relationships to find the right champions, and to bring relevant experts and communities to the table to support the participants in these programs.

Some specific keys to its success and takeaways for the future include:

- Having a structured, pre-established Steering Committee that brings together a variety of resource persons and champions can help to maintain wellness court operations during a time of crisis.



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- Establishing a relationship-based approach by courts and service providers can help to keep both support networks and services to participants going throughout prolonged emergencies.
- Normalizing hybrid virtual and in-person processes can help courts to maintain their relationship-based approach during times of crisis and to meet specific needs, in particular:
 - virtual options for those participants who face difficulties accessing transportation or childcare, or who have significant anxiety issues relating to in-person appearances, and
 - videoconferencing options to ensure service providers can participate in meetings despite hectic schedules or remote locations, and to integrate their observations and input into the processes

5. MOVING FORWARD

There is still work to be done to enhance Nova Scotia's Wellness Court Programs.

- Provincial initiatives on transforming the justice system and increased focus on mental health and addictions and affordable housing/homelessness provide an opportunity to position wellness courts within broader contexts and objectives.
- Enhanced collaboration between government departments during the COVID-19 response provides a model and opportunity to work more effectively on the initiatives focused on limiting involvement in the justice system for people with mental health and/or addiction issues.

6. POINT OF CONTACT

For more information on specialized court programs in Nova Scotia, please contact:

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