SCOTTISH EXECUTIVE

The Operation and Effectiveness of the Scottish Drug Court Pilots

Crime and Criminal Justice

social research

THE OPERATION AND EFFECTIVENESS OF THE SCOTTISH DRUG COURT PILOTS

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INTRODUCTION AND BACKGROUND

Drug Courts were initially developed in the USA in the late 1980s. Scotland's first Drug Court was established in Glasgow Sheriff Court in October 2001 and a second pilot Drug Court was introduced in Fife in August 2002, making its first order on 9th September 2002. The Fife Drug Court sits in Dunfermline and Kirkcaldy Sheriff Courts.

Both Drug Courts are aimed at offenders aged 21 years or older of both sexes, in respect of whom there is an established relationship between a pattern of serious drug misuse and offending. They aim to reduce the level of drug-related offending behaviour, to reduce or eliminate offenders' dependence on or propensity to use drugs and to examine the viability and usefulness of a Drug Court in Scotland, especially, in the case of Fife, in a non-urban centre. All Orders made by the Drug Court – Probation Orders or Drug Treatment and Testing Orders (DTTOs) are subject to drug testing (urinalysis) and regular (at least monthly) review.

The Glasgow Drug Court has the Shrieval capacity to operate on four days a week, with two sheriffs covering it on alternate weeks. In Fife, the Drug Court sits for two days per week in Kirkcaldy and for one day per week in Dunfermline. One sheriff sits in the Fife Drug Court, with a stand-in sheriff to provide back-up during periods of absence. The Drug Court Sheriffs have responsibility for reviewing Orders and responding to non-compliance. Other designated staff include Sheriff Clerks, court officers and, in Glasgow, a Procurator Fiscal and Co-ordinator. In both Drug Courts a Supervision and Treatment Team has been established to support the Drug Court in all aspects of assessment, supervision, treatment, testing and reports to the court.

In many respects there are operational similarities between the two Drug Courts. However there are also important procedural differences, which were instituted to enable the Drug Court model to be adapted to different local contexts.

METHODS

A variety of qualitative and quantitative research methods were employed. They included: interviews with professionals associated with the Drug Courts; interviews with Drug Court clients; collection of information from Drug Court records; observation of the Drug Courts in action; and the completion of individual client questionnaires by members of the supervision and treatment team. In addition to these more formal methods, the researchers spent time informally familiarising themselves with the Drug Courts and becoming acquainted with the role of the various professionals involved in its operation.

REFERRAL AND SENTENCING

Potential candidates for the Fife Drug Court were usually identified by sheriffs sitting summarily in Dunfermline or Kirkcaldy Sheriff Courts or were brought to the attention of

the bench by defence agents. In Glasgow, referrals, particularly from the police, remained lower than expected. In practice most were referred by marking deputes or, following the expansion of the referral routes, directly by other Sheriffs. Professionals were generally content with the referral criteria, though some suggested that younger offenders should be given the opportunity to participate in Drug Court Orders. In Glasgow relatively few women were referred because their offences were often deal with by the District Court.

In September 2002, 73 existing DTTOs were transferred into the Fife Drug Court. A total of 872 additional referrals involving 382 individual offenders were made during the pilot period. Males accounted for 82 per cent of referrals, the majority of which emanated from Kirkcaldy Sheriff Court. In Glasgow, 271 cases had been referred for assessment by the middle of November 2004, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. Over 90 per cent of individuals referred to the court were male. Cases considered by the Fiscal to be potentially suitable for the Glasgow Drug Court were referred for screening – initially a group attended by various professionals and later an interview conducted by a social worker. This was viewed as an effective mechanism for filtering out inappropriate referrals and was seen as particularly valuable early in the pilot period.

Drug Court assessments involved the client attending multiple appointments with the Supervision and Treatment Team and submitting to a drug test. Sheriffs were content to continue such cases on bail as this provided a more realistic test of the offender's motivation and willingness to comply. Clients were well informed about the purposes and requirements of Orders prior to consenting to their imposition. While some offenders apparently agreed to an Order to avoid a custodial sentence, most were also motivated by the possibility of getting off drugs. Views were divided over whether the possibility of participating in the Drug Court encouraged offenders to enter earlier guilty pleas. There was no evidence, however, that it encouraged them to plead guilty to offences that they were not, in fact, guilty of committing.

In Fife, 205 (24%) referrals resulted in Drug Court Orders being made. Most Orders imposed (78%) were DTTOs, and their average length was 18.7 months. Over four-fifths of offenders made subject to an Order were male; their average age, 26 years. Nearly all were unemployed or not seeking work and, from limited data, it appears that most had an extensive list of previous convictions and custodial sentences. In Glasgow, 150 (55%) referrals resulted in Drug Court Orders being made, most of which were DTTOs (73%) of an average length of 18 months. Of offenders made subject to an Order, 91 per cent were male and their average age was 31 years. Nearly all were unemployed or not seeking work and most had an extensive list of previous convictions and custodial sentences.

Drug Court Sheriffs considered the range of sentences available to them to be effective and appropriate and believed that their sentencing decisions were better informed than in the Sheriff Court due to the highly comprehensive and focused reports made available to them. Deferred sentences were also seen to afford some flexibility in sentencing, although Sheriffs expressed reservations about the usefulness of Restriction of Liberty

Orders for offenders in receipt of drug treatment. Information about outstanding charges was seen as problematic by Fife Sheriffs who bemoaned the lack of a dedicated Drug Court Fiscal.

SUPERVISION AND TREATMENT

Multi-professional and multi-agency working are key characteristics of the Drug Court despite having the potential for minor difficulties in practice. The services made available to offenders through Drug Court Orders were comprehensive, with treatment and testing as the main component of all interventions. Treatments included a range of services provided by the Drug Court Teams and external service providers. The services included counselling, prescribing, access to day programmes and primary medical care. However, it was notable that substitute prescribing (using methadone) constituted the core element of the treatment service in practice. Concerns were expressed by members of the Supervision and Treatment teams and Drug Court participants that the operational regimes lacked flexibility, and that levels of medication provided were not always in compliance with the wishes of individual participants. There also appeared to be a broadly based desire for more comprehensive service provision and a wider range of services to be made available to the Drug Courts. Participants were, however, generally satisfied with the treatment and other services that they had received at different stages of their Orders and most appeared to have engaged with the Supervision and Treatment Teams.

Drug testing forms a key component of Drug Court Orders with participants tested twice weekly at the beginning of an Order. Relapse is recognised as a possibility and time is allowed to enable participants to stabilise their drug use before reducing/ending it. Drug Court participants saw testing as a largely positive element of the Order, viewing it as a significant motivating factor as well as a deterrent. Obtaining negative test results was viewed as a clearly defined goal, particularly given the prominence of this issue during reviews and the dialogue between participants and the bench.

Multi-disciplinary teamwork had been identified as less effective than it might be in the early stages of the pilot and was a particular problem for the Fife Drug Court. These difficulties had been recognised and were being addressed. Communication between different professionals involved in the Drug Court in Glasgow was now seen as very good and positive relations had developed within the multi-disciplinary team. This had been facilitated by a move to better equipped and more conveniently located premises, though some shortcomings of the new building were also identified.

The availability and management of substitute providing has become the focus for much of the internal frustrations over different treatment philosophies and management systems. Indeed, the issue of prescribing has achieved such symbolic importance that other approaches to the problem appear to have been sidelined in many ways and their relevance may have been undermined. In Fife, the development of effective, multi-disciplinary approaches to the treatment of drug-related offenders has not been assisted by the existence of duplicate case management systems such as the two-stage assessment

system, the dual system of formal warnings and the lack of any coherent linkage between the weekly case discussions and the clinical meeting. In spite of these difficulties, a great deal of excellent work has been accomplished with individual clients and at the day-to-day case management level, individual practitioners have clearly found practical ways of working together effectively for the good of the client.

Two particular issues were highlighted as presenting challenges to the Drug Courts. The first was the increased incidence of cocaine use among participants, especially in Glasgow. This may require a wider range of resources, including residential rehabilitation, and will have clear resource implications. The second issue concerned the use of random drug tests, which team members considered desirable. The practical difficulty appeared to centre upon how random tests could be accommodated within participants' other commitments, though this issue does not appear to have been insurmountable in other jurisdictions and the potential for introducing random tests should be more fully explored.

REVIEWS AND ENFORCEMENT

Pre-court review meetings were perceived to be a beneficial component to the process of supervising and treating participants on Drug Court Orders. The thorough private exchanges of information around the multi-agency table, chaired by the Drug Court Sheriff, informed and shaped the nature of the dialogue with the participant during the review. In particular, pre-court review meetings enabled discussion of issues of a highly sensitive nature that it would be inappropriate to air publicly in open court. Most offenders were confident that their progress was discussed in a fair and appropriate manner.

Review meetings were held in open court, a transparency that was perceived by the Drug Court Sheriffs as valuable to maintaining public confidence in the Drug Court during its pilot stage. Sheriff-participant dialogues were at the heart of reviews and were regarded as a distinguishing feature of the Drug Court approach. Participants were very positive about this aspect of the Drug Court and regarded continuity of sentencer at reviews as important. The concept of drug use as a relapsing condition was recognised by Drug Court Sheriffs and particularly emphasised in Shrieval dialogue.

Supervision and Treatment Team workers took active steps to respond to instances of non-compliance. The Drug Court Sheriffs had a limited range of options in the event of non-compliance, though intermediate sanctions of imprisonment and Community Service had been made available to the Drug Court from July 2003. There were also relatively few options available to reward progress on an Order, other than reducing certain requirements associated with the Order or discharging the Order early on the basis that sufficient progress has been made. At most of the observed reviews, participants were deemed to have been compliant (or sufficiently compliant) with all aspects of their Orders and most reviews involved no changes being made to the treatment plan or to the frequency of testing or attendance at reviews.

Procedures for ensuring that outstanding charges were rolled up and new offences brought to the Drug Court were considered to work well, especially in Glasgow, though this was not always possible (for example, if a participant re-offended outside the jurisdiction of the Drug Court). The imposition of custodial sentences for outstanding or new charges by other courts could make it impractical for an Order to continue, with the result that it would have to be revoked.

Participants were generally accepting of the sanctioning role of the Drug Court Sheriffs and were positive about receiving praise in recognition of their progress. Although the options available to the court to reward progress were limited, an expansion in the repertoire of culturally appropriate 'rewards' presented challenges. However in view of the participants' appreciation of positive reinforcement through praise, this, along with appropriate variations in the requirements associated with Orders, may prove a sufficient incentive in the Scottish context.

Overall, the Drug Court was viewed by participants as fair in its response to non-compliance and it was acknowledged that participants would usually be given several chances before their Orders were breached. Participants generally regarded sentences imposed on revocation or breach as fair, though a minority considered them unduly harsh and their treatment overall to have been inadequate.

Completion rates for the Glasgow and Fife Drug Courts were commendable given the high tariff nature of the Drug Court Orders. In Glasgow 47 per cent had completed their Orders compared to a completion rate of 30 per cent in Fife.

THE OUTCOMES OF DRUG COURT ORDERS

Professionals were cautiously optimistic that the Drug Court was proving effective in addressing drug use and associated offending behaviour. Although it had not worked with all of those who participated in it, there had been clear instances of success. 'Success' was acknowledged to be difficult to define, but reductions in drug use and offending were to be welcomed.

At different stages of their Orders most participants reported that they had reduced their use of drugs and their involvement in drug-related offending. The treatment and other services were believed to have impacted upon their drug use and offending, though many participants also stressed the importance of personal motivation to initiate and sustain change. Most participants viewed the Drug Court as a positive opportunity for change and many reported that being on an Order had bought about other improvements in their lives. A small minority whose Orders had been terminated early were somewhat more disenchanted. Participants stressed the importance of being linked into a wider range of services and supports if they were to sustain achievements made. Therefore while the aspects of the Drug Court regime – such as the treatment, testing and regular reviews – were important in helping to initiate change, they needed to be located within a wider framework of support.

Analysis of questionnaires completed by social workers at different stages of participants' Orders indicated that reductions in drug use and offending were anticipated in most cases and improvements that were made appeared to have been sustained over time. The questionnaires suggested that participants were more likely to have effected changes in their drug use and offending and to have addressed other problems in their lives after twelve months on an Order. This was particularly so in Glasgow, with less evidence of change over this period in Fife.

Social workers' perceptions that drug use had decreased over the course of Orders was supported by the analysis of drug test results. In both Glasgow and Fife there was a steady decrease in the proportions of clients testing positive for opiates and benzodiazepines over the course of an Order.

Fifty per cent of Drug Court clients had been reconvicted within one year and 71 per cent within two years. The reconviction rates were similar in Glasgow and Fife and similar for men and women. The ages of those convicted and not convicted were similar but those who were reconvicted had more convictions in the two years prior to being placed on an Order. Probationers were slightly (though not significantly) more likely than those on DTTOs to be reconvicted while those who completed their Orders were slightly less likely to be convicted than those who did not. Clients who completed their Orders had fewer convictions in the two years after being made subject to an Order than in the two years immediately before.

THE COSTS OF DRUG COURT ORDERS AND THEIR ALTERNATIVES

The average cost of a Drug Court Order was estimated to be £18,486 compared with the average costs of a non Drug Court DTTO at £14,085. In addition, three major areas of potential cost savings can be identified. Firstly, the Glasgow Drug Court was operating well below capacity for a substantial proportion of the pilot period. Secondly, there was a significantly higher level of breaches and revocations in Fife compared to the rates in Glasgow and these discontinuations generally happened much earlier in the Order. Thirdly, in both pilots (though this was particularly evident in Fife), a complex multi-disciplinary assessment procedure appeared to engage a substantial element of staff time and did little to encourage access to treatment. None of these issues is insoluble and steps have already been taken in both pilots to begin to address these problems. However, it is important to note that resolving these issues has a serious cost benefit not just for the two pilots which were evaluated, but also for the wider savings that can be achieved by reducing levels of drug-related crime amongst a group of offenders for whom existing treatment interventions have either failed or failed to make themselves properly accessible.

CONCLUSIONS

Drug Courts cannot provide a panacea for the problem of drug-related crime. However there is evidence that a sizeable proportion of clients made subject to Drug Court Orders were able to achieve and sustain reductions in drug use and associated offending

behaviour. Given the difficult client group with whom they were engaging and the challenges of providing a co-ordinated multi-professional response, the pilot Drug Courts can be deemed to have been a success. While operational difficulties were encountered during the establishment and operation of the pilots, there was widespread support for the Drug Courts both from those working within them and from other criminal justice professionals, such as Sheriffs sitting in other courts.

The main strengths of the Drug Court can be summarised as the 'fast-tracking' of offenders (in Glasgow), the existence of a trained and dedicated team with regular contact with participants, and the system of pre-court review meetings and reviews. The dialogue between the bench and Drug Court participants was viewed almost universally as a central component of the Drug Court process. The Drug Court Sheriffs reported being better informed about drug use and therefore better able to respond appropriately to those appearing before the Court.

Challenges faced by the pilots that would need to be considered if further Drug Courts were to be developed included: obtaining sufficient appropriate referrals; dealing with staff turnover and ensuring that the Supervision and Treatment Team is adequately resourced; developing effective multi-professional teamwork; dealing with changing patterns of drug use; providing for longer-term support for those on Orders; and developing appropriate IT systems to support the work of the Court.

CHAPTER ONE: INTRODUCTION AND BACKGROUND

INTRODUCTION

1.1 Drug Courts were initially established in the USA in the late 1980s by sentencers who were frustrated at the limited range and effectiveness of existing measures for dealing with those whose offending was related to the misuse of drugs. Generally Drug Courts aim to reduce drug misuse and associated offending by offering treatment based options outwith the traditional court setting. They are operational in a range of jurisdictions outside the USA including Australia, Canada and Ireland. Evaluations of Drug Courts in other jurisdictions have suggested that they can bring about reductions in drug use and drug-related offending and improvements in health and well-being (e.g. Belenko, 1998, 2001; Freeman, 2002; Gebelein, 2000; Goldkamp, 2000; Lind et al., 2002; Makkai and Veraar, 2003). However, in the USA in particular, Drug Courts have tended to target relatively low-tariff offenders and the quality of evlautaions has been variable (Belenko, 1998).

1.2 In October 2001 Scotland's first Drug Court[1] was established in Glasgow Sheriff Court, operating under summary proceedings. Its introduction followed the conclusion of a Working Group for Piloting a Drug Court in Glasgow (Scottish Executive, 2001) that the establishment and operation of a Drug Court in Glasgow was feasible within existing legislation. A second pilot Drug Court was established in Fife in August 2002, making its first Order on 9th September 2002. The Fife Drug Court sits in Dunfermline and Kirkcaldy Sheriff Courts.

1.3 Both Drug Courts are aimed at offenders aged 21 years or older of both sexes, in respect of whom there is an established relationship between a pattern of serious drug misuse and offending. They aim to reduce the level of drug-related offending behaviour, to reduce or eliminate offenders' dependence on or propensity to use drugs and to examine the viability and usefulness of a Drug Court in Scotland, especially, in the case of Fife, in a non-urban centre. All Orders made by the Drug Court are subject to drug testing (urinalysis) and regular (at least monthly) review. The Drug Court Sheriffs have responsibility for reviewing the Order and responding to non-compliance. In both Drug Courts a Supervision and Treatment Team has been established to support the Drug Court in all aspects of assessment, supervision, treatment, testing and reports to the court.

1.4 The Drug Court pilots differ from the Drug Treatment and Testing (DTTO) schemes from which they were developed. In the Drug Courts there is a dedicated court team consisting of Sheriffs, a Sheriff Clerk, a court officer and, in Glasgow, a Procurator Fiscal and Co-ordinator. In Glasgow the referral route to the Drug Court also differs from the referral route for DTTOs, with potential cases identified from among police

[1] The court is referred to in official documentation as the 'Drugs Court'. However since it is widely referred to in practice as the Drug Court and since this is the term commonly used in other jurisdictions it is used throughout this report.

custody cases and reviewed at a multi-agency screening group or screening interview. While both Drug Court Orders and DTTOs made in other courts are subject to regular judicial review, the Drug Courts additionally convene pre-court review meetings to discuss the progress of cases prior to the court-based review. Since July 2003 the Drug Courts have had available to them intermediate sanctions which can be imposed in the event of non-compliance without jeopardy to the continuance of an Order.

1.5 In many respects there are operational similarities between the 2 Drug Courts. However there are also important procedural differences, which were instituted to enable the Drug Court model to be adapted to different local contexts.

THE GLASGOW DRUG COURT

Objectives and target group

1.6 According to the Report of the Working Group and the Reference Manual that describes the procedures to be adopted by it[2], the objectives of the Glasgow Drug Court are to:

- reduce the level of drug-related offending behaviour;
- reduce or eliminate offenders' dependence on or propensity to use drugs; and
- examine the viability and usefulness of a Drug Court in Scotland using existing legislation, and to demonstrate where legislative and practical improvements might be important.

1.7 The target group for the Drug Court is offenders aged 21 years or older of both sexes[3], in respect of whom there is an established relationship between a pattern of serious drug misuse and offending and whose drug misuse is susceptible to treatment. Offenders referred to the Drug Court must otherwise have been facing prosecution in the Sheriff Summary Court and should normally first appear before the summary court from custody[4]. Offenders with co-occurring drug misuse and mental illness will not be considered on account of the absence of resources to deal with offenders with dual diagnosis and offenders with a history of violent offending will not normally be deemed suitable for the Drug Court.

Operation

1.8 The Drug Court has the same authority and status as other courts and, accordingly, has available to it the same range of sentences available to the Sheriff Court under summary proceedings. Similarly, the range of sentences available to the Drug Court (including DTTOs) continues to be available to the Sheriff Court. The 4 forms of

[2] Glasgow Sheriff Court (2001)

[3] Offenders aged 16-20 years of age may also be referred to the Drug Court under exceptional circumstances.

[4] Consideration was given during the pilot phase to the feasibility of transferring some female offenders from the Stipendiary Magistrate's Court to the Sheriff Court to enable them to have access to the Drug Court.

community-based supervision and treatment that are available to the Drug Court are DTTOs, Probation Orders with a Condition of Drug Treatment, concurrent DTTOs and Conditional Probation Orders and deferred sentences[5]. It was anticipated that the Drug Court might deal with around 300 referrals and impose around 200 Drug Court Orders per annum (Scottish Executive, 2001).

1.9 The treatment options that the Drug Court has available to it include abstinence, methadone maintenance and methadone reduction. All Orders made by the Drug Court are subject to drug testing and regular (for the most part at least monthly) review. The same Sheriff who imposes the Order has responsibility for reviewing the Order and responding to non-compliance, thereby ensuring the continuity of contact that has been found to be an important feature of Drug Courts in other jurisdictions. The review process enables the Drug Court to employ a range of sanctions in the event of non-compliance or lack of effort and progress on the part of the offender, without recourse to formal breach proceedings. These include increasing the frequency of testing, of supervision appointments, or of court appearances. Since July 2003 both Drug Courts have also had available to them the option of imposing short custodial sentences or Community Service as interim sanctions, while allowing the Order to continue. These provisions, which were introduced by the Criminal Justice (Scotland) Act 2003, only apply to Orders imposed since their introduction in July 2003.

1.10 The Drug Court Sheriffs are responsible for initiating or endorsing breach proceedings, with a 'fast track' procedure instituted in order that breaches might be dealt with at the next scheduled review. In the event of a breach being accepted or proved, the Drug Court may allow the Order to continue and impose a fine or, in the case of Probation, a Community Service Order of up to 240 hours. Alternatively, the court may terminate the Order and re-sentence the offender for the original offence, in which case it is likely that a custodial sentence will be imposed.

1.11 The first 2 years of the Glasgow pilot ended in November 2003. Thereafter some procedural changes were instituted primarily to increase the number of referrals to the Court. These included extending the referral route to include cases at all stages of the court process; the inclusion of solemn cases; and the abolition of screening groups to initially assess potential Drug Court cases. In addition, from early 2004 the initial Drug Court Sheriffs were replaced by 2 new Sheriffs on a phased basis[6].

Staffing

1.12 The Glasgow Drug Court is staffed by 2 Sheriffs on a part-time basis. Each sits in the Drug Court (Court Two in the Glasgow Sheriff Court complex) for 4 days per week on alternating weeks[7]. A Procurator Fiscal was assigned to the Drug Court to identify

[5] During the evaluation period, deferred sentences were not used as a vehicle for requiring the offender to access treatment but, as will be shown, were considered by Drug Court Sheriffs to be useful in the event of multiple charges or new or outstanding charges being brought before the court.

[6] The new Sheriffs dealt with all new cases but the original Sheriffs continued to review their existing cases.

[7] In practice, however, the unexpectedly low level of referrals and Orders has meant that towards the latter part of the 2 year pilot period, the Drug Court only sat on one or 2 days a week.

potential referrals to the Drug Court and to deal with new charges and breaches of Drug Court Orders. The original Procurator Fiscal remained attached to the Drug Court for the first 18 months of its operation, after which the Procurator Fiscal Service decided to rotate the Drug Court Procurator Fiscal on a 3-monthly basis to enable more staff to gain experience of the Drug Court. Other dedicated staff attached to the Drug Court include a Sheriff Clerk and a court officer.

1.13 A multi-agency Drug Court Team was established to review the working, development and operation of the Drug Court. It comprised representatives of the stakeholders involved in the Drug Court pilot, namely the Drug Court Sheriffs, the Sheriff Clerk, the Drug Court Procurator Fiscal, the Project Leader of the Drug Court Supervision and Treatment Team (see below), a Drug Court medical officer, a senior social worker, a representative from the Scottish Drugs Forum (representing the voluntary sector), a representative of the police and a representative of the Glasgow Bar Association. A Drug Court Co-ordinator – who was seconded from the Procurator Fiscal Service - facilitates the work of the Drug Court Team.

1.14 A Drug Court Supervision and Treatment Team was established to support the Drug Court in all aspects of the assessment, supervision, treatment and testing, plus the provision of reports to the court. It consists of a Team Leader, supervising social workers, addiction workers, treatment providers and medical staff[8] who are located together in shared premises[9]. It was intended that each offender made subject to a Drug Court Order would have a Case Group, consisting of a supervising social worker, addiction worker and medical officer. The staffing level of the Supervision and Treatment Team has changed over the period of the pilot, reflecting the resource demands of Drug Court Orders and Drug Treatment and Testing Orders[10] over this period. At the end of the 3-year pilot period it consisted of:

Social Work Staff	***GDPS staff***
1 Team Leader	1 Senior Medical Officer
7 social workers (& one vacant post)	1 p/t Medical Officer (post vacant)
3 Social Care Workers	6 Nurses (including one Team Leader, 3 Charge Nurses (one on maternity leave) and 2 Staff Nurses)
2 Addiction Service Supervisors	1 Healthcare Assistant
6 Addiction Workers (& 2 vacant posts)	3 Administration workers (including one Senior and 2 assistants (one on long-term sick leave))
5.5 Administration workers (including one Seniors, 3.5 Clerical Officers & 2 agency staff)	

[8] The dedicated Drug Court treatment providers and Medical Officers are from the Glasgow Drug Problem Service (GDPS).

[9] The Drug Court Supervision and Treatment Team were built upon the existing DTTO team in Glasgow City Council Social Work Department. They relocated from John Street, Glasgow, to refurbished premises on Norfolk Street, Glasgow, adjacent to Glasgow Sheriff Court, in September 2002.

[10] The Supervision and Treatment Team also supervise all DTTOs imposed in Glasgow Sheriff Court in addition to any Orders made in the Drug Court.

THE FIFE DRUG COURT

Objectives and target group

1.15 According to the Fife Drug Court Reference Manual (Fife Drug Court, 2002) its objectives are to:

- reduce the level of drug-related offending behaviour;
- reduce or eliminate offenders' dependence on or propensity to use drugs; and
- examine the viability and usefulness of a Drug Court in Scotland, especially in a non-urban centre, using existing legislation, and to demonstrate where legislative and practical improvements might be appropriate.

1.16 The target group for the Fife Drug Court is offenders aged 21 years or older of both sexes who are appearing summarily and in respect of whom there is an established relationship between a pattern of offending and serious drug misuse that is susceptible to treatment.

Operation

1.17 The operational arrangements for the Drug Court were established by a Steering Group. The procedures for the Fife Drug Court are similar in many respects to those that were developed for the Glasgow Drug Court. However, some had to be tailored to take account of key differences in the way the Fife Court operates. For example, cases are referred to the Fife Drug Court from other Sheriffs sitting summarily and it has jurisdiction over all Drug Court Orders it makes in addition to all DTTOs made by other Sheriffs in relation to summary cases. By contrast, referrals to the Glasgow Drug Court in its first 2 years were identified prior to the offender's appearance before the custody court and it had no jurisdiction over DTTOs made by other sheriffs sitting in the Sheriff Court.

1.18 When the Drug Court was established, sheriffs who were supervising DTTOs in Fife were given the option of continuing to supervise them to their conclusion, but all opted to transfer their DTTOs to the Drug Court. Cases are referred to the Drug Court by sheriffs sitting summarily in Dunfermline and Kirkcaldy Sheriff Courts following receipt of a Drug Court Assessment. The Drug Court can only make Orders in respect of offenders who have been prosecuted under summary proceedings and it cannot hear trials or dispose of cases in which a trial has been necessary to establish a finding of guilt. It was anticipated that the Drug Court might deal with an annual caseload of 150 to 180 new offenders on Orders, which represented an increase on existing levels of 50 to 70 cases per year.

Staffing

1.19 The Fife Drug Court is staffed by one Sheriff who sits in the Drug Court for 3 days per week (2 days in Kirkcaldy and one day in Dunfermline)[11]. Court Three in Kirkcaldy[12] and Court Three in Dunfermline have been designated for Drug Court business. The latter does not, however, have direct access to the custody suite with the result that the Drug Court is required to convene in a larger courtroom in the complex if the Sheriff wishes to impose a custodial sentence (for example, for a further or outstanding offence or for a breach of a Drug Court Order). A designated Sheriff Clerk provides the appropriate administrative support in each court.

1.20 In Glasgow a Procurator Fiscal was assigned to the Drug Court to identify potential referrals to the Drug Court and to deal with new charges and breaches of Drug Court Orders. In Fife, a designated Procurator Fiscal Depute dealt initially with Drug Court business but left shortly after the court began operating and has not been replaced. Instead, several Procurators Fiscal cover the Drug Court, though their role is more limited than it is in Glasgow on account of the different referral route through which cases come to the Drug Court in Fife.

1.21 A multi-agency Drug Court Team was established to review the working, development and operation of the Fife Drug Court. Meeting every 2 months, it is chaired by the Drug Court Sheriff and includes a Drug Court Sheriff Clerk, a Procurator Fiscal, the leader of the Supervision and Treatment Team, the Drug Court Medical Practitioner, a senior addiction worker, a senior worker from the contracted Drug Court Treatment provider, a representative of the police and a representative of the Fife Bar Associations.

1.22 A Drug Court Supervision and Treatment Team has been established to support the Drug Court in all aspects of assessment, supervision, treatment, testing and reports to the court. The staffing complement of the team was as follows:[13]

Social Work Staff	***Medical Staff***
1 Team Leader/Co-ordinator	2 p/t Medical Officers
9 social workers (including 1 Senior)	10 Nurses
3 social work assistants	2 Project Workers (Drug & Alcohol Project Levenmouth)
6 Addiction Workers	
5 Clerical Workers (including 1 Senior)	

[11] A 'back-up' Sheriff has been identified to sit in the Drug Court when the Drug Court Sheriff is absent (for example on annual leave).

[12] Sometimes the Drug Court will sit in another court if Court Three is being used for other purposes or if practical considerations – such as a number of visitors observing the court in action – require it.

[13] It should be noted that the Fife Team Leader is also referred to as the Co-ordinator, but their remit in this respect is not as wide as that of the Co-ordinator in Glasgow. Also, the social work assistants have specific duties separate from their core duties of supporting the treatment and supervision team (e.g. doing home visits, helping clients in relation to transport, food vouchers, chasing up people). One assistant has the main responsibility for all court-based duties, ensuring that clients get appointment times and that staff have these in their diaries. A second assistant supports the addiction workers in their groupwork sessions while a third supports nurses during their groupwork sessions.

1.23 When the Drug Court began sitting, the Supervision and Treatment Team was based in Buckhaven. It was subsequently relocated (in December 2002) to Kirkcaldy when suitable premises, close to the Sheriff Court, became available. The new premises have accommodation for the team members, interview rooms, a groupwork room, a treatment room and a drug testing room. The Supervision and Treatment Team is organised into 3 sub-teams which cover different parts of the geographical area served by the Drug Court: the West Team covers Dunfermline, Kelty and Rosyth; the Central Team covers Kirkcaldy; and the East Team covers Buckhaven, Leven, Glenrothes and North East Fife. The members of each multi-professional area team are accommodated together in a shared office. Each offender made subject to a Drug Court Order has a Case Group, consisting of a supervising social worker, addiction worker and doctor or nurse.

EVALUATION OF THE PILOT DRUG COURTS

1.24 In accordance with the specification issued by the Scottish Executive, the aims of the research were to:

- assess how effective the Drug Courts are in reducing the level of drug-related offending and reducing or eliminating offenders' dependence on or propensity to use drugs; and
- determine whether the operation of the Drug Courts is viable within the Scottish context.

1.25 The research consisted of a ***formative and process evaluation*** of the Drug Courts' implementation and operation in the first 6 months[14] and an ***outcome evaluation*** aimed at assessing the operational effectiveness of the Drug Courts over the course of the pilot and their effectiveness in securing compliance with Orders and bringing about reductions in drug use and associated offending. This report presents the findings from the outcome evaluation of the 2 pilot Courts, including the revised procedures that were instituted in the Glasgow Drug Court in early 2004. Findings relating to the Glasgow Drug Court cover the period from November 2001 to November 2004, while those relating to the Fife Drug Court encompass the period from September 2002 to September 2004.

STRUCTURE OF THE REPORT

1.26 The remainder of this report is organised into 7 chapters. Chapter 2 describes the research methods employed while Chapter 3 examines referral to and sentencing in the Drug Courts. The treatment and supervision (including drug testing) of clients on Drug Court Orders are discussed in Chapter 4 while Chapter 5 focuses on the reviewing of Orders and their enforcement. The outcomes of Drug Court Orders are examined in Chapter 6 and their costs in Chapter 7. Chapter 8 presents the conclusions and recommendations, highlighting factors that have enhanced or detracted from the effective operation of the pilot Drug Courts.

[14] Previously published as Eley, Malloch et al. (2002) and Malloch et al. (2003)

CHAPTER TWO: METHODS

INTRODUCTION

2.1 The evaluation of the Drug Courts involved a variety of research methods aimed at the collection of both quantitative and (primarily) qualitative data. In addition to the methods described in this chapter, the researchers spent time informally familiarising themselves with the Drug Court in action and becoming acquainted with the role of the various professionals involved in its operation.

INTERVIEWS WITH PROFESSIONALS

2.2 Interviews were conducted with a range of professionals associated with or potentially affected by the Drug Court. With most groups of respondents interviews were conducted at 2 points in time: towards the end of the first 6 months and towards the end of the first 2 years. In Glasgow additional interviews were conducted early in 2005 which focused upon the revised procedures that had been put into place some 12 months previously.

Glasgow

2.3 In Glasgow one of the original Drug Court Sheriffs was interviewed on 3 occasions and one was interviewed twice. The replacement Sheriffs were interviewed once. A total of 11 interviews were also carried out with other Sheriffs sitting in Glasgow Sheriff Court. Other respondents (interviewed on either 2 or 3 occasions) included the Drug Court Co-ordinator, the designated Procurator Fiscal, the designated Sheriff Clerk and defence agents. Those interviewed at one point (towards the end of the first 2 years) included 2 Procurators Fiscal and a covering clerk.

2.4 During the first 6 months of the pilot, interviews were conducted with: 6 addiction workers, including one supervisor; 7 social workers, including 2 social work managers; 4 staff from the team seconded from Glasgow Drug Problem Service (GDPS), including 2 Nurses, a medical officer and a senior medical officer; and a group of 3 social work assistants. Interviews were subsequently conducted between July and August 2003 with: 7 addiction workers, including one supervisor; 7 social workers, including one social work manager; and 6 staff from the team seconded from Glasgow Drug Problem Service (GDPS), including 4 addiction nurses and 2 medical officers (one a senior medical officer). In addition, 2 small focus groups were conducted with 3 social work assistants and, subsequently, with 4 administrative/secretarial staff members. A final round of interviews was conducted with 3 social workers (including a senior social worker) and one senior nurse in order to gauge to what extent changes in the referral system and the review process had impacted on professionals views since the full round of interviews.

2.5 Interviews were also conducted with 7 Police Officers during May 2002, selected to reflect the variety of experience officers had of the Drug Court process. The sample

included one Chief Inspector in the court service; 2 duty officers (one Inspector, one Sergeant), one Community Constable, 2 case management Constables, and one drugs awareness officer (Sergeant). Four Divisions of Strathclyde police were represented, and respondents were based in a variety of locations: individual stations, Divisional headquarters, the Sheriff Court and Force headquarters. Towards the end of the first 2 years, further interviews were conducted with 15 officers from 3 Divisions and Force headquarters. Respondents included 2 duty officers, 4 Community Constables, 7 case management officers, one charge bar officer and one member of headquarters staff.

Fife

2.6 Interviews were conducted with the Drug Court Sheriff (twice) and 4 other sheriffs who sat in Dunfermline or Kirkcaldy Sheriff Courts, including 2 back-up Drug Court Sheriffs. In addition, written comments about the operation of the Court were provided by the Sheriff Principal. Other respondents included the Drug Court Sheriff Clerks at Dunfermline and Kirkcaldy, 2 Procurators Fiscal (each interviewed twice) and 5 defence agents with experience of representing Drug Court clients (3 interviewed after 6 months and 2 towards the end of the first 2 years).

2.7 Interviews were conducted during the first 6 months of operation with the Co-ordinator/Team Leader, one medical officer/addiction specialist, 4 social workers (including 1 senior social worker), 4 addiction workers, 3 addiction nurses and 2 social work assistants. Interviews were subsequently conducted, in the summer of 2004, with the Co-ordinator/Team Leader, both medical officers, 9 social workers (including one senior social worker), 8 addiction workers, 8 addiction nurses (including 2 senior nurses), 3 criminal justice assistants and 4 administrators/secretaries.

INTERVIEWS WITH DRUG COURT CLIENTS

2.8 Interviews with Drug Court participants were intended to provide general background information on the impact of Drug Court Orders upon their drug use, access to treatment services, offending behaviour and everyday lives. Table 2.1 shows the number of interviews at each stage of client's Orders and compares the characteristics of those interviewed with those placed on Glasgow Drug Court Orders. Multiple attempts were made to contact (via mail, telephone, social worker, in person) and arrange interviews with all suitable individuals during the relevant stages of their Orders. Although very few refused to participate in principle, over half of all incidences of non-response (53%) were due to potential interviewees refusing to be interviewed at the pre-arranged appointment time (often because they had forgotten appointment times, made conflicting arrangements or prioritised the resolution of other problems they were experiencing), while around a third (35%) were due to absenteeism at the team offices (the venue for most interviews). In some senses, the voluntary, organised basis of participation meant that those who were not stable or who were 'in crisis' were less likely to be interviewed. However, interviews with those performing exceptionally well on their Orders were also hard to organise because these individuals were rarely required to attend at the team offices and were often engaged in other activities (e.g. work, day programmes).

2.9 Overall, the sample appears fairly representative with the most obvious element of bias being the lack of female participants interviewed at the initial and six-month stages of their Orders (although two were interviewed between these stages during the first six months of the evaluation). The main reasons for this were that the number of women placed on Drug Court Orders decreased after the initial stages of the pilot, while those on Structured Deferred Sentences were considered ineligible (these were not administered by the Treatment and Supervision Team in the same manner as other Orders), effectively reducing the population of potential female participants. While extensive efforts were made to interview those women who were eligible, they consistently failed to attend appointments made with the research team (often because of health and childcare issues).

Table 2.1: Characteristics of Drug Court Clients interviewed throughout Orders (Glasgow)

	Number interviewed (% of total)					
	Initial	**3-6 Month***	**6 Month**	**12 Month**	**Completion****	**All clients (N (%))*****
Gender						
Male	32 (100%)	6 (75%)	34 (100%)	11 (92%)	16 (89%)	133 (94%)
Female	0 (0%)	2 (25%)	0 (0%)	1 (8%)	2 (11%)	8 (6%)
Age						
21-29 years	16 (50%)	-	14 (41%)	4 (33%)	11 (61%)	62 (44%)
30+ years	16 (50%)	-	20 (59%)	8 (67%)	7 (39%)	79 (56%)
Order Type						
DTTO	26 (81%)	6 (75%)	23 (68%)	8 (67%)	15 (83%)	109 (77%)
PO	4 (13%)	2 (25%)	7 (21%)	1 (8%)	1 (6%)	19 (13%)
PO/DTTO	2 (6%)	-	4 (12%)	3 (25%)	2 (11%)	13 (9%)
Total	**32**	**8**	**34**	**12**	**18**	**141**

*Interviews at the 3 to 6 month stage of Orders were obtained during the first six months of the evaluation. Exact data on the age of participants was not obtained although it is known that they ranged from 21 to 36 years, with an average age of 27 years.

**Of these interviews, nine were conducted with participants whose Orders had been completed successfully and nine were conducted with those whose Orders were terminated.

***Column excludes Drug Court clients on Structured Deferred Sentences (n=9) not eligible for interviews.

2.10 In addition to the interviews detailed in Table 2.1, 10 interviews were also conducted with clients on DTTOs imposed outwith the Drug Court and with 6 clients given Probation Orders with conditions of drug counselling from Glasgow Sheriff Court.

2.11 In Fife 41 (36 men and 5 women) offenders were interviewed. Table 2.2 shows the number of interviews at each stage of client's Orders and compares the gender of those interviewed with those placed on Fife Drug Court Orders[15]. Overall, the sample composition appeared to be representative in terms of participants' gender.

[15] Information on the age and Order type of Fife interviewees was not recorded.

Table 2.2: Characteristics of Drug Court Clients interviewed throughout Orders (Fife)

	Number interviewed (% of total)			
	Months 1-3	**6 Months**	**Months 11-15**	**All clients (N (%))**
Gender				
Male	20 (91%)	9 (90%)	7 (78%)	173 (84%)
Female	2 (9%)	1 (10%)	2 (22%)	32 (16%)
Total	**22**	**10**	**9**	**205**

COLLECTION OF INFORMATION FROM DRUG COURT RECORDS

2.8 A range of information collected by the Drug Courts was accessed to obtain information about the characteristics of those assessed for the Drug Courts and the progress of those made subject to Drug Court Orders. It should be noted that the different sets of data drawn upon may cover slightly different timeframes (as a result of inevitable delays in obtaining certain types of information and entering it into the relevant database). Any such differences are made clear in the reporting of results.

Glasgow

2.9 A range of information was gathered by different people at various stages in the Drug Court process. Four principal sources of data were drawn upon to obtain information about the characteristics of accused at various stages of the Drug Court process. Firstly, details of cases 'flagged up' by the police or the marking Procurator Fiscal deputes and cases referred to a screening group meeting were recorded by the Drug Court Procurator Fiscal and forwarded to the Drug Court Co-ordinator on a regular basis. Secondly, the Drug Court Co-ordinator developed an Excel database to record details of cases appearing before the Drug Court, including the disposals received by those not made subject to a Drug Court Order. The database was updated on an ongoing basis and revised versions sent to the researchers every fortnight, where possible.

2.10 The third source of information was the monitoring forms used by the Drug Court Supervision and Treatment Team to monitor the characteristics, experiences and responses of offenders referred to the Drug Court and those given Drug Court Orders. During the pilot, administration staff gradually established and developed Microsoft Excel spreadsheets to log the data collected at various stages of Orders. However, some social workers failed to complete these forms, resulting in considerable gaps in the available information, while the multiple amendments and reformulations of the monitoring forms have also created inconsistencies in the recording of data. This resulted in additional manual gathering of information by the researchers and discussions with social workers which succeeded in filling some but not all of the gaps.

2.11 The fourth source of information was the drug testing data from the GDPS's Patient Information Management System (PIMS). It provided a comprehensive record of drug tests conducted and the results thereof during the period January 2002 to January 2004. However, it should be noted that the tests themselves, and hence the resulting dataset, do not identify changes in the quantities of substances detected. Also, the dataset

does not contain all the results from this period; data from the first 9 months appears somewhat patchy, as results from this period were contained in paper records and entered into PIMS after its introduction in August 2002. Although staff sought to enter this data retrospectively, a proportion of the earlier records could not be located and are missing from the information provided. A request to interrogate this database was made by the research team in January 2004. GDPS staff promptly supplied this information in a Microsoft Excel spreadsheet, which was checked by the team's administration staff, cleaned, converted to an SPSS dataset and analysed.

Fife

2.12 A range of information was gathered by the Supervision and Treatment Team to monitor the progress of offenders from the referral stage until completion of their Orders. This information was held in a variety of databases rather than being held centrally in an integrated system. An Excel database provided information on offenders made subject to Drug Court Orders, including age, sex, where sentenced and the type of Order imposed. Separate databases provided information about review dates and the outcomes of Orders. Information about the number and basic characteristics of referrals was obtained from monthly aggregate statistics compiled by the Team Leader/Co-ordinator. These aggregate statistics also contained information about the number of Drug Court Orders and DTTOs that were breached.

2.13 The Fife Drug Court Supervision and Treatment Team were also able to provide details of urine test results. This information was held manually rather than on an electronic database. Anonymised forms were given to the researchers who entered the information into an SPSS file for subsequent analysis.

OBSERVATION OF THE DRUG COURT IN ACTION

2.14 Observation was undertaken of the operation of the Drug Court at different stages in the supervision of Orders. This included observation of screening group meetings; observation of the operation of the Drug Court at the point which offenders appear for sentencing; observation of pre-court review meetings: and observation of review hearings. An observation pro forma was used to record the court sessions observed: it included details of those present, the duration of the hearing, the nature and content of interactions between the various parties and the proportion of time in which the bench and the participant were engaged in dialogue. In both Glasgow and Fife, sessions presided over by all Drug Court Sheriffs and involving both Clerks to the Court, were observed during the evaluation.

2.15 In Glasgow the stages of the Drug Court that were observed included:

- Seven screening group meetings
- 110 observations of the assessment process, from first appearance to sentencing (including the imposition of a Drug Court Order on 23 occasions and a non-Drug Court Order on 15 occasions) were undertaken. Observations included 42 per cent of

all those who were assessed for the Drug Court (44% of all men and 25% of all women).

- Eighty-eight observations of pre-court review meetings were conducted, involving 53 different clients on Drug Court Orders. Pre-court review meetings involving discussion of 53 per cent of all male clients and 56 per cent of all female clients were included. Twelve per cent of all pre-court review discussions in the first 2 years of the pilot were observed.
- Two hundred and twenty-eight observations were made of review hearings involving 72 offenders on Drug Court Orders. These observations covered 74 per cent of all male clients and 56 per cent of all female clients made subject to Drug Court Orders in the first 2 years. Observation included both those on Probation Orders and DTTOs and covered from the first to the 22nd post-sentence review. Thirty per cent of all review hearings conducted during this time period were observed.

2.16 In Fife the stages of the Drug Court that were observed included:

- Twenty-nine pre-review meetings covering both Kirkcaldy and Dunfermline and including DTTOs that had been imposed prior to the establishment of the Drug Court and 'transferred in'. The Drug Court pre-reviews included 12 male clients and 3 female clients while the DTTO pre-reviews involved 11 male and one female client.
- Two hundred and three reviews of Drug Court Orders (132) and DTTOs at Kirkcaldy and Dunfermline Sheriff Courts. The majority of observed reviews (178) took place in Kirkcaldy. In the Fife Drug Court, 69 male clients and 13 female clients were observed for reviews of their Drug Court Orders. Two female clients and 34 male clients were observed for reviews of their DTTOs. Observations covered all stages of Orders, from the first to the 24th review.

COMPLETION OF QUESTIONNAIRES BY SOCIAL WORKERS

2.17 In Order to capture the views of professionals on the progress of offenders subject to Drug Court Orders, the Drug Court Supervision and Treatment Teams in Glasgow and Fife were asked to complete brief questionnaires on the progress of participants. Questionnaires were completed by social workers but were intended to reflect the views of the participants' Case Group (including addiction and medical workers). The first questionnaire was completed shortly after a Drug Court Order was made. Thereafter a diary system was employed to ensure that questionnaires were subsequently completed after 6 months and at the end of the Order or after 12 months (depending on which was sooner). The precise focus of the questionnaires varied according to the stage of the Order, although there was some continuity of questions (those relating to compliance, motivation and perceived risk of further offending and drug misuse) to enable comparisons to be made between different stages of an Order. The questionnaires contained a mixture of closed and open-ended questions, intended to maximise the range of issues that could be addressed, while enabling staff to elaborate on their responses as required. Drug Court social workers in Glasgow completed 89 initial questionnaires, 92 6-month questionnaires and 142 completion/12-month questionnaires (including 49 successful and 42 unsuccessful completions). In Fife 103 initial questionnaires, 56 6-

month questionnaires and 26 12-month questionnaires were completed. Forty-nine questionnaires were also returned for those whose Orders had ended (8 successful completions, 18 breaches and 23 revocations) but few of these (12) had been completed in full and they were therefore excluded from the analysis.

ANALYSIS OF MINUTES OF DRUG COURT TEAM MEETINGS

2.20 One key objective of the evaluation was to examine the process of multi-agency working among service providers and multi-agency collaboration within the Drug Court Team. One of the methods intended to underpin this process was the analysis of minutes of Drug Court Team Meetings, since these regular meetings provided an opportunity for the discussion of operational issues related to the effectiveness of the Drug Court. In Glasgow the minutes of 4 team meetings held between July 2002 and September 2003 were provided and their analysis has been included in the present report. The Drug Court Team Meeting minutes and the minutes of the meeting of the reconvened Steering Group were scrutinised to identify emergent issues and how they were addressed.

ANALYSIS OF RECONVICTION AMONG THOSE GIVEN DRUG COURT ORDERS

2.21 In order to assess the effectiveness of the pilot Drug Courts in reducing reconviction, a comparison ideally would have been made between those given Drug Court Orders and similar offenders who were sentenced in other courts. However, when the Drug Courts were established, few courts had available the same range of disposals as the Drug Courts, since DTTOs were only beginning to be rolled out nationally. In the absence of suitable comparator courts it was decided to compare reconviction among those given Drug Court Orders with reconviction among those given DTTOs before the Pilot Drug Courts were introduced. Such a comparison is valid since the key question is what added value do Drug Courts provide over DTTOs. However, it also means that there could be other uncontrollable differences between the samples that could in themselves be related to the likelihood of reconviction.

2.22 The Scottish Executive Justice Statistics Unit provided the data for the Drug Court reconviction analysis from the Scottish Offenders Index. These data were accessed in March 2005 and provided on an anonymous basis. Comparisons with DTTOs were made drawing upon the analysis by McIvor (2004). The reconviction analysis is limited by a number of factors: the relatively small number of cases, the fact that the two pilots had been operating for different periods of time and the fact that the DTTO reconviction data were accessed more than 4 years after the start of the Glasgow pilot and were therefore more complete. Any findings therefore have to be considered with these caveats in mind.

CHAPTER THREE: REFERRAL TO AND SENTENCING IN THE DRUG COURTS

INTRODUCTION

3.1 The first stages in the Drug Court process involve the referral, assessment and sentencing of offenders; procedures which differed in important respects between the 2 pilot sites. In this chapter the referral and assessment procedures, including perspectives on the criteria for the Drug Courts, are discussed. The characteristics of offenders assessed for, and given, Drug Court Orders are described, along with a discussion of the factors influencing their decisions to consent to the imposition of an Order. Finally, some thought is also given to sentencing in the Drug Courts.

THE REFERRAL PROCESS

Glasgow

3.2 In Glasgow it was intended that the majority of referrals would emanate from the police, in order that offenders might be 'fast-tracked' from the point of arrest to the imposition of an Order[16]. This involved the police 'sifting' all custody cases against agreed criteria, followed by a review of these cases by the Drug Court Procurator Fiscal. Cases considered worthy of further attention were referred to the Social Work Department[17] and the defence agent[18], and formally screened that day. In the event of a guilty plea being tendered, the Procurator Fiscal brought suitable cases to the attention of the custody court Sheriff, and if s/he agreed with views expressed during screening they were bailed for 4 weeks to undergo assessment. The Drug Court then heard the case, considered the reports and passed sentence.

3.3 Whilst it was anticipated that the majority of referrals would follow the above process, it was also envisaged that referrals might follow alternative routes. This might occur, when guilty pleas are tendered at intermediate or trial diets, after a finding of guilty following a trial, or through defence agents[19] or marking deputes identifying custody cases that were not picked up by the police.

3.4 Although the police were expected to be the main source of referrals to the Glasgow Drug Court, it was evident in the first 6 months that the number of cases 'flagged up' by the police was low and that only around one quarter of these cases were

[16] It was envisaged that the initial screening and decision to refer to the Drug Court should be completed within 24 hours and the entire referral process within one month.

[17] A social worker from the Supervision and Treatment Team checks existing records for information about previous social work involvement with the accused and previous contact with drug treatment services. This is supplemented by a face-to-face interview with the participant, generally in the cells. Most staff felt that the process, though restricted, was adequate.

[18] The defence agent will interview the offender to receive instructions on the plea and explain the nature, operation and expectations of the Drug Court.

[19] Defence agents perceived their role in the referral process as a 'facilitator', referring participants and encouraging potential participants to consider being assessed for the Drug Court.

referred to the Court. It should be noted that officers interviewed in this study did not refrain from referring to the court because they saw it as a 'soft option'; they supported the idea of the court as a way of reducing offending, though these particular officers could see how it would be attractive to offenders as a way of gaining bail. The complexity of police involvement in a case from the point of arrest to screening, a lack of awareness of the Drug Court and its criteria among officers and the absence of IT systems for recording and monitoring referrals were instead highlighted as problematic.

3.5 During the evaluation, Strathclyde Police implemented a range of measures designed to increase the number and quality of police referrals. These included 'upgrading' oversight of the Drug Court, identifying an officer in each division charged with monitoring referrals, installing tools at charge desks to aid decision-making and instigating training on the Drug Court and it's referral criteria. Although the initiatives contributed to a high level of awareness of the court and it's criteria among officers and a commitment to making it work, the number of police referrals remained lower than expected. Reportedly, many officers did not feel that they were in a position to decide on suitability for the court (requirements regarding guilty pleas, pending cases and trials in the District Court also complicated such decisions) and wider issues of policing practice meant that referral to the Court was low among officers' priorities. Changes in the use of police custody may also have affected referrals. Over the course of the pilot, a gradual shift away from the detention of individuals accused of dishonesty offences in favour of those accused of violent offences (including domestic violence) reportedly occurred. Such a change in the police custody profile would effectively reduce the pool of individuals eligible for referral to the Drug Court by the police. Finally, communication also appeared to be a significant factor in optimising referrals. In stations that made the most referrals, individual officers enjoyed a good relationship with Procurators Fiscal and took the initiative to identify cases in order to assist them in making the Drug Court work. On the other hand, one of the most significant problems was that when referrals were not screened, a lack of feedback as to the reasons for such a decision discouraged officers from making further referrals.

3.6 Changes in the Procurators Fiscal office may also have affected the level of referrals, particularly in the second year of the pilot. Firstly, from April 2003, the designated Drug Court Procurator Fiscal post was rotated on a 3-monthly basis to enable a larger number of Procurators Fiscal to gain experience in this setting. Secondly, there was an internal re-organisation of the office (Plan Alpha) from a centralised team of marking deputes to a more localised arrangement with Procurators Fiscal grouped into 4 area teams. After 2 years of the pilot, some respondents suggested that the rapid turnover of Procurators Fiscal meant they were less proactive in identifying potential referrals and in 'rolling-up' complaints for the Drug Court (because they were less familiar with how these procedures worked). Also, it was thought that Plan Alpha made effective liaison between the Drug Court Procurator Fiscal and marking deputes problematic, thus reducing referrals. However, in October 2003, further changes were instituted, increasing the Procurator Fiscal rotation period to 6 months and drawing only on Procurators Fiscal from one division (in order to promote information sharing, enable colleagues to 'cover' etc.). These changes coincided with (and may have contributed to) an increase in referrals to the Drug Court initiated by Procurators Fiscal. One Drug Court Sheriff

argued that the measures cited above were now proving effective in enhancing communication and optimising police referrals.

Fife

3.7 The Fife Drug Court manual indicated that social workers would 'sift' potential cases and bring them to the attention of the court. However, in practice, potential Drug Court cases were brought to the attention of the court by defence agents or were identified by sheriffs themselves. Defence agents fulfilled this role by bringing to a Sheriff's attention suitable candidates for referral based on the commission of drug-related offences and their client's avowed motivation to tackle their drug use. Sheriffs[20], on the other hand, identified offenders on the basis of their prior knowledge of the offender or information contained in a social enquiry report. In both instances, following a plea or finding of guilt, Sheriffs decided whether to dispose of the case or, if the offender was deemed suitable, refer it to the Drug Court for sentencing. Most court professionals thought that the referral process operated relatively smoothly, though one Sheriff suggested it was a little cumbersome and that it may be possible to get offenders onto Orders (and hence into treatment) more quickly.

SCREENING GROUP MEETINGS

3.8 Prior to January 2004 a screening group was convened to consider the suitability of referrals to the Glasgow Drug Court. These meetings included the Procurator Fiscal (chair), a police Chief Inspector, social worker, defence agent, and occasionally, an addiction worker. Observations of these meetings suggested that they generally lasted around 15 minutes and that the atmosphere was informal and constructive. Issues such as the accused's drug use, offending and social circumstances were discussed alongside specific concerns regarding the person's suitability (e.g. maturity, motivation). The meeting also provided an opportunity for the defence agent and Procurator Fiscal to negotiate over pleas and outstanding charges.

3.9 Most professionals suggested that the screening group was useful as a means of bringing to bear the perspectives of the different professionals involved and effective as a 'brake' on inappropriate offenders entering the Drug Court. Although there was broad agreement that screening groups had been a vital element in the assessment system in the earlier stages of the pilot, some respondents believed they had become less necessary over time as professionals became more experienced and more confident in the ability of social workers etc. to make appropriate decisions. Indeed, some social workers felt they were an unnecessary impediment to improving referral levels and that the low level of rejections was testimony to their irrelevance. The screening group was replaced by a screening interview conducted by a social worker. Although some professionals bemoaned the lack of a forum for their concerns, most were positive about the change, which, it was claimed, enhanced the efficiency of the process without compromising the quality of assessments.

[20] Usually those sitting summarily in Dunfermline and Kirkcaldy.

PERSPECTIVES ON THE DRUG COURT REFERRAL CRITERIA

3.10 The general view among professionals associated with the Drug Courts was that the referral criteria (as outlined in Chapter One) were broadly appropriate. There was agreement that a pattern of relatively minor but persistent offending linked to drug use was most likely to signal potential suitability for an Order. Support was also viewed as an important factor; clients with family support were seen as particularly suitable, while those with a drug-using partner could experience particular difficulties[21]. Individuals with a history of violent offences were thought unsuitable because of the risk they may pose to the public in general and to the Supervision and Treatment Team in particular.

3.11 Some differences in perspective did emerge with respect to the appropriateness of younger offenders for a Drug Court Order. Sheriffs and most other professionals believed that the focus on older offenders was appropriate, given that young offenders were unlikely to have reached the stage where they would be sufficiently motivated to come off drugs, nor were they likely to have the necessary commitment and maturity to cope with the Drug Court regime. However, defence agents suggested that those under 21 years of age who already had a deeply entrenched drug problem should be offered the chance to *"nip it in the bud"*, possibly producing greater financial savings to the public purse. In practice, the approach in Fife was to include these younger offenders, although, despite some successes, it was often said by social workers that they struggled to meet the requirements of Orders.

3.12 The initial restriction of the Drug Court to offenders tried summarily concerned Sheriffs in Fife, who argued that some offenders tried on indictment were potentially suitable for an Order (in practice they gave these offenders non-Drug Court DTTOs, then transferred these into the Drug Court). Therefore, Sheriffs welcomed the introduction of legislative provisions enabling Orders to be made in solemn cases, although others expressed concern that some of the charges Drug Court clients incurred were serious and that a DTTO may not constitute a sufficient punishment. After the third year of the pilot, Glasgow Drug Court Sheriffs were supportive of the inclusion of carefully scrutinised solemn cases.

3.13 In Glasgow, concerns about the volume of referrals were reflected in the debate regarding Drug Court criteria. Although the criteria were viewed as logistically necessary in order to limit the number of cases referred to the court, it was argued that they had been too effective in restricting the flow of cases. Hence, while Drug Court Sheriffs and Procurators Fiscal were broadly supportive of the criteria, other Sheriffs argued, after the second year of the pilot, a wider pool of offenders (including younger participants and lower tariff offenders) needed to be drawn upon in order to increase the number of Orders made. Professionals also noted that, in Glasgow, women were under-represented in the Drug Court because the offences for which they were arrested (e.g. prostitution or shoplifting) tended to be prosecuted in the District Court.

[21] Several professional respondents from Glasgow suggested that women had greater difficulty complying with Orders due to a lack of support from drug-using partners.

PATTERN OF REFERRALS TO THE DRUG COURTS

Glasgow

3.14 Monitoring data collected by the Drug Court Co-ordinator showed that by the middle of November 2004, 271 cases had been referred for a Drug Court assessment, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. Eight individuals were referred on more than one occasion (all twice).

3.15 During the entire pilot period, 358 (86% of these were referred in the first 2 years of the pilot, prior to the referral changes) accused were 'flagged up' in police reports as being potentially suitable for the Drug Court. Of these, only 84 (23%) were referred for screening[22]. Defence agents identified 78 individuals during the pilot (including 69 during the first 2 years), 39 of whom (50%) were referred for screening[23]. The Procurator Fiscal referred 128 accused (including 70 (55%) during the first 2 years) identified during the marking of custody cases[24]. In addition, 16 were referred by a Sheriff, 3 were referred after trial, 3 were referred by their lawyer after their first court appearance and one was referred from Turnaround[25]. The route of cases to the Drug Court is shown in Figure 3.1.

3.16 In total, 274 cases were referred to screening during the pilot period. Of these, 31 per cent were identified by the police, 14 per cent by a defence agent, 6 per cent by a Sheriff and 3 per cent by another source. Additionally, marking deputes referred 47 per cent of cases over 3 years - a significant increase from 36 per cent after 2 years[26]. The proportion of cases referred by the police and defence agents decreased in the third year of the pilot. Most cases (73%) were brought to the attention of the custody court as potentially suitable for the Drug Court. However, 27 per cent of cases referred for screening were considered unsuitable. The reasons provided in these cases suggest that the criteria for inclusion were being applied. In 98 per cent of cases the custody court referred potential candidates to the Drug Court.

[22] Of the 274 police referrals deemed unsuitable for the Drug Court, the most prevalent reasons for non-referral were an insufficient link between drugs and crime (25%), the case being prosecuted at the District Court (14%) and the case being put on petition (11%)

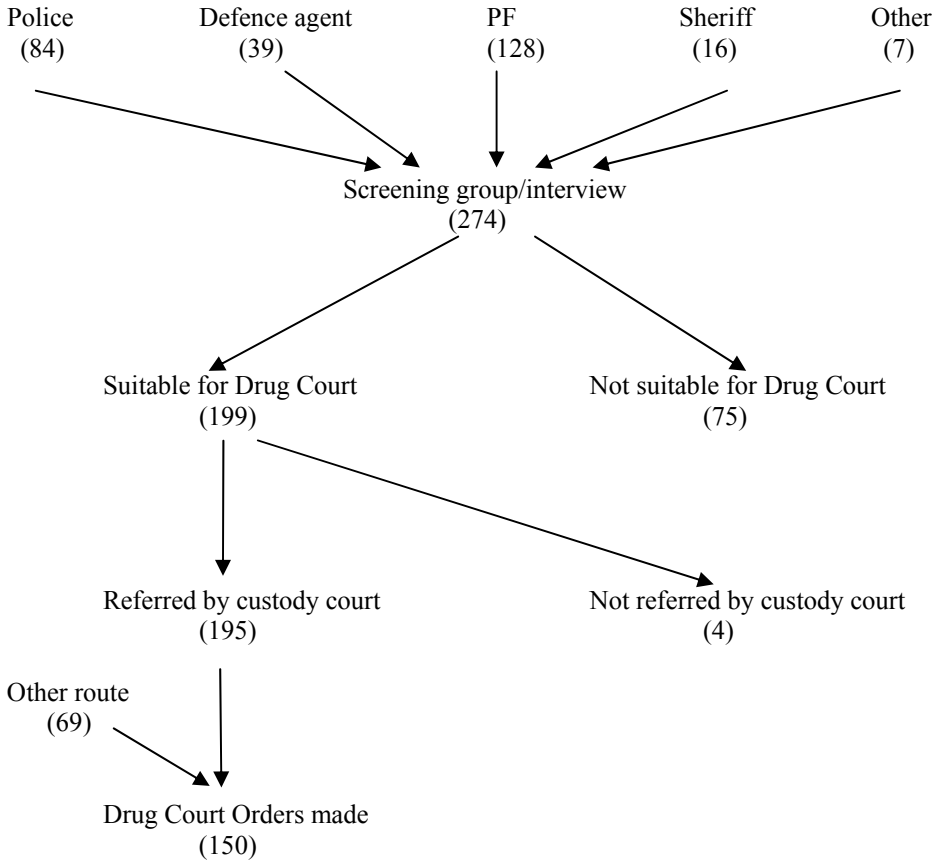
[23] Of the 34 defence referrals that did not proceed to screening, the most prevalent reasons for this was an insufficient link between drugs and crime and prosecution at the District Court (both 16%).

[24] Although figures are not available for the entire pilot period, data on referrals from the third year of the pilot suggests a high wastage rate (82%) among referrals originating from marking deputes.

[25] Alternative to custody for female drug users, comprising substitute prescribing service and generalised person-centred support for emotional and practical issues.

[26] Significant at $p<0.05$ level.

Figure 3.1: The route of cases into the Glasgow Drug Court

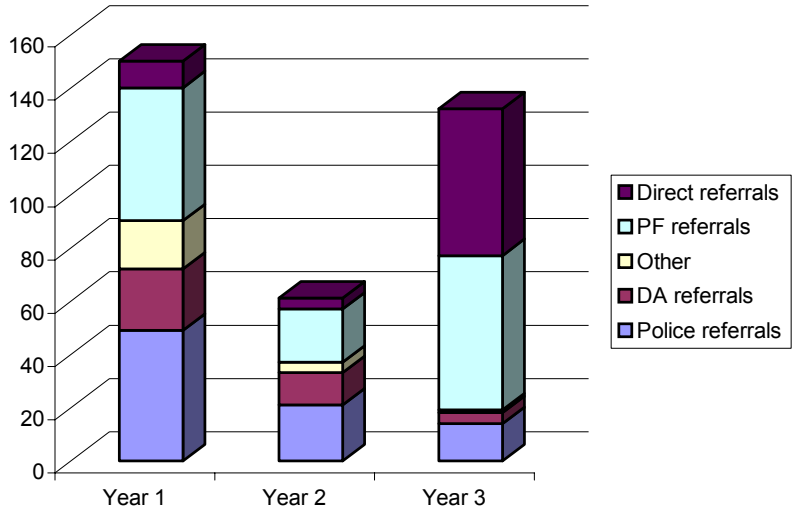


3.17 Following changes to the referral routes, direct referrals from other Sheriffs following a plea or finding of guilt later in the trial process constituted an increasingly important means of accessing the Drug Court. In the first 2 years, 14 (8%) direct referrals were made, whereas in the third year, 55 (52%) were made. This underlines the importance of expanding the referral routes into the Glasgow Drug Court. Despite efforts to increase the volume of police referrals (and the proportion screened), these declined throughout the pilot[27]. Meanwhile, referrals from defence agents almost ceased[28]. Therefore, along with referrals from Procurators Fiscal, these cases effectively stemmed the losses in referrals from other sources (Figure 3.2).

[27] See paragraphs 3.4 and 3.5 above.

[28] Legal Aid rules governing the payment of defence agents state that a duty solicitor is paid a nominal fee if a guilty plea is tendered at the custody court, whereas the accused's defence agent will be paid £500 if such a plea is tendered at a later stage. Therefore, widening referral routes may have unintentionally discouraged defence agents from referring their clients to the Drug Court at the earliest opportunity, thereby shifting such cases into the category of direct referrals originating from other Sheriffs.

Figure 3.2: Number and Source of Referrals to the pilot Glasgow Drug Court



3.18 Of those referred, 23 were female (8%) and 248 (92%) were male. Referrals ranged in age from 20 to 54 years, with a mean of 30.7 years. Women were slightly younger, on average, than men (32.8 years compared to 30.5 years)[29]. Only one per cent of referrals (3) involved individuals under 21 years of age when the referral was made. The majority of referrals involved individuals who were unemployed (85%) or not seeking employment (12%); only 3 per cent were employed or self-employed. The majority of individuals (69%) were single, while 29 per cent were married or cohabiting[30]. Information on the criminal histories of 220 individuals was available. Overall, only 7 individuals (3%) had 5 or fewer previous convictions, 27 per cent had between 6 and 20 previous convictions and 154 (70%) had 20 convictions or more. The average number of previous convictions was 30 (27 among females in the sample, 30 among males). The majority (208 or 95%) had served at least one previous custodial sentence, with 83 (38%) having served up to 10 and 125 (57%) 10 or more. The average number of previous custodial sentences was 15 (16 among males, 14 among females). These data suggest that Orders were, in the main, imposed upon individuals with relatively serious (in terms of persistence) criminal histories in respect of whom a custodial sentence might otherwise have been likely.

Fife

3.19 In September 2002 all existing DTTOs (73) were transferred into the Drug Court[31]. In addition, in the first 2 years of its operation, a total of 872 Drug Court referrals involving 382 offenders were made. One hundred and sixty-nine individuals

[29] Age and employment information was only available in respect of 232 individuals – 2 females and 37 males were not included in the above figures.
[30] Marital status information was available in respect of 212 individuals.
[31] Since 4 offenders had more than one order, a total of 69 offenders (4 of whom were in custody) were transferred to the Drug Court.

(44%) were referred on one occasion while 213 (56%) had 2 or more referrals over this period. Most of these (144) were referred on 2 or 3 occasions, with the remainder being referred between 4 and 11 times[32]. Most referrals to the Drug Court Supervision and Treatment Team involved cases prosecuted summarily in the Sheriff Court (765 or 88%). The remainder of referrals involved Sheriff solemn cases (94 or 11%) or High Court cases (13 or 2%). Most referrals originated from Kirkcaldy (584 or 67%) and Dunfermline (178 or 20%) Sheriff Courts, with a further 68 (8%) from Cupar Sheriff Court. Referrals from courts outside Fife most commonly came from Edinburgh (15 referrals), Alloa (9 referrals) and Perth (6 referrals)[33].

3.20 In each case in which a referral was made, a report was requested. In the majority of cases (690, or 79%) this included a Drug Court Assessment either alone (312 referrals) or alongside other types of assessment such as community service and/or a Restriction of Liberty Order (RLO) (378 referrals). In some cases (182, or 21%) a Drug Court Assessment was not explicitly requested. This was more likely to be the case if a supplementary update on progress was required or an additional non-custodial sanction was being considered in relation to those already subject to an Order. Amongst first referrals, a Drug Court Assessment was requested in 92 per cent of cases.

3.21 The majority of referrals (715 or 82%) were men and white Scottish in terms of ethnicity (823 or 98%[34]). Referrals ranged in age from 16 to 60 years, with a mean of 25.3 years. Women were slightly but significantly younger, on average, than men (24.3 years compared to 25.5 years)[35]. Eighteen per cent of referrals (157) involved individuals under 21 years of age when the referral was made. The majority of referrals involved individuals who were unemployed (81%) or not seeking employment (12%); only 2 per cent were employed or self-employed. Details of previous convictions pertaining to those referred for an assessment were not recorded in the Fife database, however information about previous convictions among those made subject to a Drug Court Order is presented later in this Chapter.

ASSESSMENT

3.22 In the event of a case being referred for assessment, sentence is deferred and the offender is bailed. It is considered important that the individual is released on bail during this period to assess their ability and motivation to comply with the relevant agencies (due to the lack of formal screening in Fife, offenders assessed there must also demonstrate that they are drug dependent and that their offending is directly linked to their drug use). When a referral is made for a Drug Court assessment, a Social Enquiry Report and a Drug Assessment Report are usually prepared and a drug test administered. Assessments are multi-disciplinary, involving the 2 components of the Supervision and Treatment Team (social workers and addiction workers) in addition to the relevant main treatment provider.

[32] This could include several referrals on different charges on the same court date rather than completely distinct referrals.
[33] Other courts that had referred were based in Glasgow, Dundee, Falkirk and Stirling.
[34] Information was missing for 21 referrals, hence based on n=851.
[35] $t=2.55$, $p<.05$.

Glasgow

3.23 Glasgow Drug Court Sheriffs indicated they were content with the guidance they received in the assessment reports prepared by the Supervision and Treatment Team. They were happy to take advice on the type and duration of Orders from social workers, since they were best placed to assess treatment requirements, although over time they stated they became more proficient at deciding such factors themselves[36]. At the start of the pilot, the multi-disciplinary nature of assessments caused some consternation among team members – it was argued that (although these also served as a means of verifying information) overlaps between the various components caused delays. Despite this, all elements of the assessment were seen as important by staff.

3.24 In the early stages of the pilot, staff shortages due to illness and under-resourcing of the Supervision and Treatment Team alongside administrative difficulties in processing new referrals (particularly with regard to the allocation of supervising officers) resulted in reports sometimes not being available and cases being continued. This problem was addressed through the appointment of additional personnel and later in the pilot Drug Court Sheriffs indicated that all of the required reports were usually available for a person's first calling in the court. Where reports were not available the Sheriffs were content that this was for reasons outwith anyone's control (e.g. offenders failing to attend appointments or being remanded in custody). However, some team members expressed concern at such failures, arguing that difficulties may have arisen out of the participants' capacity to digest instructions provided at the initial court appearance where they may be intoxicated or experiencing physical withdrawals.

3.25 Although Drug Court Sheriffs initially expressed concern at the length of the assessment period, they later revised their views on the basis that this served to test potential participants' motivation and commitment and could facilitate their retention on a subsequent Order. Experience elsewhere, they suggested, indicated that short assessment periods tended to be associated with lower completion rates. Opinions expressed by team members also mirrored these concerns.

Fife

3.26 Sheriffs expressed high levels of satisfaction with the quality of the drug assessments they received, relying upon them for guidance as to the appropriate course of action to take[37]. The Drug Court Sheriffs indicated that they usually went along with the recommendation contained in the Drug Assessment Report although there had been occasions on which they asked team members to reconsider a verdict of unsuitability. Some defence agents expressed concern at what they perceived as a tendency on the part

[36] Most participants who had completed or breached their Orders thought that the length of their Order was about right, allowing them sufficient time to resolve their problems. However, respondents who received a 12-month Order tended to feel that this time period was not sufficient.

[37] Although sheriffs in Kirkcaldy and Dunfermline could still make DTTOs, which would be automatically transferred to the Drug Court, their preference was to leave the decision about the use of these orders with the Drug Court Sheriff, who was perceived to have the appropriate expertise.

of the team to exclude those already on a methadone programme or to be increasingly cautious about accepting those deemed more likely to 'fail'.

3.27 Although Sheriffs were content with the arrangements whereby offenders were bailed for a Drug Court assessment (since this enabled a realistic assessment to be completed), there was a recognition that continued offending was a possibility during this period. Taking such issues into account, one Sheriff argued that assessments should be completed as quickly as possible because "*the quicker someone can be assessed and can be on the treatment aspect of the Order the better*". Although the intention was that assessments would be completed within 4 weeks, sheriffs reported that this target was sometimes not met because the offender failed to attend all of the appointments they were given. Despite their clients often being held responsible, some defence agents expressed concern (and reported their client's anger) over the length of the bail period for Drug Court assessments, particularly since several more weeks could elapse before participants received a prescription.

ORDERS MADE BY THE DRUG COURTS

3.28 Drug Courts have the same authority and status as other courts and, accordingly, have available to them the same range of sentences available to the Sheriff Court under summary proceedings. All Drug Court Orders are subject to drug testing and regular review in accordance with the relevant legislation. The same Sheriff who imposes the Order has responsibility for reviewing it and responding to non-compliance, thereby ensuring the continuity of contact found to be an important feature of Drug Courts in other jurisdictions.

3.29 The 4 forms of community-based supervision and treatment available to the Drug Court are Drug Treatment and Testing Orders (DTTOs), Probation Orders with a Condition of Drug Treatment (hereafter referred to as Enhanced Probation Orders), concurrent DTTOs and Conditional Probation Orders, and Structured Deferred Sentences. Offenders were sentenced to these types of disposals on the basis of Social Workers' and Sheriffs' perceptions of their substance misuse and offending patterns and the range and severity of their other needs. Broadly speaking, those requiring the most intensive supervision were sentenced to concurrent DTTOs and Conditional Probation Orders (providing a structure of twice-monthly court reviews), those with extensive and problematic criminal histories and co-existing substance misuse problems were sentenced to Enhanced Probation Orders (with no minimum period between reviews), while those whose problems were mainly related to, or consequent upon, their drug misuse were sentenced to DTTOs (providing for reviews not less than 30 days apart). Generally, a Structured Deferred Sentence was imposed on the basis that it was not entirely clear whether (or what type of) a Drug Court Order should be imposed, because certain issues were awaiting resolution (e.g. the continuation of drug treatments pre-dating entry into the Drug Court), or because it was perceived that while an offender's problems might be best dealt with by an external service provider (e.g. 218), they would also benefit from court supervision. In the event of incomplete assessments or outstanding historical offences sentence was deferred in an ordinary manner. Restriction of Liberty Orders (RLOs) were also available to the Drug Courts, having been introduced to all Sheriff

Courts in May 2002. RLOs may be imposed for the same offence(s) concurrently with a Probation Order, a DTTO or both. Drug Court Sheriffs were content with the range of disposals available to them at the sentencing stage[38].

3.30 DTTOs made in the Fife Sheriffdom are transferred to the Drug Court for supervision and ongoing review[39]. In respect of these Orders, however, the Drug Court cannot exercise any powers (e.g. interim sanctions[40]) or procedures (e.g. pre-review hearing meetings) that may apply only to Orders made by the Drug Court. In practice, however, the distinction between Drug Court Orders and normal DTTOs has become increasingly blurred (for example, the latter were discussed at pre-review meetings).

Glasgow

3.31 Information from the Drug Court Co-ordinator's monitoring database showed that by mid November 2004, Drug Court Sheriffs had imposed Drug Court Orders in respect of 150 offenders (55% of referrals – a much larger proportion than in Fife). In relation to the 121 cases where an Order was not made, 101 offenders received a non-Drug Court disposal (the most prevalent disposals being imprisonment (41), a deferred sentence (31) and a probation order (20))[41], warrants were outstanding in respect of eleven offenders[42] and nine further assessments were ongoing. Table 3.1 provides details of the type and length of Orders imposed by the Glasgow Drug Court. Similarly to Fife, the main type of Order imposed was the DTTO, while the modal average length of an Order was 18 months.

Table 3.1: Type and Length of Orders made by the pilot Glasgow Drug Court[43]

	No. Offenders on Orders	No. Orders Made
Probation Order - 18-24 months	19	26
DTTO - less than 18 months	17	20
DTTO – 18 –24 months	92	109
Probation Order and DTTO 18-24 months	13	21
Structured Deferred Sentence	9	15
Total	**150**	**191**

[38] It was considered that the relative efficacy of each type of Order was best indicated by an examination of reconviction rates (see Chapter 6). Analysis based on questionnaires completed by Social Workers or self-report during interviews with participants were subject to response (and latterly, sample) bias, while drug test results were not individually identifiable and hence, were insufficiently contextualised to enable suitable comparisons to be made.

[39] DTTOs made in a Drug Court were viewed as having several advantages, in that the team then deals with one Sheriff and attends one court; all cases are dealt with at once, with consequent saving of time and resources; and there is consistency of approach and expertise on the part of the sheriff.

[40] The Criminal Justice (Scotland) Act 2003 gave Drug Courts the power to impose short custodial sentences or short community service orders in the event of non-compliance with a Drug Court Order, without prejudice to the continuance of the Order.

[41] Two of these offenders were subsequently placed on a Drug Court Order after being assessed for a second time.

[42] One was placed on an Order having been assessed for a second time with this warrant outstanding.

[43] Six offenders had additional Drug Court Orders imposed during the course of their original Order(s), while two further offenders had additional Standard Orders (i.e. not dealt with in the Drug Court) imposed. These additional sentences were excluded from the above figures.

3.32 Strong associations were evident between the recommendations made in Social Enquiry Reports and the type of disposal made by the court. Only 4/72 of those who were considered unsuitable for a Drug Court Order were made subject to a Drug Court disposal, while the majority of those considered suitable for an Order (133/152) were given such a disposal by the court[44]. The main offences for which Drug Court Orders were imposed included dishonesty (including shoplifting) (67%) and drug offences (16%). Others received Orders for violent offences, other crimes, road traffic offences and 'other' miscellaneous offences (each 5 cases) [45].

3.33 Individuals who received a Drug Court Order did not differ significantly in most respects from those individuals who were referred to the Drug Court but received an alternative disposal. The average age of those given a Drug Court Order was slightly over 31 years while the average age of those given alternative disposals was just under 30 years[46]. The majority of both groups of individuals were male (91% compared with 92% of those given other disposals). There were no significant differences in employment or marital status between the 2 groups.

3.34 Both groups had extensive histories of previous court appearances. Those who received a Drug Court Order had between 3 and 88 previous convictions, with a mean of 31 (of 134 offenders for whom the relevant information was available), while those given other disposals had between one and 80 previous convictions, with a mean of 29 (of the 74 for whom this information was available). Similarly, those who received a Drug Court Order had served an average of 16 adult custodial sentences, while those given other disposals had been imprisoned on an average of 15 occasions in the past. Only 8 of those given Drug Court Orders (of 135 offenders for whom the relevant information was available) and 3 of those given other disposals (of the 74 for whom this information was available) had not previously served a custodial sentence. These data would suggest that the Drug Court had succeeded in targeting those who, on the basis of their prior offending, would otherwise have received a custodial sentence.

Fife

3.35 In all but 12 of the referrals to the Fife Drug Court in the pilot period the preferred sentencing option indicated by the social worker in the court report was available. These are summarised in Table 3.2, which indicates that in less than one-third of referrals (32%) a Drug Court Order (DTTO or EPO) was thought by the report writer to be the most appropriate disposal. Even when first referrals alone were considered, DTTOs and EPOs were presented as the preferred sentencing option in only 36 per cent of cases. It appeared that a significant amount of time was being devoted to the assessment of individuals for whom the Drug Court was not deemed appropriate.

[44] Information was available in respect of 224 individuals.
[45] Information was available in 128/150 cases.
[46] Information was available in respect of 79 of the 101 individuals given non-drug court disposals.

Table 3.2: Preferred sentencing option presented in report to court

Preferred option	No. of cases	Percentage
None given	389	45%
DTTO	219	26%
Deferred sentence	99	12%
Enhanced probation	52	6%
Probation with or without other conditions	52	6%
Other*	49	6%
Total	**860**	**101%**

*Includes custody, CSO, RLO, monetary penalty and 'other' unspecified.

3.36 During the Fife pilot a total of 184 individuals were made subject to a Drug Court Order, with 21 of them sentenced on 2 occasions. Only 205 (24%) of the 872 referrals to the court resulted in a Drug Court Order being made. The most common outcomes for referrals in which no Order was made included deferred sentences (254 or 29% of referrals), custodial sentences (119 or 14%) and probation (51 or 6%). The 205 referrals sentenced to a Drug Court Order attracted DTTOs in 160 (78%) cases and enhanced Probation Orders in 45 (22%) cases. Orders varied in length from 9 to 24 months, with a mean of 18.7 months. Most cases had been referred from Kirkcaldy (145 or 71%) or Dunfermline (48 or 23%) Sheriff Courts.

3.37 There was no difference in the proportionate use of EPOs according to sex of the participant (21% of men and 28% of women received an EPO). However offenders under 21 years of age were more likely to receive an EPO than were those aged 21 years or older (43% of the former and 19% of the latter), presumably because younger offenders were perceived as having more problems and being in greater need of support.

3.38 The profile of cases in which a Drug Court Order was imposed was broadly similar to those referred. The majority were male (173 or 84%) and white Scottish (204 or 100%). The age range was 17 to 43 years with a mean of 26.2 years. Thirteen per cent (26/205) were under 21 years of age. Men were slightly (though not significantly) older than women (26.4 compared with 25.1 years). In 202 cases (98%) the individual was unemployed or not seeking work.

3.39 Information was not available with regard to the criminal histories of those referred to the Fife Drug Court. However, relevant information was available from the Drug Court database for 67 of those in respect of whom an Order was made. This suggested that 9 individuals (13%) had 5 or fewer previous convictions, 18 (27%) had between 6 and 20 previous convictions and 30 (45%) had 20 convictions or more[47]. The majority (41 or 61%) had served at least one previous custodial sentence, with 13 (19%) having served 11 or more. These data suggest that Orders were, in the main, imposed upon individuals with relatively serious (in terms of persistence) criminal histories in respect of whom a custodial sentence might otherwise have been likely.

[47] The mean number of convictions could not be counted because the data were pre-coded.

3.40 There was a tendency for men in the sample to have more previous convictions than women, for example, only one of the 9 women had 20 or more previous convictions while this was true of half (29/58) of the men. Similarly, only one woman (out of 9) had previously served a custodial sentence compared with 40/58 (69%) of the men.

AGREEING TO A DRUG COURT ORDER

3.41 The informed consent of the offender is required prior to the imposition of a Drug Court Order. Information was passed to offenders from a number of sources: Firstly, defence agents would brief prospective participants, advising them of the commitment required to undertake an Order and the consequences of non-compliance. The Sheriff and members of the Supervision and Treatment Team would also discuss these issues with them, in addition to providing specific information about what an Order entailed.

3.42 In both jurisdictions, professionals were agreed that offenders were usually fully informed about the requirements of Orders before providing their consent. Participants from both sites confirmed that during assessment they had been provided with a sufficient amount of information and that the requirements of Drug Court Orders had been made clear to them from the outset. Although a small number stated that more information about their Order would have been useful, the only specific instance in which it was felt that insufficient information had been provided concerned the opportunity for participants in Glasgow to withhold their consent to their case being discussed at a pre-court review meeting.

3.43 All Drug Court Clients were clear about the purpose of their Orders, however, their reasons for agreeing to undertake an Order varied. Most believed that they would have been given a custodial sentence had they not been placed on a Drug Court Order, and for some, the pragmatic avoidance of jail was a prominent concern. However, some Glasgow respondents saw the threat of jail as inconsequential in view of their previous sentences, while others linked the avoidance of custody to their long-term goals, stating that further sentences would jeopardise positive changes in their circumstances or an opportunity for change. Most clients commented that the Drug Court presented them with a timely opportunity to make lifestyle changes (this was often related to family/relationship issues) and obtain help and support in reducing and/or ending their drug use that was not easily accessible elsewhere.

3.44 Some professional respondents were somewhat sceptical about the motives of offenders agreeing to Drug Court Orders. Many, it was suggested, regarded it as "*an easy way out*" of prison. Defence agents, although ideally situated to gauge their client's motivations, often admitted difficulties distinguishing those with a genuine interest in an Order. They, along with other professionals, argued that while some were extremely motivated to achieve lifestyle change, others were primarily motivated by a desire to avoid jail. However, some team members did not see the latter motivation as insurmountable, commenting that while many clients agreed to (and complied with) an Order to avoid custody, it was usually possible to work on their motivation and to engage them successfully in the long run.

3.45 Finally, public awareness of the Glasgow Drug Court was also felt to have influenced the perceptions of prospective participants. Defence agents were concerned that the court was gaining a reputation as being 'too hard' to complete and that this was impacting on the willingness of the accused to participate. Indeed, some respondents reported underestimating its demands and professionals interviewed later in the pilot were adamant that the 'word on the street' was that the Drug Court was not an 'easy option'. Some Glasgow respondents (typically those who had made significant lifestyle changes) were vociferous on the importance of the assessment process as a means of selecting only those with sufficient personal motivation to complete an Order, lest the credibility of the Drug Court be undermined by persistent failure.

Influence of the Drug Court on guilty pleas

3.46 The influence of the Drug Court on guilty pleas was uncertain. However, despite this, Sheriffs and other professionals from both jurisdictions were at pains to point out that they did not believe the possibility of referral to the Drug Court resulted in people pleading guilty when they were, in fact, innocent with respect to the matters with which they had been charged. Such assertions were supported by interviews with offenders who, shortly after receiving an Order, indicated that while they were aware of the plea requirements, these had not influenced their decision to plead guilty. However, some (33% of Glasgow initial interviewees) indicated that they pled at an earlier stage than they might otherwise have done in order to avoid custody, get all their charges dealt with in the Drug Court and/or to get the chance of getting help for their drug problem.

3.47 The differences between the 2 jurisdictions resulted in distinct operational issues arising. In Fife, where referrals from throughout the summary process were permitted from the outset, Sheriffs and Procurators Fiscal stressed the importance of the defence agent's role in pointing out the benefits of the Drug Court to their clients and encouraging them to enter guilty pleas at an early point in the process, thereby preventing cases going to trial. Meanwhile, Glasgow Sheriffs stressed that although tendering guilty pleas at the custody court (originally the main route into the Drug Court) was something of a departure from the prevailing 'culture' in Glasgow, the possibility of referral to the court only had a marginal impact upon pleas (affecting them in a manner not dissimilar to the accused having prior knowledge of the Sheriff). It is uncertain to what extent changes to the referral routes in the third year of the Glasgow pilot affected the likelihood of pleas being tendered at the custody court, or alternatively, later in the trial process.

SENTENCING

3.46 Drug Court Sheriffs thought that the Drug Court differed from the Sheriff Court in a number of respects. Firstly, an objective of the Drug Court was to keep offenders out of prison in order that they might receive help with their drug problems. Secondly, Drug Court participants were thought to regard the Drug Court as less punitive and more constructive than a traditional court and therefore, were more likely to respond positively to the help offered. Thirdly, direct dialogue between the bench and the offender was a distinctive feature of the Drug Court, allowing the Sheriff to make a better assessment of participant's motivation than would be possible if they 'hid behind' their defence agent.

Finally, they also believed that sentencing decisions were better informed because assessment reports were more comprehensive and focused. The Glasgow Drug Court Co-ordinator and the Clerks also suggested that the sentencing process was longer than in the Sheriff Court because more time was spent telling offenders what their Orders would entail (including informing them about the research, information-sharing between agencies and the monthly reviews etc.).

Restriction of Liberty Orders

3.47 The national roll out of Restriction of Liberty Orders[48] (RLOs) provided the Drug Court with an additional disposal, which could be imposed alongside an Order. Fife Sheriffs suggested that they might help to stabilise offenders and enable supervision to be matched to the circumstances of the offender. However, they questioned the impact that an RLO could have on offending in the context of an Order[49] and suggested that their imposition at different stages of a case would be more valuable. Glasgow Drug Court Sheriffs argued that by confining participants to their homes, RLOs might create an artificial environment opposed to the treatment ethos, increase their vulnerability to drug dealers and increase the likelihood of drug use through boredom. They believed that RLOs might be usefully employed to exclude offenders from particular premises or areas, or as a sanction in the event of non-compliance.

SUMMARY

3.48 Potential candidates for the Fife Drug Court were usually identified by sheriffs sitting summarily in Dunfermline or Kirkcaldy Sheriff Courts or were brought to the attention of the bench by defence agents. In Glasgow, referrals, particularly from the police, remained lower than expected. In practice most were referred by marking deputes or, following the expansion of the referral routes, directly by other Sheriffs. Professionals were generally content with the referral criteria, though some suggested that younger offenders should be given the opportunity to participate in Drug Court Orders. In Glasgow, females were not referred in sufficient numbers because their offences were often dealt with by the District Court.

3.49 In September 2002, 73 existing DTTOs were transferred into the Fife Drug Court. A total of 872 additional referrals involving 382 individual offenders were made during the pilot period. Males accounted for 82 per cent of referrals, the majority of which emanated from Kirkcaldy Sheriff Court. In Glasgow, 271 cases had been referred for assessment by the middle of November 2004, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. Over 90 per cent of individuals referred to the court were male. Cases considered by the Fiscal to be potentially suitable for the Glasgow Drug Court were referred for screening – initially a group attended by

[48] An RLO may require an offender to be in, or not to be in, a specified place for a specified period of time. It may be made for up to 12 months and restrictions may not exceed 12 hours in any one day. The offender must agree to the imposition of an RLO, compliance with which is electronically monitored and which, if breached, may result in the court re-sentencing the offender for the original offence.

[49] Fife Defence agents saw RLOs as appropriate for people who committed offences at a particular time of the day and this was thought not usually to be the case with drug-using offenders.

various professionals and later an interview conducted by a social worker. This was viewed as an effective mechanism for filtering out inappropriate referrals and was seen as particularly valuable early in the pilot period.

3.50 Drug Court assessments involved the client attending multiple appointments with the Supervision and Treatment Team and submitting to a drug test. Sheriffs were content to continue such cases on bail as this provided a more realistic test of the offender's motivation and willingness to comply. Clients were well informed about the purposes and requirements of Orders prior to consenting to their imposition. While some offenders apparently agreed to an Order to avoid a custodial sentence, most were also motivated by the possibility of getting off drugs. Views were divided over whether the possibility of participating in the Drug Court encouraged offenders to enter earlier guilty pleas. There was no evidence, however, that it encouraged them to plead guilty to offences that they were not, in fact, guilty of committing.

3.51 In Fife, 205 (24%) referrals resulted in Drug Court Orders being made. Most Orders imposed (78%) were DTTOs, and their average length was 18.7 months. Eighty-four per cent of offenders made subject to an Order were male; their average age, 26 years. Nearly all were unemployed or not seeking work and, from limited data, it appears that most had an extensive list of previous convictions and custodial sentences. In Glasgow, 150 (55%) referrals resulted in Drug Court Orders being made, most of which were DTTOs (73%) of an average length of 18 months. Of offenders made subject to an Order, 91 per cent were male and their average age was 31 years. Nearly all were unemployed or not seeking work and most had an extensive list of previous convictions and custodial sentences.

3.52 Drug Court Sheriffs considered the range of sentences available to them to be effective and appropriate and believed that their sentencing decisions were better informed than in the Sheriff Court due to the highly comprehensive and focused reports made available to them. Deferred sentences were also seen to afford some flexibility in sentencing, although Sheriffs expressed reservations about the usefulness of RLOs for offenders in receipt of drug treatment. Information about outstanding charges was seen as problematic by Fife Sheriffs who bemoaned the lack of a dedicated Drug Court Procurator Fiscal.

CHAPTER FOUR: SUPERVISION AND TREATMENT

INTRODUCTION

4.1 This chapter considers the treatment services provided through the Glasgow and Fife Drug Courts and examines issues associated with treatment provision and management. The chapter discusses the interventions made available to Drug Court participants and considers the role of drug testing in the context of a Drug Court Order.

4.2 The goal of the Drug Courts is to assist offenders to overcome their drug dependence and to end their associated criminal behaviour through court enforced and supervised treatment programmes. This objective is premised on the acknowledgement that drug dependency is not only a problem for the criminal justice system, but is also a social concern and public health issue. In effect, offenders are sentenced to treatment. Through the sentences imposed by the Drug Courts, a range of professionals make treatment available to individuals enabling them to tackle their drug use and to engage with services offering support and assistance. The supervisory role of the Drug Court ensures that the co-operation and compliance of the offender is sustained throughout the duration of the Order. The underlying ethos of this approach is that the motivation of Drug Court clients will be maintained through regular court reviews, offering a system of rewards for progress and sanctions for failure to comply with all aspects of the Order. While offenders' initial motivation may be directly linked to a desire to avoid a custodial sentence, the Glasgow and Fife Treatment and Supervision Teams make considerable efforts to engage offenders in treatment and encourage them to have an investment in their treatment plan and progress. The Treatment and Supervision Teams work directly with court-based criminal justice personnel and have direct contact with legal professionals on a daily basis. The social, medical and legal networks, which comprise the Drug Court provisions, underpin their innovative operational practice.

ORGANISATION OF TREATMENT AND SUPERVISION TEAMS

4.3 Although operating in broadly similar ways, the organisation of the Treatment and Supervision Teams in Glasgow and Fife differ slightly between the 2 areas. While many of the organisational issues identified by the evaluation are similar, and relate directly to the operation and function of multi-disciplinary teams, there have been some issues that are distinct to each area.

4.4 In Glasgow, social work, addiction workers and medical staff all contribute to the assessment of potential Drug Court clients, and to the preparation of the Social Enquiry Report (SER), drug assessment and subsequent action plan. Medical staff conduct and report on drug testing. Overall responsibility for the preparation of the court report lies with the social worker. A nominated officer from each of the 3 main disciplines forms the client's Case Group. This is convened and chaired by the supervising social worker; however the Case Group share responsibility for the supervision and treatment plan. The Case Group assess the client's progress or discuss any difficulties he/she may be experiencing and are able to inform the court of developments at the (usually) monthly

review. Conclusions of the Group are largely reached through consensus, except when in relation to medical treatment.

4.5 From its genesis as the Fife DTTO pilot (Eley, Gallop, McIvor, Morgan & Yates, 2002), the Supervision and Treatment Team for Fife Drug Court has provided much of the treatment offered 'in-house'. In part, this was due to the relative paucity of appropriate services in the area but these arrangements also ensured the project was able to exercise significant control over most areas of treatment provision. With the expansion of the team and its formal incorporation into the Fife Drug Court, these arrangements were continued and built upon.

4.6 In addition to the provision of a team of social workers, addiction workers, criminal justice assistants and clerical/administrative staff by Fife Social Work Department as the lead agency, contractual agreements were made with both Fife Health Board (a team of addiction nurses and 2 medical officers) and the Drug and Alcohol Project, Levenmouth (DAPL) (2 counsellors/groupworkers) for the provision of further treatment staff. However, there appears to have been some difficulty in formalising contractual arrangements between Fife Social Work Department and Fife Health Board which has resulted in a lack of clarity regarding treatments to be provided and day-to-day management arrangements.

4.7 The interagency collaboration of the different disciplines in both Glasgow and Fife means that clients are provided with a comprehensive supervision and treatment service, and benefit from workers' expertise and knowledge in compatible areas of drug dependency and treatment. In practice, however, there is the potential for tensions in the implementation of joint working practice. There were serious tensions within the Fife Treatment and Supervision Team and, as a result, many members appeared to feel under-valued and frustrated.

4.8 In the initial stages of collaborative working in both Glasgow and Fife, there was some lack of clarity about the roles of different workers, particularly in relation to assessment and service provision. The addiction workers' role appeared to other workers to impinge on both the 'treatment' element of the Order provided by nurses and the welfare element, which social workers claimed to have some responsibility for. Several nurses had backgrounds in psychiatric nursing and were able to provide motivational interviewing and counselling techniques such as group work, although these areas were also viewed as part of the remit of addiction workers. Despite the fact that some addiction workers had social work qualifications, there were references to them as 'unqualified workers. The fact that court reports contained significant information provided by nurses and addiction workers, but were collated and presented by social workers led to blurred boundaries of ownership. There had initially been an element of disgruntlement among addiction workers and nurses when social workers made changes to their reports, an issue that was described as *"quite de-skilling"* for the other workers.

4.9 While these tensions were addressed through team meetings and managerial action, greater difficulties arose from working relations between staff seconded by the Health Board and the rest of the Drug Court Treatment and Supervision Teams. While this issue

had been a feature of the development of services in Glasgow to an extent, it was much more problematic in Fife. A major factor in the improvement of relations within the team in Glasgow had been the development of a case-conferencing system, chaired by a senior addiction worker. These meetings were recognised by most team members to have been singularly influential in resolving outstanding disputes over the treatment of participants and in clarifying the differing approaches taken by the various disciplines involved.

4.10 During the first months of the Fife Drug Court initiative, the team seconded by Fife Health Board was re-named as the 'Forensic Addiction Team' and this title was subsequently used for all correspondence and court reports instead of the 'Drug Court Treatment and Supervision Team'. This was viewed as an important symbolic way of distancing the seconded staff from the main body of the team. Moreover, the fact that the NHS staff so clearly identified their allegiance to Fife Addiction Services rather than to the Drug Court Treatment and Supervision Team, had led to speculation that the service being provided was merely an extension of existing community provision and not a specialist service with a clear focus on reducing offending behaviour.

4.11 This situation was exacerbated by a relatively high turnover of staff within the Forensic Addiction Team during the course of the Fife Drug Court pilot. Other staff in the Drug Court Treatment and Supervision Team expressed their concern that the turnover of nursing staff throughout the course of the pilot had resulted in a destabilising of the treatment process, with clients having to get used to a series of nursing staff rather than having the opportunity to develop relationships with specific staff members. Concerns were also expressed regarding the occasional recruitment of staff with no previous work experience in the community.

4.12 Staff recruitment and retention has been, and continues to be, an issue for the Treatment and Supervision Teams. During the entire pilot period, the teams have struggled to recruit and retain staff and some sections of the teams have been almost permanently understaffed. This problem was frequently cited by respondents as a reason for gaps in service or delays in establishing components of the service envisaged within the original plan.

4.13 It should be stressed that these difficulties are not unusual in the establishment of multi-disciplinary working arrangements. However, in Fife, it was of real concern that such levels of distrust and frustration should be so evident in an initiative that has had some time to establish itself and adapt to a collective ethos. Overall however, workers viewed multi-professional working as a positive and innovative way to deal with drug use and offending. Drug court clients commented that the Drug Court Orders enabled them to access the support of workers from different disciplines.

Communication

4.14 Given the range of professional agencies involved in the operation of the Glasgow and Fife Drug Courts, a variety of mechanisms had been put in place to enhance communications and oversee the implementation of policies and procedures into every

day practice. This co-operation existed at management and practitioner level and included:

Supervision and Treatment Team Meetings

4.15 The Fife Supervision and Treatment Team met up on a fortnightly basis to discuss general issues relating to the provision of services to the Drug Court. In Glasgow, these meetings involved all members of the Drug Court Supervision and Treatment Team (including social work and GDPS teams) and were scheduled to take place every 2 months. These meetings provided a forum to discuss practical issues that arose on a day-to-day basis through the operation of the Drug Courts.

Drug Court Team Meetings

4.16 The Drug Court Teams are intended to "review regularly the working, development and operation of the Drug Court, identify improvements that might be made or issues that need raised or resolved".[50] Membership consist of managerial representatives of all the key agencies involved with the Drug Courts and has altered slightly due to identified needs and general expediency, as and when appropriate. The teams meet monthly in Glasgow and every 2 months in Fife. Issues are raised and information exchanged on an informal and ongoing basis with discussions around agenda items aimed at clarification and information sharing. While most of these discussions relate directly to the operation of the Drug Courts they also present a forum for drawing attention to broader events likely to be of interest to team members.

4.17 In general, communication between the different professionals involved in the operation of the Glasgow and Fife Drug Courts was considered by all professional groups to be very good. Formal and informal contact on a regular basis enabled information to be passed and/or collected between different departments ensuring matters were dealt with efficiently and quickly.

Practical Issues

4.18 Issues of appropriate accommodation have been an issue for both teams and in Glasgow, the move to new premises, alongside a range of shared training events and seminars appeared to have resolved many of the issues which had hindered effective communication and shared practice in the past. The absence of a common area for staff to gather was identified by respondents as something of an omission. The lack of this facility was also noted by a number of staff in Fife. Whilst this might appear to be a relatively small issue, it is certainly the case that the provision of facilities where staff can relax together can have significant benefits for team working and cohesion. Since multi-disciplinary working was an issue that most respondents acknowledged as a problem, the lack of staff rest-room facilities might be a more significant issue than would first appear to be the case.

[50] Fife Drug Court Reference Manual, July 2002, page 17.

4.19 In Glasgow a number of respondents expressed concern at the reception area, which was described as having 'blind spots', and was shared with clients from other social work teams. As a result, the reception area was judged by most of the team to be inappropriate as a waiting area for vulnerable participants (particularly for women) or children. As a partial solution to this problem, participants awaiting appointments were often allowed to wait in the corridor outside the counselling/consulting rooms. However, this had resulted in complaints from other users of the building who made occasional use of these rooms for meetings.

TREATMENT

4.20 Clients had accessed a range of treatment options prior to being placed on a Drug Court Order including: methadone prescriptions through their GP, attendance at community based drug services, and residential resources. However these interventions were not considered by the respondents to have benefited them in the longer term. In particular, clients noted that previous methadone prescriptions had not met their needs. Previous services (and sentences) had not succeeded in keeping respondents drug free, either because they did not meet their perceived needs (e.g. insufficient levels of medication) or because they did not believe they were ready to stop using drugs at the time. Some respondents noted that their families had tried to help them come off drugs in the past. While this may have helped them to withdraw it did not prove to be an effective method of staying drug-free in the long term.

4.21 The main focus of the treatment provided in both Glasgow and Fife Drug Courts was upon substitute prescribing, mainly, though not exclusively, using methadone substitution and reduction, lofexidine detoxification and naltrexone substitution, and benzodiazepine detoxification. Some abstinence-based work was undertaken, including a small number of home detoxifications. Extensive use was also made of external drug treatment providers and providers of other services including, adult literacy services, psychological services, preparation for work and re-entry to education. Medical staff provided additional health related interventions such as preventative measures, health education programmes, and referral to diagnostic services (especially in relation to Hepatitis B and C testing, and HIV testing, each with pre and post test counselling).

4.22 In addition to social work and addiction workers' input to Drug Court Orders, other services included complimentary therapies such as Reiki treatment, counselling (by an externally based, trained counsellor), aromatherapy and acupuncture (with workers receiving training in the latter 2 complimentary therapies in Fife). Group work was also made available to clients as appropriate. Several clients had experienced some difficulties with their use of alcohol, which had increased, or was more easily identified, as their drug use decreased and appropriate programmes were made available as required.

4.23 In the main, the treatment provided by the Glasgow Supervision and Treatment Team is one of stabilisation on methadone, generally with a view to eventual

detoxification[51]. Initial dosage is normally modest and is usually increased incrementally, over the first few weeks of the Order, until the medication impacts upon the individual's use of 'street' drugs by nullifying their intended effects. Once this optimal dosage has been achieved, a gradual reduction process is implemented. However, there is no universal template for this process, which is managed almost entirely by the health team. It is accepted that the optimal dosage will differ from individual to individual and there is no formal 'ceiling'. The gradual reduction process is negotiated with each offender on an individual basis and may be re-negotiated many times over the course of an Order.

4.24 Fife Drug Court clients are tolerance-tested before their medication is distributed and, generally, respondents who were receiving medication seemed reasonably satisfied with the level and type of medical support available. Clients will be tolerance-tested if their drug use is chaotic and needs to be stabilised quickly, as this can be achieved over a 2-day period. Otherwise, clients will be methadone titrated (started on a level of methadone which is considered appropriate to their needs and which will be adjusted over a longer period of time). The benefits of tolerance testing are that clients can be given the correct clinical dose of medication within the 2-day period. However, during the assessment stages of their Orders, clients did not always receive substitute medication and a number of clients indicated that they had to wait for several weeks before receiving methadone in order to be 'tolerance-tested'. Several clients commented that they had waited 8 to 10 weeks before receiving a methadone prescription. As one client commented: *"Until I get a prescription, I'll just have to keep on using"*. This had caused some problems in the initial phases of Orders where clients were expected to stop offending as a condition of the Order itself.

4.25 This assessment period was viewed quite differently by the social work and addiction staff. In general, they regarded this period as an obstruction to the rapid response they would hope to offer and one which undermined the work they were able to do with new clients. Since the initial assessment procedure to ascertain the individual's suitability for a Drug Court Order is a multi-disciplinary process taking 4 weeks to complete, it would appear that there might be some scope for conflating the 2 assessment arrangements to ensure that treatment is more readily available.

4.26 The emphasis on substitute prescribing in both Glasgow and Fife was clear and some team members expressed doubts as to the value of abstinence-based treatments. Workers and clients reported that clients' initial aspirations to become drug-free without the use of methadone were diverted by some treatment staff who encouraged its use to achieve stability prior to a gradual move towards abstinence. Perhaps not surprisingly, this focus on substitute prescribing had affected the working language of the initiative. Thus, 'susceptibility to treatment' was commonly taken to mean, not an appropriate level of motivation, but the use of substances (eg. heroin) for which there were available, licit

[51] This was true even where Glasgow clients opted to attend the day programme offered by the abstinence-oriented Phoenix House, since programme attendees were accepted on methadone prescriptions (provided that the level of medication did not exceed a daily dosage level of 50 mls).

alternative medications (eg. methadone). Similarly, the expression 'drug-free' was commonly used to describe clients who were using only their prescribed methadone.

4.27 It was common practice in Fife that prescriptions were suspended or withdrawn where the client failed to comply with the treatment plan agreed. Where a client failed to attend 3 appointments with the Forensic Addiction Team, the prescription was automatically suspended by the nurse assigned to the case, although this was generally reinstated once the client had made contact. Prescriptions would also be withdrawn where the client continued to use illicit drugs in addition to the prescribed drugs. Generally, in such cases, the prescription is withdrawn for a minimum of 28 days. This decision was taken by medical staff; however, other workers expressed very clear views that they would like to be consulted about this.

4.28 Decisions about the withdrawal of prescriptions are generally taken at a weekly clinical meeting attended by all the members of the Forensic Addiction Team, but only rarely by other members of the Drug Court Treatment and Supervision Team. Members of the team expressed frustration that the system of warnings used by the Forensic Addiction Team was entirely separate from the formal warning system operated by the relevant social worker as case manager and that the clinical meetings similarly appeared to operate in parallel, but not in concert, with the weekly case discussions; effectively undermining both the role of the social worker as case manager and the role of the team as a multi-disciplinary treatment management device.

4.29 This sanction has proved to be particularly contentious with other members of the Fife Drug Court Treatment and Supervision Team: in part because it is seen as a very punitive response and in part because it is a significant change to the treatment plan. Whilst members of the Forensic Addiction Team were insistent that such sanctions were not only appropriate but also in the client's best interest, since the risk of overdose was significant in such cases, other members of the team viewed such actions as punitive in nature: *"I just feel that they could hold the clients to ransom you know, it's like sometimes it's used as a punishment."*

4.30 Clients who had prescriptions stopped for a period of time had experienced significant difficulties and it was noted by some that withdrawal from methadone was more uncomfortable than withdrawal from heroin. Given that they had been prescribed methadone through the Fife Drug Court, to have their prescription suspended was seen as profoundly unfair. There was a clear perception among clients that suspension or cessation of methadone prescriptions operated as a form of 'punishment' for non-compliance. Some workers also questioned the efficacy of this practice. While recognising the reasoning behind such a decision, the effect of stopping a prescription was clearly problematic in relation to the objective of reducing offending.

4.31 Sheriffs in Fife perceived some professional tensions over whether a Drug Court Order is a criminal justice intervention or a health service intervention. They would have preferred that clients were prescribed methadone more quickly than had been the case and in more generous quantities. Delays in accessing treatment were said to occur due to the 2 consecutive assessment periods (one before and one after the making of an Order,

which they believed represented unnecessary duplication), tolerance testing of all offenders before prescribing and delaying methadone prescriptions after positive tests for drugs other than heroin. Fife Sheriffs expressed a wish for a change in the approach of medical practitioners, to reduce delays, for a cessation of the practice of sanctioning offenders by stopping methadone prescriptions without reference to the Court. Sheriffs accepted that these were clinical judgements but were perplexed at the divergent practices in Fife and Glasgow. They therefore saw the involvement of the Glasgow Drug Court co-ordinator as a consultant to the Fife Drug Court as having been useful in encouraging dialogue in this respect[52].

4.32 While the majority of offenders assessed as suitable were users, primarily of opioid drugs, there was a concern throughout the Glasgow team that the presenting drug problem often masked other substance misuse problems of equal severity, or that the use of other substances often escalated over the course of an Order to compensate for the stabilisation of the presenting problem.

4.33 Glasgow team members appeared aware of this problem and were careful to ensure that the use of other substances was considered alongside the primary drug of choice. However certain types of drug use posed particular problems, which the team found it difficult to deal with. In the case of benzodiazepine-based tranquillisers, this was mainly related to their ubiquity and easy availability. Cocaine was also seen as problematic in Glasgow, both as a secondary or supplemental drug of choice, or increasingly as a primary drug to which the current system was ill-equipped to respond. While heroin use could be addressed through a methadone prescription, there is currently no similar substitute treatment available for cocaine use and it was feared that this might result in higher numbers of participants failing to engage fully with the Drug Court regimes. Under such circumstances, it was anticipated that a wider range of resources, including residential rehabilitation, would need to be utilised if stabilisation of cocaine use is to be achieved and that this will have clear resource implications. While cocaine use was also evident in Fife, injecting amphetamine use was more prevalent there and presented similar challenges in terms of providing appropriate treatment.

4.34 Glasgow respondents in receipt of methadone expressed varying levels of satisfaction with the amount of medication they were receiving. Some (particularly those interviewed at the 6-month stage) felt their medication was being increased either too quickly or to too high a level, against their wishes. Many of those participants interviewed at or after the 6-month stage of their Orders had started to reduce their level of methadone. In contrast to the process of increasing medication to achieve stability, these participants felt they had a degree of control over the process of reducing levels of methadone, although the Doctor was seen to play a cautionary role.

4.35 Most Glasgow participants appeared to have benefited significantly from drug services provided to them either as part of their Order or via a referral to an external service provider and all stated that they had engaged with addiction workers to some

[52] The Glasgow Drug Court Co-ordinator was seconded on a part-time basis to the Scottish Executive to provide consultancy and advice to the Fife Drug Court Team with respect to procedural issues.

degree. A small minority of interviewees felt that the addiction work components of their Orders were proving ineffectual, although where this was the case, most felt able to ask other team members for support and advice. A lack of meaningful engagement with addiction workers (and other staff) was associated with failure to complete an Order.

4.36 Glasgow participants found relapse prevention work to be particularly helpful but also sought help with other personal issues later on in their Orders. Most Glasgow clients were content with the package of services that they were receiving, interviewees suggested a number of other treatments that they thought should be provided to them as part of their Orders. These included detox with Dihyrdacodeine and Valium, residential rehabilitation, in-house groupwork, different forms of counselling (specific to individual needs), holistic therapies and a component of treatment focusing more on physical activities.

4.37 Several Fife respondents were concerned at the prospect of still being on methadone when they came to the end of the Order; they believed that the chances of finding a GP to continue the prescription were low, therefore the chances of resorting to heroin use were high. Most respondents, although glad to be on methadone rather than heroin, did not see methadone as a long-term solution. One respondent had specifically asked to be prescribed an opiate blocker rather than methadone, because he was concerned about dependency on methadone, and had a very positive experience of this alternative treatment. Another reduced his heroin use while awaiting treatment, in order to avoid going onto a high level of methadone: "*the more methadone you get the more you need to get off."*

4.38 In Fife the high frequency of appointments was seen as positive in providing more regular support compared with community treatment services. Some clients, however, reported problems with missing appointments, particularly in the morning, due to sleep disturbance. Overall, clients regarded the Treatment Teams as a whole very highly, particularly their patience, their ability to listen and understand, their encouragement, and willingness to develop mutual trust with the client. There was a consensus that the services offered by the teams were comprehensive and of high quality. As one client commented, *"without the team I'd still be in jail"*.

4.39 Workers in Fife also indicated that they were able to respond flexibly to changing client needs and would adapt the treatment plan as appropriate. There was some concern among workers, however, that the treatment package on offer was not tailored to individual needs.

PERCEIVED GAPS IN TREATMENT PROVISION

4.40 Within the teams, there was near universal agreement regarding the apparent gaps in the service they were able to provide. A number of team members felt that the appointment-based system, whilst useful to maintain formal contact and evidence engagement in the treatment process, could be enhanced. They argued for the provision

of more informal and out-of-hours contact opportunities to deflect any perceptions of the client that all their treatment was being forced upon them.

4.41 Many team members in both Glasgow and Fife cited housing, particularly, the lack of respite housing, as a particular problem. Access to housing was the most frequently mentioned additional need that clients were working on with the team. Some clients were also receiving help with access to education and training. Although others felt that they were not yet at that stage, they knew that, as one said, "*there are choices if I want them"*.

4.42 Obtaining forensic psychological assessments was a particular problem in Fife and some members of the Forensic Addiction Team felt that their service was undermined by the absence of a formal psychology component. Another issue that was identified was the problems workers faced in trying to get clients registered with a dentist in the local area. Community Dental Teams would provide emergency treatment but it was difficult to get general appointments for clients, many of whom had problems with their teeth as a result of methadone use and generally poor physical health. A commonly held concern was that there was little in the way of residential provision for this client group, particularly for women.

4.43 Most team members expressed concerns regarding the 'exit strategy' at the completion of an Order. The new contractual arrangements between health boards and general practitioners within the health board areas, have had serious implications throughout Scotland for the delivery of community-based substitute prescribing. These problems appear to have been particularly acute within the Fife Health Board area and have resulted, at least for the moment, in the reduction of services of this kind. This in turn, has had implications for the transfer of the responsibility for substitute prescribing from the medical officers in the Forensic Addiction Team to the relevant general practitioner. Generally, where clients reaching the end of their Drug Court Orders, reside in an area where no general practitioner is prepared to prescribe, arrangements have to be made for an alternative conclusion to the Order. In most cases, this has resulted in some form of detoxification at the culmination of the Order. The ability to access prescribing with a GP was described as a 'postcode lottery'. In Glasgow, the transfer of substitute prescribing to GPs or other prescribing services after the completion of an Order was reported as being generally unproblematic. In cases where this was not immediately possible, the GDPS medical team continued to administer the substitute prescription until such arrangements were made.

DRUG TESTING

4.44 The element of drug testing, which is a key feature of Drug Court Orders, was seen as a positive feature by all respondents. Indeed one client commented that testing was *"actually the most important part of the whole programme really"*. Participants saw drug testing as a useful tool for evaluating progress and measuring compliance with an Order. Regular testing, especially when twice-weekly at the beginning of an Order, ensured that drug use would be identified and informed medical decisions regarding

methadone titration, shrieval decisions at reviews and efforts by workers to prevent further use. Testing also acted as a motivating factor for the individual, with both negative tests and a reduction of the frequency of testing seen as important incentives.

4.45 Offenders on Orders are routinely tested using, in the first instance, a simple dip-stick urinalysis system. Tests are observed and offenders are asked to confirm the veracity of the 2 samples taken. Team members were generally happy with the system currently in place and felt that participants too, were content with the process and often found it helpful to their overall progress.

4.46 Participants are tested for cocaine, amphetamines, methadone, other opiates/opioids and benzodiazepines. Cannabis is no longer tested for, since Sheriffs have indicated that they would prefer to prioritise injectable drugs. Disputed results are sent away for more detailed laboratory analysis. False positives are not unknown and there is provision, at a cost, to further appeal results; some team members pointed out that this was an option which, for financial reasons, was rarely taken up. Some team members indicated that they would prefer to use an oral testing procedure, but recognised that the consequential reduction in accuracy might be problematic.

4.47 In Fife, random testing proved difficult to arrange, partly because many offenders had multiple commitments to attend a variety of treatment programmes, educational inputs or employment as part of their Orders. Where random testing was used, it was often instigated via the dispensing pharmacist, thus effectively reducing the immediacy of the system. Whatever the logistical difficulties, there was a widespread view within the Fife team that the introduction of a random testing system was long overdue and that such a system could reduce the pressure upon routine testing systems. In Glasgow random testing has been operating with some success for some time, especially towards the end of Orders.

4.48 While difficulties in testing procedures were acknowledged by the Treatment and Supervision Teams and dealt with as sensitively as possible, some clients indicated that failure to provide a sample for testing would be treated in the same way as providing a sample that tested positive for illicit drugs. This could jeopardise the continuation of their Order[53]. Nevertheless, some respondents commented that this supervised process was more effective than in community services where its absence led to a culture of dishonesty around samples.

4.49 Concern was expressed over the possibility that test results may be regarded as a pivotal factor when judging individual progress. In part, this echoed the views of participants that more sensitive tests would illustrate improvements more meaningfully. However, team members stressed that they took into account other, often less tangible, indicators when preparing written reports and speaking to them at pre-court review meetings, such as improvements in appearance and social functioning. Both addiction workers and social workers were concerned that the testing system appeared to them to be somewhat inflexible. In particular, the system appeared not to respond adequately to

[53] One client in Glasgow was eventually able to negotiate to be allowed to provide oral swabs.

the needs of those participants in full-time employment or with similar daytime commitments for whom an evening clinic may have been preferable.

4.50 The testing arrangements were also seen as intrusive and even humiliating by some team members. A number of respondents related incidents of clients who had found themselves physically unable to comply and who, despite their motivation to comply with the Order had it revoked because of their inability to urinate in front of another person. Some participants experienced problems with the drug testing set-up. The most prevalent difficulties were waiting times and the fact that, while waiting, individuals who were 'clean' had to mix with those still using illicit drugs.

4.51 Clients who were deterred from using drugs by the testing regime often appeared to be those who were generally motivated to reduce their drug use. These participants sought positive benefits from drug testing such as a sense of satisfaction, the fulfilment of a challenge and access to external services. A few also found contact with those who had already achieved some degree of success beneficial, arguing that this encouraged them to do likewise. Some, however, stated that testing had no effect on their drug use. This tended to be a more common response among those who were in custody or those who were further into their Orders and who emphasised their own motivation to remain drug-free.

4.52 Most participants believed that the frequency of testing was 'about right'. Twice-weekly testing was seen as an effective mechanism for ensuring that illicit drug use was detected. Reducing the frequency of drug testing to weekly was seen as a significant step, indicating that the trust of the Sheriff and team had been earned and that the participant's ability to resist the temptation to use had been established. Participants also exercised some influence over the frequency of testing and were able to request changes that were taken seriously. In the event of a change being suggested to them, they were fully consulted and were not compelled to accept it.

SUMMARY

4.53 This chapter has highlighted the extent and nature of services which make up the Supervision and Treatment elements of the Drug Court. Multi-professional and multi-agency working are key characteristics of the Drug Court despite having the potential for minor difficulties in practice. The services made available to offenders through Drug Court Orders were comprehensive, with treatment and testing as the main component of all interventions.

4.54 Treatments included a range of services provided by the Drug Court Teams and external service providers. The services included counselling, prescribing, access to day programmes and primary medical care. However, it was notable that substitute prescribing (using methadone) constituted the core element of the treatment service in practice. Concerns were expressed by members of the Supervision and Treatment Teams and Drug Court participants that the operational regimes lacked flexibility, and that levels of medication provided were not always in compliance with the wishes of individual

participants. There also appeared to be a broadly based desire for more comprehensive service provision and a wider range of services to be made available to the Drug Courts. Participants were, however, generally satisfied with the treatment and other services that they had received at different stages of their Orders and most appeared to have engaged with the Supervision and Treatment Teams.

4.55 Drug testing forms a key component of Drug Court Orders with participants tested twice weekly at the beginning of an Order. Relapse is recognised as a possibility and time is allowed to enable participants to stabilise their drug use before reducing/ending it. Drug Court participants saw testing as a largely positive element of the Order, viewing it as a significant motivating factor as well as a deterrent. Obtaining negative test results was viewed as a clearly defined goal, particularly given the prominence of this issue during reviews and the dialogue between participants and the bench.

4.56 Multi-disciplinary teamwork had been identified as less effective than it might be in the early stages of the pilot and was a particular problem for the Fife Drug Court. These difficulties had been recognised and were being addressed. Communication between different professionals involved in the Drug Court in Glasgow was now seen as very good and positive relations had developed within the multi-disciplinary team. This had been facilitated by a move to better equipped and more conveniently located premises, though some shortcomings of the new building were also identified.

4.57 The availability and management of substitute providing has become the focus for much of the internal frustrations over different treatment philosophies and management systems. Indeed, the issue of prescribing has achieved such symbolic importance that other approaches to the problem appear to have been sidelined in many ways and their relevance may have been undermined. In Fife, the development of effective, multi-disciplinary approaches to the treatment of drug-related offenders has not been assisted by the existence of duplicate case management systems such as the 2-stage assessment system, the dual system of formal warnings and the lack of any coherent linkage between the weekly case discussions and the clinical meeting. In spite of these difficulties, a great deal of excellent work has been accomplished with individual clients and at the day-to-day case management level, individual practitioners have clearly found practical ways of working together effectively for the good of the client.

4.58 Two particular issues were highlighted as prescribing challenges to the Drug Courts. The first was the increased incidence of cocaine use among participants in Glasgow. Although drug test data from Glasgow showed that the proportion of individuals testing positive for cocaine declined throughout the course of Orders (see Chapter 6), the treatments currently available were perceived as inappropriate and likely to lead to a higher prevalence of non-compliance. It was anticipated that a wider range of resources, including residential rehabilitation, may need to be utilised to stabilise cocaine use and that this will have clear resource implications. While little cocaine use was encountered in Fife (injecting amphetamine use provided similar challenges there), these issues may become of greater importance to service providers if, in the future, cocaine use proliferates outside the major Scottish urban population centres.

4.59 The second issue concerned the use of random drug tests. In Fife, team members were of the view that the use of random tests was desirable to decrease the likelihood of continued drug use being concealed and to reduce the number of tests that were required at various stages of an Order. The practical difficulty appeared to centre upon how random tests could be accommodated within participants' other commitments, though this issue does not appear to have been insurmountable in Glasgow and in other jurisdictions and the potential for introducing random tests should be more fully explored.

CHAPTER FIVE: REVIEWS AND ENFORCEMENT

INTRODUCTION

5.1 Regular court reviews of Orders, together with pre-court review case meetings between the Sheriff and the relevant Supervision and Treatment Team workers, are key components of the Drug Court. In the reference manuals for the pilot Glasgow Drug Court and the Drug Court at Fife, it was stated that review hearings would occur at least monthly with a pre-court review meeting convened in the 24 hours prior to each review.

5.2 The Drug Court Sheriffs have responsibility for the oversight of Orders imposed by them. The purpose of the reviews is to enable the sentencer to monitor the participant's progress on an Order. On the basis of these regular reviews the sentencer may, among other courses of action, vary the conditions of the Order (such as the frequency of testing, the type of treatment or the frequency of the attendance at treatment), revoke the Order on the basis that satisfactory progress has been made or, in the event of non-compliance, revoke the Order and re-sentence the offender for the original offence. In addressing the progress of Orders at reviews, the Drug Court Sheriff was anticipated to adopt the roles of motivator, enforcer and sanctioner. The Reference Manuals suggests that the direct dialogue between the bench and offender is the cornerstone of the review hearing.

5.3 All Orders made by the Drug Court are subject to drug testing and regular (at least monthly) review. The same Sheriff who imposes the Order has responsibility for reviewing the Orders and responding to non-compliance, thereby ensuring the continuity of contact that has been found to be an important feature of Drug Courts in other jurisdictions.

PRE-COURT REVIEW MEETINGS

5.4 Pre-court review meetings were held in the morning of the day of the scheduled review in the Scottish Drug Courts. The purpose of the pre-court review meetings is to enable the sentencer to hear at first hand comments from the key workers about the participant's progress on the Order and any mitigating factors. As a member of the Supervision and Treatment Team at Glasgow Drug Court stressed:

> *"I can't think of a criminal justice disposal that's as responsive as a Drug Court Order to the needs of the client, because the client could be presented to us with a really impressing difficulty and that could be reported to the Sheriff. Sheriffs have been very responsive to situations in the client's life."*

Sheriffs valued the opportunity to obtain feedback from those directly involved in supervising and treating the participant and saw the meeting as a crucial information-gathering forum.

5.5 Sheriffs emphasised the importance of the pre-court review meetings in providing information that enabled them to decide *"which buttons to push"* in the dialogue with the participant. By this they meant which issues might be brought into the discussion in such a way that they might serve to encourage, motivate or sanction the participant. Other benefits of these meetings were said by Sheriffs to include:

- the opportunity to consider sensitive issues that it would be inappropriate to discuss in open court;
- the opportunity for further information gathering in the time between the pre-court review meeting and the review hearing in order to resolve any outstanding questions prior to the review; and
- the provision, during face-to-face discussion, of more up-to-date information about the participant's circumstances and progress than could be furnished by a report prepared a few days previously.

5.6 Supervision and Treatment Team members were universally positive about the pre-court review meetings. The Drug Court Sheriffs believed that the fact that the person on a Drug Court Order was not present at the pre-court review meeting meant that there was a more open and honest discussion. Issues such as new charges or breaches would not be discussed at the pre-court review meetings since matters of this kind should be fully aired and debated in open court and required the presence of the defence agent. Defence agents frequently attended pre-review meetings at the Fife Drug Court but this was not the case in Glasgow.

5.7 At pre-court review meetings, issues seen as compromising a participant's progress on an Order were discussed. Broadly, these included:

- housing situation (e.g. if homeless or in temporary accommodation)
- participant's use of their spare time (e.g. how were they filling their time at present, potential involvement with external service providers)
- the influence of family and friends (e.g. parents are unsupportive of methadone prescribing as part of drug treatment; associating with drug-using peers or cohabiting with a partner who uses drugs or alcohol but who is not undergoing treatment)
- unresolved counselling issues (e.g. sexual abuse, bereavement) and
- financial concerns (non-payment of benefits to participant; threat of violence from debt collectors).

REVIEWS

Professional perspectives on reviews

5.8 The Drug Court Sheriffs considered the main purpose of reviews to be monitoring the progress of offenders on Drug Court Orders. To encourage compliance with the various elements of an Order the Sheriffs variously took on the role of sanctioner, motivator and encourager. Reviews were, therefore, a critical element of the Drug Court:

"It's the point really where the legal side of things melds with the non-legal sort of therapeutic side of things, it's the process which joins the 2 together. And it enables the individual first of all to understand that he's still in a court situation, it enables us to encourage, it enables us to penalise if need be and it's the crucial point, it's the nexus between the 2 aspects of the approach so it's absolutely vital."

5.9 In Fife and Glasgow, the Drug Court Sheriffs identified a number of advantages of holding review hearings in open court. Firstly, it helped to reinforce the fact that the participant is subject to a court Order. Secondly, it provided an opportunity for them to see how others were progressing and how the Sheriff responds to those who are doing well and those who are doing badly. Thirdly, it was possible for families, partners or friends to see how well the participant was doing and the recognition received for this. Finally, Drug Court and Sheriff Court Sheriffs considered it important that reviews be conducted in open court in order that the Drug Court procedures were seen by the public to be transparent. In this way they were less likely to arouse suspicion. The Drug Court Sheriffs felt that the main disadvantage of reviews in open court related to the discussion of material of a sensitive nature. They were alert to the need to exercise discretion so that sensitive information, for example, a recent bereavement, was not disclosed and employed 'codes' when discussing material of this kind. Discretion of this kind was recognised and appreciated by Drug Court participants.

5.10 Team members generally felt that the review process had a positive impact upon offenders' motivation and that they responded particularly well to positive comments from Sheriffs. Team members were also enthusiastic about the informality that has developed within the Drug Court, with Sheriffs entering into direct dialogue with the offender. The Sheriffs also acknowledged the less formalised approach in the Drug Court, suggesting that certain behaviour that would not be tolerated in a traditional court would be deemed acceptable as part of the Drug Court process:

"For the first time in their lives they are actually talking to someone in fairly high authority and it's never happened to them before"

Review procedures

5.11 In Glasgow, 229 reviews were observed by the research team. The duration of the 229 reviews observed ranged from one minute long (where the participant did not appear and a warrant was issued for arrest) to 20 minutes long, with an overall average of 5 minutes. In Fife, 121 reviews were observed. The average duration of a Drug Court Order review was 3.6 minutes with a minimum of 1 minute and a maximum of 22 minutes (for a revocation).

5.12 At the beginning of each Court session, the participant would confirm his or her name to the Clerk of Court and the Sheriff would invite the professionals around the table to report on progress. Across all sites, the Drug Court Sheriffs appeared to take largely the same approach during reviews. Unless they were absent or the Sheriff invited a

comment from another individual prior to inviting them to speak, defence agents addressed the Court first, taking the lead in presenting information from the report. In accordance with their client's interests, they tended to highlight positive aspects of the report (e.g. emphasising compliance) while attempting to mitigate instances of non-compliance. If offences were discussed, the Procurator Fiscal was invited by the Sheriff to participate in the discussion, often being asked to provide further information and a description of incidents before the defence agent resumed his role of advocate. In the absence of known further offences, the Procurator Fiscal was often briefly asked if they had any comments to make about the case. The social worker was then invited to make a general comment, or provide specific feedback on areas of concern highlighted by the Sheriff or arising from the defence agent's summary of the report. The offender was then addressed by the Sheriff, with the form of dialogue somewhat dependent upon the information hitherto provided. If specific areas of concern had been discussed, the dialogue tended to be more exacting, with the offender being invited to comment upon or clarify elements of the previous discussion. However, in the absence of such issues, or when they had been resolved to the satisfaction of the Sheriff, the dialogue tended to take the form of a more general discussion focusing on progress achieved and future targets.

5.13 The Drug Court Sheriffs were of the view that the range of information provided at reviews – for example, test results, details of appointments kept etc. – provided them with a comprehensive picture of how well a person was complying with their Drug Court Order. Sentencers expressed satisfaction with the provisions for reviewing the Order and with the content and quality of the review reports they received. Compliance with the requirements of their Orders was regarded by Sheriffs as one indicator of the person's motivation to become and remain drug-free. Sentencers were likewise content, in the main, with the frequency of reviews, though it was suggested that it might be useful to have the option of more frequent reviews (for example weekly, or fortnightly) in the early stages of an Order.

5.14 Difficulties had arisen for the Sheriff Clerks as a result of legislation governing DTTOs which specified that reviews should be continued for 'not less than a month'. This was problematic in terms of diary administration (with Sheriffs sitting on different dates this could mean that a case could not be reviewed until 6 weeks). It also presented difficulties in situations where the Sheriff wished to monitor an individual on a more frequent basis. This was being addressed by 'continuing the review'. Similarly, the use of Enhanced Probation Orders could allow the court to review the Order more frequently, a practice that was used in the Fife Drug Court.

Participants' perspectives on reviews

5.15 Most participants believed that reviews influenced their co-operation with their Orders. This was variously seen as due to their responsibility to regularly attend court and the ever-present possibility of being placed in custody, which encouraged compliance in terms of attending the review itself, attending other appointments and desisting from offending and illegal drug use. Some suggested that the reviews provided them with feedback on problematic behaviours, thereby allowing them to focus on controlling these.

Participants argued that having achieved a goal set by the Sheriff, the resulting plaudits, especially within a public courtroom, gave them a 'buzz'.

5.16 Most believed that the frequency of reviews was about right. It was felt that monthly reviews gave enough time to act on guidance or address problematic behaviours without interfering with other obligations but were frequent enough to remind them of their responsibilities. On the other hand, attendance for reviews on a twice-monthly basis was viewed as an onerous responsibility.

5.17 Participants regarded dialogue with the Sheriff as a central feature of the review and a positive experience, contrasting it with previous, more negative experiences of being in court. Most welcomed an opportunity to converse with their sentencer. Participants viewed building a rapport with their sentencer as an important part of the review process. Interviewees expressed surprise that Sheriffs remembered information about them and took an interest in their lives and, for these reasons, felt that such a fruitful relationship would be compromised if there was a lack of consistency on the bench.

The Shrieval approach during early reviews

5.18 At early reviews (1 and 2), Drug Court Sheriffs stressed that they knew that drug treatment was difficult and offered encouragement to those who had made significant progress within a short period of time such as *"it appears you're getting to grips with the problem"*. Sheriffs often used participants' success at this point as a means to motivate them further: *"I'm very pleased indeed. You've done very well. I hope you can keep it up"*. Acknowledgement was also made of strong personal motivation.

5.19 Where progress had not been ideal in the early stages of Orders, Sheriffs found something positive to offer encouraging words to the offender about. Sometimes this would be related to attending testing appointments but producing positive results 'opening up' to their addiction worker and being honest to team members or the Drug Court about their drug use. Recognition was also made of compliance or attendance in spite of personal difficulties or circumstances which resulted in drug use (*"I'm pleased that you've managed to keep things going in spite of this"*).

5.20 At the point of possible relapse (highlighted by the medical team to be around the 3 to 4-month point) the Sheriff reaffirmed the challenges of treatment for drug addiction by offering encouragement relating to urine test successes with words such as: "*You've done very well to produce negative results already, I hope that we can see some more*"

5.21 Some participants made substantial progress early on in their Order and then struck difficulties in terms of maintaining their motivation. If it was felt by the team that the participant remained motivated, Sheriffs encouraged them by emphasising earlier achievements and acknowledging difficulties.

5.22 Taking into account the importance of avoiding relapses, at this point Sheriffs

often started to ask participants about other aspects of their lives, particularly their support networks: *"You're spending a lot of time with your family?"* and *"I'm glad to hear you're getting a lot of support off your wife and kids"*. Where continued drug use was thought to be associated with these factors, the Sheriffs often highlighted these as problematic (*"You need to take your own path – you don't have to use"* or *"it's time to start avoiding your peers"*). Sheriffs also brought up other issues which were thought to contribute towards stability around this time, such as activities or accommodation.

5.23 From this time onwards, where offenders were consistently producing negative urine tests, Sheriffs also commented upon physical presentation during reviews (*"you look better every time")*. They also began to reward compliance from this point; those who progressed consistently often had the frequency of their drug testing reduced or deferred sentences admonished.

5.24 On the other hand, in cases where progress was not evident or compliance was continually problematic, Sheriffs showed signs of losing patience. It was not uncommon for Sheriffs to issue ultimatums to offenders, stressing the possibility of ending Orders.

The Shrieval approach during reviews in the middle of Orders

5.25 If non-compliance was still in evidence around the time of reviews 5, 6, 7 and 8, Sheriffs often requested that breach reports be prepared, especially if further offences had been committed. However, if this was not the case but attendance or engagement was still problematic (or had become so after a spell in custody), Sheriffs would question the individual's motivation. This would often take the form of a challenge, providing individuals with an opportunity to comply or have their Order terminated: *"Do you want to carry on and make an effort?."*

5.26 Where individuals who otherwise appeared motivated had experienced recent setbacks or produced only mixed results, Sheriffs continued to encourage them to comply, sometimes in relatively forceful terms (*"knuckle down and get on with this"*). With such offenders, Sheriffs also appeared to make use of 'carrots' to encourage compliance, presenting offenders with the possibility of rewards in return for improved attendance or drug use (*"If you turn up and we see consistency then I can reduce testing – that's what we want"*). Where offenders had tackled the majority of their problems, but there were specific outstanding issues (e.g. benzodiazepine use, attendance, housing or boredom), Sheriffs spoke to individuals about them, stressing the need to 'iron out' these problems and presenting them with possible solutions. Sheriffs always appeared to take an optimistic view of the individual's capacity to overcome problems (*"I appreciate it's a difficult time at the moment but you're still doing well and capable of doing well in the future"*) and strove to stress positive aspects of an individual's performance.

5.27 When progress had been sustained over a period of time, Sheriffs underlined the importance of maintaining motivation and momentum. Again, admonishments and reductions in the frequency of urine screening were often granted at this stage, with those who had consistently performed well perhaps having their testing reduced to monthly.

The Shrieval approach during later reviews

5.28 During later reviews (9 to 16) Sheriffs continued to take largely the same approach when tackling specific issues as noted above. However, a slight change was noted in the approach taken with those offenders who were 'drifting' through their Orders rather than making consistent progress. In the absence of motivation and positive change, Sheriffs impelled offenders to perform better or to face the possibility of their Orders being revoked (*"I need to see progression or I will do something"*).

5.29 In instances where individuals had tackled problems highlighted in previous reviews, Sheriffs congratulated them on their progress and sought to reinforce such changes. During later reviews Sheriffs also attempted to build individual's self-esteem, often by intimating to offenders (and the rest of the court) that they had personal faith in their ability to maintain progress. Where offenders had not yet involved themselves in employment, training or external programmes, they were encouraged to consider such options as a means to maintain their progress.

Discussing progress and change during reviews

5.30 During the reviews observed, Sheriffs asked open questions to generate responses from offenders. Offenders were generally responsive, co-operative and honest. Across the different points during which reviews were observed, there were 9 main areas of response. These were:

- getting off drugs;
- the challenge of being on a Drug Court Order;
- dealing with temptation;
- reasons for drug use while on Order;
- difficulties with the Supervision and Treatment Team;
- feeling good;
- dealing with boredom;
- home circumstances; and
- fighting against possible sanctions by the Drug Court Sheriff.

5.31 Participants did not always experience harmonious relations with treatment and supervision staff and when incidents arose, Sheriffs often spoke about them in court. Such incidents often resulted in missed appointments, regarded as non-compliance, and although individuals often sought to explain absences they usually accepted some culpability for these and agreed to work with staff towards achieving more cordial relations.

Sheriffs' differing roles during reviews

5.32 During reviews the ideal Drug Court Sheriff effectively fulfils the roles of motivator, enforcer and sanctioner. The words of encouragement could focus on

targeting problem areas such as attendance (*"I want a 100% attendance next time"*) or positive drug testing (*"I hope that we can see some negative tests for benzos next time"* and *"I want to see more consistency"*). Reflection on the major issues of reducing drug use such as relapse and associated offending (*"I don't expect miracles from you but you try and keep it up, it shows you what can happen if you drop your guard"*), persistent dealers offering 'free' heroin and cocaine (*"you'll find temptations put your way but try and avoid them"*) and keeping the motivation going (*"you've got to keep it up, times will get harder"; "we don't expect miracles but we do expect efforts"*) was also forthcoming from Sheriffs.

5.33 The Sheriffs' roles as enforcer and sanctioner related to actual sanctions being applied during a review as well as 3 other issues: attendance at appointments (*"your attendance could be better - if you don't turn up you'll be breached"*); positive testing for drugs in urine (*"If you were an Olympic medallist you would have it taken away!*"); and overall motivation to the Drug Court Order (*"our best efforts won't work if you don't try"*). In cases where Sheriffs dealt with further offences, imposing custodial sentences Sheriffs often expressed some hope that sanctions would deter offending and drug use. Under these circumstances, they often encouraged a period of reflection while in custody, which, it was hoped, would act as a reminder of the reasons why they were placed on a Drug Court Order in the first instance (*"You've got a week in jail for this – cool your heels and take stock of your situation"*).

5.34 Generally, offenders, rather than their defence agents, fought against the possibility of sanctions by verbally reaffirming their co-operation and their previous achievements ("*In my fairness I had done quite well last month*"). Recognising the 'last chance' nature of such a dialogue, they often expressed a strong desire for another opportunity ("*I think I deserve another chance*" or "*I want another bite of the cherry*"). Where such a 'talking-to' resulted in renewed efforts, clients often recognised the motivating role of this dialogue in subsequent reviews ("*I'm glad that you gave me an ear-bashing*"). However, when there was no improvement and Sheriffs were obliged to revoke an Order, they often expressed some regret about taking such a course of action.

5.35 On the other hand, Orders were disposed of successfully. During these proceedings, Sheriffs summarised participants' achievements and stated that they very pleased with their progress, thanked them for their efforts and wished them well in the future. In the absence of a graduation, found in other jurisdictions, a typical closing dialogue in the Scottish Drug Court pilots went as follows:

> *"I'm very pleased. I propose to end your Order today. You've worked very hard. Thanks very much for your efforts, they are appreciated."*

5.36 It should also be noted that in Glasgow the 2 original Sheriffs were replaced, in a phased manner, with 2 new Drug Court Sheriffs at the beginning of the third year of the pilot. Given the centrality of the sentencer to the Drug Court process, this change might have been expected to impact on how the court operated. Continuity of sentencer has been a feature of pilot Drug Courts in other jurisdictions. However the change in

Sheriffs appeared to have little discernible effect on how the Drug Court operated, including in respect of reviews. It is to the credit of those concerned that this changeover took place smoothly and that continuity of approach was maintained.

MECHANISMS OF ENFORCEMENT

Sanctions and rewards

5.37 All the Drug Court Sheriffs believed that the range of actions open to the Drug Court in the event of non-compliance with Orders was insufficient when the Drug Court was established. For example, if an offender failed to attend for appointments or tested positively for drugs, the only options open to the court would be to fine the offender, amend the Order or revoke the Order. The Sheriffs were strongly in favour of having available to them a *"short, sharp prison sentence"* or a short Community Service Order to punish instances of non-compliance while allowing the Order to continue. Such an approach, they believed, might be effective in securing compliance with the Order. The Sheriffs took the view that revocation of an Order signified a failure for all of those concerned and they aimed to keep Orders going if possible. The availability of a short prison sentence as a sanction might allow them to do so while signalling disapproval of the behaviour that resulted in the imposition of the sanction.

5.38 In the absence of sanctions of this type, the Sheriffs took measures such as increasing testing or deferring sentence on concurrent or new charges. This latter approach enabled them to reward progress and sanction further offending[54] but it could not be adopted to deal with other types of non-compliance, such as failure to attend for tests. They believed that in some cases the issuing of a breach report and convening of a hearing were sufficient to bring about increased commitment and improved compliance, though this was not always effective.

5.39 The Criminal Justice (Scotland) Act 2003 made available intermediate sanctions of imprisonment and Community Service to the Drug Court with effect from July 2003 (and only applicable to Orders made after that date). Sheriff Court Sheriffs viewed the introduction of interim sanctions positively, suggesting that they contributed "*something that was lacking in the previous system*" that would offer a "*short, sharp shock*" or a "*wake up call*" to facilitate adherence to their Orders.

5.40 The incentives available to Drug Court Sheriffs, such as the power to admonish deferred sentences as a reward for compliance with treatment and desistance from offending, were also felt to play an important role in court's operation. However, the identification of culturally appropriate rewards has proved challenging in most non-US jurisdictions. In the Scottish Drug Court pilots, encouragement and praise was the most common vehicle for communicating the court's approval of progress made.

[54] Further offending does not constitute a breach of a DTTO, though one of the Drug Court Sheriffs believed that it should.

5.41 Defence agents suggested that rather than reflecting a *"very simple view of failing to comply with a Court Order"*, a degree of sophistication was required in the application of court sanctions in order to respond appropriately to re-offending and/or non-compliance with treatment within the context of problematic substance use. The tolerance of minor transgressions shown by Drug Court Sheriffs was perceived by defence agents as indicating an understanding of the nature of drug addiction and its relationship to offending in each case.

OUTSTANDING AND NEW CHARGES

5.42 If an offender has outstanding or new charges and the Procurator Fiscal decides to proceed with prosecution in the Sheriff Summary Court, the case will be brought in the first instance to the Drug Court and dealt with there in the event of a guilty plea being tendered. Amongst the options open to the Sheriff is the imposition of a deferred sentence. If the offender pleads not guilty, the case will be referred to the Sheriff Court, which has the option of referring back to the Drug Court or sentencing the offender if s/he is found guilty and informing the Drug Court of the outcome. In the event of a further offence during a Probation Order (but not a DTTO) the Drug Court may decide to take no action or sentence for the original offence. Defence agents accepted that they were duty bound to report further offences by their clients.

5.43 The Reference Manuals for the Drug Courts require that when someone on a Drug Court Order is charged with a new offence the Procurator Fiscal should obtain a report from the social worker within 7 days before deciding how to proceed. In practice, however, those charged with further offences generally appear in the custody court, where they enter a guilty plea and can either be sentenced or referred across to the Drug Court for disposal.

5.44 Sheriffs in Glasgow believed that having a dedicated Procurator Fiscal was very effective in getting outstanding charges brought together for the first calling in the Drug Court or, if that was not possible, for the first review. However, outstanding charges from other jurisdictions (due to the nature of their offending, these were relatively common among offenders on Drug Court Orders) could not be dealt with in this way.

5.45 When an offender appears for sentencing (or review) in the Fife Drug Court, the Procurator Fiscal appearing that day (attendance by summary Procurators Fiscal is assigned on the basis of a rota) is given a sheet of outstanding charges printed from the Procurator Fiscal's I.T. database. Sheriffs regarded it as imperative that all outstanding charges were known at the start of an Order in order to avoid it being disrupted by a sentence and believed that this arrangement represented an unreliable compromise. They expressed a preference for a dedicated Procurator Fiscal (as in Glasgow) or for a non-legal member of staff with oversight of such matters. However, Procurators Fiscal believed that most of their work in the Drug Court was of a routine nature and could be

undertaken by an administrator, a view that was crucial in the decision not to assign a dedicated Procurator Fiscal to the court[55].

CLIENTS' PERSPECTIVES ON ENFORCEMENT

5.46 Participants saw a Sheriff's approach as crucial in the promotion of compliance with aspects of an Order, particularly when challenging certain behaviours. Interviewees felt the approach taken by Sheriffs under such circumstances was fair, honest and took account of difficulties experienced by participants and the seriousness of the behaviours demanding redress. Interviewees stated that they always had an opportunity to state their point under such circumstances and that the consequences of continuing prohibited behaviours were defined in advance. When interviewees took a negative view of a Sheriff's approach in such situations criticisms tended to be tempered by a realisation that the sentencer's actions may have been justified or his intentions honourable.

5.47 It was also important to participants that their efforts to desist from prohibited behaviours were recognised by the Sheriff. Comments on this subject were generally favourable, indicating that Sheriffs were reacting appropriately in order to encourage and emphasise positive change (sometimes in spite of lapses) and discourage negativity.

5.48 The principal mechanism through which rewards for compliance were communicated was the reduction in the frequency of drug testing or, in a small number of cases, reviews. Decisions to reduce drug testing were mainly based on the provision of negative test results, along with other considerations. Where changes had occurred, their timing was viewed as appropriate, taking account of the wider context of an individual's situation. Where changes had not occurred, individuals were sympathetic to the reasons why this might be the case, acknowledging that further progress was required of them.

5.49 A reduction in the frequency of drug testing was viewed by participants as a significant step (particularly the change from twice to once weekly testing). Therefore, a few interviewees had refused such a change. However, those who assented to changes were consulted and these were instituted only with their prior consent.

5.50 Sheriffs were sometimes obliged to impose sentences for offences occurring prior to or during a Drug Court Order, or when no change had been effected in participants' behaviour. Within such parameters, non-compliance often resulted in a warning rather than a breach, which, it was felt, would only occur after several warnings and under conditions of non-compliance with most aspects of an Order, or when the continuance of an Order was impractical.

5.51 In the event of further offences (or offences pre-dating Order) being brought to their attention, Sheriffs often chose to defer sentence on these, effectively 'rolling them up into' the Order. This was perceived by participants as a further deterrent, especially when they had already been given previous 'chances'. The possibility of admonition was

[55] The absence of a dedicated Fiscal was also attributed by Fiscals and Sheriffs to a dispute over funding.

also widely used with relatively stable individuals as a means of promoting compliance with Orders by removing the possibility of punitive action in respect of certain offences.

THE OUTCOMES OF ORDERS

Fife

5.52 The outcomes of the 205 Orders (at early February 2005) made during the two-year pilot period in Fife are presented in Table 5.1. Among the cases that had been terminated, 30 per cent were completed successfully. Although this may appear relatively low it must be recognised that a proportion of Orders were still actively under supervision and, since revocation was most likely to occur in the early stages of an Order, a higher proportion of these ongoing cases would be expected to complete. For example, the average number of reviews prior to an Order being revoked was 5.4, suggesting that Orders were typically revoked within around 6 months. Second, revocation of an Order may be pursued for positive reasons rather than negative ones (for example, the client may have been making good progress but subsequently receive a long custodial sentence for an 'old' offence). However this could not be established from the Fife database. If Drug Courts are rolled out further, it is important that information of this kind is recorded to enable a more accurate assessment of the 'success' rate to be determined.

Table 5.1: Outcomes of Drug Court Orders (Fife)

Outcome	n	% of total	% of no. orders ended
Ongoing	72	35%	
Ended	133	65%	
Breach	68	33%	51%
Revocation	24	12%	18%
Termination total	**92**	**45%**	**69%**
Terminated for other reasons*	1	0%	1%
Completed (full)	5	2%	4%
Completed (early)	35	17%	26%
Completion total	**40**	**20%**	**30%**

* This termination concerned an offender who died while on a Drug Court Order.

5.53 Women were slightly more likely to have their Orders breached or revoked than were men (82% compared with 67%). The revocation rate for those under 21 years of age was almost identical to that for those aged 21 or over (71% compared with 70%).

Glasgow

5.54 Outcomes in respect of the 150 offenders in respect of whom a Glasgow Drug Court Order was imposed are presented in Table 5.2. It can be seen that a higher proportion of Orders were completed successfully than were terminated due to non-

compliance or ineffectiveness of treatment, indicating a degree of success for the Glasgow Drug Court.

Table 5.2: Outcomes of Drug Court Orders (Glasgow)

Outcome	n	% of total	% of no. orders ended
Ongoing	52	35%	
Ended	98	65%	
Breach	28	19%	29%
Revocation	15	10%	15%
Termination total	**43**	**29%**	**44%**
Terminated for other reasons*	9	6%	9%
Completed (full)	35	23%	36%
Completed (early)**	11	7%	11%
Completion total	**46**	**31%**	**47%**

* Seven of these terminations concerned offenders on deferred sentences which were transferred out to another court or otherwise disposed of, the remaining two were due to the deaths of those concerned.
** Most early completions were due to exceptional progress made by the clients, while in one case the client concerned sustained significant injuries in an assault, making further progress on their Order impossible.

5.55 Table 5.3 shows the characteristics of offenders whose Orders were terminated (revoked or breached) and completed (in full, or early). Those who completed their Orders were exclusively male, but, in other respects, were very similar to those whose Orders were terminated. Of those offenders aged 21-25 whose Orders had ended (n=22), 59% had their Orders terminated while the remainder completed their Orders. These data suggest that while age had only a marginal effect on the likelihood of completing an Order successfully, gender exercised a greater influence.

Table 5.3: Characteristics of offenders at the end of Drug Court Orders (Glasgow)

	Terminated Orders	Completed Orders
Gender		
Male	36	46
Female	7	0
Age (average)	30.7	30.3
21-29 years	20	24
30+ years	23	22
Deferred Sentences (average)	1.1	1.0
Total	**43**	**46**

5.56 Although the lack of completions among females could be a function of the gender balance of offenders on orders, the fact that none had completed suggests that the

Drug Court regime may have been less well-suited to female offenders. Indeed, one Drug Court Sheriff commented that the inflexible structure of an Order often proved too much for women, who frequently presented with multiple needs including childcare and members of the Supervision and Treatment Team considered the drug court regime to be less appropriate for women. The use of Drug Court deferred sentences for women, often involving a referral to 218[56], could present an alternative means of treating women via the criminal justice system. One woman who had been made subject to a structured deferred sentence in this way had subsequently been made subject to a Probation Order in the Drug Court.

5.56 Monitoring information from the Social Work Department was available for 65 orders (made in respect of 61 individuals) that ended during the evaluation period. Of the 16 orders breached, the reason cited in 13 cases is non-compliance with treatment, while unsatisfactory progress in relation to drug misuse and offending are stated in 4 and 7 cases respectively. Information on the sentences imposed indicated that in all but 4 cases a custodial sentence ranging from 60 days to 20 months was imposed (average), while in the remaining cases a 12-month standard Probation Order plus 150 hours of Community Service was imposed, sentence was deferred, the length of order was varied and no further Order was imposed. The mean length of a custodial sentence imposed in the event of a Drug Court Order being breached was 8 months.

5.57 Of those 8 offenders whose Drug Court Orders were revoked and a custodial sentence imposed, the average length of that sentence was 6 months (the minimum sentence imposed was 30 days, the maximum 15 months). In most of these cases, the offenders concerned had received lengthy custodial sentences from other courts, making the completion of their Orders unfeasible. In 6 of these cases breach proceedings had already been initiated prior to revocation taking place, with the grounds for breach being further offending in 3 cases, non-compliance in 3 cases and unsatisfactory progress with desistance from drug use in 2 cases. Three participants had their Orders revoked without a custodial sentence being imposed, usually when the Order in question was regarded as having had little impact upon their drug use or was no longer suited to their needs. In 2 cases, a 12-month standard Probation Order was imposed, (one with a condition of alcohol counselling), while in the remaining case the order was varied to terminate early (this individual was also being breached for unsatisfactory progress in relation to their drug misuse).

5.58 In 9 instances (relating to 8 offenders) participants made exceptional progress and Orders were terminated early. On average, these Orders were terminated with 4 and a half months remaining. Of the 27 participants who completed their Orders in full, 7 had breach matters instigated against them during their Order. Information was available in respect of 6 of these individuals, 3 of whom were breached for non-compliance, 2 for unsatisfactory progress in respect of drug misuse and one for further offending. The 2

[56] 218 Is a new service funded by the Scottish Executive which is designed to address women's offending through a holistic, flexible approach to treatment. Women referred to 218 by the Drug Court often receive a prescription from 218 and have minimal contact with the Drug Court Supervision and Treatment Team. An evaluation of the service is currently being undertaken.

remaining offenders died during the course of their order. A breach for non-compliance and unsatisfactory progress in relation to drug misuse was outstanding in respect of one of these individuals.

SUMMARY

5.59 Pre-court review meetings were perceived to be a beneficial component to the process of supervising and treating participants on Drug Court Orders. The thorough private exchanges of information around the multi-agency table, chaired by the Drug Court Sheriff, informed and shaped the nature of the dialogue with the participant during the review. In particular, pre-court review meetings enabled discussion of issues of a highly sensitive nature that it would be inappropriate to air publicly in open court. Most offenders were confident that their progress was discussed in a fair and appropriate manner.

5.60 Review meetings were held in open court, a transparency that was perceived by the Drug Court Sheriffs as valuable to maintaining public confidence in the Drug Court during its pilot stage. Sheriff-participant dialogues were at the heart of reviews and were regarded as a distinguishing feature of the Drug Court approach. Participants were very positive about this aspect of the Drug Court and regarded continuity of sentencer at reviews as important. The concept of drug use as a relapsing condition was recognised by Drug Court Sheriffs and particularly emphasised in Shrieval dialogue.

5.61 Supervision and Treatment Team workers took active steps to respond to instances of non-compliance. The Drug Court Sheriffs had a limited range of options in the event of non-compliance, though intermediate sanctions of imprisonment and Community Service had been made available to the Drug Court from July 2003. There were also relatively few options available to reward progress on an Order, other than reducing certain requirements associated with the Order or discharging the Order early on the basis that sufficient progress has been made. At most of the observed reviews, participants were deemed to have been compliant (or sufficiently compliant) with all aspects of their Orders and most reviews involved no changes being made to the treatment plan or to the frequency of testing or attendance at reviews.

5.62 Procedures for ensuring that outstanding charges were rolled up and new offences brought to the Drug Court were considered to work well, especially in Glasgow, though this was not always possible (for example, if a participant re-offended outside the jurisdiction of the Drug Court). The imposition of custodial sentences for outstanding or new charges by other courts could make it impractical for an Order to continue, with the result that it would have to be revoked.

5.63 Participants were generally accepting of the sanctioning role of the Drug Court Sheriffs and were positive about receiving praise in recognition of their progress. Although the options available to the court to reward progress were limited, an expansion in the repertoire of culturally appropriate 'rewards' presented challenges. However in view of the participants' appreciation of positive reinforcement through praise, this, along

with appropriate variations in the requirements associated with Orders, may prove a sufficient incentive in the Scottish context. Overall, the Drug Court was viewed by participants as fair in its response to non-compliance. They generally regarded sentences imposed on revocation or breach as fair, though a minority considered them unduly harsh and their treatment overall to have been inadequate.

5.64 Completion rates for the Glasgow and Fife Drug Courts were commendable given the high tariff nature of the Drug Court Orders. In Glasgow 47 per cent completed their Orders compared to a completion rate of 30 per cent in Fife.

CHAPTER SIX: THE OUTCOMES OF DRUG COURT ORDERS

INTRODUCTION

6.1 Previous chapters have examined the routes into the Drug Courts, the characteristics of offenders made subject to Orders, the disposals received and the services provided. They have also considered the mechanisms through which progress on Orders was reviewed and enforced and status of Orders made at the end of the period of evaluation. Ultimately, however, the primary objectives of the pilot Drug Courts were to reduce drug use and drug-related offending. This Chapter examines the extent to which these objectives were achieved. A number of sources of data are drawn upon: social workers' assessments of progress in individual cases; drug test results at different stages in an Order; and reconviction among those sentenced in the Drug Courts, although the limitations of the reconviction analysis (outlined in Chapter 2) mean that caution is required in drawing conclusions from these findings. First, however, the perspectives of professionals associated with the Drug Courts and those given Drug Court Orders are briefly considered.

PERSPECTIVES ON THE EFFECTIVENESS OF THE DRUG COURTS

Professional perspectives

6.2 The various professionals associated with the Drug Courts were of the view that, although they did not work with all people, there had been notable successes, with many reducing their offending dramatically while on an Order. The Drug Courts were considered to represent a more effective response to drug-related offending than traditional responses such as imprisonment.

> *"I think it's got probably as good a chance, if not a better chance, than most of the other initiatives that have been tried to deal with it [drug use]. I think there must be a good element in there of people who genuinely would like to come off drugs and they'd find it an assistance."(Procurator Fiscal)*

6.3 Having a structured programme of appointments was believed to be important for clients who, once they had begun treatment and were on methadone, had time on their hands. The overall approach of the Drug Court, with its emphasis on harm reduction and recognition of the possibility of relapse, enabled long-term intervention and support to be provided even if this was interrupted by a short period of imprisonment. The Drug Court was thought by social workers to be more effective with older, more 'time-served' drug users and perhaps less so with women and young men. In the case of younger users, this was attributed to a lack of readiness to change and a lack of weariness with their current life. In the case of women, the existing services provided through the Drug Courts were considered not to meet their particular needs.

6.4 Even reductions in (as opposed to the cessation of) drug use were to be welcomed, since this would have a marked effect on offending. For those who engaged with treatment, improvements were often rapid and visible:

> *"I think it's very heartening to see how it does help some people, you see them physically changing and that can happen very rapidly into the Order…Being clean, their skin looks different…" (Sheriff)*

> *"Well I was certainly very surprised with one of them, because this guy was continually in and out of prison and he hadn't re-offended for 2 years and he'd been clean for 2 years and he'd got off his drugs and he'd been clean for at least the past year of his 2 year Order so I mean it does make a bit of a difference." (Social worker)*

6.5 The impact on individual clients was viewed as an important indicator of effectiveness, particularly in relation to improved self-respect, taking pride in appearance and getting jobs or going to college. However, professionals also acknowledged that 'success' on a Drug Court Order could be difficult to define. Even if they were no longer using illicit opiates, many clients would still be on methadone, albeit at reduced levels, at the end of their Orders.

> *"You can't look at success as an absolute thing. We can't look at success and we can't define success as that person comes off drugs, doesn't ever do drugs again, end of story. That's not the kind of success we're liable to have - only a very few will be like that. It may be regarded as a success if we manage to keep somebody out of trouble and out of prison for a couple of years. It may be regarded as a success if we get someone who's on methadone for the rest of their life. We have to have different measures of success beyond the absolute." (Sheriff)*

6.6 Professional respondents observed that some Drug Court clients stopped using drugs but began consuming excessive amounts of alcohol and committing alcohol related crimes, such as breaches of the peace. Moreover, a few clients had found it difficult to break long-established patterns of offending behaviour (such as shoplifting) even though they were no longer using drugs. Professionals stressed that it was important not to have too high expectations of the ability of the Drug Court to impact on the drug problem in a wider sense. That said, the following comment was typical of the general support for the Drug Court concept and of its potential to effect changes in drug use and offending at the individual level:

> *"At least it's another option. There will be some successes and there will be many failures. Absolutely it works for some people and if it works for some of them it's worth pursuing and like anything in life it takes time.'"(Defence agent)*

Client perspectives[57]

6.7 The majority of participants had lengthy records of offending and associated drug use, predominantly of heroin and benzodiazepines with a significant minority (26% of Glasgow interviewees) also using cocaine. Estimated drug expenditure ranged from £30 to £150 per day, most of which came from offending. Clients who were successfully meeting the requirements of their Orders indicated that they had made significant achievements, in terms of both their drug use and offending behaviour, through the support made available to them. They also articulated longer-term objectives and aspirations which they hoped that their participation in the Drug Court might help them to achieve.

Offending

6.8 A prerequisite of receiving a Drug Court Order was the existence of both a significant drug problem and a history of previous offending with a demonstrable link between the two. Almost all (94% of Glasgow interviewees) stated that the majority of their offending had been drug-related and most (72% of Glasgow interviewees) stated that prior to their Order being imposed they had offended daily, spending the majority of proceeds from these crimes on their drug use.

6.9 Nearly all clients who were stable on Orders reported that they had stopped or dramatically reduced levels of offending (98% of stable Glasgow interviewees) and none stated that they were engaged in prolific offending. Respondents noted that most offending occurred at the start of an Order before stability was achieved (87% of offending Glasgow interviewees) and was associated with a relapse or, among a small proportion, alcohol use. Most (70% of relapsing Glasgow interviewees) reported that even during relapses they did not resort to offending; rather they borrowed money for drugs or were given drugs by friends. Few respondents (19% of Glasgow interviewees) considered future offending of any sort likely. Many of those who thought it possible that they might resort to heroin use in the future were adamant that they would not re-offend. This was particularly the case for those who had previously been involved in housebreaking.

6.10 Most of those who completed their Order (67% of relevant Glasgow interviewees) indicated that they had not committed drug-related offences during its course, while most of those whose Orders were terminated (78% of relevant Glasgow interviewees) stated that they had committed further drug-related offences during their Order. The most common offences committed were shoplifting, housebreaking and possession of an offensive weapon.

6.11 Clients stated that substitute prescribing and the threat of custody represented by accountability to the Drug Court (Shrieval review was said to have a deterrent effect)

[57] The proportions presented in the following section are based on interviews with Glasgow Drug Court clients. Overall, this data source was considered to be more representative due to its larger size, and hence, any findings resulting from such analysis would be more robust than those drawn from its Fife counterpart.

impacted positively upon their offending. Other relevant factors included counselling, the structure provided by an Order and the other services that were accessed while subject to an Order, though it was also recognised that the role of services was necessarily limited and that desistance required self-motivation.

Drug use

6.12 In the early stages of their Orders, many participants were still in the process of stabilisation and took drugs occasionally (48% of Glasgow initial interviewees used heroin more frequently than 'every other day'), though most (87% of Glasgow initial interviewees) noted that the amount had substantially decreased and/or the method of consumption had changed. As Orders progressed, most reported being stable and illicit drug free (67% of six and twelve month Glasgow interviewees). Many respondents' drug use was reported to be significantly reduced (40% of six and twelve month Glasgow interviewees) despite some relapses, though levels of cannabis use (which was not tested for in Glasgow or Fife) remained high. Several respondents (around 50% of relevant Glasgow interviewees) noted that when they 'relapsed' and took heroin they burned rather than injected and regarded this change to safer practices as progress. Relapses were an expected part of being on a Drug Court Order. These happened for various reasons, such as treatment plans perhaps being too ambitious too soon. Learning to cope with setbacks was integral to longer-term success. The importance of medical support at the early stages of an Order was also highlighted, since this was a time, before they were stabilized, that clients found difficult.

6.13 Most clients stated that they aimed to stop using opiates as a result of being on an Order (74% of Glasgow interviewees), while a smaller proportion stated that their aim was complete abstinence from illegal drugs or from all drugs (23% of Glasgow interviewees). Those who had stopped using opiates often stated that their aim was to reduce and eventually to come off their methadone.

6.14 Issues that could hamper progress on an Order included family or relationship problems, depression or 'feeling low' and having partners or friends who were still using. Breaking away from former associates was regarded as a necessary step for success:

> "*The first 6 months I see as a transition, getting used to not scoring every day, that being all you think about, and to stop hanging about with people who use."*

6.15 Respondents whose Orders were terminated expressed a great deal of disenchantment with the support they had been offered as part of their Order. These participants did not regard the Drug Court as the positive opportunity for change it was heralded as by many others, though none questioned the value of the Drug Court concept and all regarded it as an improvement over previous responses to drug-related offending.

6.16 However, most respondents were positive about the effectiveness of their Order. Access to a methadone prescription, counselling, urine screening and links to external agencies were seen as important services. Flexible arrangement, enabling access to

support when required was also highly valued. Ultimately, however, most respondents believed in the importance of the individual choice to change: each had reached a point where they had had enough of a certain lifestyle and were prepared to accept the help that was on offer. Most appeared to accept a high degree of personal responsibility for their circumstances and future actions, although how much this could be attributed to treatment is not clear.

6.17 Overall clients reported that the services had impacted positively upon their lives:

> *"If I wasn't on the Order and didn't have the methadone prescription I would still be a raging junkie with a raging habit".*

> *"I've got a spring back in my step."*

6.18 Regardless of their own success or failure, respondents regarded the Drug Court as a positive opportunity for change. Many also noted that attendance at the Drug Court was a positive factor in augmenting relationships with their families. Overall, the services available through the Drug Court impacted positively on the self-esteem and confidence of those who were doing well, encouraging hopes that they could change and lead a 'normal' life: the opportunity to do this was a key motivation for many participants.

6.19 Issues such as boredom and access to external service providers, which were perceived as being inadequately addressed in the early stages of the pilot, appear to have been resolved over time. Though participants still cited boredom as a danger, many stated that they had been provided with numerous opportunities to engage with external service providers during their Order and valued the chances they could provide.

6.20 Participants often stated that, as a result of being on an Order, they had gained insight into their lives which would deter further drug use. Relapse prevention work would be utilised in the future and the assistance they had received for other problems or the service providers they had accessed while on an Order might also help them lead a more stable life. Other things that might help them remain drug-free included education or employment, resolving accommodation issues, support from a partner or family, forging supportive social networks, accessing groupwork or rehab and taking more exercise.

6.21 Although most clients had no suggestions as to how the Drug Courts might be improved, a few suggested that they would value some form of longer-term support:

> *"Once your Order's finished, you should get an aftercare, like if somebody comes and sees you like maybe once or twice a month or whatever just to make sure you're not ending up taking the stuff again. But I've heard people that have finished the Order just getting 'that's you' basically… then they don't keep in touch with you or anything.*

There should be some sort of aftercare given to you just to make sure you've not got into your old ways again which is quite easy done."

6.22 Probationers and clients of DTTOs who had been sentenced in other courts had mainly positive impressions of the Drug Court citing, in particular, the specialist knowledge of the bench.

ASSESSMENT OF PROGRESS IN INDIVIDUAL CASES

6.23 Social workers involved in the supervision of participants on Drug Court Orders were invited to complete a brief questionnaire at various points in the Order: shortly after the Order was made, after 6 months, after 12 months and upon termination. Here we summarise some of the key findings as they relate to different stages of the Order.

At the start of the Order

6.24 In the early stages of Orders, most Drug Court clients were considered likely to respond positively to their orders and most were said by their social workers to be motivated to address their drug use, offending and other problems. In most cases significant improvements were expected in the client's drug use and drug-related offending. At this stage in their Orders the majority of clients in Fife and around half of those in Glasgow were thought likely to resort to further drug use while similar proportions in Fife and Glasgow were thought likely to re-offend.

Table 6.1: Social workers views' of clients at the start of their Orders[58]

	Glasgow	Fife
Likely to respond positively to Order	72%	68%
Motivated to address drug use	92%	97%
Motivated to address offending	93%	96%
Motivated to address other problems	98%	83%
Significant improvements in drug use expected	67%	54%
Significant improvements in drug-related offending expected	70%	63%
Likely to resort to further drug use	52%	70%
Likely to re-offend	43%	42%

After 6 months and 12 months on an Order

6.25 Clients perceived responses to their Orders at 6 and 12 months are summarized in Table 6.2. At both stages the majority were regarded as responding positively, though in both Glasgow and Fife this was higher at 12 months. This is probably because by the 12 month stage, those still on Orders would be more likely to succeed: breaches and revocations are more likely in the initial stages of an Order.

[58] N varies but is based on overall sample of 89 in Glasgow and 103 in Fife.

Table 6.2: Perceptions of clients' responses to their Orders

	6 months		12 months	
	Glasgow (n=92)	**Fife (n=56)**	**Glasgow (n=51)**	**Fife (n=26)**
Positive	58%	59%	82%	70%
Mixed	14%	31%	10%	22%
Poor	28%	10%	8%	9%

6.26 In Fife, the percentage of clients perceived to be motivated to address their drug use remained uniformly high at both 6 and 12 months (91% and 92% respectively) as did the percentage considered to be motivated to address their offending (92% and 96%). In Glasgow, the percentage who were thought to be motivated to address their drug use and offending was lower at 6 months (79% and 80% respectively) than at 12 months (94% and 96% respectively). This is consistent with the observation among staff and clients in Glasgow that there was an increased risk of relapse around 4 – 5 months into an Order.

6.27 At the 6 month stage, substitute prescribing was considered to be proving effective in most cases in Fife and Glasgow. After 12 months it was considered to be effective in more cases in Glasgow and slightly fewer in Fife (Table 6.3). By the 6 month stage, 48 per cent of clients in Fife and 62 per cent of those in Glasgow were thought to have made significant improvements in their drug use. By the 12 month stage this had increased markedly in Glasgow and slightly in Fife. In Fife, failure to demonstrate improvements in drug use were usually attributed by social workers to relapse, the withdrawal of a prescription or an inability to comply with the prescriber's expectations. In Glasgow they were most often linked to ongoing drug use and participants using 'on top' of their methadone prescriptions. After both 6 and 12 months, clients in Glasgow were more often thought than those in Fife to have shown significant improvements in their offending (Table 6.3).

Table 6.3: Social workers views' of client progress at 6 and 12 months

	Glasgow	**Fife**
Substitute prescribing effective - 6 months	71%	80%
Substitute prescribing effective - 12 months	88%	76%
Significant improvements in drug use – 6 months	62%	48%
Significant improvement in drug use – 12 months	77%	54%
Significant improvement in offending – 6 months	65%	53%
Significant improvement in offending – 12 months	84%	56%

6.28 At the 6 month stage 54 per cent of clients in Fife and 52 per cent of those in Glasgow were thought likely to resort to further drug use while 48 per cent and 51 per cent in Fife and Glasgow respectively were thought likely to re-offend. After 12 months on Orders, the perceived risk of further drug use was slightly higher in Fife (61%) and significantly lower in Glasgow (36%). Similarly, at this stage slightly more of those in Fife were thought likely to re-offend than at the 6 months stage (61%) while significantly fewer of those in Glasgow were (31%).

6.29 For clients who were still on Orders after 12 months, the objective of reducing drug use was thought by social workers to have been achieved completely or in large part in 50 per cent of cases in Fife and 76 per cent of cases in Glasgow. By this stage the

objective of reducing offending was thought to have been achieved in 80 per cent of cases in Glasgow and 60 per cent of cases in Fife.

6.30 At the start of their Orders, social workers in most cases expected positive changes to be effected in other aspects of clients' lives (92% of cases in Glasgow and 82% in Fife). After 12 months, clients other problems were thought to have improved in 79 per cent of cases in Glasgow and 64 per cent in Fife. This suggests that other problems (such as accommodation and employment) were more difficult to address than had been anticipated. However where improvements were evident, this was usually attributed to the client having been subject to an Order with its associated support.

At the end of an Order

6.31 As indicated in Chapter 2, the number of questionnaires competed after orders had ended was too low in Fife for meaningful analysis. This section therefore concentrates on the data from Glasgow in respect of 49 successful and 42 unsuccessful completions. Not surprisingly, social workers' assessments of individual progress differed markedly according to whether or not the Order had been successfully completed. For example, while over four-fifths of those who completed were said to have shown significant improvements in their drug use and offending (82% and 90%), this was the case for few of those whose orders were breached or otherwise revoked (7% and 10%). Similarly, only 8 per cent and 4 per cent respectively of the clients who had successfully completed their Orders were considered very likely to resort to further drug use or to re-offend, while this was considered very likely for 62% and 59% respectively of those whose Orders had been revoked.

THE RESULTS OF DRUG TESTS

6.32 As noted in Chapter 4, those made subject to Drug Court Orders are subjected to regular drug testing by means of urinalysis. The Drug Court Supervision and Treatment Teams were able to provided details of anonymised drug Test results. The manner in which test results were recorded differed across the 2 sites with the result that the approach to analysis was slightly different and the 2 sets of data are not directly comparable. However, the test data from each site provides an indication of changing patterns of drug use as clients progressed through their Drug Court Orders.

Drug test results in Glasgow

6.33 Table 6.4 describes the results of urine tests during the period of assessment for a Drug Court Order in Glasgow in the first 2 years of the Court's operation (similar information was not recorded on the database in Fife). It is interesting to note the high prevalence of benzodiazepine use (a number of potential participants were being prescribed benzodiazepines during the assessment period). Likewise, while it may have been expected that opiate use would have been more prevalent, some of those being assessed were already being prescribed methadone. Hence, most individuals tested positive in respect of either opiates or methadone or both of these substances.

Table 6.4: Positive drug tests during assessment prior to disposal (October 2001 to November 2003)[59]

	DCO imposed (n=96)	Non-DC disposal (n=18)	Assessment ongoing (n=5)	All (n=119)
Benzodiazepine	81 (84%)	16 (89%)	3 (60%)	100 (84%)
Opiate[60]	78 (81%)	16 (89%)	3 (60%)	97 (82%)
Methadone	54 (56%)	8 (44%)	3 (60%)	65 (55%)
Cocaine	29 (30%)	6 (33%)	1 (20%)	36 (30%)
Amphetamine	2 (2%)	0 (0%)	0 (0%)	2 (2%)

6.34 An analysis of test results during the period from the imposition of an Order to the end of the first month (ordinarily the time of the first court review) was conducted in order to identify whether any changes in drug use occurred immediately after sentencing by the Drug Court. Table 6.5 shows the number and proportion of individuals who tested positive for each of the substances on at least one occasion during their first month on a Drug Court Order. The proportion using opiates and benzodiazepines remained largely unchanged from the assessment period. However, there was a small rise in the proportion of offenders using cocaine following the imposition of an Order.

Table 6.5: Drug testing results in the first month of an Order (n=35 offenders and based on 174 urine screens)

	No. of individuals tested positive (n)	% of individuals positive
Methadone	35	100%
Opiates	29	83%
Benzodiazepine	28	80%
Cocaine	14	40%
Buprenorphine[61]	1	13%
Amphetamine	0	0%

6.35 Test data over the length of Drug Court Orders was also analysed to detect trends in drug use over time. Table 6.6 describes these data in terms of the number and proportion of positive tests for illicit substances. The proportion of positive tests for opiates was significantly lower over the first 3 months of an Order than in the first month alone[62], indicating that notable reductions in opiate use occurred over the second and third months of Orders. Examining these data as a whole, it is apparent that the proportions of positive tests for methadone, cocaine, buprenorphine and amphetamine remained roughly constant over the course of Orders. However, the proportion of positive tests for opiates declined over time. The proportion of positive urine tests for benzodiazepines was significantly higher in the first 3 months than in any other period; this was probably due to offenders being detoxed off benzodiazepines at the start of their Orders. A significant increase was observed in months 6 to 9, indicating that participants may have experienced difficulties sustaining abstinence from benzodiazepines during this period[63].

[59] Assessment drug test information was not available in respect of 3 offenders who received Drug Court Orders, 37 of those who had received non-Drug Court disposals and 7 of those still being assessed in mid-November 2003.
[60] The data monitoring forms specify 'other illicit opiates'.
[61] Tests for Buprenorphine (temgesic) were conducted in respect of 8 participants.
[62] $P<0.05$.
[63] All $P<0.05$.

Table 6.6: Drug test results over time (based on data for 83 individuals)

	No. of positive tests (% in brackets)					
	Up to 3 months (n=591 tests)	**3 to 6 months (n=579 tests)**	**6 to 9 months (n=430 tests)**	**9 to 12 months (n=407 tests)**	**12 to 24 months (n=413 tests)**	**All (n=2420 tests)**
Methadone	578 (98%)	573 (99%)	424 (99%)	396 (98%)	401 (97%)	2372 (98%)
Benzodiazepines	380 (64%)	289 (50%)	248 (58%)	225 (55%)	232 (56%)	1374 (57%)
Opiate	282 (48%)	194 (34%)	130 (30%)	122 (30%)	111 (27%)	839 (35%)
Cocaine	116 (20%)	121 (21%)	99 (23%)	74 (18%)	85 (21%)	495 (21%)
Amphetamine	8 (1%)	6 (1%)	8 (2%)	8 (2%)	5 (1%)	35 (2%)
Buprenorphine[64]	1 (2%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (1%)

6.36 Table 6.7 shows the number and proportion of individuals who tested positive for each of the substances on at least one occasion during each period of their Drug Court Order. This indicates that individuals tended to desist from drug use over time. The proportion of individuals testing positive for opiates, benzodiazepines and cocaine in each time period declined over the course of Drug Court Orders.

Table 6.7: Individuals testing positive across the course of Orders (based on 2420 urine screens)

	No. of individuals tested positive (% in brackets)					
	Up to 3 months (n=48)	**3 to 6 months (n=53)**	**6 to 9 months (n=59)**	**9 to 12 months (n=54)**	**12 to 24 months (n=37)**	**All (n=83)**
Methadone	48 (100%)	52 (98%)	59 (100%)	53 (98%)	34 (92%)	82 (99%)
Opiates	44 (92%)	35 (66%)	37 (63%)	32 (59%)	19 (51%)	75 (90%)
Benzodiazepines	45 (94%)	39 (74%)	46 (78%)	39 (72%)	22 (60%)	74 (89%)
Cocaine	28 (58%)	27 (51%)	23 (39%)	23 (43%)	14 (38%)	55 (66%)
Amphetamine	3 (6%)	4 (8%)	7 (12%)	6 (11%)	4 (11%)	17 (21%)
Buprenorphine[65]	1 (5%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (2%)

6.37 A comparison of these latter tables shows that while a fairly high proportion of offenders tested positive for key illicit substances in each period, the proportion of positive tests for these substances was not as high as may have been anticipated (e.g. in months 6 to 9, 63 per cent of individuals tested positive for opiates, while 30 per cent of opiate test results were positive). This indicates that while a large proportion of offenders used illicit substances at some point, this usage was not consistent across periods of time or between those individuals concerned. It is likely that a small proportion of offenders, for whom treatment proved ineffective, were responsible for the majority of positive tests, while a further proportion of offenders suffered intermittent lapses to drug use. Additionally, as time progressed it is likely that revocations may have diminished the effect of the former group on the figures presented, effectively 'filtering out' those who were not reducing their intake of illicit substances. However, these results indicate that,

[64] Tests for Buprenorphine (temgesic) were conducted on 178 occasions, in respect of 52 participants.
[65] Tests for Buprenorphine (temgesic) were conducted in respect of 52 participants.

regardless of their susceptibility to treatment, overall reductions in the consumption of illicit substances occurred while offenders were on a Drug Court Order.

Drug test results in Fife

6.38 The results of drug tests carried out among those on Drug Court Orders in Fife are summarised in Table 6.6. This indicates the percentages showing positive results for the range of substances tested at successive points in the Order. The numbers tested declined over time reflecting the early termination of Orders that were revoked. A number of observations are relevant. First, in comparison to the other substances tested there was relatively little use of amphetamines and cocaine. Second, there was a initial steep increase in the percentages testing positive for methadone between the first and twentieth test period. Thereafter the percentages who were detected as using methadone remained uniformly high. Second, there was a reduction in the percentage of positive tests for opiates over the same period. Thereafter, the percentage testing positively for opiates remained broadly steady (at around half of those tested) until around 6-7 months into the Order (Test no. 80) from which point it tended to be lower[66]. Finally, there was a progressive decrease over successive test periods in the percentages testing positive for use of benzodiazepine. These data would tend to indicate a reduction in the use of both heroin and benzodiazepine among those who were in receipt of methadone. They also suggest, however, that a relatively high proportion were still using heroin (possibly to 'top up' their prescribed methadone) several months into their Orders. What these test data cannot demonstrate, however, is the amount of each substance being used at different points in time or the frequency of use over time. It is possible, therefore, that the amount of heroin used had reduced significantly but that this could not be detected by the testing method employed.

6.40 The data in Table 6.8 do not include those who were scheduled to attend for a test but who were not, for various reasons, tested. The percentage of those failing to attend or failing to provide a sample decreased over subsequent test points from 51 per cent of those due to have their first post-sentence test to 37 per cent of those due to attend for their twentieth test and 32 per cent of those due to attend for their sixtieth test. Thus over time the test data on which the percentage of positive tests was based represented a larger proportion of those on whom a drug test was scheduled to be carried out.

[66] It should be noted, however, that the number of participants tested at these points was relatively low preventing meaningful comparisons of the data over time. Percentages have been provided for illustrative reasons rather than to enable comparison).

Table 6.8: Percentage of individuals testing positive over time (Fife)

Test no.	Amphetamine	Benzodiazepine	Cocaine	Methadone	Opiates
1	1% (1/95)	62% (61/99)	0	42% (40/95)	90% (89/99)
10	0	58% (55/95)	2% (2/95)	66% (63/95)	64% (61/95)
20	2% (2/82)	46% (38/83)	1% (1/82)	82% (67/82)	49% (41/83)
30	3% (2/67)	51% (34/67)	2% (1/67)	85% (57/67)	40% (27/68)
40	3% (2/60)	37% (22/60)	3% (2/60)	80% (48/60)	53% (32/60)
50	0	48% (23/48)	0	90% (43/48)	48% (23/48)
60	2% (1/41)	34% (14/41)	2% (1/41)	88% (36/41)	49% (20/41)
70	0	26% (9/35)	3% (1/35)	86% (30/35)	49% (17/35)
80	0	30% (7/23)	9% (2/23)	88% (20/23)	23% (5/23)
90	0	15% (3/20)	5% (1/20)	100% (20/20)	15% (3/20)
100	0	40% (4/10)	0	100% (20/20)	25% (2/8)

RECONVICTION AMONG THOSE GIVEN DRUG COURT ORDERS

Reconviction rates

6.39 Reconviction data were obtained for 194 Drug Court clients (106 in Fife and 88 in Glasgow). The overall percentages reconvicted after different follow-up periods are shown in Table 6.9. With pseudo-reconvictions excluded from the analysis, 50 per cent of clients were reconvicted within 12 months and 71 per cent within 24 months. The subsequent analysis (with the exception of the comparison of the frequency of reconviction before and after the imposition of the Drug Court Order) will employ the adjusted data and will concentrate upon reconviction after 12 and 24 months.

Table 6.9: Percentage reconvicted at different follow-up periods (overall and adjusted to take account of pseudo-reconvictions)

	12 months (n=190)	24 months (n=124)
Overall	63%	79%
Adjusted	50%	71%

6.40 While the analysis of reconviction following DTTOs (McIvor, 2004) found differences in the rate of reconviction between Fife and Glasgow, there was no difference in reconviction rates among those given Drug Court Orders in Fife and Glasgow. Forty-nine per cent of clients in Fife and 51 per cent of clients in Glasgow had been reconvicted within 12 months. The reconviction rates after 24 months were 73 per cent and 70 per cent respectively.

6.41 There was no significant difference in reconviction rates following DTTOs and Probation Orders. However the relatively low numbers of Enhanced Probation Orders made and differences in the characteristics of those given DTTOs and Probation Orders prevents any conclusions from being drawn with respect to the relative effectiveness of these different Drug Court disposals.

6.42 Whether or not an individual was reconvicted appeared unrelated to age (the mean age of those reconvicted was very similar to the mean age of those who were not). Reconviction was, however, related to previous criminal history, with those who were reconvicted having had more convictions, on average, in the previous 24 months than those who were not (4.4 compared with 2.8 after 12 months).

6.43 Reconviction rates were similar among men and women (though the number of women in the analysis limits such comparison) but varied slightly according to the final outcome of the Order. Reconviction rates at 12 months were 44 per cent for those whose Orders were completed or discharged early and 55 per cent among those whose Orders were revoked. The percentages reconvicted after 24 months were 67 per cent and 76 per cent respectively. This may appear surprising given that termination of an Order for positive reasons might be expected to be associated with significantly lower levels of reconviction. It is possible that those whose Orders were revoked subsequently spent more time in custody than those who completed their Orders and were therefore at liberty to offend for a shorter period of time. Moreover, there is some evidence that the reconviction rates (whether convicted or not) may have masked important differences in the frequency of subsequent convictions (how often reconvicted).

Frequency of reconviction

6.44 The frequency of reconviction within 12 and 24 months was similar in Fife and Glasgow. In Fife the mean number of convictions after 12 and 24 months was 1.1 and 2.2 respectively. In Glasgow the comparable figures were 1.4 and 2.0. The frequency of reconviction was also similar at 12 months among those who completed their Orders and those who did not (0.9 compared with 1.3). After 24 months, however, the mean number of new convictions among completers was significantly lower (1.5) than among those whose Orders were revoked (2.6)[67].

6.45 It was also possible to compare the frequency of reconviction in the 2 years before the Drug Court Order was made and in the 2 years after. For this comparison the unadjusted 24 month figures are employed. Across the sample as a whole, there was a very slight (but not significant) reduction in the frequency of reconviction in the 2 year period from the date of the Dug Court Order (3.4 compared with 3.9 in the 2 years before). Among those whose Orders were breached or revoked, the mean frequency of convictions was slightly, but not significantly, higher in the 2 years following the Drug Court Order (4.3 compared with 3.8 in the 2 years before). Among those who completed their Orders, however, the mean number of convictions was significantly lower after they were placed on an Order than in the 2 years before (2.5 compared with 4.0)[68].

[67] $t = -2.59$, $p<.05$.
[68] $t = 2.74$, $p<.01$.

Comparison of reconviction following Drug Court and DTTOs

6.46 Drawing upon the analysis of reconviction following DTTOs (McIvor, 2004) it is possible to make comparisons between the present sample of Drug Court DTTOs and individuals given DTTOs prior to the introduction of the Drug Courts.

6.48 Overall, 49 per cent of the Drug Court DTTO sample had a reconviction within 12 months and 69 per cent had been reconvicted within 24 months. The reconviction rates for pre Drug Court DTTOs were 41 per cent and 66 per cent respectively. In Glasgow, the Drug Court DTTO reconviction rates were slightly higher at 12 months than the comparable rates among those on pre Drug Court DTTOs: 49 per cent and 34 per cent respectively. Reconviction rates at 24 months were very similar (70 per cent and 68 per cent). In Fife 49 per cent of Drug Court DTTOs had been reconvicted within 12 months compared with 47 per cent of those on pre-Drug Court DTTOs while 69 per cent of Drug Court DTTOs had reconvictions within 24 months compared with 71 per cent of DTTOs.

6.49 At face value this might appear to indicate that Drug Court DTTOs were as effective as pre Drug Court DTTOs in Fife but slightly less effective than pre Drug Court DTTOs in Glasgow. However, drawing inferences from the data is problematic for a number of reasons. First, different amounts of time had elapsed between the start of the pilot and the point at which reconviction data were collected in the 2 studies. The DTTO reconviction data were likely to be more complete for a higher proportion of cases when the analysis was conducted because a longer period of time had elapsed since the pilot schemes were introduced. With respect to the Drug Court reconviction analysis this is likely to mean that a higher proportion of ultimately successful cases would still have been ongoing and therefore not included in the analysis. Second, for a similar reason, directly comparing reconviction data for Glasgow and Fife at this stage is problematic since the 2 courts came into operation some 10 months apart. Third, the numbers of Drug Court DTTO cases in which 12 and 24 month reconviction were available was relatively low: 12 month reconviction rates were derived from 80 cases in Fife and 65 in Glasgow, while 24 month reconviction rates were based on only 35 cases in Fife and 40 in Glasgow. Larger samples with a longer follow-up are therefore required to maximise the completeness of the reconviction data and to enable like-with like comparisons across sites and between Drug Court Orders and DTTOs.

6.50 Changes in practice instituted by the Drug Courts may also have had some bearing on these findings. For example, the efficient 'rolling up' of cases and new charges, especially in Glasgow which had a dedicated Procurator Fiscal, may have resulted in Drug Court clients being convicted of offences that may not in other circumstances have been disposed of for many months. This might have had the effect of 'inflating' the Drug Court reconviction rates in comparison with the earlier DTTOs.

6.50 Reconviction rates for DTTOs in the first year of the Drug Courts and the first year of non-Drug Court DTTOs (on the basis that the number of 2nd year Drug Court cases was too low to allow for meaningful comparison) were very similar. Forty-nine per

cent of those given Drug Court DTTOs and 45 per cent of those given non Drug Court DTTOs were reconvicted in 12 months while 70 per cent and 72 per cent respectively were reconvicted within 2 years. This similarity in the reconviction rates is as would be expected: although there are important procedural features of Drug Courts that differ from DTTOs they are unlikely in themselves to impact directly on the risk of relapse and further offending. Furthermore, given the similarity in objectives between DTTOs and the Drug Courts, comparable reconviction rates are perhaps not surprising.

6.51 These indicate that half of all Drug Court clients remained free of further convictions for one year while almost 3 in 10 were still free of convictions after 2 years. While these figures may not appear overly impressive, they have to be viewed against the background of persistent offending that characterises those who are dealt with in the Drug Court. Furthermore there is evidence of significantly less further offending (as indicated by the frequency of reconviction) among those who successfully complete their Drug Court Orders. However, it also has to be recognised that the samples on which this analysis was based were relatively small and data derived from larger samples is required before firm conclusions can be reached about the effectiveness of Drug Court Orders.

SUMMARY

6.52 Professionals were cautiously optimistic that the Drug Court was proving effective in addressing drug use and associated offending behaviour. Although it had not worked with all of those who participated in it, there had been clear instances of success. 'Success' was acknowledged to be difficult to define but reductions in drug use and offending were to be welcomed.

6.53 At different stages of their Orders most participants reported that they had reduced their use of drugs and their involvement in drug-related offending. The treatment and other services were believed to have impacted upon their drug use and offending, though many participants also stressed the importance of personal motivation to initiate and sustain change. Most participants viewed the Drug Court as a positive opportunity for change and many reported that being on an Order had bought about other improvements in their lives. A small minority whose Orders had been terminated early were somewhat more disenchanted.

6.54 Participants stressed the importance of being linked into a wider range of services and supports if they were to sustain achievements made. Therefore while the aspects of the Drug Court regime – such as the treatment, testing and regular reviews – were important in helping to initiate change, they needed to be located within a wider framework of support.

6.55 Analysis of questionnaires completed by social workers at different stages of participants' Orders indicated that reductions in drug use and offending were anticipated in most cases and improvements that were made appeared to have been sustained over time. The questionnaires suggested that participants were more likely to have effected changes in their drug use and offending and to have addressed other problems in their

lives after 12 months on an Order. This was particularly so in Glasgow, with less evidence of change over this period in Fife.

6.56 Social workers' perceptions that drug use had decreased over the course of Orders was supported by the analysis of drug test results. In both Glasgow and Fife there was a steady decrease in the proportions of clients testing positive for opiates and benzodiazepine over the course of an Order.

6.57 Fifty per cent of Drug Court clients had been reconvicted within one year and 71 per cent within 2 years. The reconviction rates were similar in Glasgow and Fife and similar for men and women. The ages of those convicted and not convicted were similar but those who were reconvicted had more convictions in the 2 years prior to being placed on an Order. Probationers were slightly (though not significantly) more likely than those on DTTOs to be reconvicted while those who completed their Orders were slightly less likely to be convicted than those who did not. Clients who completed their Orders had fewer convictions in the 2 years after being made subject to an Order than in the 2 years immediately before.

CHAPTER SEVEN: THE COSTS OF DRUG COURT ORDERS AND THEIR ALTERNATIVES

INTRODUCTION

7.1 Elsewhere in this report we have described the apparent impact – particularly upon reported criminal behaviour – of the pilot Drug Court initiatives in dealing with a particularly intractable and often "treatment-resistant" client group. In this chapter we consider the possible economic impact and compare this information with the current knowledge in UK and international research.

7.2 We consider first, the links between drug misuse and crime and its social and economic cost. We then examine the evidence for the impact of treatment interventions, both in terms of their inherent costs and the claimed cost effectiveness of treatment provision. This is then compared to our own estimates of the cost of providing this initiative, its direct and indirect cost savings to the community and the implications for future treatment planning.

7.3 Much of the evidence presented in this latter section is based upon self-reporting of drug-taking behaviour and criminal activity, although this is set against the available "hard" evidence, such as breaches of Orders and urine analysis results. The resulting estimates are of course open to the criticism that they contain significant inaccuracies. However, it should be noted that most similar studies have also adopted this approach (Ball & Ross, 1991; Flynn, Kristiansen, Porto & Hubbard, 1999; Barnet, 1999; Godfrey, Stewart & Gossop, 2004); that there is strong evidence to suggest that such self-reporting is generally reliable (Darke, 1998; Godfrey, Stewart & Gossop, 2004); and that this mix of self-reporting set against the available verifiable information is, almost certainly, the most feasible method of estimating impact.

7.4 Moreover, such criticism underestimates the inaccuracies associated with other, apparently more reliable, data sources. For instance, arrest records clearly underestimate criminal activity since they are restricted to those crimes which are reported and for which a culprit has been apprehended and charged. The 2001 British Crime Survey (Kershawe, Chivite-Matthews, Thomas and Aust, 2001) estimates that some 75 per cent of crimes (excluding certain types of crime such as homicide, fraud and certain so-called victimless crimes not recorded by the BCS) in England and Wales, may go unreported.

7.5 Finally, it should be noted that this study, in common with the vast majority of studies of this type, does not include any estimate for so-called "individual outcome values" – the intrinsic value to the individual and those around him/her of achieving a more ordered and more personally rewarding life. In discussing this drawback, Godfrey, Stewart and Gossop note that: "*This is a major omission of such studies and is equivalent to suggesting that drug-misusing individuals have zero value. That is, drug treatments are offered to substance misusers only because of their potential value to the rest of society, whatever the consequences to the individual*". (2004, p. 704).

7.6 Throughout the course of both these studies, members of the research team consistently heard reports of people "looking better", being "more together" and re-establishing relationships with their family. Indeed, we occasionally noted such improvements ourselves in the presentation and demeanour of interviewees. Whilst these individual outcome gains are virtually impossible to assign monetary value to, they are, ultimately, one of the major objectives of any treatment intervention and should not be lightly discounted.

THE PREVALENCE & COST OF DRUG-RELATED CRIME

7.7 In the industrialised West, where relative drug prices are at their highest, crimes committed in order to fund a drug habit are claimed to be a significant proportion of overall crime levels. In the USA, a Lewin Group report for the Office of National Drug Control Policy (Lewin Group, 1998) estimated US drug-related crime costs for 1998 at $88.9 billion (£49 billion) and predicted that this would increase to $100.1 billion (£56 billion) by 2000; a per capita cost of £191.

7.8 In Italy, official estimates suggest that between 60 – 80 per cent of bag-snatchings, thefts and street robberies are drug related (Rossi, 1995). In Ireland, in a study of over 4000 crimes (*excluding* offences under the Misuse of Drugs Act and the Liquor Licensing Act) 17 per cent were adjudged to be drug-related, with the majority of acquisitive crimes being attributed to heroin (Sinclair et al, 2002).

7.9 In the UK, the Government's Ten-Year Strategy: *Tackling Drugs to Build a Better Britain* (1998) estimated that direct spending across the UK was over £1 billion with the actual cost to society estimated at over £4 billion, of which £1 billion was incurred within the criminal justice system through drug-related crime. Thus, the per capita annual cost of £17 looks modest against the Lewin Group estimates of US crime costs, but is still significant.

7.10 Moreover, this figure is likely to be a significant underestimate of the costs of drug-related crime in Scotland. The Scottish Executive's Drugs Action Plan: *Tackling Drugs in Scotland: Protecting our future* (2000), cites research in Glasgow which found that 8,500 heroin injectors in Glasgow alone might be responsible for drug-related thefts estimated at a cost of £200 million.

ESTIMATING THE COST EFFECTIVENESS OF DRUG TREATMENT INTERVENTIONS

7.11 Drug misuse impacts upon national and international economies are much more wide-reaching than just the impact upon criminal justice budgets. In the USA, the Lewin Group study (Lewin Group,1998) estimated the health-related costs of drug misuse at $12.9 billion (£7 billion) in 1998 and predicted that these costs would rise to $14.9 billion

(£8 billion) by 2000. Around $4.9 billion (£2.7 billion) of this $12.9 billion represented expenditure on "community specialty services".

7.12 There is a history of conducting cost-benefit analyses of substance misuse treatment interventions going back more than two decades. In 1977, both Swint and Nelson (1977) and Hertzman and Montague (1977) were using standard business modelling to estimate the effectiveness and value of specialist alcohol treatment units. In the USA, Harwood (1988) noted that even short periods in treatment appeared to produce significant reductions in criminal activity: even where income was not replaced by mainstream employment. Later, Berg and Andersen (1999) studied a cohort of heroin injectors admitted to a residential rehabilitation facility and concluded that, "*rehabilitation of drug addicts may be viewed as an investment in decreasing public spending over time*", since those who successfully completed their rehabilitative programme and re-entered the labour market provided contributions to tax revenues which more than repaid the cost of their rehabilitation within a relatively short time period.

7.13 Flynn, Kristiansen, Porto and Hubbard (1999), reporting on the Drug and Alcohol Treatment Outcome Study (DATOS) estimated that treatment episodes for high-crime cocaine users produced cost reductions in the region of 78 per cent; more than repaying the initial treatment investment. An analysis of the impact of methadone prescribing treatment (with and without counselling and urine analysis) by Hartz et al (1999) estimated that every $1.00 spent on treatment produced a $4.87 "health care cost offset", although other studies have noted initial increases in health care costs; partly as a result of treatment services identifying previously undiagnosed health care needs and providing access to more general health services.

7.14 In England, the National Treatment Outcome Research Study (NTORS) analysed treatment outcomes for 1,075 UK clients in either residential or community settings and concluded that, "*for every extra £1 spent on drug misuse treatment, there is a return of more than £3 in terms of costs savings associated with lower levels of victim costs of crime and reduced demands upon the criminal justice system. The total costs savings to society may be even greater than this*" (NTORS, 1996). Whilst there are acknowledged problems with the data from this study, these findings are certainly in line with other similar studies undertaken in the USA and elsewhere.

ESTIMATING THE COST OF THE PILOT DRUG COURTS

7.15 Treatment is by no means a cheap option although the evidence suggests that good quality treatment interventions can be a cost effective option delivering long-term savings across a number of budgets. A study undertaken in the UK by Godfrey, Stewart and Gossop (2004), estimated total costs per client for a basic outpatient methadone prescribing service at up to £98 per person per week and up to £1,112 per week for those in residential rehabilitation.

7.16 The following calculations represent our best estimate of respective treatment costs in the two pilot schemes. Since the two initiatives differ in many respects – the length of the observation period, numbers of non-Drug Court Orders transferred into the system, levels of breaches/revocations and the number of formal assessments, comparisons between the two may be somewhat misleading. However, the calculations do provide reasonable cost estimates to allow limited comparison with the costs analyses of other judicial and treatment oriented interventions. No capital costs are included in this analysis since it was felt that inclusion would restrict the capacity to make meaningful comparisons.

Fife

7.17 Cost analysis of the Fife Pilot Drug Court was based upon direct spend by the Scottish Executive[69]. Indirect costs, such as unemployment/invalidity benefit, housing costs, child-care arrangements etc. were not included since such costs are not particular to this client group and might reasonably be expected to feature as indirect costs in respect of most other disposals. The Scottish Executive provided funding for the establishment of the pilot as shown in Table 7.1. Figures shown in this table have been adjusted to reflect the study period of 1st September 2002 to 30th September 2004 (109 weeks).

Table 7.1. Funding of the Fife Drug Court by agency[70]

Agency	2002/03[71]	2003/04	2004/05[7273]	Total
	£	£	£	£
Judiciary[74]	0.0	55,000	27,500	82,500
Crown Office	42,000	59,000	29,500	130,500
Scottish Court Service	19,175	28,762	14,500	62,437
Police	22,400	38,400	19,000	79,800
Health Board	206,500	269,000	138,500	614,000
Social Work Services	278,000	382,000	197,000	857,000
DTTO Costs	294,000	518,000	266,500	1,078,500
Totals	**862,075**	**1,350,162**	**692,500**	**2,904,737**

7.18 During the study period, 205 Drug Court Orders were made (160 DTTOs and 45 EPOs). In addition, a further 73 Orders were transferred into the Fife Drug Court making a total of 278 Orders administered by the Drug Court. These differed in length according to individual circumstances, but the average length of an Order was recorded as 74.8

[69] Direct spend by the Scottish Executive was used in estimating the cost of both pilots. Whilst this method has its limitations, there was no evidence of other funding sources (apart from capital costs which were excluded from both sets of calculations) contributing to the delivery of the two pilots.
[70] Unlike the Glasgow pilot, it was not feasible to separate out Drug Court and non-Drug Court Orders. The figures provided therefore, reflect both types of Order.
[71] The year 2002 – 2003 was a seven-month year with the initiative commencing in September 2002. Income has been adjusted in order to reflect the true cost of the period during which data were collected (September 2002 – March 2003 inclusive).
[72] The year 2004 – 2005 was a six-month year. As with the commencement year, figures have been adjusted to reflect the cost of the study period (April 2004 – September 2004).
[73] Figures for the year 2004 – 2005 are based upon budget projections and not upon actual expenditure since these were not yet available at the time of writing. All other figures represent actual expenditure.
[74] There was no allocation for Judicial costs in the first year

weeks (18.7 months). Using this basic treatment unit, a total of 20,794 Drug Court Order treatment weeks were offered. However, this figure should be adjusted to reflect the high number of breaches and revocations of the Orders made. A total of 81 Orders were breached or revoked. The average length of such Orders was 24.3 treatment weeks (5.4 months). Based upon these figures, the adjusted number of treatment weeks actually provided during the observation period was 16,704. This would mean that the average cost of a treatment week was £173.89 and the average cost of a Drug Court Order was £13,015 (£174 x 74.8 weeks). This figure, of course, includes significant criminal justice service costs, which would not normally be calculated within the cost analysis of a drug treatment intervention. Later in this chapter, we provide an analysis of the treatment-only costs of Drug Court Orders and compare them to the estimated costs of other criminal justice and treatment based disposals.

Glasgow

7.19 Costs analysis of the Glasgow pilot Drug Court was based upon a similar process to that employed in costing the Fife Drug Court. Again, indirect costs were excluded and income was adjusted to reflect the study period – 1st November 2001 to 31st October 2004. In the case of the Glasgow Drug Court however, finance is provided on a slightly different basis and for this reason, payments to Greater Glasgow Health Board, Glasgow Social Work Services and the cost of overall co-ordination in respect of non-Drug Court DTTOs were excluded from our calculations throughout. The Scottish Executive provided funding for the establishment of the Glasgow Drug Court pilot as shown in Table 7.2:

Table 7.2: Funding of the Glasgow Drug Court by agency (to standard financial years)

Agency	2001/02[75]	2002/03	2003/04	2004/05[76][77]	Total
	£	£	£	£	£
Judiciary	66,667	150,000	150,000	87,500	**454,167**
Crown Office	33,333	65,000	65,000	37,917	**201,250**
Police	60,233	102,200	80,000	81,667	**324,100**
Health Board[78]	150,000	190,000	200,000	183,750	**723,750**
Social Work Services[79]	216,834	431,821	372,936	378,286	**1,399,877**
Co-ordination[80]	10,747	26,695	26,812	25,182	**89,436**
Totals	**537,814**	**965,716**	**894,748**	**794,302**	**3,192,580**

[75] The year 2001 – 2002 was a part-year running from 1st November 2001 to 31st March 2002.
[76] The year 2004 – 2005 was a part-year running from 1st April 2004 to 31st October 2004
[77] Figures for the year 2004 – 2005 are based upon budget projections and not upon actual expenditure since these were not yet available at the time of writing. All other figures represent actual expenditure.
[78] Health Board, Social Work and Co-ordination figures have been adjusted as follows: for historical reasons, a single grant is made to each in respect of their contribution to both Drug Treatment and Testing Orders (non-Drug Court) and treatment orders made through the aegis of the pilot Drug Court. During the observation period, a total of 150 Drug Court Orders were made, out of a total of 268 Orders of all types. The detailed breakdown was as follows: year 1 – 36% of total; year 2 – 38% of total; year 3 – 40% of total; year 4 – 63% of total. Thus, the adjusted figures presented here relate only to the cost of Drug Court Orders.
[79] See detail in previous footnote.
[80] As above.

7.20 During the study period, a total of 150 Drug Court Orders were made. These differed in length according to individual circumstances, but the average length of an Order was recorded as 72 weeks (18 months), giving a total of 10,800 treatment weeks offered. When this figure is adjusted (as for Fife) to account for revocations and breaches (a total of 47 Orders averaging 42.39 weeks duration), a total of 9,408 Drug Court Order treatment weeks were provided. Thus the average cost of a treatment week was £339.35 and the average cost of a Drug Court Order was £24,408 (£339 times 72).

Further factors to be taken into account in costing Orders

7.21 Very few drug related initiatives involve the intensity of provision and agency contact required within a Drug Court Order. Moreover, few other initiatives will include associated police and court service expenditure within their overall costs, although significant numbers of their client group will be incurring such costs. Were these costs to be deleted from the cost of Drug Court Orders to allow a more realistic comparison with other disposals and treatment interventions, the average cost of a treatment week would be reduced to £152.63 in Fife and £235.23 in Glasgow.

7.22 However, there are significant differences in cost between the two pilots which require a more thorough explanation. A major problem for Glasgow Drug Court has been the low level of referrals, particularly during the middle period of the initiative, where the initial enthusiasm appears to have waned and the restrictive nature of the referral process impacted seriously upon treatment numbers. Since the Drug Court in Glasgow was already designed to sit more frequently than that in Fife the fall in referrals resulted in disproportionately increased criminal justice element costs. Over the course of an 18 month Order, criminal justice costs in the Glasgow Drug Court initiative account for some 30 per cent of the total, whereas the equivalent figure in Fife was estimated at just 12 per cent.

7.23 Conversely, the lower numbers seen by the Glasgow Treatment and Supervision Team during this period appears to have had the advantage of allowing more intensive and extensive work with a difficult client group. This is apparent in the differences in breaches and revocations between the two pilots, with the rate in Fife almost double that in Glasgow and with the latter initiative retaining in treatment those whose Orders were breached or revoked for almost twice as long.

COMPARING DRUG COURT ORDERS WITH DTTOs & OTHER DISPOSALS

7.24 It should be acknowledged at the outset, that comparisons between different types of intervention – utilising the findings of different studies using differing methodologies – can do little more than give a very general indication of comparative cost. In this study we have compared our costing of the two Drug Court pilots with other studies which have considered the cost-effectiveness of various disposals. However, these comparisons, whilst illustrative of the relative costs of various interventions should be treated with some caution. Thus, the evaluation of the Fife and Glasgow DTTO pilots

(Eley, Gallop, McIvor, Morgan and Yates, 2002) estimated the cost of a DTTO treatment week, on the basis of the number and length of Orders made. For this study, we have used the more realistic measure of treatment weeks actually offered, by taking into account not only the mean average length of Orders made, but adjusting that figure to take account of Orders breached or otherwise terminated early. This figure provides a more realistic picture of work actually undertaken by the providers although, inevitably, the outcomes will appear more expensive.

7.25 Eley, Gallop, McIvor, Morgan and Yates, (2002) estimated the cost of a DTTO treatment week (at 2001 prices) as £125.75 in Glasgow and £121.75 in Fife, an average weekly individual cost of £123.75. Uplifting this amount for inflation to 2003 prices (the central point for the two studies) produces a figure which may be compared with our estimates in this report of the cost of a Drug Court Order excluding the criminal justice element. In Table 7.3, for further comparison, we have taken estimated treatment week costs from published evaluations of other interventions. In all cases, where studies relate to an earlier fiscal year, figures have been uplifted by 3 per cent per annum to provide current cost levels. This is a relatively conservative percentage increase which, whilst it can be expected to account for inflationary increases over the period, may well underestimate the impact of incremental salary gradings and annual wage rises above the inflation rate.

Table 7.3: Comparative disposal costs (£s)

	1 week	6 months	12 months	18 months
Glasgow DC Order	339	8,136	16,272	24,408
Fife DC Order	174	4,176	8,352	12,528
DTTO	132	3,168	6,336	9,504
Methadone outpatient[81]	109	2,616	5,232	7,848
Restriction of Liberty[82]	211	5,064	10,128	15,192
Prison[83]	639	15,336	30,672	46,008

7.26 The estimated cost of an 18 month non-Drug Court DTTO (at £9,504) is significantly lower than that of a Drug Court Order (at £24,408 in Glasgow or £12,528 in Fife). However, factoring in the associated criminal justice costs to our estimated cost for a non-Drug Court DTTO, results in a markedly different cost outcome. The costs involved are those associated with the initial processing and disposal of the case and costs related to the regular review of DTTOs in court. The criminal justice costs published by the Scottish Executive for 2002 were drawn upon to provide estimates of both court time and prosecution costs associated with initial disposal of the case, based on the assumption that approximately 50 per cent of cases would be dealt with following a plea at first diet, 25 per cent following a plea at intermediate diet and 25 per cent following a plea at trial diet. This resulted in a mean additional court time cost of £144 and an additional mean prosecution cost of £279 per DTTO Order (Scottish Executive, 2004). Adding this to the

[81] 2000 prices adjusted – Godfrey, Stewart & Gossop (2001)
[82] 2000 prices adjusted – Lobley & Smith (2000)
[83] Based upon the Scottish Prison Services own estimate of prisoner place costs at 2003 – 2004 prices: http://www.sps.gov.uk/faqs/default.asp#Q4

mean DTTO supervision and treatment costs (for an 18 month Order) resulted in an amended average cost per Order of £9,927.

7.27 However, this figure still does not take account of the total cost of a DTTO which would in addition incur costs related to the regular reviewing of treatment progress. Thus, to this total must also be added the costs of court time associated with review hearings, since both these and the costs of pre-review meetings (not a feature of non Drug Court DTTOs) are included in the Drug Court Order costs. There are no published data available on which to base these costs, so it has been assumed, given the relative brevity of review hearings, that the associated court costs would be broadly similar to those associated with a summary plea at first diet, of £231[84]. In a DTTO of 18 months duration, the cost of 18 review hearings (£4,158) should be added to the total cost. This results in a revised average DTTO cost of £14,085 (compared to the average cost of an 18 month Drug Court Order across both pilot schemes of £18,468). This is still considerably less than the estimated average cost of a Drug Court Order of similar length in the Glasgow Drug Court (£24,408), but is actually *more* expensive than the relevant estimated cost for Fife (£12,528).

7.28 This, somewhat surprising outcome is explained, at least in part, by the efficiencies which can result from establishing a dedicated criminal justice system for these offenders. In addition, the financial estimates for the two DTTO pilots were based on a two-year pilot of a very new scheme and assuming throughput of 48 Orders per year. That figure has been surpassed in both schemes, particularly in Fife where an average of 98 Orders per annum were achieved during the pilot period; almost twice that estimate. This increased throughput has reduced overall costs considerably although it should be noted that a crude baseline cost – whether that be an average cost per treatment week or an average cost per Order – does not take into account the quality of the treatment provided nor the cumulative benefits accruing from success in retaining individuals in treatment. Indeed, agencies which are successful in retaining clients in treatment will inevitably reduce their throughput capacity thus increasing their unit cost.

7.29 There would appear to be some grounds for assuming that Drug Court Order costs could be further reduced, providing a referral process can be established which ensures that those who would benefit from such an intervention are given ready access without disabling the system through the encouragement of inappropriate referrals. In Fife in particular, the conversion rate from assessment to treatment on an Order is extremely low and a good deal of staff costs were being expended upon a cumbersome assessment system which appeared to hinder rather than encourage access to treatment. Whilst multi-disciplinary assessments are laudable, they are also expensive. The initiative taken in Glasgow, to foreshorten the assessment process through the use of an initial screening interview by a social worker, would appear to offer the possibility of both speeding up

[84] This is based on the published court and prosecution costs. It is assumed that prosecution costs at review hearings would be lower than those associated with pleas at first diet but that the judicial costs for the former would be higher (because the sheriff would have a progress report to read and would engage in dialogue with the offender). It is therefore assumed that, on balance, the overall cost of a review hearing would be similar to a summary plea at first diet.

and reducing the cost of assessments, whilst still limiting the number of inappropriate referrals. Moreover, a more professional approach to marketing the Drug Court option and training of appropriate personnel in its relevance and requirements would pay continuing benefits in this latter respect.

7.30 We have cited earlier evidence that would suggest that attracting drug misusers into treatment can deliver a range of economic savings. There is virtually universal acceptance that retaining drug misusers in treatment increases those savings in direct proportion to the time spent in active, meaningful contact. The Glasgow Drug Court enjoyed significantly lower breach rates than its counterpart in Fife and, even where Orders *were* eventually breached or revoked, offenders had generally been retained in treatment for a considerable period of time. It was difficult to avoid the conclusion that these markedly differing rates of client retention were, at least in part, a result of the more harmonious multi-disciplinary working ethos and the more flexible approach to the medical elements of the treatment regime employed in the Glasgow initiative.

7.31 Finally, in comparing Drug Court Orders with non-Drug Court DTTOs it is important to note that Drug Court Orders often include more frequent court reviews for which progress updates (reports or, in the case of probation reviews, verbal updates) and attendance of Supervision and Treatment Team members are required. They also include participation in pre-review meetings convened in the morning prior to the sitting of the Drug Court.

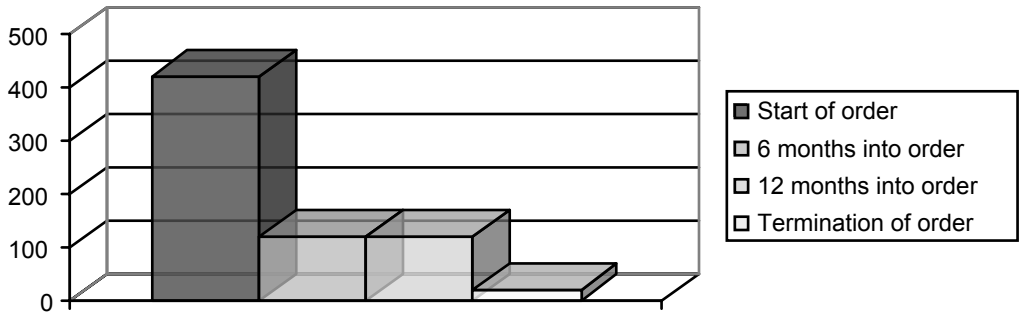
7.32 Professionals regarded these meetings as crucial, since they are the only forum within which the various disciplines, both from the treatment and the criminal justice system sectors, are formally brought together for case-level discussions. They therefore offer an invaluable opportunity for those involved to understand the roles of the other disciplines involved and their priorities and concerns. This appears to have resulted, for all respondents, in a significantly clearer view of the complexity of the problem. Arguably, therefore, the additional costs associated with these procedures may in the longer term be justified by improved outcomes such as completion rates, retention in treatment and reduced recidivism, although it is currently too early to say whether this is the case.

ESTIMATING THE COST IMPACT OF THE DRUG COURT ON DRUG-RELATED OFFENDING

7.31 During the evaluation of the Glasgow Drug Court pilot, offenders were asked, on commencement of their Orders, to estimate their average expenditure on drugs and alcohol. These questions were repeated both six months into the Order and on completion or termination. At the commencement of the Order, these offenders reported spending between £210 and £1,050 per week (£30 - £150 per day) on drugs. By the six-month stage, this had reduced to £10 - £250, a weekly expenditure figure which was sustained at the twelve-month stage. On completion or termination of the Order, a further drop in weekly expenditure was noted with estimates ranging from £3.75 to £40 per week. Whilst there appears to be a great deal of variation in these self-reports, there does

appear to be an overall downward trend. Figure 7.1 illustrates this trend. It should be noted that these figures included expenditure on alcohol.

Figure 7.1: Estimated weekly expenditure on drugs (£s)



7.32 Thus, self-reported expenditure appears to have reduced on average by £402 per person, per week. Even taking the most pessimistic analysis and calculating from the lowest reported expenditure on outset and the highest on termination or completion, still produces an individual weekly reduction of £170. The bulk of this expenditure is financed through the theft and resale of property. The Government's report, *Tackling Drugs Together* (1995) uses a standard multiplier of 3 (reflecting the low illicit resale value of stolen goods), to estimate the actual cost of drug crime in stolen property values. With this formula, assuming these reductions in criminality can be extrapolated to both Drug Court pilots, the two initiatives could potentially deliver significant annual savings; particularly with those offenders who are retained in treatment and successfully complete their Orders.

7.33 Furthermore, these savings relate purely to the value of stolen property. Home Office statistics (Brand & Price, 2000) suggest that this is only a small proportion of the cost – both to society and the individual – of crime. Thus, for instance, Brand and Price (2000) estimate that each burglary of a dwelling place costs a total of £2,300, with the actual residual value of any property stolen contributing only 25 per cent of this figure. Similarly, theft from a motor vehicle is estimated at a cost of £580 per incident, with the value of the property stolen constituting approximately 34 per cent of the total.

7.34 It is also appropriate to note that the individual changes achieved by the initiative are likely to have profound implications – provided they can be sustained – for health and well-being; with a corresponding saving on public health expenditure. For example, the reported stabilisation of the majority of the cohort on legal prescriptions of methadone mixture, has implications not only for criminal activity. In addition it masks an important movement away from regular injecting which significantly reduces the risk of becoming infected with HIV, hepatitis C or any of a host of other blood-borne viruses. Recent research in the USA, (Bozzette et al, 1998) has calculated the cost of treating an HIV-infected individual at $20,000 (£10,908) per annum and the British Liver Trust has stated that the cost of treating individuals with hepatitis C may be even higher than this.

7.35 Finally, there are no accurate statistics for the impact of treatment interventions on rates of fatal accidental overdose and suicide amongst drug injectors. There is, however clear evidence that such initiatives do have some impact and involvement in a treatment service is estimated to significantly reduce risk (Ridolfo & Stevenson, 2001). The Department of Environment, Transport and the Regions (DETR) estimates the cost of a single fatality at £1,047,240 (DETR, 1999). Thus even modest reductions in risk could potentially deliver significant savings.

SUMMARY

7.36 There can be little doubt that persistent drug misuse is associated with significant levels of crime. The connection between drug misuse and crime, particularly acquisitive crime, is now so readily accepted that it is generally taken for granted within public and political discourse. There is also evidence from the UK and internationally that good quality treatment interventions can generate savings in the region of three to four times the cost of the original intervention.

7.37 The average cost of a Drug Court Order was estimated to be £18,486 compared with the average costs of a non Drug Court DTTO at £14,085. In addition, three major areas of potential cost savings can be identified. Firstly, the Glasgow Drug Court was operating well below capacity for a substantial proportion of the pilot period. Secondly, there was a significantly higher level of breaches and revocations in Fife compared to the rates in Glasgow and these discontinuations generally happened much earlier in the Order. Thirdly, in both pilots (though this was particularly evident in Fife), a complex multi-disciplinary assessment procedure appeared to engage a substantial element of staff time and did little to encourage access to treatment. None of these issues is insoluble and steps have already been taken in both pilots to begin to address these problems. However, it is important to note that resolving these issues has a serious cost benefit not just for the two pilots which were evaluated, but also for the wider savings that can be achieved by reducing levels of drug-related crime amongst a group of offenders for whom existing treatment interventions have either failed or failed to make themselves properly accessible.

CHAPTER EIGHT: CONCLUSIONS

INTRODUCTION

8.1 As indicated in Chapter One of this report, the objectives of the pilot Drug Courts are to:

- reduce the level of drug-related offending behaviour
- reduce or eliminate offenders' dependence on or propensity to use drugs, and
- examine the viability and usefulness of a Drug Court in Scotland (in the case of Fife in a non-urban centre) using existing legislation and to demonstrate where legislative and practical improvements might be appropriate.

8.2 In this final chapter we summarise the key conclusions that can be reached on the basis of the evaluation and the implications if Drug Courts are to be extended in Scotland beyond the original pilot sites.

ACHIEVING OBJECTIVES

8.3 Drug Courts cannot provide a panacea for the problem of drug-related crime. However there is evidence that a sizeable proportion of clients made subject to Drug Court Orders were able to achieve and sustain reductions in drug use and associated offending behaviour. Moreover, completion rates (at around 30% and 44% across the 2 schemes) were commendable in view of the histories of offending and prior drug use among the Drug Court client group. Evidence for reductions in use came from the analysis of drug tests over the course of Orders, from individual assessments by social workers, from self-report by clients and from the impressions of the sentencers who came into regular contact with clients through the system of regular reviews. Drug court participants also commented on the significant impact that a Drug Court Order had had on their lives, enhancing relationships with their families and resulting in considerable improvements in their health and appearance.

8.4 Evidence for reduced recidivism is, perhaps, more tentative given the relatively short-follow-up period that was possible. However, despite their histories of persistent drug-related offending prior to appearing before the Drug Courts, half of those given Drug Court Orders remained free of further convictions for at least 12 months and almost 3 in 10 had not been reconvicted after 2 years. Successful completion of an Order was associated with a lower frequency of reconviction in the 2 years from the date of an Order being made than in the 2 years before. Social workers' assessments of progress and client self-report also pointed to reductions in drug-related offending while clients were subject to Orders.

8.5 The establishment of the Drug Courts was achieved primarily on the basis of existing legislation, though provisions were subsequently introduced in the Criminal Justice (Scotland) Act 2003 to enable solemn cases to be dealt with in the Drug Courts and to provide them with interim sanctions (in the form of short prison sentences and

periods of community service) to respond to instances of non-compliance. Although these measures were regarded as a useful addition to the options available to deal with non-compliance, in practice little use had been made of them to date.

8.6 In most other comparable jurisdictions (such as Canada and Australia) where Drug Courts have been introduced, they have been piloted in cities and their suburbs. When it was established, the Fife Drug Court was unique in terms of its location (a non-urban centre) and its implementation across 2 courts (Dunfermline and Kirkcaldy). Although there were particular challenges to be faced in operating a Drug Court under these circumstances, many positive features of the Fife Drug Court were apparent, not least of which was the commitment and enthusiasm of those involved in its operation. Some of the difficulties that were encountered in Fife related less to the non-urban setting than to competing philosophical standpoints of different professional groups.

8.7 Given the difficult client group with whom they were engaging and the challenges of providing a co-ordinated multi-professional response, the pilot Drug Courts can be deemed to have been a success. While operational difficulties were encountered during the establishment and operation of the pilots, there was widespread support for the Drug Courts both from those working within them and from other criminal justice professionals, such as Sheriffs sitting in other courts. Although some concern was expressed about the implications of increasing specialisation in courts (in terms of the erosion of the traditional role of Sheriffs and the administration of justice) the Drug Courts were regarded as offering benefits over and above those associated with DTTOs.

8.8 Although Drug Court orders are a relatively expensive way to respond to persistent drug-related offending, they are unlikely – even given the most pessimistic cost estimates – to be more expensive than imprisonment. In addition, there is some cause to be optimistic – on the basis of DTTO reconviction data (McIvor, 2004) - that the comparatively low rates of reconviction found among Drug Court participants will be sustained over a longer period of time. The most pessimistic interpretation of the data suggests that the initiatives have come close during the pilot period to matching the savings generally estimated in cost-effectiveness studies of more established treatment modalities. A more generous assessment would suggest that they have achieved considerably more.

STRENGTHS OF THE DRUG COURT APPROACH

8.9 Before considering some of the issues that will require attention if Drug Courts are to be introduced in other parts of Scotland, it is worth highlighting what appear to be the main strengths of the Drug Court approach.

8.10 The main strengths of the Drug Court can be summarised as: the ‘fast-tracking’ of offenders (in Glasgow); the existence of a trained and dedicated team with regular contact with participants; and the system of pre-court review meetings and reviews. The dialogue between the bench and Drug Court participants was viewed almost universally as a central component of the Drug Court process. The Drug Court Sheriffs reported

being better informed about drug use and therefore better able to respond appropriately to those appearing before the Court.

8.11 Multi-professional working is a key feature of Drug Courts. Having dedicated staff had resulted in the creation of teams that, according to one sheriff, "*work well together and know what they're doing"*. In Glasgow, the Co-ordinator was also regarded as having a pivotal role in ensuring that the wider team worked together effectively. Perhaps for this reason the issues around multi-disciplinary team working within the Supervision and Treatment Teams that were evident in the early stages of both pilots appeared to have been more successfully resolved in Glasgow.

8.12 It appeared that Drug Court Orders were being imposed upon offenders who would otherwise be at risk of a custodial sentence. Drug Court Sheriffs believed that sentencing decisions were better informed than in the Sheriff Court because assessment reports for the Drug Court were more comprehensive and focused. They also expressed satisfaction with the range of disposals available to them at the sentencing stage, with deferred sentences affording some flexibility in sentencing and the implementation of sanctions and rewards.

8.13 Drug testing was seen as a positive element of Drug Court Orders by professionals and participants. Almost all Drug Court participant respondents considered drug testing to be an important part of their Order and one that was necessary to help them reduce or end their use of illicit drugs.

THE IMPLICATIONS FOR A WIDER ROLL-OUT OF DRUG COURTS

8.14 The pilot Drug Courts have generally met their objectives, though some – such as reducing reconviction – have been more difficult to assess within the timescales and wider limitations of this research. Whether it is appropriate to develop further Drug Courts in other parts of Scotland will require balancing the costs with the potential benefits of such a development. It is unlikely that Drug Courts would be viable in all or even most parts of the country: even though a Drug Court has proved to be workable in a non-urban location, having a Drug Court operating in smaller courts is not likely to be feasible in practical terms. In Glasgow it appeared that the impact of the Drug Court on Sheriff Court workloads was probably neutral: the Drug Court Sheriffs were not available to assist with jury courts, but the Drug Court probably increased the incidence of guilty pleas and therefore resulted in fewer cases going to trial. In Fife, however, the Drug Court consumed a higher proportion of available court time and this had implications for the scheduling of other court business. If further Drug Courts **are** established, then the experiences of the pilots have highlighted some issues that will require attention. It should also be bore in mind that the pilot Drug Courts were developed from already well-established DTTO schemes: developing a Drug Court without that base on which to build would be an even more challenging undertaking.

Achieving sufficient appropriate referrals

8.15 Prior to the establishment of the Drug Courts estimates had been made of the number of Orders that were likely to be imposed. In Glasgow the number of referrals was disappointingly low throughout the pilot, with the level of police-initiated referrals much lower than expected. The broadening of the referral process to encompass solemn cases and court-initiated referrals succeeded in increasing the numbers referred in the third year, though they remained below initial expectations. It is to the credit of the Drug Court Team that they resisted the temptation to 'widen the net' and accept offenders who did not fully meet the Drug Court criteria. Given that other sheriffs in Glasgow have the facility to impose DTTOs it is likely that the level of appropriate referrals to the Drug Court has been achieved. The Supervision and Treatment Team were, in any case, working to full capacity with the Drug Court Orders and non Drug Court DTTOs that had been imposed and it is difficult to see how, without additional resources, a higher caseload could have been sustained.

8.16 In Fife, a slightly different issue was in evidence. Here the number of referrals to the Drug Court was uniformly high, but the proportion that resulted in the making of Drug Court Orders was relatively low. This would suggest that having a wider referral route from the outset had increased the flow of referrals but that many of these were inappropriate for the Drug Court. Undertaking these assessments did, however, absorb a significant amount of staff time which might be reduced if an initial screening of cases could be undertaken to eliminate those who are clearly unsuitable prior to proceeding to a full assessment.

8.17 Another issue that was a cause for some concern in the early stages of the pilot was the acknowledgement that those being assessed for the Drug Court were likely to continue to offend during the assessment period. Over time, however, it was apparent that a full and detailed assessment involving several appointments with different professionals from the Supervision and Treatment Teams could not be undertaken within a shorter timescale. In Fife, a related concern centred on the fact that Drug Court clients were further assessed by the medical staff after being placed on an Order, delaying their access to treatment. Swift access to treatment is likely to be critical to ensure that Drug Court clients engage with their Orders.

Capacity and resources

8.18 It became apparent during the Drug Court pilots how resource-intensive Drug Court Orders are as a result of the high levels of contact with participants and the regular reviews. In both pilots there were times when the Supervision and Treatment Teams were under considerable pressure because of the volume of work. In Glasgow, despite the availability of additional central government funding, the local authority did not initially commit resources up to the level stipulated in the Drug Court Manual which meant that for the first 2 years of the pilot the team was significantly under-resourced. This was compounded by high levels of staff turnover. In Fife, problems were experienced in relation to the recruitment and maintenance of staff. There were particular

difficulties in recruiting criminal justice social workers, largely due to the higher workloads of Drug Court social workers in comparison to those involved in more mainstream criminal justice work.

Multi-disciplinary work

8.19 For Drug Courts to operate effectively requires a co-ordinated and integrated approach by the different professionals who comprise the Supervision and Treatment Team. Whilst multi-professional teamwork presents challenges in itself, in the Drug Courts this was compounded by the fact that professionals were also required to step beyond their traditional roles and to do so within a criminal justice framework. In both pilot sites tensions had developed as a result of lack of clarity regarding roles and responsibilities. In Glasgow this was addressed through the provision of training aimed at fostering multi-professional teamwork and over the course of the pilot a strong sense of team identify became apparent. Similar difficulties were encountered in Fife where they appeared to be more difficult to resolve. In Fife the sectorisation of the Supervision and Treatment Team by geographical area and strong leadership within the team had done much to strengthen team identity and to clarify the professional capabilities of the various disciplines involved. However fundamental differences in professional orientation remained which were reflected, for example, in the withdrawal of prescriptions by the medical providers. The threat of having prescriptions withdrawn was a source of concern to many clients and was often viewed as an overly punitive measure non-medical professionals. The appointment from the outset of a Co-ordinator with sufficient seniority to negotiate with other senior professionals may have helped to resolve some of the difficulties that arose.

8.20 It should also be noted that the development of practice within the Drug Courts benefited from the extensive networking that professionals from both Courts undertook in Scotland and through the links they established with international Drug Court networks. This ensured that practice continued to be informed by wider international developments.

Changing patterns of drug use

8.21 In both Drug Courts the majority of those given Orders were using heroin and the most common approach to treatment was methadone substitution. Once clients were stabilised on methadone (the approach to which differed in Glasgow and Fife) reductions in drug-related offending and illicit drug use usually occurred. However it was apparent, particularly in Glasgow, that a growing number of individuals made subject to Orders through the Drug Court were also using cocaine. Accessing treatment services for substances other than heroin – including residential facilities - will present the Drug Courts with an additional challenge.

Random testing

8.22 In Fife there was some concern that, while the existing approach to drug testing was adequate, the introduction of random drug testing would be a further improvement.

Without the use of fully random tests there was always a possibility that clients could conceal ongoing drug use. Random tests were said to be difficult to institute in practical terms: having clients make themselves available at short notice was not feasible in view of the other commitments required by their Orders and wider commitments such as employment. However they had been introduced successfully in Glasgow, being seen as particularly useful towards the latter stages of Orders.

8.23 A further concern in relation to urinalysis centred on the fact that the tests were unable to detect changes in the amount or frequency of substances consumed, making it impossible to tell whether even if clients were detected as still using illicit substances their drug use had reduced. Although there are tests available that can measure concentration levels they are costly and their accuracy is open to question.

Providing longer term support

8.24 With the exception of a few clients who expressed dissatisfaction, most were positive about the services and support they received from the Supervision and Treatment Teams and from other agencies to which they were referred. However, the limited availability of wider resources to address aspects of the social exclusion experienced by drug-misusing offenders, especially in Fife, is likely to have impacted upon the potential effectiveness of Drug Court Orders in the longer-term. There was also a concern, again more specifically in Fife, that once Drug Court Orders had ended, clients would be unable to access a continued methadone prescription from their GPs and would start using again as a result. More attention therefore needs to be given to how clients can be supported beyond their Orders so that the benefits gained during their involvement with the Drug Court can be sustained in the longer term.

Effective monitoring systems

8.25 There was an expectation from the outset that the pilots would establish IT systems for monitoring purposes and to furnish data for the evaluation. Some progress was made in this respect but there was still an over-reliance on manual records and the nature and amount of information held on databases was variable. This impacted upon the evaluation but, more importantly, will have limited the usefulness of the information available for internal monitoring and management purposes. Experience in other jurisdictions suggests that the establishment of a shared database to which different team members have varying levels of access is crucial for maintaining up-to-date records and facilitating the efficient exchange of participant-based information at different stages in the Drug Court process. If further Drug Courts are established, early investment in a national IT system would enhance administrative efficiency and ensure a consistent approach to the monitoring of the work of the Courts

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