



SCOTTISH EXECUTIVE

The Glasgow Drug Court in Action: The First Six Months

Crime and Criminal Justice



**THE GLASGOW DRUG COURT IN ACTION:
THE FIRST SIX MONTHS**

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EXECUTIVE SUMMARY

Background

Drug Courts aim to reduce drug misuse and associated offending by offering treatment based options outwith the traditional court setting and have been established in a number of different jurisdictions with different populations of offenders. In October 2001 Scotland's first Drug Court was established in Glasgow Sheriff Court, operating under summary proceedings. The introduction of the new Drug Court followed the report of a Working Group for Piloting a Drug Court in Glasgow (thereafter referred to as the Working Group) which concluded in May 2001 that the establishment and operation of a Drug Court in Glasgow was feasible within existing legislation. The objectives of the new 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.

The proposed target group for the Drug Court is 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 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.

The Glasgow Drug Court is staffed by two sheriffs on a part-time basis. Each sits in the Drug Court (Court Two in the Glasgow Sheriff Court complex) for four days per week on alternating weeks. A procurator fiscal has been 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. A multi-agency Drug Court Team has been established to review the working, development and operation of the Drug Court. It comprises 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 senior dedicated worker from Phoenix House (the voluntary organisation contracted to provide treatment services), a representative of the police and a representative of the Glasgow Bar Association. A Drug Court Co-ordinator facilitates the work of the Drug Court Team.

A Drug Court Supervision and Treatment Team was established to support the Drug Court in all aspects of assessment, supervision, treatment, testing and reports to the court. It consists of a team leader, supervising social workers, addiction workers, treatment providers and medical staff who are located together in shared premise. 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 over this period.

The Working Group highlighted the importance of the Pilot Drug Court being subject to independent evaluation from the outset. Evaluation was deemed important as a means of establishing the extent to which the objectives of the Drug Court during the pilot period are met. A research team at the University of Stirling – who had previously evaluated the introduction of pilot Drug Treatment and Testing Orders in Glasgow and Fife – was commissioned by the Scottish Executive to evaluate the pilot.

The research will consist of two main phases. This report presents the findings from a *formative and process evaluation* of the Drug Court's operation in the first six months. The aim was to document the operation of the Drug Court during this initial period with a view to identifying any changes that might be required to enhance its operational effectiveness. The second main phase of the research will take the form of an *outcome evaluation*. The outcome evaluation will continue to assess the operational effectiveness of the Drug Court over the course of the pilot. Importantly, however, it will also examine the effectiveness of the Drug Court in securing compliance with court orders and bringing about reductions in drug use and associated offending.

METHODS

The evaluation of the Glasgow Drug Court's first six months of operation involved a variety of research methods aimed at the collection of both quantitative and (primarily) qualitative data. Fieldwork included:

- Interviews with 38 professionals associated with the Drug Court
- Interviews with 8 Drug Court clients
- Collection of information from Drug Court records
- Observations of screening group meetings, first callings, pre-court review meetings and review hearings during February, March and April 2002.

FINDINGS

Referral to the Drug Court

When the Drug Court was established it was envisaged that the main referral route would be through the 'flagging up' of custody cases by the police. In practice, however, just over one-third of the cases referred to a screening group were identified in this way. Initial referrals appeared to rely upon the knowledge and enthusiasm of individual police officers and was therefore, variable across the city. It also appeared that police officers were not fully conversant with the Drug Court referral criteria.

Cases considered potentially suitable for the Drug Court by the Drug Court Procurator Fiscal were referred to a screening group attended by the Fiscal, the defence agent, a social worker, a police officer and, on occasion, an addiction worker. The screening group was viewed as an effective mechanism for filtering out inappropriate referrals.

The Drug Court referral criteria were thought by most of those associated with the Drug Court as realistic and appropriate, especially since offenders under 21 years of age were unlikely to be sufficiently motivated or mature to cope with the Drug Court

regime. Some concern was expressed that women were not being referred in sufficient numbers because their offences were often dealt with by the district court.

By early May 2002, 77 cases had been referred to a screening group, 61 of whom were considered potentially suitable for the Drug Court. It appeared that the criteria were being appropriately applied in the filtering out of inappropriate cases at this stage. By mid-May, 68 cases had been referred for a Drug Court assessment.

Whilst assessment reports were usually available at the first calling of the case in the Drug Court, this sometimes did not happen as a result of staff shortages, or the failure of the individual to attend the assessment appointments. There was a general desire among those involved in the Drug Court to reduce the four-week assessment period, though this was not considered to be feasible within existing resources.

Sentencing and Treatment

It is evident that Drug Court clients are willing to accept the requirements of a Drug Court Order for a number of reasons. At the initial stage of assessment, this willingness is, for many individuals, an attempt to avoid custody (either sentence or remand) and may even increase the likelihood that an offender will plead guilty. However, it is clear that additional motivation is required to ensure compliance with the stringent demands that are made of all Drug Court Clients. The requirements of treatment and testing are stressed throughout the assessment process by service-providers to ensure that offenders are fully informed of their obligations and possible sanctions.

The range of sentences available to Drug Court Sheriffs is considered to be effective and appropriate. Although the Drug Court has the same range of disposals available to it as the Sheriff Court under summary proceedings, the ethos of the Drug Court differs significantly. It is seen by all involved to be less punitive and more constructive, a situation considerably enhanced by the direct dialogue which takes place between the Sheriff and offender. Sheriffs believed that their sentencing decisions were better informed than in the Sheriff Court due to the more comprehensive and focused Social Enquiry Reports and drug assessments which are made available to them. Deferred sentences were seen to afford some flexibility in sentencing, while reservations were expressed by Sheriffs about the introduction of Restricted Liberation Orders (RLOs) and their suitability for offenders in receipt of drug treatment.

Treatment services included a range of provisions provided by the Drug Court Team 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 team, and drug court clients, that the operational regime lacked flexibility and that levels of medication provided were not always in compliance with the wishes of individual clients. While prescribing is clearly a matter for the medical profession, there was some suggestion that increased dialogue in monitoring and reviewing patterns of prescribing would be beneficial. There also appeared to be a broadly based desire for more comprehensive service provision and a broader range of services being made available to the Drug Court. In particular, Treatment and Supervision staff

identified the need for increased rehabilitation services, and specifically rehabilitation and community-based services that met the needs of women.

Drug testing forms a key component of Drug Court Orders with clients tested twice weekly at the beginning of an Order. Relapse is recognised as a possibility and time is allowed to enable clients to stabilise their drug use before reducing/ending it. However, there are clearly practical and ethical issues relating to the testing procedures itself and consideration needs to be given to improving this. Nevertheless, drug court clients saw testing as a largely positive element of the Order, viewing it as a significant motivating factor. Obtaining negative test results was viewed as a clearly defined goal, particularly given the prominence of this issue during reviews, and the dialogue between clients and the Drug Court Sheriff.

Reviews and Enforcement

Pre-court review meetings were perceived to be a beneficial component to the process of supervising and treating clients 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 presented at the review with the client. While some offenders wished they were able to attend pre-court review meetings, all 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 Glasgow Drug Court in its pilot stage. Sheriff-client dialogues were at the heart of reviews, ranging from 20 per cent to all of the review time. The sentencers on their side generally offered words of encouragement, regardless of progress and the clients on their side were honest, responsive and usually co-operative. The concept of drug use as a relapsing condition was recognised by Drug Court Sheriffs and emphasised particularly in shrieval dialogue.

Supervision and Treatment Team workers took active steps to respond to instances of non-compliance. The Drug Court Sheriffs had a number of sanctions without recourse to formal breach proceedings, although sentencers believed that the range of actions currently available to the Drug Court was insufficient. During the first six months of the pilot Drug Court in action, only one Order had been breached and Drug Court Sheriffs has made very few amendments to Orders to encourage compliance.

Effectiveness of the Drug Court

There was a general optimism among those involved in the operation of the Drug Court that it would be successful in reducing drug use and associated offending behaviour. All of those on Drug Court Orders who were interviewed reported significant reductions in drug use and offending and were positive overall about their experience of Drug Court treatment and supervision. Boredom was, however, a common problem and Drug Court clients would welcome more organised structure in their lives.

The main strengths of the Drug Court were perceived to be the 'fast-tracking' of offenders, the existence of a trained and dedicated team in regular contact with each other and the system of pre-court review meetings and reviews. The Drug Court Sheriffs reported feeling much better informed about drug use as a result of their contact with other professionals and with people on Drug Court Orders. There was support for the existence of a specialist Drug Court, including from among other sheriffs who sat in Glasgow Sheriff Court.

Issues around multi-disciplinary team working within the Supervision and Treatment Team were believed to have undermined the effectiveness of the services provided to people in Drug Court Orders. The management arrangements were said by staff to be unnecessarily complex, the premises were inadequate and the staffing levels were too low, resulting in unrealistic workloads for the social workers and addiction workers. Each of these factors undermine opportunities for a genuinely collaborative, multi-disciplinary approach.

The workload for different professional groups involved in the Drug Court was variable, being more manageable for the Sheriffs and less so for the Supervision and Treatment Team. The sheriffs who sat in the Drug Court did not believe that its introduction had impacted significantly – in either a positive or negative way – on the workload of the sheriff court.

Factors that the Drug Court Sheriffs thought would further enhance the operational effectiveness of the Drug Court included the availability of additional sanctions for non-compliance, a more sophisticated system of rewards and, possibly, the introduction of a mentoring system for people on Drug Court Orders.

CONCLUSIONS

The formative and process evaluation of the first six months of the pilot Drug Court in action suggests that the initiative has largely been a success, with the role of the Drug Court Sheriffs having been critical in this respect. Certain issues have been identified that will require particular attention in the next phase of the pilot. These include the police contribution to the referral process, the multi-disciplinary team-working, the workload of different professionals involved in the operation of the Drug Court and the availability of a wider range of sanctions and rewards for, respectively, non-compliance and progress. Overall, however, the Glasgow Drug Court was perceived to be very effective in providing a resource for drug-using offenders. The dedicated team and resources were viewed as a positive contribution to the reduction of drug-related offences in Glasgow.

CHAPTER ONE: BACKGROUND

THE INTERNATIONAL CONTEXT

1.1 Drug Courts aim to reduce drug misuse and associated offending by offering treatment based options outwith the traditional court setting. According to the National Association of Drug Court Professionals (NADCP) (2001) ‘a Drug Court is a special court given the responsibility to handle cases involving drug-addicted offenders through an extensive supervision and treatment program’.

1.2 The impetus for the establishment of Drug Courts came from a growing acknowledgement of the link between drug misuse and crime coupled with increasing evidence of the efficacy of drug treatment, including treatment that is compelled rather than undertaken on a voluntary basis (e.g. Hough, 1994; Gebelein, 2000). At the same time, the USA was witnessing an increase in the number of drug misusing offenders and a spiralling prison population as a result of ‘truth in sentencing’ and ‘three strikes’ policies and the introduction of mandatory prison sentences for a range of offences, including the possession and supply of drugs. The first Drug Court was established in Florida in 1989 and by 1999 there were more than 400 Drug Courts in operation in the United States (Gebelein, 2000).

1.3 Drug Courts were established initially in the USA 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. As Gebelein (2000) indicates, the US Department of Justice and the NADCP have identified the following elements as integral to US Drug Courts:

- Integration of substance abuse treatment with criminal justice case processing
- The use of a non-adversarial approach in which the prosecution and defence promote public safety while protecting the right of the accused to due process;
- Early identification and prompt placement of eligible participants;
- Access to a continuum of treatment, rehabilitation and related services;
- Frequent testing for alcohol and illicit drugs;
- A co-ordinated strategy between judge, prosecution, defence and treatment providers to secure offender compliance;
- Ongoing judicial interaction with each participant;
- Monitoring and evaluation to measure achievement of program goals and assess effectiveness;
- Continuing interdisciplinary education to promote effective planning, implementation and operation; and
- Partnerships with public agencies and community-based organisations to generate local support and enhance Drug Court effectiveness.

1.4 Hough (1994) has similarly argued that effective approaches to drug treatment in the criminal justice system require effective inter-agency work. This, he suggests, is characterised by: clear terms of reference and mutual expectations; equal partnerships rather than single-agency domination; adequate resourcing of co-ordinating machinery;

getting representation at the right level across all relevant agencies; and evaluation and accountability.

1.5 Local and national evaluations of Drug Courts in the USA are encouraging, suggesting that the various stakeholders in the Drug Court approach are confident that the Drug Courts are achieving many of their aims (Gebelein, 2000). Belenko (1998), in a review of 30 evaluations of Drug Courts, concluded that: completion rates for Drug Court Orders were higher than those for Orders imposed in other courts; Drug Courts provided more comprehensive supervision and drug testing and monitoring than other forms of community supervision; drug use and offending are substantially reduced while offenders participate in the Drug Court program; reductions in recidivism are sustained after offenders leave the program; and Drug Courts generate cost savings as a result of reduced prison/jail use and reduced recidivism. A similar pattern of findings was observed in an updated review of 37 Drug Court evaluations by the same author (Belenko, 2001).

1.6 Goldkamp (2000) supported the broad conclusion that Drug Courts are effective, by suggesting that 'Drug Courts can and do have an important impact on substance abuse and offending and represent an important new direction in criminal justice, drug treatment and health' (p.4). However, he also cautioned that Drug Courts may not be universally effective and identified factors that appear to be associated with their reduced effectiveness. These included the frequent rotation of judges rather than the use of a core Drug Court judge and a shift in the focus of Drug Court activity from pre-prosecution diversion cases to cases in which the defendant had entered a guilty plea. This latter change in focus had the effect of expanding the court's remit to high risk offenders with more extensive criminal and drug-use histories and appeared, in addition, to reduce offenders' incentive to successfully complete their court order.

1.7 Drug Courts are now also operational in Australia, Canada and Ireland (Walker, 2001). Both Canada and the Republic of Ireland have piloted Drug Courts within the past five years. The Canadian experiment in Toronto offered a two-tier system according to the severity of the offence and adopted a harm-reduction approach, which appears relevant to the current situation in Scotland. The Dublin pilot also encompasses a broad range of treatment options - both abstinent and non-abstinent based - although the facility is restricted to low-tariff, non-violent offenders.

1.8 Clearly, therefore, the introduction of Drug Courts in different jurisdictions and with different populations of offenders will require careful evaluation of their operation and effectiveness and an analysis of those factors that contribute to or detract from the effectiveness of the approach. For example, Williams (1999), in a process evaluation of the West Yorkshire Drug Court, questioned whether abstinence – the usual goal of US Drug Court programs – was an appropriate initial goal of treatment in the UK context.

THE GLASGOW DRUG COURT

1.9 In October 2001 Scotland's first Drug Court was established in Glasgow Sheriff Court, operating under summary proceedings. The introduction of the new Drug Court followed the report of a Working Group for Piloting a Drug Court in

Glasgow¹ (thereafter referred to as the Working Group) which concluded in May 2001 that the establishment and operation of a Drug Court in Glasgow was feasible within existing legislation. The main features of the pilot Drug Court are described below.

Objectives

1.10 According to the Report of the Working Group and the Reference Manual that describes the procedures to be adopted by it², the objectives of the new 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.

Operation

1.11 The Drug Court has the same authority and status as other courts, 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 Drug Treatment and Testing Orders) continue to be available to the Sheriff Court. The four forms of community-based supervision and treatment that are available to the Drug Court are Drug Treatment and Testing Orders (DTTOs), Probation Orders with a Condition of Drug Treatment, concurrent DTTOs and Conditional Probation Orders and deferred sentences³. It was anticipated that the Drug Court might deal with around 300 referrals and impose around 200 Drug Court Orders per annum.

1.12 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 (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 reviews.

1.13 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

¹ Scottish Executive (2000a).

² Glasgow Sheriff Court (2001)

³ It is unlikely that deferred sentences will be used as a vehicle for requiring the offender to access treatment but, as will be shown, they are considered by Drug Court Sheriffs to be useful in the event of multiple charges or new or outstanding charges being brought before the court.

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.

Staffing

1.14 The Glasgow Drug Court is staffed by two Sheriffs on a part-time basis. Each sits in the Drug Court (Court Two in the Glasgow Sheriff Court complex) for four days per week on alternating weeks. A procurator fiscal has been 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. A multi-agency Drug Court Team has been established to review the working, development and operation of the Drug Court. It comprises 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 facilitates the work of the Drug Court Team.

1.15 A Drug Court Supervision and Treatment Team was established to support the Drug Court in all aspects of assessment, supervision, treatment, testing and reports to the court. It consists of a team leader, supervising social workers, addiction workers, treatment providers and medical staff⁴ who are located together in shared premises⁵. 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 over this period, as follows:

At start of pilot

Social Work Staff

1 Project Leader
4 Social Workers
1 Social work Assistant
1 Addiction Service Supervisor
5 Addiction workers
3 Administration workers

GDPS staff

1 p/t Senior Medical Office
1 Medical Officer
5 Nurses
2 Admin workers

At May 2002

Social Work Staff

1 Project Leader
6 Social Workers
3 Social Work Assistants
2 Addiction Services Supervisors
4 Addiction Workers (& one vacant post)
4 Administration workers (including one senior)

GDPS staff

1 p/t Senior Medical Office
1 p/t Medical Officer
5 Nurses
2 Admin workers

⁴ The dedicated Drug Court treatment providers and medical officers are from the Glasgow Drug Problem Service (GDPS).

⁵ The Drug Court Treatment and Supervision Team were built upon the existing DTTO team in Glasgow City Council Social Work Department and are currently based at John Street, Glasgow approximately fifteen minutes by foot from the court.

Target Group

1.16 The proposed target group for the Drug Court is offenders aged 21 years or older⁶ of both sexes, 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 custody⁷. 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.

EVALUATION OF THE PILOT DRUG COURT

1.17 The Working Group highlighted the importance of the Pilot Drug Court in Glasgow being subject to independent evaluation from the outset. Evaluation was deemed important as a means of establishing the extent to which the objectives of the Drug Court during the pilot period are met. A research team at the University of Stirling – who had previously evaluated the introduction of pilot Drug Treatment and Testing Orders in Glasgow and Fife – was commissioned by the Scottish Executive in January 2002 to evaluate the pilot.

Aims and objectives

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

- assess how effective the Drug Court is 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 Court is viable within the Scottish context.

1.19 The research will consist of two main phases. This report presents the findings from a ***formative and process evaluation*** of the Drug Court's operation in the first six months. The aim was to document the operation of the Drug Court during this initial period with a view to identifying any changes that might be required to enhance its operational effectiveness. The specific objectives of this element of the study were to:

- identify the frequency with which different referral routes are employed, assess whether the referral and screening processes are effective in identifying appropriate cases and determine whether the deadlines for the processing of referrals are being met;

⁶ Offenders aged 16-20 years of age may also be referred to the Drug Court under exceptional circumstances.

⁷ Consideration will be 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.

- assess whether the number of cases referred to the Drug Court and the resulting caseloads for each service provider are manageable;
- identify the frequency of reviews, the circumstances in which they are conducted, whether they are perceived as being conducted in appropriate circumstances and how this compares with the frequency and circumstances of reviews identified in the evaluation of DTTOs.
- examine the enforcement practices adopted by supervising officers, the extent to which they are consistent with agreed procedures on enforcement and the effectiveness of enforcement practices in securing compliance with Drug Court Orders;
- examine whether violations of Orders are being brought to the attention of the court timeously and whether breaches are being appropriately punished;
- examine the extent and nature of dialogue between sentencers and offenders in the Drug Court at different stages of Orders, document views about the value of this dialogue and identify any factors (such as defence agent intervention) that have an impact on this dialogue;
- determine whether there is a clear consensus among service providers and the Drug Court Co-ordinator with respect to their relative responsibilities during the screening, assessment, treatment and breach stages;
- identify any obstacles to multi-agency working among service providers and to multi-agency collaboration within the Drug Court Team;
- assess whether the procedures for dealing with new or outstanding charges enable the courts to identify and deal appropriately with offenders who are subject to Drug Court Orders; and
- examine the views of relevant stakeholders on the operational effectiveness of the Drug Court approach (including the range of sentences available to the court and the range of sanctions for violation and breach) and identify factors that enhance or detract from its effectiveness.

1.20 The second main phase of the research will take the form of an *outcome evaluation*. The outcome evaluation will continue to assess the operational effectiveness of the Drug Court over the course of the pilot. Importantly, however, it will also examine the effectiveness of the Drug Court in securing compliance with court orders and bringing about reductions in drug use and associated offending.

Structure of the report

1.21 The remainder of this report is organised into six chapters. Chapter Two describes the research methods employed in this formative and process evaluation. The following chapters correspond to aspects of the Drug Court process. Chapter Three examines the referral process while Chapter Four focuses upon sentencing, drug

treatment and testing. Chapter Five examines the review process, with a particular emphasis upon the nature of the dialogue between offenders on Drug Court Orders and the bench. It also discusses the enforcement of Drug Court Orders and the procedures that have been instituted to deal with new and outstanding charges. In Chapter Six the issue of effectiveness is considered. This chapter focuses both on the likely impact of the Drug Court on drug misuse and associated offending, and on aspects of its operation that enhance and detract from its effectiveness. In Chapter Seven (Conclusions) we return to the research objectives outlined earlier in this chapter to offer commentary on the effectiveness of the Glasgow Drug Court's operation in the first six months and to offer suggestions as to how it might be further enhanced.

CHAPTER TWO: METHODS

INTRODUCTION

2.1 The evaluation of the Glasgow Drug Court's first six months of operation involved a variety of research methods aimed at the collection of both quantitative and (primarily) qualitative data. In addition to the more formal 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 ASSOCIATED WITH THE DRUG COURT

2.2 Between April and May 2002 interviews were conducted with a range of professionals associated with or potentially affected by the Drug Court. Each of these interviews was, with the respondents' agreement, tape recorded and fully transcribed for analysis.

Sheriffs

2.3 The two Drug Court Sheriffs were interviewed individually in Chambers. These interviews were aimed at exploring their perspectives on the operation and effectiveness of the Drug Court, including how it differed from the traditional Sheriff Court. Sheriffs' views about the effectiveness of the Drug Court procedures were also explored and their views sought as to how the operation and effectiveness of the Drug Court might be further improved.

2.4 Brief interviews were also conducted with three Sheriffs who sit in Glasgow Sheriff Court. These interviews were concerned principally with exploring their perspectives on the effectiveness of the screening and referral process, on the appropriateness of the Drug Court criteria and on the appropriateness of different routes of referral to the Drug Court (including the shrieval option of referring cases following a guilty plea or finding of guilt). These interviews took place individually within the Sheriff Chambers at Glasgow Sheriff Court.

2.5 When reporting the views expressed by sentencers in this report we will use the term 'Sheriff' to refer to Sheriffs who sat in Glasgow Sheriff Court and the 'Drug Court Sheriff' to refer to those who sat in the Drug Court.

Drug Court Co-ordinator and Procurators Fiscal

2.6 The Drug Court Co-ordinator and the Drug Court Procurator Fiscal were also interviewed. Issues covered in the interviews were similar to those explored with Sheriffs, though the interview with the Co-ordinator focused more on multi-disciplinary issues while the interview with the procurator fiscal placed greater emphasis upon the referral and screening process. The original intention had also been to interview a small sample of procurators fiscal involved in marking cases for

Glasgow Sheriff Court. However, a delay in being granted the relevant research access meant there was insufficient time available for these interviews to take place. The Drug Court Depute was, however, able to comment on the involvement of marking deputes in relation to the Drug Court referral process.

Drug Court Supervision and Treatment Team

2.7 Interviews were conducted with six addiction workers, including one supervisor; seven social workers, including two social work managers; four staff from the team seconded from Glasgow Drug Problem Service (GDPS), including two nurses, a medical officer and a senior medical officer; and a group of three social work assistants. These interviews were conducted in April – May 2002.

2.8 The interviews explored their views on the referral, screening and assessment process; the range and quality of treatment services provided; the impact of coercion, supervision and management upon the treatment process; the system of offender reviews; communication and action in a complex multi-disciplinary environment; and the perceptions of the effectiveness of the Drug Court system in reducing both drug use and drug-related offending.

Police officers

2.9 Interviews were conducted with seven police officers during May 2002. These officers were selected to reflect the variety of experience officers have of the Drug Court process. They comprised one Chief Inspector in the court service; two duty officers (one Inspector, one Sergeant), one Community Constable, two 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.

2.10 Prior to the start of the research, it was assumed that referring officers would be involved in the court's screening process, and that the main issues would be the quality of information at officer's disposal and the appropriateness of the criteria for referral. This assumed that the police referral system would be working smoothly. There have been relatively few referrals from police, however, so the research was broadened to investigate why this might be the case. Rather than concentrate on the views of referring police as originally intended, the interviewees were chosen to provide an overview of police involvement, or lack of, in referral. Therefore it included duty officers whose responsibility (under force guidelines) it is to refer but who *were not making referrals*⁸.

Defence agents

2.11 It had also been the intention to interview a small sample of defence agents with experience of representing offenders in the pilot Drug Court. A request for volunteers to be interviewed was made through a poster in the Bar Common Room and as a verbal request on behalf of the research team, at the Glasgow Bar Association

⁸ The term 'refer' is used here because it is the term used by police, although what they do is described elsewhere in this report as 'flag' cases (for possible referral).

April meeting. No defence agent volunteered to be interviewed. Constructively, we were swiftly informed by the Glasgow Bar Association that it was in the process of pursuing a number of concerns on behalf of its membership and that members were unwilling to be interviewed individually as they had expressed their views, on which there was a local consensus, at a closed meeting. We were, however, informed about the nature of these concerns and refer to them where appropriate in the report.

INTERVIEWS WITH DRUG COURT CLIENTS

2.12 Interviews with Drug Court clients were intended to provide general background information on the impact of Drug Court Orders on their drug use, access to treatment services, offending behaviour and everyday lives. The interviews were also intended to focus specifically on several aspects of the operation of the Drug Court in order to provide some assessment of its effectiveness. They also sought to identify service-users' reasons for agreeing to a Drug Court Order, their expectations of what the Order would involve, and to document their expenditure on drugs and their involvement in drug-related offending prior to and following the imposition of the Order.

2.13 The original intention was to interview 12 Drug Court clients approximately three months into their Drug Court Order. Since the Supervision and Treatment Team premises had very limited accommodation, permission was given to use the Drug Court Screening Group room at Glasgow Sheriff Court for the purpose of interviewing. This meant that the best opportunity to make contact with service-users was on the days that they attended court for review. While this afforded an opportunity to make contact with them, it was less than ideal given the stress and anxiety that the court appearance obviously aroused in many of the Drug Court clients. This was sometimes related to factors outwith the Drug Court, including the presence of the media and occasionally debt-collectors who were anxious to make contact. Frequently, Drug Court clients were very keen to get out of the court as soon as possible, particularly if their behaviour (drug use, attendance for appointments, offending) had been less than satisfactory. Three service-users, who had initially agreed to be interviewed, left the court immediately following their reviews, which had not gone as well as they had hoped. Given the above, those who agreed to participate tended to be the individuals who were making some progress with their Orders, although many respondents were addressing ongoing issues in relation to continued drug use and/or non-attendance for treatment services. One respondent had been warned that his Order was about to be breached.

2.14 In Order to contact as many service-users as possible, the researcher attended reviews on nine occasions and was able to interview Drug Court clients following the review, or to make arrangements to conduct an interview at the next review date. Additionally, letters were sent to all Drug Court clients who had completed or were nearing the three-month stage in their Order. This resulted in two interviews being achieved: the majority of clients did not respond to this letter, with two letters being returned as undeliverable. One client directly refused to be interviewed while one rescinded her agreement on the advice of her solicitor. However, others indicated that they would be willing to be interviewed but were unavailable at the times suggested.

2.15 Interviews were obtained with five service-users immediately following their court appearance and with three others who voluntarily returned to the court at an alternative time in order to be interviewed. On one occasion a service-user's partner participated in the interview and in another a young child was present during the interview. Six respondents were male and two were female. They were aged between 21 and 36, with an average age of 27 years. Six were on a Drug Treatment and Testing Order with the length of Orders ranging from 12 months to two years. Two were on a Probation Order (18 months and two years). At the time of interview, two of the respondents had been on their Order for three months, while four had completed between three and six months of their Order.

2.16 The original figure of 12 interviews with service-users was based on projected figures of 60 operational Orders and would have constituted 20 per cent of Drug Court clients at this stage in the Court's development. The eight interviews with service-users represents 26 per cent of all Drug Court clients and 57 per cent of Drug Court clients who had completed three months or more of their Drug Court Order.

2.17 All but one of the interviews (which took place in the Drug Court waiting room) were conducted in the Drug Screening Group. With the agreement of the respondents the interviews – which lasted on average 45 minutes - were tape-recorded and fully transcribed, and respondents were given assurances that their views would be anonymised.

COLLECTION OF INFORMATION FROM DRUG COURT RECORDS

2.18 A range of information was gathered by different people at various stages in the Drug Court Process to monitor the progress of offenders from the referral stage until completion of their Orders. There were three principal sources of data that the researchers were able to draw upon to obtain information about the characteristics of accused at various stages of the drug court process. First, details of cases 'flagged up' by the police or the marking deputies 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. Second, the Drug Court Co-ordinator had 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.

2.19 The third source of information was the monitoring forms for use by the Drug Court Supervision Team to monitor the characteristics, experiences and responses of offenders referred to the Drug Court and offenders given Drug Court Orders. Since an electronic database had not been set up for the entry of this data by early May 2002⁹, one of the research team manually transferred the data provided onto data coding sheets, though only partial information was available in many cases. While it is possible there were errors during this laborious process, we are confident that

⁹ A meeting between the researchers and the social work department to discuss the setting up of an electronic database has been convened for early June. It appears that the researchers will be able to translate their SPSS files into Excel files. This should reduce the amount of time that setting up the database electronically will require.

inaccuracies in the dataset were minimal. At the University of Stirling, SPSS databases were established, the data entered and analysis conducted. The type of information available from the database included the socio-demographic characteristics of offenders referred to the drug court, the recommendations contained in the assessment report and the disposals made by the court. It was also possible to assess in which proportion of the cases the proposed timescales for the processing of referrals were met. Information was also gathered about the supervision and treatment of offenders made subject to Drug Court Orders. This included details of the treatment provided, the frequency and outcomes of drug testing, the frequency and outcomes of reviews and the enforcement of Orders. These data were available in respect of 52 offenders assessed for the Drug Court, 30 of whom received Drug Court Orders. Information was more likely to be missing from the monitoring forms (and hence the resulting database) in the case of those not given a Drug Court Order.

2.20 It should be noted that the different sets of data that were drawn upon by the researchers covered slightly different timeframes (as a result of inevitable delays in obtaining certain types of information and entering it into the relevant database). These are made clear in the reporting of results.

OBSERVATION OF THE DRUG COURT IN ACTION

2.21 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 at which offenders appear for sentencing; and observation of pre-court review meetings and review hearings. An observation pro forma was used to record the court sessions observed: it included details of those present, the duration of the session, the nature and content of interactions between the various parties and the proportion of time in which the bench and the offender are engaged directly in dialogue. Sessions presided over by both Drug Court Sheriffs and involving both Clerks to the Court were observed during the first six months of operation. These data were compared with the observational data derived from the court observations undertaken as part of the evaluation of pilot Drug Treatment and Testing Orders (Eley et al., forthcoming).

Screening Group Meetings

2.22 Observation was made of three Screening Group meetings during April and May 2002. In each case, the offender was referred for assessment. Those present at the Screening Group meetings included the procurator fiscal (who chairs the meeting), a police Chief Inspector, a social worker and the defence agent.

First calling in the Drug Court

2.23 Thirty-three observations were made relating to the progress of Drug Court clients, from the Screening Group to Court for sentencing during February, March and April 2002. Informal observations of these first callings captured the full range of outcomes: either a Drug Court Order was made, a non Drug Court disposal was imposed, the offender did not attend Court and a warrant was issued for their arrest or the case was adjourned awaiting a full Drug Court assessment report. No formal

analysis was conducted as the offenders did not given consent to research until after an Order was made.

Pre-court review meetings

2.24 Twenty-eight observations of pre-court review meetings were conducted during February, March and April 2002, involving 19 different offenders on Drug Court Orders. Tables 2.1 and 2.2 provide further details of the observed reviews.

Table 2.1: Pre-court review meeting conducted and observed from December 2001-April 2002

| | N conducted | N observed |
|---------------|--------------------|-------------------|
| First review | 21 | 10 |
| Second review | 15 | 5 |
| Third review | 11 | 4 |
| Fourth review | 8 | 6 |
| Fifth review | 4 | 2 |
| Sixth review | 1 | 1 |
| Total | 60 | 28 |

Table 1.5: Characteristics of Drug Court Clients at observed pre-court review meetings

| | N offenders | N observed |
|--------------|--------------------|-------------------|
| Gender | | |
| Male | 19 | 17 |
| Female | 3 | 2 |
| | | |
| Age | | |
| 21-29 years | 14 | 11 |
| 30-39 years | 8 | 8 |
| | | |
| Total | 22 | 19 |

Reviews

2.25 Thirty-two observations were made of review hearings during February, March and April 2002 involving 20 offenders on Drug Court Orders. Tables 2.3, 2.4 and 2.5 provide details of the observed court sessions as proportions of the actual reviews conducted during the period from December 2001 until the end of April 2002.

Table 2.3: Reviews from December 2001-April 2002 and their observation

| | N conducted | N observed |
|---------------|--------------------|-------------------|
| First review | 21 | 11 |
| Second review | 15 | 7 |
| Third review | 11 | 4 |
| Fourth review | 8 | 6 |
| Fifth review | 4 | 3 |
| Sixth review | 1 | 1 |
| Total | 60 | 32 |

Table 2.4: Characteristics of Drug Court clients at observed reviews

| | N offenders | N observed |
|--------------|--------------------|-------------------|
| Gender | | |
| Male | 19 | 18 |
| Female | 3 | 2 |
| | | |
| Age | | |
| 21-29 years | 14 | 12 |
| 30-39 years | 8 | 8 |
| | | |
| Total | 22 | 20 |

Table 2.5: Characteristics of Drug Court Orders at observed reviews

| | N Orders | N observed during Order |
|-----------------------------|-----------------|--------------------------------|
| Probation Order - 18 months | 7 | 7 |
| Probation Order - 24 months | 1 | 1 |
| DTTO - 12 months | 3 | 3 |
| DTTO - 18 months | 8 | 7 |
| DTTO - 24 months | 5 | 4 |
| | | |
| Total* | 24 | 22 |

*Note that 2 offenders had an 18 month Probation Order and an 18 month DTTO running concurrently.

2.26 The experience of the pilot DTTOs was that there were very few breaches, especially during the first few months of the pilots. During the initial six-month pilot period in the Glasgow Drug Court, there was one breach that occurred prior to the observation period and that was not, therefore, observed.

ANALYSIS OF MINUTES OF DRUG COURT TEAM MEETINGS

2.27 One key objective of the formative and process 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. It was intended that the regular meetings of the Drug Court Team would provide an opportunity for discussion of operational issues related to the effectiveness of the Drug Court. The research team hoped to have access to these minutes and to have the opportunity to observe one or more team meetings.

2.28 At the initial stages of the research, researchers were informed that they would be given access to the team meetings, with the possibility that copies of the minutes would be made available for more detailed analysis. However, at the time when the members of the team were consulted over this issue in April 2002, they expressed concerns that the content of the minutes may be taken out of context and interpreted in a way that did not reflect the spirit of the discussion. A decision was taken by the Drug Court Team not to provide researchers with the minutes of these meetings, but to invite a researcher to attend the next team meeting. Unfortunately, this was to take place too late for any discussion to be incorporated into the present report.

ANALYSIS AND PRESENTATION OF FINDINGS

2.29 The quantitative data were analysed using SPSS. The interview and qualitative observation data were scrutinised for the emergence of relevant themes. Throughout this report we have drawn directly upon material from interviews to illustrate the issues being discussed. We have not, however, made use of direct quotations from the interviews with individuals in unique positions (such as the Drug Court Co-ordinator or Procurator Fiscal) since it would be possible for the reader to directly attribute comments made by these respondents to their source.

CHAPTER THREE: REFERRAL TO THE DRUG COURT

INTRODUCTION

3.1 The first stage in the Drug Court process involves the identification of accused who might be suitable for a Drug Court Order. The normal referral route involves a 'sifting' by the police of all custody cases against agreed criteria, followed by a review by the Drug Court Procurator Fiscal of cases identified by the police as potential candidates for the Drug Court. Cases considered by the procurator fiscal to be worthy of further consideration will be referred to the social work department¹⁰ and the defence agent¹¹, and a screening group will be convened each day to discuss all the cases referred by the fiscal that day. Where cases are considered by the group to be suitable for the Drug Court, this will be brought to the attention of the custody court Sheriff by the procurator fiscal in the event of a guilty plea being tendered. If the custody court Sheriff agrees with the screening group's view, the case will be continued (normally on bail) for a period of four weeks, for social enquiry and drugs assessment reports and a drugs test. The Drug Court will then hear the case, consider the reports and sentence the offender. A key feature of the referral process is its emphasis upon 'fast-tracking' offenders to treatment. 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.

3.2 Whilst it was anticipated that the majority of referrals would follow the above process, it was also envisaged that some referrals may follow alternative routes. This might occur, for example, when guilty pleas are tendered at intermediate or trial diets, after a finding of guilt following a trial or through defence agents identifying custody cases that have not been picked up by the police sift. The evaluation therefore sought to establish the relative frequency of these different routes into the Drug Court.

POLICE INVOLVEMENT IN REFERRALS TO THE DRUG COURT

3.3 The police were expected to be the main source of referrals to the Drug Court. However, as will become evident, the number of cases 'flagged up' by the police was low relative to the capacity of the Court and only around one quarter of cases flagged by the police were referred to the Court. As one police respondent observed:

"I've never had a duty officer turn round and say to me, 'This guy is suitable for the drug court', never since I started, and neither has anyone in this department."

3.4 Members of the Supervision and Treatment Team suggested that initial referrals therefore appear to rely upon the knowledge and enthusiasm of individual police officers and that inevitably, therefore, take-up appeared to be relatively patchy across the city:

¹⁰ The social worker will undertake a check to establish whether the offender has had previous contact with the social work department, particularly in connection with offending and/or drug use, and will interview the offender.

¹¹ The defence agent will interview the offender to receive instructions on the plea and explain the nature, operation and expectations of the Drug Court.

“There is a job of work to do with the community based police services... because I think they’d refer more often if they genuinely knew a client was desperate to get into drug treatment. I mean, a lot of police officers will know the ones that are genuine and the ones that aren’t.”

3.5 There was a recognition within the social work team that these arrangements made it difficult to ascertain the extent to which some potential clients might be missed by the system. However, the Drug Court Co-ordinator was reasonably confident that if cases were being missed by the police, they were being picked up by the procurator fiscal.

Roles and Responsibilities

3.6 A key issue in the effectiveness of the Drug Court referral process is how information about an offender is passed among the many different officers involved, from the incident in question to the screening group. This reflects the complexity of forms of police involvement. On the street, a reporting officer (constable) has the first contact with the offender (usually to arrest them) and prepares a report on the incident for the procurator fiscal. The Duty Officer in the station (sergeant or inspector) has responsibility for that offender’s stay in police custody and for determining their custody status (subject to confirmation in the case of sergeants). An officer in the case management section at divisional headquarters is responsible for quality control of all reports going to the procurator fiscal. At the Sheriff Court, a senior officer is assigned to the Drug Court and is the police representative at the vast majority of screening group meetings. An officer based in headquarters, responsible for drugs education and awareness across the force, was involved in the establishment of the Court, publicised it across the force and drew up operational guidelines, and monitors referrals overall.

3.7 A paper distributed from headquarters to duty officers explains the roles of duty and reporting officers and case management. According to this, the reporting officer is to include extra information in the standard report (previous convictions, pending cases, outstanding charges, defence agent, drug of choice, quantity and method). Having determined ‘custody for court’ status, the duty officer is to assist the reporting officer and ensure that the court return indicates ‘consideration for Drug Court’. This assumes that reporting and duty officers are familiar with the Court’s criteria. Case management are expected to provide quality control, and alert the procurator fiscal by phone of dispatch of a Drug Court referral.

Training and Information Provision

3.8 The Drug Court was highlighted on the front page of the force bulletin, which goes to all Strathclyde officers, in October 2001. Senior managers were given specific training, but responsibility for training of officers on the ground was passed to divisions and training sergeants. It is not clear the extent to which this happened, but none of the respondents on the ground¹² had received training. Duty officers felt that case examples would be helpful for them to make sense of the guidelines. In 2001,

¹² By this we mean reporting and duty officers.

headquarters staff circulated to all duty officers a four-page paper explaining the pilot, criteria, and procedures for police reports to the procurator fiscal¹³.

3.9 There was variable knowledge among duty and case management officers of the criteria; some appeared to have the information and others did not. Officers on the ground did not have 'easily digestible' information such as wall charts to remind them of Drug Court criteria. There was a general perception that officers on the ground knew very little about the Drug Court and did not understand its aims and procedures. This was confirmed by interviews with such officers. Some respondents also had experience of senior officers showing a lack of knowledge about the Drug Court – for example, when contacted about this research. On the other hand, the court officer felt that he had been well trained in relation to drugs and the Drug Court.

Recording and IT systems

3.10 Information passes through two information systems - the Drug Court system and the police system - both of which appeared to have difficulties. At no point in the police process are records kept of referrals made to the Drug Court (this being considered more appropriately a task for the Drug Court Co-ordinator) though there was a perception that some divisions made more referrals than others.

3.11 Headquarters officers identified the irregular flow of information from the court to the police as a problem, in that it may take months for a Drug Court Order to reach the criminal history system of the Scottish Criminal Record Office¹⁴. The procurator fiscal gives feedback to case management sections about whether referrals are accepted and the Sheriff Clerk to the Drug Court provides details of all offenders on Drug Court Orders which are distributed on a monthly basis to divisional crime management officers and duty officers. Information of this kind was viewed as important both in enhancing job satisfaction and enabling officers to know which offenders in their 'patch' had received Drug Court Orders.

3.12 In terms of the police's own system, ISCJIS, a difficulty is that it has no free text field for Drug Court information, which makes it difficult for officers to record this information. Moreover, this new system was introduced at the same time as the Drug Court, which caused disruption and may have distracted officers from the Court. To date, it operates only in some divisions.

Decision making

3.13 There was a perception among all police respondents that 'the system' was not working as intended. Although it was not verified from Court records, there was agreement that most referrals had come from case management and not from duty officers. Case management saw it as duty officers' responsibility and resented having to do work that should already have been done. It appeared to be normal for the procurator fiscal's office to phone case management in each division each morning,

¹³ Subsequent to interviews being carried out further steps had been taken to improve police awareness of the Drug Court. These included the production and display of a laminated wall chart and a flowchart outlining the target group, referral criteria and procedures and a presentation on the Drug Court by a senior officer to all shifts in each police office in Glasgow.

¹⁴ A system has subsequently been put in place to improve the flow of information.

ensuring that the highest awareness of the need to make referrals is found among case management officers.

3.14 According to duty officers, there was no shortage of drug-misusing offenders who might meet the criteria, and this was not the reason for low numbers of referrals. Among officers on the ground, however, there was a perception that reporting and duty officers were being asked to make decisions on suitability for which they are not equipped, because they were not in a position to have a dialogue with the offender. Nor did case management officers feel that they were in a position to decide on suitability, for example, to establish a link between drug use and offending. Another factor that was said to make it difficult for police officers to make referrals was the antipathy or hostility towards the police by people they arrest:

“Our role is to try and select the people who go into it, but I don’t think that’s the right place for us – to select who goes into a treatment like this because...we’re arresting them, they’re not very susceptible to any ideas that we have about their treatment.”

“These people don’t want anything to do with the police or anything to do with getting themselves sorted out. Maybe they should be approached by someone else rather than us.”

3.15 Duty officers’ *reported* main reason for not referring was their perceived inability to make the decision on suitability. They felt ill equipped to decide on suitability, therefore did not refer. This was partly because offenders were hostile to the police at the time of arrest and unlikely to discuss possible treatment with officers. There was a perception that the officer would have to discuss the possibility of referral with the offender. They felt they lacked clear guidelines. Other reasons given for not referring were related to:

a) their job: lack of time to deal with Drug Court referrals; being unable to know whether a case will go to summary procedure; having no final say in custody status (in satellite stations)

b) offenders: drug users do not want to stop taking drugs; many offenders are mentally ill, many offenders have an alcohol problem; some offenders live outside Glasgow

Only the final reason listed – that some offenders brought into Glasgow police stations live outside Glasgow - appears to be a valid one; and it applies to some Divisions more than others. Nowhere in the police guidelines does it state that a reporting or duty officer has to pass on to the Fiscal any information as to the offender’s willingness or suitability for treatment.

3.16 Duty officers showed lack of understanding of how the guidelines should work; for example, one was unsure whether he had to obtain the offender’s consent for Drug Court referral. One duty officer explained that he was reluctant to refer in case the referral would be knocked back and he would be ‘shown up’. Some duty officers expressly sought a system which sounded remarkably like the Drug Court system: that they could refer everyone who met the basic criteria as ‘provisionally’ suitable and let the court decide who was suitable for an Order.

3.17 Although headquarters staff and case managers believed that duty officers might be reluctant to refer because they saw the court as a 'soft option', this was not the view expressed by such officers. Duty officers supported the idea of the court as a way of reducing offending. All officers, however, could see how the Drug Court would be attractive to offenders as a way of gaining bail. Some duty officers expressed the wish to see a system in place that sounded remarkably similar to the Drug Court: a system to stop the custodial 'revolving door', in which the offender's pattern of offending and lifestyle could be taken into account rather than each offence in isolation.

THE ROLE OF PROCURATORS FISCAL IN THE REFERRAL PROCESS

3.18 The next stage in the Drug Court referral process involves the marking of custody cases referred by the police to the procurators fiscal. All cases which have been identified through the initial police sift are passed to the Drug Court Procurator Fiscal who scrutinises them to determine whether they appear to meet the criteria for the Drug Court. At this stage there is usually limited information in the police reports about the accused person's drug use. The accused person's previous convictions are therefore examined to determine whether there is a pattern of prior offending that might indicate an underlying drug problem.

3.19 Potential referrals to the Drug Court can also be identified by the team of Procurators Fiscal involved in marking custody cases. Marking deputies can refer across cases which appear to meet the criteria to the Drug Court Procurator Fiscal who will then either return the case for marking in the normal fashion or refer the accused to a screening group.

3.20 When cases are identified as suitable for referral to a screening group, the Drug Court Procurator Fiscal convenes a screening group on the same day and notifies the defence agent and the Drug Court Supervision and Treatment Team. The defence agent typically arranges to visit the accused to discuss the case and the possibility of referral to the Drug Court. A social worker from the Supervision and Treatment Team concurrently checks existing records for information about previous social work involvement with the accused and previous contact with drug treatment services.

THE ROLE OF THE SUPERVISION AND TREATMENT TEAM IN THE REFERRAL PROCESS

3.21 The process by which potential clients are assessed and presented to the Screening Group is largely undertaken, within the Supervision and Treatment Team, by the social work staff. Although the timescale is extremely tight, background information in respect of previous presentations to social work services in the City is generally available through the Care First database. As one team member explained:

“Any client that comes into contact with an area team social work service is given a Care First number and is allocated a case file on the system. So we can access that and that's invaluable because that shows us whether

the persons on probation, whether they've breached their probation order, whether they've had community service. That information in itself can make or break for (the) screening group because obviously it can determine their suitability for referral."

3.22 However, the Care First database relates only to presentations to social work services. Information relating to other services – including health services – are sought separately:

"What we do is, we try - and we almost certainly always get - the last social enquiry report referring to the client... We'd be on the phone to health services prior to the screening group, we wouldn't necessarily be in a position to phone the GP... because we don't have the time."

3.23 Background information is supplemented by a face-to-face interview with the client, generally in the cells. Again, the time available is limited and it is rarely possible for staff to undertake a detailed assessment of need. Most staff, however, felt that the process, though restricted, was adequate:

"We normally... have to turn it around in an hour or two... between the point the referral is made and the actual screening group. But I think that's an invaluable two hours or so. I think you can get a lot out of a person, even in a ten, fifteen minute interview."

SCREENING GROUP MEETINGS

3.24 Screening group meetings – described by one respondent as *"our secondary gate-keeping system after the fiscal's screen, to make sure that only appropriate cases get through"* - included the procurator fiscal, who chaired the meeting, a police Chief Inspector (the deputy officer in charge of the courts branch), social worker and defence agent. Occasionally, an addiction worker was also present. Meetings generally lasted around 20 minutes, although they did occasionally extend to 40 minutes. They usually dealt with one case. Observation of three screening group meetings by one of the researchers suggested that the atmosphere is informal and constructive.

3.25 The normal format was for the social worker to report on the accused person's drug history and present use, and history of offending. The defence agent may or may not contribute depending on their level of knowledge of the accused, which could be very variable. The police officer stated concerns about the accused person's suitability. The procurator fiscal stated any concerns, facilitated a general discussion of the case, and then reached a conclusion. The meetings were also an opportunity for the defence agent and fiscal to negotiate over pleas and outstanding charges.

3.26 Each professional tended to highlight certain aspects of the case or issues relating to the accused. Typically, social workers and defence agents highlighted circumstances such as a stable home life, previous drug free periods, and underlying causes of drug abuse that could be tackled by intervention (e.g. childhood abuse). The procurator fiscal's and police officer's concerns generally related to previous convictions involving violence (which often suggested unsuitability), road traffic

offences, or drug dealing. The police officer generally expressed concerns over the level of maturity or commitment to change on the part of the accused. There tended to be a debate between social work and the police over the accused person's suitability. The procurator fiscal appeared usually to support the social work view, provided there was a commitment to provide adequate support, due to the social worker's greater knowledge of the accused.

3.27 The court officer perceived the screening group meetings as a unique opportunity for the police to have their views heard by Procurators Fiscal and the court. However this was a new role and one that was taking time to negotiate; for example, the police officer could 'express concern' but could not 'disagree' with others on the group. In the screening group, the police officer received his information on the accused from the procurator fiscal. The police officer generally had little knowledge of the accused person's background and personal circumstances, nor of the incident. The police officer may be asked for more information by the procurator fiscal but may have difficulty obtaining this from Divisional Intelligence. S/he has no contact with the reporting officer. It was suggested by headquarters staff that lower ranking (reporting or duty) officers should attend the screening group, because they are more likely to communicate directly with (or to be) reporting officers and hence to have knowledge of the offender's background and circumstances. However, the shift system operated by the police appeared to make such an arrangement impractical. That said, more recent screening group meetings had been attended by a lower ranking police officer who was able to provide a greater input into the group.

3.28 Professionals involved with the Drug Court felt that the Screening Group was effective in filtering out inappropriate referrals, and there was a broad agreement that the Screening Group was a vital element in the assessment system:

“Actually, we can have quite detailed and in-depth discussions about the persons background, the persons personal circumstances. And the interesting thing is, this is from social work, the Crown, the PF, (the) police are present and so is the person's legal representative, so it's actually quite a balanced discussion.”

“I feel that they are very effective. So far, if I can remember correctly, of all the referrals I have received personally, only in one case did I feel that he was not suitable for the treatment we provide”.

3.29 One team manager noted that attendance was crucial to the successful operation of the system:

*“Non attendance (or) delays are very unfortunate... the person has been arrested the day before, held over on custody overnight. The PF's got to invite the social work, the police and get the lawyer to attend. I think it's very important that everybody **does** attend because there could be information that's not disclosed”.*

PERSPECTIVES ON THE DRUG COURT REFERRAL CRITERIA

Police perspectives

3.30 Officers who had made referrals believed that the most common reason for a procurator fiscal to refuse a referral was because the offender had charges on indictment. One officer's sole referral had been refused because the main drug used was cocaine, a criterion the officer reported not having been aware of. One community officer felt that he was restricted in not being able to refer if the *most recent* offence was not acquisitive, even if the offender would otherwise be suitable and had a history of acquisitive crime. These observations by the police indicate their lack of familiarity with the Drug Court Criteria.

3.31 Case managers varied in the number of referrals they made, but those who referred more appeared to adopt an approach of 'if in doubt, refer' to fit the criteria. In relation to age, drug type and number of convictions, case managers were already being flexible with the guidelines. The main reason for not referring given by case managers was pressure of work.

3.32 All police officers said they viewed women no differently from men as regards suitability, but recognised that more women went through the district court route. Suggestions made by referring officers were that the following groups of offenders should be included as potential candidates: shoplifters dealt with in the district court (particularly as outside Glasgow they would find themselves in the Sheriff Court – this was the one suggestion supported by the court officer); offenders with problematic cannabis use; offenders under 21 years of age; and offenders with less than the 'recommended' 16 convictions. Generally speaking, officers on the ground did not appreciate the distinction between drug use towards which treatment programmes were geared and that which was not. They also believe that intervention should be aimed at offenders *before* they become 'hardened' criminals (i.e. as a pre-prosecution rather than post-prosecution intervention).

3.33 At the screening group stage, the court officer operated with a second informal set of criteria, which include the offender's employment situation, likely level of commitment to treatment, home situation and family support. S/he would be concerned if an offender had an unstable lifestyle, and/or a history of non-acquisitive crime. These criteria were applied to 'filter out' offenders who are more likely to fail, in order to maximise the court's success rate. Contrary to the view of other police respondents, the court officer believed older offenders (over 30) were more suitable, because they had a better chance of success.

Supervision and Treatment Team

3.34 Staff in both the health and social work sections of the Supervision and Treatment Team voiced their concerns that women offenders – whose offences would predominantly be dealt with through the District Courts - might not be picked up as appropriate referrals:

“Well I think again at the moment, we're missing a lot of women through the district court... I suppose that's something that hopefully they would

resolve in the pilot. A number are prostituting to support their habit ... and women tend to go to prison for non-payment of fines so it's not identified as to what the fine is imposed for in the first place."

"The pilot for the drug court is only (for) people coming through the Sheriff's court and any women offenders who come through the district court (because of things like prostitution and you know, different things like that), are not being able to access and have the treatment, which is very unfortunate. A lot of women out there (are) at risk, whether that's something that will change after the pilot, I don't know."

Shrieval perspectives

3.35 Sheriffs who sat in the Sheriff Court had mixed views about the whether or not it was appropriate for offenders under 21 years of age to be dealt with by the Drug Court. On one hand, there was the view that age brought maturity that in turn would contribute to motivation to complete an Order successfully:

"Quite frankly the experience seems to have shown that at the age of twenty-one these can be the Orders which don't have a high success rate. It tends to be that when people are rather maturer they tend to possibly realise do I really want to do this with my life and do I really want to break the cycle of offending realising A they're got a problem and B this isn't a big joke spending time in prison and they're not in fact doing what they want to do, they spend their lives doing and so they've got to take a grip. But often they don't have that realisation until they're a bit older so I think as I understand it experience has shown that that's the case."

3.36 On the other hand, there was the view that, to pragmatically increase the number of Orders made, a wider pool of offenders needed to be drawn upon eventually. Such a widening of the net for the Drug Court could involve lowering the age of clients:

"Well I think it's very appropriate, at least for the pilot project but hopefully it would be extended .. I'm not convinced that we should have restricted it to twenty-one and above, I rather think eighteen or above, arguably even sixteen, but certainly eighteen or above would have been appropriate."

3.37 There was also the view among the Sheriffs that widening access of the Drug Court, after the pilot stage, could also include the consideration of lower tariff offenders:

"Offenders who haven't quite got to the stage of the ones who are actually being referred to the Drug Court because any that I've seen being referred when I've been in custody duty have been sort of five and six pages of previous convictions, it would be helpful to get them - if it's successful I think it would be preferable to get them before they reach that stage."

3.38 Drug Court Sheriffs described the Drug Court criteria as realistic and appropriate, and believed that the referral process had been effective in identifying suitable offenders for a Drug Court Order. They believed that the target group of offenders for the Drug Court was appropriate for both logistical and therapeutic reasons. On the logistical side it was essential that a mechanism was in place to limit the number of cases referred to the Drug Court. On the therapeutic side, the Sheriffs observed that offenders under 21 years of age were unlikely to have reached the stage where they would be sufficiently motivated to come off drugs, nor were they likely to have the maturity to cope with the Drug Court regime. As one Sheriff explained:

“...Sadly, the experience of not just this jurisdiction but other jurisdictions is that people will not be motivated until they have hit rock bottom, absolutely rock bottom... The kind of people who are coming off drugs are over 21, sometimes a little bit older than that, who have simply reached the stage where they just can't face it any more.”

3.39 Sheriffs recognised that the proportion of women on Orders was relatively low. They attributed this to the fact that women who used drugs were often involved in offences such as prostitution, which were dealt with by the district court.

3.40 The Drug Court Sheriffs were agreed that the referral process had proved effective in screening out offenders with a dual diagnosis of mental health problems and drug misuse since no-one with mental health problems had appeared before the Drug Court. They acknowledged, however, that mental health problems that had been hidden might emerge among some Drug Court clients as treatment progressed.

PATTERN OF REFERRALS TO THE DRUG COURT

3.41 Information was obtained from the monitoring data gathered by the Drug Court Procurator Fiscal about the number of cases referred to the Drug Court since its introduction (in the week beginning 15 October 2001) until the week beginning 6 May 2002, their referral routes and their outcomes. During this period a total of 3,272 offenders were detained in police custody. One hundred and one accused were ‘flagged up’ in the police report to the procurator fiscal as being potentially suitable for the Drug Court, 28 of whom (28%) were referred to a screening group. Twenty-four accused were identified as possibly suitable for the Drug Court by their defence agent and eleven of this group (46%) were referred to a screening group. Twenty-six other accused were referred to a screening group by the procurator fiscal, having been identified during the marking of custody cases, ten had been referred by a Sheriff and two had been referred by another (unrecorded) source. In total, therefore, 77 cases were referred to a screening group during the relevant period. Of these, 36 per cent were identified by the police, 34 per cent by the marking depute, 14 per cent by a defence agent, 13 per cent by a Sheriff and three per cent by another source.

3.42 Sixteen cases referred to the screening group (21%) were considered unsuitable for the Drug Court: the majority of cases, therefore (61 accused or 79%), were considered suitable and were brought to the attention of the custody court as potentially suitable for the Drug Court. The reasons for accused being considered unsuitable for the Drug Court are summarised in Table 3.1. These data suggest that the criteria for

inclusion in the Drug Court - i.e. accused with an established pattern of drug-related offending and without mental health problems appearing before the custody court - were being applied. It is also worth noting that accused were not always considered unsuitable for 'negative reasons'. For example, in two cases the link between the person's offending and drug was not established while in three cases accused who were considered potentially suitable for the Drug Court were found already to be receiving appropriate support.

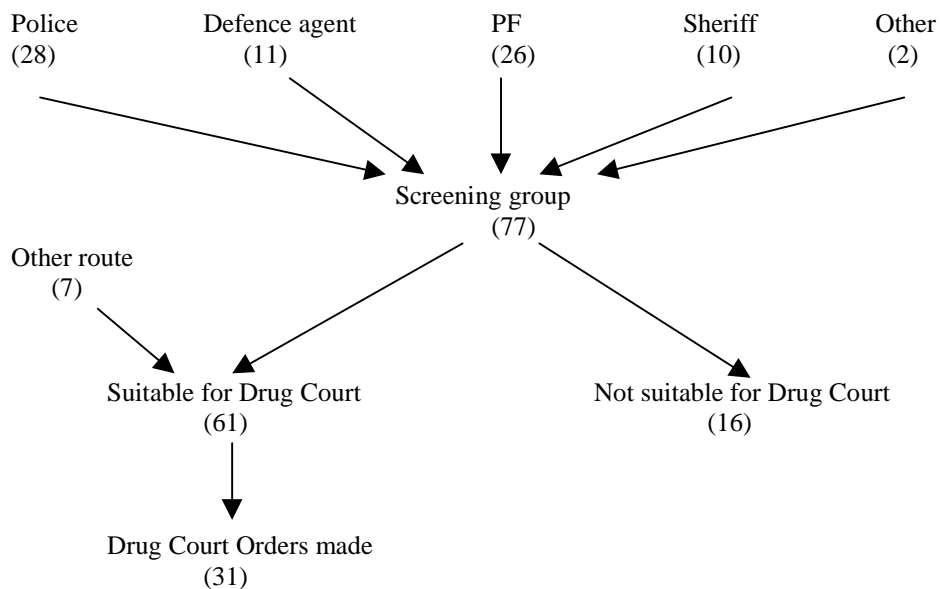
Table 3.1: Reasons for accused being considered unsuitable for the Drug Court

| Reason for unsuitability | Number of cases (n=16) ¹⁵ |
|---|--------------------------------------|
| Not suitable after assessment | 3 |
| Already receiving support | 3 |
| Insufficient link between drugs and offending | 2 |
| History of mental illness | 2 |
| No new offence (detained on warrant) | 1 |
| Didn't start as a custody court case | 1 |
| Alcohol addiction | 1 |
| Continued to the Drug Court by another Sheriff | 1 |
| No address | 1 |
| Not pleading guilty | 1 |
| Received a custodial sentence at the District Court | 1 |

REFERRALS FOR A DRUG COURT ASSESSMENT

3.43 Monitoring data collected by the Drug Court Co-ordinator showed that by the middle of May 2002, 68 cases had been referred for a Drug Court assessment, 61 via a screening group and seven by an alternative (unspecified) route. Seven of those referred were women and 61 were men. The route of cases to the Drug Court is shown in Figure 3.1:

Figure 3.1: The route of cases to the Drug Court



¹⁵ Two reasons were given in one case which explains why the column total is 17.

3.44 In the event of a case being referred for an assessment, sentence is deferred (normally for four weeks) 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. During the period of deferment a Social Enquiry Report and Drugs Assessment Report are prepared and a drug test is administered.

3.45 A key feature of the referral process is its emphasis upon 'fast-tracking' offenders to treatment. 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. The monitoring data collected by the Drug Court Supervision and Treatment Team provided a limited indication of the extent to which deadlines for the processing of referrals were being met.

3.46 Between 11 October 2001 and 22 March 2002, 36 completed assessment reports were submitted to the Drug Court (i.e. where a report was available in full). Of these reports, 30 (83%) resulted in a Drug Court Order being made. Of the 36 reports 16 were completed in time for the first calling (generally four weeks after the referral date), nine were submitted late and data was not logged for eleven reports. For those nine reports that were submitted late, the length of reported delay ranged from one week to 12 weeks, with an average of six weeks' delay. Furthermore, review dates were revised in nine cases (25%) and while the assessment reports were available on the revised dates, no information is available as to the reasons for these revisions.

3.47 The Drug Court Sheriffs indicated that all of the required reports were usually made available for a person's first calling to the Drug Court. Staff shortages in the Supervision and Treatment Team through illness had resulted in reports sometimes not being available and the case being continued, though this problem had been addressed through the appointment of additional social workers to the team. The Sheriffs also noted that reports were sometimes not available because offenders had failed to attend appointments or had been remanded in custody for other charges. Where reports were not available, therefore, the Sheriffs were content that this was for reasons that were outwith anyone's control.

3.48 Of the 52 referrals in respect of whom information was available from the Supervision and Treatment Team, 16 assessments had not reached a satisfactory completion at the date of first calling. One offender had started a custodial sentence for a historical offence, five were in custody, warrants for arrest had been issued for eight offenders and two had failed to attend any appointments with the Supervision and Treatment Team.

3.49 Some members of the Supervision and Treatment Team members were concerned by a reported failure of many clients to present as instructed for their first assessment appointment:

"A major issue is the number of referrals who don't attend the first appointment. This is a major waste of resources. There are doctors and nurses waiting here to see them and their time is wasted when people don't turn up. My figures show that from the 16th March we had 14 new referrals from the Drug Court, out of which only 7 attended for their first appointment. Over the same period we had 23 referrals from other

courts, from which only 12 attended. That is an approximate 50 per cent rate of non-attendance... That is a considerable waste of time and needs to be tackled.”

3.49 In part, this difficulty may arise out of the client’s capacity to take in and understand the instructions s/he is given at the initial court appearance where s/he may often be either in an intoxicated state or in the early stages of physical withdrawal:

“A lot of clients will turn up in court either under the influence or you know they’re carrying a package and presuming that they may be sent down rather than be released.”

3.50 One social work assistant had adopted a very pragmatic way of resolving this difficulty. When possible, he simply attended the initial hearing and then escorted the new client to the Team offices immediately afterwards. It was not clear to what extent this informal arrangement could be generalised across the Team:

“If they’re bailed for assessment to make direct contact with them and if possible get them straight up here to initiate their first interviews. But that’s only if I’m in court.”

3.51 Members of the Supervision and Treatment Team members expressed quite mixed views and opinions regarding the capacity of the Team to respond to urgent need by turning assessments around more quickly. Some felt that a period of reflection provided a useful test of motivation whilst others argued that treatment should begin as quickly as possible:

“There is not enough team work, there is not enough immediate access to treatment. There is no immediate access to the type of treatment that the clients need to stabilise their drug use.”

3.52 One Team manager indicated a willingness to reduce the time spent by clients on assessment:

“I do think that there is scope to close down the four week assessment seriously. You actually limit the amount of time that someone’s waiting for treatment. If there is scope to do that then I would, during the course of the pilot, obviously want to try and effect that”

3.53 The Drug Court Sheriffs expressed concern at the length of the assessment period since the experience of other jurisdictions had shown that it was important for offenders to be assessed and given access to treatment as quickly as possible. While offenders were being assessed for the Drug Court they were not receiving treatment and it was therefore highly likely that they would continue to offend. As one Sheriff explained, with reference to someone upon whom sentence had been deferred for assessment:

“... two weeks later he was up in front of me in the Drug Court having been arrested for stealing a pair of trousers. I explained to him that he was not making it easy for me because I was letting him out on bail and he

was offending again... And he asked me if he could say something and I obviously said yes, and he said "What do you think I do? I'm an addict - of course I go out and steal! You say I need help. I think I need help! You say we'll assess you, we'll take four weeks to assess you and then we'll give you help. What do you think I'm going to do in the meantime? If I could stop it I would. If I could stop it I wouldn't be here. If I could stop it I wouldn't need any help. In the meantime I've got an £80 a day habit. What do you think I do?"

3.54 Whilst the Sheriffs would welcome as short an assessment period as possible they were also aware that a thorough assessment would take some time to complete and that it would be unrealistic to expect that one could be undertaken in less than two weeks. They also suggested that extra resources would need to be made available to the Drug Court Supervision and Treatment Team if the assessment period was to be reduced since the Team was already perceived as working to full capacity.

SUMMARY

3.55 When the Drug Court was established it was envisaged that the main referral route would be through the 'flagging up' of custody cases by the police. In practice, however, just over one-third of the cases referred to a screening group were identified in this way. Initial referrals appeared to rely upon the knowledge and enthusiasm of individual police officers and were, therefore, variable across the city. It also appeared that police officers were not fully conversant with the Drug Court referral criteria.

3.56 Cases considered potentially suitable for the Drug Court by the Drug Court Procurator Fiscal were referred to a screening group attended by the Fiscal, the defence agent, a social worker, a police officer and, on occasion, an addiction worker. The screening group was viewed as an effective mechanism for filtering out inappropriate referrals.

3.57 The Drug Court referral criteria were thought by most of those associated with the Drug Court as realistic and appropriate, especially since offenders under 21 years of age were unlikely to be sufficiently motivated or mature to cope with the Drug Court regime. Some concern was expressed that women were not being referred in sufficient numbers because their offences were often dealt with by the district court.

3.58 By early May 2002, 77 cases had been referred to a screening group, 61 of whom were considered potentially suitable for the Drug Court. It appeared that the criteria were being appropriately applied in the filtering out of inappropriate cases at this stage. Sixty-eight cases in total had been referred for a Drug Court assessment: 61 via a screening group and seven through an alternative route.

3.59 Whilst assessment reports were usually available at the first calling of the case in the Drug Court, this sometimes did not happen as a result of staff shortages, or the failure of the individual to attend the assessment appointments. There was a general desire among those involved in the Drug Court to reduce the four-week assessment period, though this was not considered to be feasible within existing resources.

CHAPTER FOUR: SENTENCING AND TREATMENT

INTRODUCTION

4.1 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 Drug Treatment and Testing Orders) continue to be available to the Sheriff Court. The treatment options that the Drug Court have available to it include abstinence, methadone maintenance and methadone reduction. All Orders made by the Drug Court are subject to drug testing and regular (at least monthly) review in accordance with the relevant legislation. 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. This chapter will examine factors that influence offenders to agree to the conditions of a Drug Court Order, and the practicalities of sentencing practice. It will consider the implementation of treatment options and respondents views on the efficacy of treatment and testing procedures.

4.2 Following a referral to the Drug Court, offenders will be fully assessed before being sentenced. As discussed in Chapter Three, they must be assessed as suitable for a Drug Court Order and must agree to co-operate with the requirements of the Order. The Drug Court can impose Drug Treatment and Testing Orders (DTTOs), Probation Orders with a Condition of Drug Treatment, concurrent DTTOs and Conditional Probation Orders, and deferred sentences¹⁶ as specifically targeted treatment and supervision Orders. Information from the Drug Court Co-ordinator's monitoring database showed that by early May 2002, Drug Court Sheriffs had imposed 31 Drug Court Orders (Table 4.1). In 21 cases a non-Drug Court disposal was made, in one case the person was admonished and six further assessments were ongoing.

Table 4.1: Drug Court Orders in first six months of operation

| | Number of Orders |
|--|-------------------------|
| Probation Order - less than 18 months | 0 |
| Probation Order - 18-24 months | 9 |
| DTTO - less than 18 months | 5 |
| DTTO - 18 -24 months | 12 |
| Probation Order and DTTO less than 18 months | 0 |
| Probation Order and DTTO 18-24 months | 5 |
| Total | 31 |

4.3 Information held by the Supervision and Treatment Team showed that 26 of the 36 referrals and assessments that reached a first calling of the case (72%) had an outcome that matched the recommendation. The correspondence rates for men and women whose case had reached a first calling in the Drug Court were 73 per cent and

¹⁶ Deferred sentences were not intended to provide a vehicle for requiring the offender to access treatment, but were considered to be useful in the event of new or outstanding charges being brought before the court.

67 per cent respectively¹⁷. There were no apparent differences in terms of gender, age, number of previous court appearances or number of previous adult custodial sentences between those whose outcome matched the social work recommendation and those whose outcome did not. However, the number of previous adult custodial sentences among those offenders for whom a full assessment was not completed was significantly higher than among those who had completed the assessment (an average of 13 compared to six¹⁸).

4.4 Individuals who received a Drug Court Order did not differ significantly from those individuals who were referred to the Drug Court but received an alternative disposal. For both groups, the average age was 27 and the majority of individuals were male (83 per cent of those on a Drug Court Order and 91 per cent of those referrals who did not receive a Drug Court disposal). There were no significant differences in terms of marital status. Both groups had extensive histories of previous court appearances. Those who received a Drug Court Order had appeared in court between four and 47 times, prior to the offence for which they received a Drug Court Order, with an average of 24 previous court appearances. Information was not available for all individuals who received an alternative disposal¹⁹; however, where this information was available, the average number of previous court appearances was 25. Similarly, those who received a Drug Court Order had served an average of seven adult custodial sentences (not including remands) prior to receiving a Drug Court Order compared to an average of nine custodial sentences of those who received an alternative disposal (where information was available). The average number of previous non-custodial sentences averaged five for those who received a Drug Court Order, compared to four for those who received an alternative disposal (where information was available).

EXPECTATIONS OF A DRUG COURT ORDER

4.5 Drug Court Orders require a sustained level of commitment from the clients, thus the clients require a significant amount of information before they can give their informed consent to the requirements of an Order. While offenders were referred to the Drug Court through various agencies - procurators fiscal, Sheriffs, police officers, solicitors - it was a social worker from the Drug Supervision and Treatment Team who conducted the assessment and passed on the necessary information. All of the respondents were of the view that they had been fully informed about the Orders:

“You’ve got to go for so many appointments, I think you have two nurses appointments, a doctor’s appointment, social work appointment and addiction appointment. It’s so you’ve got them over so many weeks and you get a lot of information. They ask you what you need, do you need counselling, what are you looking for, are you trying to get yourself back into work or whatever. And so they’re actually asking you what it is you need, apart from treatment, what do you need to help yourself to get back into a normal, you know, way of life.”

¹⁷ This latter figure was, however, based on only six cases.

¹⁸ $P < 0.05$.

¹⁹ This information was not available in 32 per cent of cases.

4.6 Drug Court clients received information verbally in the first instance (although written information was provided once they were placed on an Order) and believed that the assessment process itself gave them a very clear understanding of the requirements and opportunities afforded by Drug Court Orders. They were also informed of the sanctions that could be imposed following any non-compliance:

“So if you’re not going to do your utmost to try and help yourself then at the end of the day they’re going to hammer you for the original charges that you were up for and for breaking the DTTO and your probation or whatever, and the Drug Courts’ time.”

4.7 Whilst Drug Court Sheriffs would welcome as short an assessment period as possible they were also aware that a thorough assessment would take some time to complete and that it would be unrealistic to expect that one could be undertaken in less than two weeks. They also suggested that extra resources would need to be made available to the Drug Court Supervision and Treatment Team if the assessment period was to be reduced since the team was already working to full capacity.

AGREEING TO A DRUG COURT ORDER

4.8 Following a referral to the Drug Court, individuals will be fully assessed for their suitability and ability to co-operate with the requirements of a Drug Court Order. Subsequently, it is important that they are aware of the basis for Drug Court Orders. Drug Court clients had clear views of the purpose and objectives underpinning the Drug Court. When asked what they believed the purpose of a Drug Court Order to be, the majority of respondents stated that they believed that the primary purpose of the Drug Court was to save the taxpayer and government money:

“It’s trying to stop people from stealing, breaking into people’s houses, shoplifting, robbery. It’s definitely saving a lot of money.”

“They say it’s to get you off drugs, but really it’s just to cut down on crime for the taxpayer kind of thing, isn’t it really?”

4.9 Respondents noted that vast amounts of money are spent dealing with drug-related crime, with imprisonment being both ineffective and expensive in dealing with drug-related problems. Two respondents commented that they had actually started to use drugs while in prison, a habit which they maintained on release. In the long term, the respondents generally thought that Drug Court Orders would be cheaper than custody, while at the same time, providing them with an opportunity to end their drug use and offending:

“(…) if they’re on the Drug Court they are getting help so its helping the actual drug users, the people on the street and it’s obviously helping the Scottish Prison system as well.”

4.10 Before an individual is placed on a Drug Court Order, it is important that they agree to the requirements and conditions that the Order will place upon them. Drug court clients were asked to outline their reasons for agreeing to the conditions of a

Drug Court Order. All of the eight drug court clients who were interviewed had served previous custodial sentences, with most having experienced frequent periods in custody. All of the respondents believed that they were facing a custodial sentence at the point of referral to the Drug Court, with some estimating that they were potentially facing custodial sentences of between 2-3 years. The main reason given for agreeing to the conditions of a Drug Court Order was a desire to avoid custody, but all respondents noted that they wished to receive some help with their drug use:

“It was a lot to do with my liberty at the time, but it was to do with getting off drugs.”

“I accepted it to get my liberty to tell you the truth.”

“I think with most people that start it, it’s just my general opinion, when they start it they just want to get out that door...and then obviously once they are getting themselves sorted out well it’s up to them at the end of the day if they’re going to grab it with both hands and help themselves or they they’re just going to use it to see how long they can stay out of jail for...”

4.11 Most of the respondents noted that compliance with the Order required a motivation that went beyond a simple desire to avoid imprisonment and that this commitment was necessary in order to meet the conditions imposed as part of the treatment and testing Order:

“...you need to be wanting to come off it you know, there’s no use kind of kidding yourself on.”

“I was already trying to get off drugs just before that...”

4.12 To be placed on a Drug Court Order requires an admission of guilt. The majority of respondents stated that they had intended to plead guilty to the charges they faced, however two respondents noted that they would have pled not guilty if they had not been offered the opportunity to be referred to the Drug Court. They were clear that a not-guilty plea would have been tendered, not because they were innocent of the offences with which they were charged, but due to their hope that this would enable them to be released on bail:

“I’ve never, ever pled guilty. I’d lie and I would tell them black was white and I’d take my chances in a trial...”

4.13 Several of the respondents noted that if they had not intended to plead guilty, they would have done so on hearing about the Drug Court:

“It was my drug treatment and testing worker who actually interviewed me to see if I could meet the criteria, ‘cos he told me there was a lot of things I’d have to do...But he could have told me I’d have to jump in the Clyde, and I’d have jumped in the Clyde so I could get out of that door you know.”

“I was pleading guilty anyway....but if I was going to plead not-guilty I would have pled guilty just to get through the court, to get me into the Drug Court to help me, because it’s done great.”

4.14 The Drug Court Sheriffs and others directly involved in the operation of the Drug Court were very much aware that the possibility of being referred to the Drug Court – and hence avoiding a custodial sentence - encouraged accused to tender guilty pleas at the custody court. As one Sheriff observed:

“I have no doubt about it. If an offender thinks he’s not getting the jail then he will take that option, I’m quite convinced of it.”

Others echoed a similar view:

“I’m not so sure if they’re keen at that early stage for the sake of getting off drugs or keen because they’re going to get out of jail. I suspect it’s more of the latter at that stage but I just hope the enthusiasm changes to the earlier as they go through the course.”

However, this respondent also suggested that the identity of the Sheriff sitting in the custody court might have a similar effect upon guilty pleas. If an accused was appearing before a Sheriff with a reputation for imposing less severe sentences, s/he might be inclined to plead guilty in the hope of attracting a more lenient sentence.

4.15 However, the Sheriffs recognised that some offenders appearing before the Drug Court were motivated from the outset to change their lifestyle, while for others, their motivation was perceived to change over time as they began to feel and look better:

“I think people just want to get some sort of life back together again and I think they see the Drug Court as perhaps a last chance of doing just that – getting a bit of self-respect and becoming to some extent a member of the community instead of complete outcasts.”

SENTENCING

4.16 The Drug Court was thought by Drug Court Sheriffs to differ from the Sheriff Court in a number of respects at the sentencing stage. First, the starting point for the Drug Court was the understanding that an objective was to keep offenders out of prison in order that they might receive help with their drug problems. Second, Drug Court clients were thought to regard the Drug Court as less punitive and more constructive than a traditional court and therefore to respond more positively to the help on offer. Third, the 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 the client’s motivation than would be possible if they ‘hid behind’ their defence agent. The Drug Court Co-ordinator also suggested that the sentencing process was longer in the Drug Court than in the Sheriff Court because more time was spent telling the offender what the Order would entail (including informing them about the research, the sharing of information between different agencies and the monthly reviews etc.).

4.17 The Drug Court Sheriffs believed that the sentencing decisions were better informed than in the Sheriff Court because the assessment reports were more comprehensive and focused than were Social Enquiry Reports prepared for the Sheriff Court. They were also content with the range of disposals available to them at the sentencing stage, which mirrored those available to sentencers in the Sheriff Court. The nature of the sentence to be imposed would be informed by the assessment report prepared by the Supervision and Treatment Team and would reflect the circumstances of the Drug Court client. For example, a probation order would be more appropriate when a client had a wider range of problems than could be addressed by a DTTO, where the social worker had a more limited role. The Drug Court Sheriffs indicated that they were happy to take advice on the length of a Drug Court Order since social workers were best placed to assess the duration of treatment required. Increasingly, however, the Sheriffs themselves were, through experience, better able to gauge for themselves what length of Order would be appropriate in individual cases.

4.18 Sheriffs also noted that they were afforded some flexibility through the ability to impose deferred sentences on one or more charges when an accused was sentenced for several offences (which was often the case). This provided an opportunity to impose a sanction in the event of further offending or, conversely, a reward if the Drug Court client was making good progress (for instance, by way of an admonition for the offence in which a deferred sentence was imposed).

4.19 The national roll out of Restriction of Liberty Orders (RLOs) will provide the Drug Court with an additional disposal. However, the Drug Court Sheriffs had reservations about how useful these Orders would be for offenders in receipt of drug treatment. The principle concerns centred on the fact that RLOs, by confining Drug Court clients to their home, would create an artificial environment, which runs counter to the philosophy of treatment. They might also increase the likelihood of Drug Court clients resorting to drug use through boredom and would increase their accessibility to those who might wish to give or sell them drugs. Sheriffs believed that RLOs might more usefully be employed to exclude offenders from particular premises or areas, or as a sanction in the event of an offender failing to comply with a Drug Court Order.

SUPERVISION AND TREATMENT

4.20 Respondents had varied experiences of supervision and treatment prior to being placed on a Drug Court Order and had exhibited differing levels of compliance. Six of the respondents had tried to obtain help for their drug use prior to being assessed for a Drug Court Order. This included accessing methadone programmes in prison and the community, and residential rehabilitation. These methods had been unsuccessful for a variety of reasons including dissatisfaction with the treatment received, and continued drug use:

“My doctor wasn’t giving me anything right enough to help, he wasn’t willing to give me any more than 20 mils of methadone and that’s of no use to you, it wasn’t doing any good to me...”

“When you get the jail, you are never out of the jail and once you come out again you are just not the same. You cannot look at people in the face...because you are paranoid when you are just out of jail so that’s how you end up on the drugs. And I wanted somebody to help me, the doctor was giving me methadone, but all he was doing was saying ‘are you taking drugs? No. ‘Right here’s your script, bye’. ...I tried to talk to him a lot of times about my drug problem...and he used to say ‘just say no’ or something like that.”

“When I came out of the rehab I was straight back onto drugs, I stayed off them for like three days or something like that and then as soon as I came out I used.”

“Oh there was nothing I could do about it, I just tried everything. I’d been to psychologists, psychiatrists, nurses, doctors, social workers, probation officers, everything. I’d been through the whole cards...”

4.21 Several 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:

“It gets to the stage where you’ve just done so much wrong to your family that your family can’t take you any more.”

“My ma locked me, well not locked me, but put me in the spare room and got me off it, but when I went back to my own house I was back on it again.”

“To be honest, the only way I have been trying to get off is through my family. My family keeping me in the house and helping me ... but through the courts and social work team this is the first time I’ve actually really got help.”

Treatment provided

4.22 The treatment options that the Drug Court has available to it include abstinence, methadone maintenance and methadone reduction. Individual counselling is provided by the Treatment and Testing Team, while Drug Court clients may be referred to external service providers to access services which may include group work and day programmes.

4.23 In practice, substitute prescribing provided the core element of the treatment service provided. This was true even where clients opted to attend the day programme offered by the abstinence-oriented Phoenix House, since programme attenders were accepted on methadone prescriptions (provided that the level of medication did not exceed a daily dosage level of 50 mls).

4.24 The protocol for the prescribing of methadone by the health service members of the team was clearly outlined by one of the medical officers:

“We will start on a certain dose, say at 20 mls, 30 mls or whatever, depending on his situation. Then it will be gradually increased every week by 10 mls or so. Then a time will come when he has reached a saturation, in the sense that he is not feeling a strong craving and he has started also to show urine samples negative for testing. We would call that the stage of stabilisation. We would keep him stable as long as he feels he needs to be on that. With time and psychological treatment and counselling what will happen is that the time will come when he will feel confident enough to make changes and gradually come off Methadone. We don’t stop Methadone overnight because of all sorts of problems. My own practice is to reduce Methadone by 2mls per week. I must emphasise that when we increase, we are increasing by 10mls per week reducing 2 mls per week so that’s before they even feel the difference, so to speak”.

4.25 However, this approach had caused some consternation within the social work and counselling sections of the Supervision and Treatment Team. Some felt that the regime lacked flexibility and claimed that the resulting changes in dosage were, on occasion, implemented against the expressed wishes of the client:

“There’s been some issues as far as clients requesting their methadone to be reduced... and the medical staff won’t reduce it.”

“Even the Sheriffs are starting to question the fact that they’re on the same dosage and it’s not being reduced.”

4.26 A number of Team members complained that these decisions about dosage appear to take little note of their professional opinions:

“It means that if the client is not happy with the level of methadone script that he’s at and the worker is not happy with the level of methadone script that he’s at, the doctor makes the final decisions.”

4.27 Others pointed out that there was a danger that clients might attempt a reduction in dosage on the discharge of the Order and that this would undermine the value of the system in facilitating detoxification within a highly structured and supportive setting:

“What’s the point of having this intensive support? Why wait until that person is finished their Order if that’s what they are going to do? If they’re finished their Order and the GP is taking over, they will go to their GP and say reduce me now and the GP is going to... reduce it, bang, bang, bang... massive chunks off. They’re putting that person more at risk, than if a person feels they are at the stage where they want to chance it while they’ve got such a high level of support from the team and from existing services. That is the best time to support that person.”

One Team member claimed that a client had had his dosage increased against his will. The increased dosage made him ineligible for attendance on the day programme. This

decision, it was claimed, had been taken without discussion with the social work and counselling section of the Team or with the staff of the day programme.

4.28 Initial treatment plans were analysed for 30 clients placed on Drug Court Orders by April 2002²⁰. There was a distinct uniformity in proposed treatment options across the client group placed on Orders by April 2002. All 30 clients (100%) had been placed on a methadone substitution programme. With the exception of one Drug Court client who initially received methadone from an external health service provider, all received this methadone programme from Glasgow Drug Problem Service (Drug Court).

4.29 All 30 Drug Court clients were receiving individual counselling (two-three times per week) from the drug treatment and testing team as part of their initial treatment plan. One Drug Court client was initially receiving counselling from a social work department external to the treatment and testing team.

4.30 One Drug Court client had been referred to group-work as an initial element of treatment. The group-work was organised by Phoenix House Day Programme, and the client was expected to attend four-six times per week. This was in addition to methadone substitution and individual counselling. While it is clear that individuals were referred to groupwork and other relevant programmes as they progressed with their Order, this was not incorporated into the initial treatment plan but was introduced following reviews.

Perceptions of Treatment

4.31 Service-users accessed a range of services as part of their Drug Court Orders. This included individual counselling and support from treatment and testing workers, medical provision and social work services. Access to external treatment and support services included day programmes, group-work and rehabilitation services. Respondents were positive about these services and noted that they were able to receive additional support in relation to housing and voluntary work:

“I’m taken seriously by these people you know, so that gives me hope. It gives me hope to know that they can help to put me in the right direction...The proposed group work or proposed projects that have been put across so far sound good, they are inspirational to me.”

4.32 Medication was seen as an important element of the Drug Court Order and the provision of methadone was considered to be a significantly stabilising influence on behaviour:

“There’s no need for it you know (offending), when I was doing it it was only for drugs you know.”

²⁰ These figures apply to the 30 Drug Court Orders which were imposed by April 2002. While a further Order was imposed early in May, details of this Treatment Plan were not available at the time of the data collection.

“Now that’s a good part about the medicinal coverage you know because I don’t wake up in the morning ill now (...) badgering my pensioner mother for money.”

4.33 All of the respondents were in receipt of methadone and they expressed various levels of satisfaction with the amount of medication they were receiving. Three of the respondents stated that they wanted to reduce the prescribed methadone they were receiving but had been advised to wait, to take things slowly until they had successfully stabilised their lives more generally:

“I know for a fact within the next few months, say without being too pessimistic or too optimistic, in around six months I want to be methadone free, I want to be drug free. Because I don’t want any stigma attached to anything I am doing whether it be college, university or anything.”

“Methadone well, just now I am trying to stabilise on it, to get drugs away to the back of my mind and then I’m going to start thinking about coming off the methadone...I don’t want to be on the methadone long term but obviously I should be...It’s an addictive drug as well, the methadone and I would like to be just drug free altogether. But I know it’s not that easy. I’ll be truthful, if I didn’t have this methadone script, on this programme, I would probably go on drugs again.”

“After a while, if I can show them that I am definitely going to stay off the heroin they can start and wean me off the methadone as well until eventually I hope to get drug free completely.”

4.34 However, one respondent noted that their medication had been reduced significantly and this was having a detrimental impact. Indeed this had led the respondent to return to the use of illicit drugs which were showing up in urine tests. In the small number of cases where respondents expressed dissatisfaction with the level of medication they were in receipt of, it was evident that some tensions existed between the respondents and medical staff:

“The only thing I don’t like is that every time I go up my script is already written out, and I have been asking them to cut me down again...and I went up the other day and it was the same, already there. I’d not seen the doctor, it’s just the script is in my folder already written out and all that.”

“I think the social work side keeps separate from the GDPS, even although they work together it’s like two different services in the one building, and that’s the impression I get anyway.”

4.35 Few members of the Supervision and Treatment Team were entirely satisfied with either the range or the quality of the treatment services they were able to provide. Some felt quite strongly that treatment options were effectively limited to the prescribing of methadone by the health service section of the team or an abstinence-

based day programme offered by Phoenix House. Moreover, many in the team felt that even this was increasingly biased towards the option of substitute prescribing:

“I think that we have specialised in methadone treatment plans and we do that well, we don’t do abstinence-based treatments well.”

“I’d like the drug court to have more options available in terms of treatment. I think that by far the majority of treatment plans are going to be methadone-based substitute prescribing and... although I think that’s very effective at dealing with heroin addiction, I think we should have more feathers to our cap.”

4.36 Whilst other services were utilised by the team, including ‘non drug-specialist’ services like employment training and re-entry to education, even complementary therapies such as acupuncture, these tended to be viewed as additional elements to the core response.

4.37 A number of team members cited specific gaps in the range of services that were readily accessible to the project and noted that this in itself severely limited the efficacy of the Drug Court approach:

“I don’t think the services we have available for clients has been appropriate to their needs, I don’t think it has been good enough. I think that we’ve definitely done a sterling job with regard to substitute prescribing, but I think that we too often perhaps go down that road when, if there was a really high quality abstinence based treatment plan available or even a residential treatment plan... I know that’s complicated in terms of the Order... but if there were alternative treatment providers on the abstinence-based side, we would have had more success with abstinence based treatment plans.”

“If there is a range of limited services, then there is a danger that what you’re actually doing is feeding people through what’s available, rather than linking people up with what’s actually... matched to their needs. I think that that is a gap we need to be working on.”

4.38 Residential rehabilitative provision was identified by a number of Team members as a serious gap in services. Some pointed out that, even were they able to overcome the very real problems of geography (since most residential rehabilitation services were located outwith the City), securing funding for such an option was difficult and certainly no easier for the Team than any other referring agency:

“I just think that there should be fast-track mechanisms for anybody in this Team, any client of ours should, I feel, receive priority for access to residential services and they don’t.”

4.39 The lack of services for women (particularly respite and other residential services) was noted by a number of Team members:

“All female residential rehab (again!). Let’s cry out the cry for that. Can we have it please? Can we have it yesterday?”

DRUG TESTING

4.40 Drug testing is a key component of the Drug Court Orders and all service-users have their urine tested for illicit drugs twice weekly at the beginning of an Order. This can be reduced if sufficient progress is made, and will be altered under the instruction of the Drug Court Sheriff, informed by treatment and testing staff. Testing is carried out at the premises of the Supervision and Testing Team, with samples being sent to an external laboratory for further analysis.

4.41 Limited data was available on drug test results. The data did not provide a clear indication of all tests carried out, nor did it identify all situations where samples tested negative for drugs. It is not possible therefore, to identify positive test results as a proportion of all tests conducted. The available information does however provide an indication of the extent of ongoing drug use and the type of drugs which continued to show up in urine tests. Some clients tested positive for more than one type of drug when tested²¹.

Frequency and outcomes of drug testing

4.42 The figures in Table 4.2 indicate the correspondence between self-reported use of drugs at assessment and urine test results. Possible discrepancies between reported use and test results, notably in the reported use of heroin, may be related to the relatively short time that heroin takes to leave the body, hence the lower likelihood that it will be detected by a urine test carried out some time after use.

Table 4.2: Drug testing during assessment prior to first calling (n=27 offenders)

| | Self-reported use | Positive test |
|----------------------|--------------------------|----------------------|
| Methadone | 9 | 13 |
| Heroin | 25 | 10 |
| Opiate ²² | 3 | 8 |
| Benzodiazepine | 20 | 18 |
| Cocaine | 7 | 6 |
| Amphetamine | 0 | 1 |
| Cannabis | 5 | No testing |
| Alcohol | 4 | No testing |

4.43 From first review to second review, the seven offenders as a group produced 54 positive tests for drugs, ranging from four positives to ten positives per individual across the time period. From second review to third review, the four offenders as a group produced 43 positive tests for drugs, ranging from 10 positives to 12 positives per individual across the time period. From third review to fourth review, the four

²¹ It is important to note that all of the Drug Court clients were taking prescribed methadone and a small number were prescribed benzodiazepines as part of a short withdrawal programme

²² The data monitoring forms specify ‘other illicit opiates’.

offenders as a group produced 27 positive tests for drugs, ranging from five positives to 14 positives per individual across the time period. However, it should be noted that the positive test results included prescribed methadone. At the second review, seven Drug Court clients for whom information was available tested positive for methadone in 46 tests, other illicit opiates and benzodiazepines in 36 tests and for cocaine on nine occasions (Table 4.4).

4.44 At the third review, four drug court clients for whom information was available tested positive for methadone on 35 occasions. Levels of other illicit opiates were reduced to 17 positive test results, as were positive tests for benzodiazepines. Cocaine was detected on one occasion. The fourth review shows a significant decrease in positive test results with detected levels of methadone remaining relatively stable, but with a marked decrease in detected rates of other illicit opiates and benzodiazepines. Details were available for one drug court client's test results from 4th review to 5th review. The client was tested on seven occasions, all positive for methadone only. While these figures are not conclusive, they provide a significant indication of a marked reduction in illicit drug use.

Table 4.3: Drug testing from first calling to 1st review (n=13 offenders)

| | No. of positive tests |
|----------------|-----------------------|
| | n |
| Methadone | 52 |
| Heroin | 1 |
| Opiate | 36 |
| Benzodiazepine | 46 |
| Cocaine | 7 |
| Amphetamine | 4 |

Table 4.4: Drug testing from first review of Order onwards

| | No. of positive tests | | |
|----------------|-------------------------------|-------------------------------|-------------------------------|
| | Review 1-2 (n=7 offenders) | Review 2-3 (n=4 offenders) | Review 3-4 (n=4 offenders) |
| Methadone | 46 | 35 | 34 |
| Heroin | 0 | 0 | 0 |
| Opiate | 36 | 17 | 7 |
| Benzodiazepine | 36 | 36 | 18 |
| Cocaine | 9 | 1 | 0 |
| Amphetamine | 0 | 0 | 1 |

Practicalities of drug testing

4.45 Views on the frequency, efficiency and practicalities on conducting frequent urine tests varied amongst the Treatment and Supervision Team. There was an acknowledgement that testing was a useful way of monitoring compliance with the Drug Court Orders and of keeping a regular contact with Drug Court Clients:

“I actually like the handle that the drug testing gives us. I think it gives us an opportunity to interact with the client on a much more frequent

basis. (...) And you can demonstrate to the clients how well, or otherwise, they are doing. (...) Saliva testing would be a whole lot better, but it only reflects what's in the blood so it doesn't go far enough back."

4.46 Testing also afforded an opportunity to vary the requirements of an Order by responding to progress or non-compliance. Frequent negative test results could lead the Treatment and Supervision Team to recommend that testing was reduced, a decision that would ultimately be taken by the Drug Court Sheriff:

"If someone is in for a few weeks and has stopped taking heroin and produced negative urine-tests over a month or so, there is no reason for him to have urine tested twice a week so rigorously. But I am saying that as a matter of principle when we reduce, probably randomness should be brought in in order to tighten that full procedure."

4.47 There was support for the introduction of random tests following a reduction from twice weekly testing amongst all respondents, including drug court clients. However, the practicalities of testing, including the lack of waiting room space and other appropriate facilities, caused significant concern amongst members of the Treatment and Supervision Team:

"The physical conditions under which people are being tested are far from satisfactory and that means there is quite lengthy waiting times (...)"

"There's no dignity involved, the facilities are less than satisfactory downstairs, the clients that are in for urine testing are sitting there, clients that are around for assessment meetings or other clients that are waiting for other services...And it's such a small space everybody knows what's happening for each client...."

"...I fear it's a terrible invasion of people's privacy, I really do and I have strong feelings about that."

4.48 The lack of appropriate facilities had, until recently, meant that refreshments (including drinking water) were not easily accessible. This could be problematic for drug court clients who were unable to produce urine on demand, a problem that was recognised by Treatment and Supervision staff:

"...there should be a lot more discretion about it, I don't think people should have to stand around in a waiting room drinking copious amounts of water ...and you hope they are going to produce urine, I think that is very demeaning for anybody to have to do."

4.49 If clients were unable to produce urine, a key requirement of Treatment and Testing Orders, then this could be interpreted as non-compliance although both Supervision and Treatment staff and Drug Court Sheriffs were generally sympathetic to this difficulty:

“An inability to produce a sample is seen as a refusal although its not perhaps always worded that way, and the inference is the person is choosing not to give a sample because the sample is contaminated, that’s the inference.”

4.50 There were also difficulties in obtaining some test results although this appeared to apply specifically to tests that were sent to external services:

“So for example if somebody is getting tested once a week and they’d shown clear urine for some time and the lab test result is positive, but it may take a fortnight to come back. You’re two weeks late by the time anybody knows there is a positive urine.”

“What we can experience are really quite substantial delays in getting drug test results back. That undermines it all together, the idea is that we get speedy results.”

“If you need a particular result, that can be fast-tracked, but it is additional work for someone to have to go chasing that result rather than the results being readily available.”

Perceptions of Drug Testing

4.51 Despite the difficulties which were clearly evident with drug testing procedures, all drug court client respondents stated that they believed that drug testing was an important part of the Order and necessary to assist them to end or reduce their use of illicit drugs:

“...it keeps you on a straight path...”

“I feel as if I need the twice a week testing now even though I’m stable, I feel as if right now that’s helping to keep me stable because I know I can get caught and that.”

“It’s not as if you can lie about it. You give urine to see if there’s any drugs in your body so if you mess them about then your urine shows you have drugs in your system, if you keep doing that you get put off it anyway and get a custodial sentence after that. You can’t beat it. You need to apply the rules, it’s either that or go back to prison...”

4.52 The knowledge that they were going to be tested appeared to have a positive influence on all the respondents’ behaviour and meant that they had to be honest with Treatment and Testing staff about their drug use. Producing test results which showed negative for unauthorised substances was something which several of the respondents believed gave them a clear aim and objective:

“Maybe next month I’ll feel that wee bit stronger to go down to once a week. But don’t get me wrong, if I went down to once a week and I felt shaky then I would definitely say ‘Listen I don’t think I’m strong enough, can I go back to twice a week?’”

4.53 Many of the respondents noted that providing a positive test led them to feel they had let themselves and DTTO staff down:

“I feel as if I’ve let myself down badly, and not just myself, others who’ve tried to help me and who’ve been fair with me.”

“There’s no consequences to anybody apart from yourself. They’re not going to jail you for one dirty or a couple of dirties. At the end of the day you’re not wanting to slip up for yourself.”

4.54 The Drug Court operates with a recognition that relapse is always a possibility and that some time is required to enable service-users to stabilise their drug use before going on to reduce it. This meant that positive test results did not automatically result in the imposition of sanctions, and respondents noted that Supervision and Treatment staff and the Sheriff were often understanding about their inability to stay drug free. In some cases, a relapse was acknowledged and service-users were encouraged to move forward from that point, although some respondents noted that they felt they had ‘let everyone down’ if it appeared that they had suffered a setback:

“I think when you have a lapse then you realise ‘right, what do I want to do with my life?’...do I just want to use this like a bait to keep myself out of the jail or do I want to sort my life out? So sometimes I think that lapse works cos it makes you realise, ‘do I want to be right down here in the gutter where I was six months ago or do I want to keep going?’”

4.55 Several respondents noted that a relapse on their part had resulted in the Sheriff giving them a good ‘dressing down’. On these occasions, they were motivated to improve their performance. All respondents were aware that repeated failures would not be tolerated.

SUMMARY

4.56 This chapter has examined the factors that influence individuals to agree to the requirements of Drug Court Orders, the practicalities of sentencing practice, and the implementation and operation of treatment and testing provisions.

4.57 It is evident that Drug Court clients are willing to accept the requirements of a Drug Court Order for a number of reasons. At the initial stage of assessment, this willingness is, for many individuals, an attempt to avoid custody (either sentence or remand) and may even increase the likelihood that an offender will plead guilty. However, it is clear that additional motivation is required to ensure compliance with the stringent demands that are made of all Drug Court Clients. The requirements of treatment and testing are stressed throughout the assessment process by service-providers to ensure that offenders are fully informed of their obligations and possible sanctions.

4.58 The range of sentences available to Drug Court Sheriffs is considered to be effective and appropriate. Although the Drug Court has the same range of disposals

available to it as the Sheriff Court under summary proceedings, the ethos of the Drug Court differs significantly. It is seen by all involved to be less punitive and more constructive, a situation considerably enhanced by the direct dialogue which takes place between the Sheriff and offender. Sheriffs believed that their sentencing decisions were better informed than in the Sheriff Court due to the more comprehensive and focused Social Enquiry Reports and drug assessments which are made available to them. Deferred sentences were seen to afford some flexibility in sentencing, while reservations were expressed by Sheriffs about the introduction of Restriction of Liberty Orders (RLOs) and their suitability for offenders in receipt of drug treatment.

4.59 Treatment services included a range of provisions provided by the Drug Court Team 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 team and drug court clients that the operational regime lacked flexibility, and that levels of medication provided were not always in compliance with the wishes of individual clients. While prescribing is clearly a matter for the medical profession, there was some suggestion that increased dialogue in monitoring and reviewing patterns of prescribing would be beneficial. There also appeared to be a broadly based desire for more comprehensive service provision and a broader range of services to be made available to the Drug Court. In particular, Treatment and Supervision staff identified the need for increased rehabilitation services and, specifically, rehabilitation and community-based services that met the needs of women.

4.60 Drug testing forms a key component of Drug Court Orders with clients tested twice weekly at the beginning of an Order. Relapse is recognised as a possibility and time is allowed to enable clients to stabilise their drug use before reducing/ending it. However there are clearly practical and ethical issues relating to the testing procedure itself and consideration needs to be given to improving this. Nevertheless, drug court clients saw testing as a largely positive element of the Order, viewing it as a significant motivating factor. Obtaining negative test results was viewed as a clearly defined goal, particularly given the prominence of this issue during reviews and the dialogue between clients and the Drug Court Sheriff.

CHAPTER FIVE: REVIEWS AND ENFORCEMENT

INTRODUCTION

5.1 The system of regular Court reviews of Orders, with pre-court review case meetings between the Sheriff and the relevant Treatment and Supervision Team workers, are a key function of the Drug Court. In the reference manual for the pilot Glasgow Drug Court, 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 It was expected that the Sheriff and clerk of court, the procurator fiscal, members of the Drug Court Treatment and Supervision Team and, with the offender's consent, the defence agent would attend pre-court review meetings. The manual outlines that pre-court review meetings would be held in private in order that consideration might be given to issues, some of which might be highly personal, that may be pertinent to the consideration of progress.

5.3 The Drug Court Sheriff has responsibility for the oversight of the Order. The purpose of the reviews is to enable the sentencer to monitor the client'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 offender would have the right to legal representation at reviews. The Reference Manual suggests that the direct dialogue between the bench and offender was the cornerstone of the review hearing.

5.4 The role of defence agents in the review process was examined closely since the evaluation of pilot DTTOs indicated that defence agent intervention had the effect of limiting dialogue between the offender and the bench (Eley et al., forthcoming). It was anticipated that defence agents could have a limited role in reviews where there is no prospect of sanctions being imposed, in order that the bulk of the review can consist of dialogue between the Sheriff and the offender. However, where sanctions were being considered the bench may consider direct representation from the defence agent.

5.5 The review process aims to enable the pilot Drug Court in Glasgow 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 reviews. 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.

5.6 A feature of Drug Courts in other jurisdictions is their ability to impose ‘short, sharp’ sanctions, such as a brief period of imprisonment, where the offender is in violation of the Order, without prejudice to the continuance of the Order. Sanctioning non-compliance in this way is not presently possible in the pilot Drug Court since the imposition of a custodial sentence would automatically result in termination of the treatment Order. At this six-month juncture of the pilot Drug Court in Glasgow in action, Drug Court Sheriffs perspectives on the value of the introduction of new legislative provisions to enable the Drug Court to operate in this way are explored.

5.7 Also in this chapter, the pre-court review meetings and reviews are critically examined from a variety of perspectives and the enforcement of Drug Court Orders is discussed. This chapter concludes by identifying aspects of reviews and enforcement that appear to enhance or distract from the effectiveness of the Drug Court in Action in the first six months.

PRE-COURT REVIEW MEETINGS

5.8 Pre-court review meetings were held from noon onwards on the day of the scheduled review in the Drug Court (Court 2 of Glasgow Sheriff Court). The purpose of the pre-court review meetings is to enable the sentencer to hear first hand from all the key workers about the client’s progress on the Order and any mitigating factors. As a member of the Drug Court Supervision and Treatment Team stressed:

“I think they’re invaluable, I don’t think the drug court could survive without them. I think of all the meetings, it is the most important. It’s really important that everybody’s talking to each other before the reviews, even if it only is two hours before the review, because a client’s situation can change overnight. So it’s very responsive actually. 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, not only drug related but for employment situations, everything.”

5.9 Both of the Drug Court Sheriffs regarded the pre-court review meetings as extremely valuable, perhaps even more so in the case of probation reviews since no report would otherwise be available to inform the content of the review²³. Sheriffs valued having the opportunity to obtain feedback from those directly involved in supervising and treating the client. The pre-court review meeting was an important information-gathering forum. By obtaining information from each of those working with the client, Sheriffs felt better able to understand the relative significance of different issues. As one Sheriff noted:

“You get an overall picture with them all being there, whereas if you saw them individually or didn’t see some of them and saw others, you wouldn’t get it.”

²³ To minimise the demands made on the Supervision and Treatment Team written reports were required only for DTTO reviews.

5.10 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 client. 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 client. Other benefits of these meetings were said by Sheriffs to include the following:

- Pre-court review meetings allowed for consideration of sensitive issues that it would be inappropriate to discuss in open court;
- The gaps between the pre-court review meeting (at 12 noon) and the review hearing (at 2 p.m.) meant that there was an opportunity for further information gathering to resolve any outstanding questions prior to the review;
- The opportunity for face-to-face discussion meant that more up-to-date information could be provided about the client’s circumstances and progress than could be furnished by a report that had been prepared a few days previously.

5.11 The majority of clients on Drug Court Orders who were interviewed noted that they would welcome the opportunity to be present at pre-court review meetings, but acknowledged that the pre-court review ensured that any personal issues would be dealt with before they appeared in open court. Drug Court Sheriffs and workers within the Drug Court Supervision and Treatment Team supported the procedure that the offender was not present. Several of the offenders, who were interviewed by the researchers, noted that any reports presented at their pre-court review were discussed with them and so they were aware of any issues likely to be discussed. It was clear that most respondents felt confident that DTTO workers and their solicitor could deal with things in a satisfactory manner:

“You have a rough idea what the people from the drug place... are going to say. They go through your report with you before it...it’s not as if I’m panicking wondering what they are going to tell the Sheriff.”

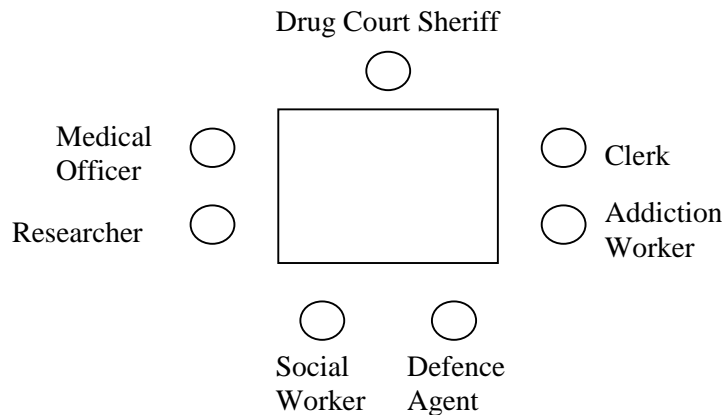
“I think you don’t need to be really concerned, you don’t need to know about it, they will tell you.”

“If I had to go I’d go, but my lawyers there and if he’s got anything to say he’ll say it for me.”

5.12 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 blunt discussion. Sheriffs did not consider Drug Court clients to be disadvantaged by not being present at pre-court review meetings since those present were “*striving to keep people on Orders, not get them off Orders.*” 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 needed the defence agent to be present.

5.13 Twenty-eight pre-court review meetings, involving both Drug Court Sheriffs, were observed by the researchers. At the front of the Court, the professionals were typically seated for pre-court review meetings as shown in Figure 5.1.

Figure 5.1: Typical seating plan for a pre-court review in the pilot Glasgow Drug Court



5.14 The procurator fiscal rarely attended the pre-court review meetings as these ran concurrently to meetings of the Drug Court Screening Group. Table 5.1 provides further details of attendance at the pre-review meetings. Of the 28 observations, in two cases neither a social worker nor an addiction worker was present for the case while other members were present at the pre-court review meetings but not briefed to talk about the cases.

Table 5.1: Attendance at the observed pre-court review meetings

| | Attendance at observed pre-court review meetings (n=28) | |
|-------------------------|---|-----|
| | n | % |
| Drug Court Sheriff | 28 | 100 |
| Clerk to the Drug Court | 28 | 100 |
| Medical Officer | 28 | 100 |
| Social Worker | 23 | 82 |
| Addiction Worker | 20 | 86 |
| Defence Agent | 3 | 11 |

5.15 In six cases, a social worker provided cover for a colleague who was unable to be there in person. There was a strong perception within the Drug Court Supervision and Treatment Team, that social workers involved in the case work of Drug Court Orders were experiencing difficulties in managing their workloads and that this frequently impacted on their physical attendance at the Drug Court:

“Its quite different for them to be in 20 places at once, which I think seems to be what’s expected of them.”

“I think the social workers are badly over-worked and that is just looking at it from the outside. Running off to court at 12.00, running back to write a couple of reports and rushing back there for 2 o’clock. And going to other courts and all the rest of it, they seem to be quite under-staffed and although they have their own kind of caseload to follow through, and I think they do keep tabs on things as best they can, I think too much is asked of them.”

5.16 The role of the Drug Court Sheriffs in pre-court review meetings was principally that of information gatherer. In this respect they considered themselves to be more passive than at other stages in the Drug Court process where they were required to make decisions. They emphasised the importance of listening to what those present had to say and not “second-guessing” the other professionals, as their task was to distil the main issues in such a way as to inform what will be said to the client in court. Professionals working within the Drug Court Supervision and Treatment Team perceived the pre-court review as valuable in the Drug Court process and felt that the Drug Court Sheriffs were effective in their chairing of professional participation in pre-court review meetings:

“I think the Sheriff takes account of everybody’s views. It’s very good. I think he can sum up the different bits well. He takes on board that somebody might be relating to their drug workers and attending for that but not engaging with us and he seems to balance that very well. I think that’s very positive.”

“To get everybody involved together to discuss it prior to the actual official court so kind of discuss things in there that you don’t really discuss in open court... I think they’re very useful cos one person’s report can be interpreted in several ways and its not always the one person that’s involved with the client its kind of team effort.”

“I think it allows the Sheriff to see the bigger picture you know because there is always with a particular client group, there is going to be many issues that are underlying or that someone is dealing with, it just would not be appropriate to speak about that in open court.”

5.17 The Drug Court Sheriffs were of the view that all of those who needed to be at the pre-court review meetings had ‘a seat around the table’. As one professional expressed *“In the pre-court reviews you’re there to get your tuppence-worth in alongside everybody elses’ tuppence-worth which I think is valuable”*. It was also possible to invite along agencies that might have a specific contribution to make in individual cases. Of all those who did attend pre-court review meetings, Sheriffs considered defence agents to make the most limited contribution. Sheriffs considered the presence of the defence agent to provide an essential safeguard for their clients’ interests, though one Sheriff remarked that defence agents rarely attended pre-court review meetings. This remark was supported by the observational data in Table 5.2. Although the defence agents infrequently attended the pre-review meeting, almost all the defence agents were observed to make regular use of the timetabled meeting as an opportunity to approach the clerk prior the start of the review hearing. This enabled them to obtain copies of progress reports and subsequent updates for that afternoon’s review. Some defence agents were observed to enter into discussion with social workers about progress. The significant amount of work conducted by the defence agents prior to the start of the scheduled pre-court review meeting should not be overlooked.

5.18 At the beginning of each pre-review meeting, the Sheriff would invite verbal contributions, from their reports or notes, from each of the professionals in turn. These were typically asked for in anti-clockwise rotation from around the table. The Medical

Officer would begin the verbal report, speaking from his/her medical notes of attendance at appointments with the Medical and Nursing Team, and from results of urine testing. The Sheriff would then invite the social worker, followed by the addiction worker (if present) to share their professional views on progress since the last review. The participation in pre-court review meetings by the Supervision and Treatment Team are summarised in Table 5.2 below.

Table 5.2: Supervision and Treatment Team contribution at the observed pre-court review meetings (n=28)

| | N Attended | N contributed | Per cent |
|------------------|-------------------|----------------------|-----------------|
| Defence Agent | 3 | 3 | 100 |
| Social Worker | 23 | 19 | 83 |
| Medical Officer | 28 | 21 | 75 |
| Addiction Worker | 20 | 15 | 75 |

Note: Contribution is classified in terms of speaking during the Pre-review

5.19 Some tensions concerning ownership and accuracy of the progress report presented to the Sheriff at the pre-court review meetings were conveyed to the researchers in the interviews with workers within the Drug Court Supervision and Treatment Team. These concerns revolved around the production of the overall progress report by Social Workers by transferring existing documentary evidence into a report as opposed to the attachment of original reports:

“We don’t know quite what’s being said. The reports that the nurses write on clients are amalgamated by social workers so how good a reflection that actually gives of what ways the medical team might think, you can’t be sure.”

5.20 The Drug Court Co-ordinator also observed that the staffing shortages in the Supervision and Treatment Team had prevented the social worker, addiction worker and medical officer from having a case meeting to ensure that they had achieved a consensus prior to the pre-court review meeting. This meant that in the pre-court review meetings, their different perspectives on a case were being brought together and discussed for this first time.

5.21 At the pre-court review meetings, potential issues that were considered to be compromising a client’s progress on a Drug Court Order were also discussed around the table. Broadly, these included:

- housing situation (e.g. if homeless or in temporary accommodation)
- the influence of family and friends (e.g. parents are unsupportive of methadone prescribing as part of drug treatment; 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 client; threat of violence from debt collectors).

The duration of the 28 pre-court review meetings observed ranged from two minutes long to 16 minutes long, with an overall average of seven minutes long (Table 5.3).

Table 5.3: Length of pre-court review meetings observed

| | N observed | Mean Time (mins) | Minimum Time (mins) | Maximum Time (mins) |
|-------------------|-------------------|-------------------------|----------------------------|----------------------------|
| First pre-review | 10 | 5.5 | 2 | 12 |
| Second pre-review | 5 | 6.2 | 3 | 11 |
| Third pre-review | 4 | 8.0 | 5 | 10 |
| Fourth pre-review | 6 | 7.3 | 2 | 16 |
| Fifth pre-review | 2 | 11.0 | 7 | 15 |
| Sixth pre-review | 1 | 5 | - | - |
| All | 28 | 6.75 | 2 | 16 |

5.22 The multi-agency round table approach to determining the progress of clients prior to the formal review (usually held monthly) was perceived, by the Sheriffs who sat in the Sheriff Court, as possible due to a shift in power, in this instance only, from the Sheriff to the professionals of the Treatment and Supervision Team (addiction workers, social workers and medical officers). As one Sheriff expressed:

“because at least to some extent he is allowing other people to have a more significant input into what is the appropriate way to deal with any particular offender.”

and in the words of another Sheriff:

“the pre-court meetings where the Sheriff meets with the other members of the team before the court appearance.. that’s a real strength.”

REVIEWS

Perspectives on reviews

5.23 The Drug Court Sheriffs considered the main purpose of reviews to be monitoring the progress of the offenders on a Drug Court Order. The review hearings were considered by the Sheriffs to be similar to those conducted in the Sheriff Court, though the existence of pre-court review meetings in the Drug Court meant that the review hearings that took place there tended to be better informed. In Order 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 two 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 two aspects of the approach so it’s absolutely vital.”

“It’s important I think from the point of view of the accused that he is a real part of the process - rather than just a product he has an investment in it and he wants to appreciate that he himself will influence what

happens to him. And he knows that when he goes into Court that he'll be answerable for what he's done in the last weeks, and he knows as well if we're doing it properly that if he's done very well that will be recognised by us.... To have the Court looking over you all the time does I think provide a bit of a stick as it were and a Sword of Damocles²⁴ which will keep them going."

5.24 Reviews were held in the Drug Court from Mondays to Thursdays at 2 p.m., in an open court, with seating for 36 persons in the public seating area at the back of court. Drug Court Supervision and Treatment Team workers had a heightened awareness of the public nature of the reviews and had voiced concerns about the protection of confidentiality, as one worker said “.. anybody can come in and sit in that court - the actual drug court”.

5.25 The Drug Court Sheriffs identified a number of advantages of holding review hearings in open court. First, it helped to reinforce the fact that the client is subject to a court order. Second, it provided an opportunity for them to see how others were progressing and how the Sheriff responds to those who were doing well and those who were doing badly. Third, it was possible for families, partners or friends to see how well the client was doing and the recognition received for this:

“They've turned up with their families to see that they're doing well because they've probably not done anything particularly worthwhile in their family's eyes for a long time.”

However, the support of a partner and other family and friends was physically apparent in the open court in only 4 out of the 32 reviews observed by the research team, with supporters preferring to stay outside the Drug Court in the basement waiting room.

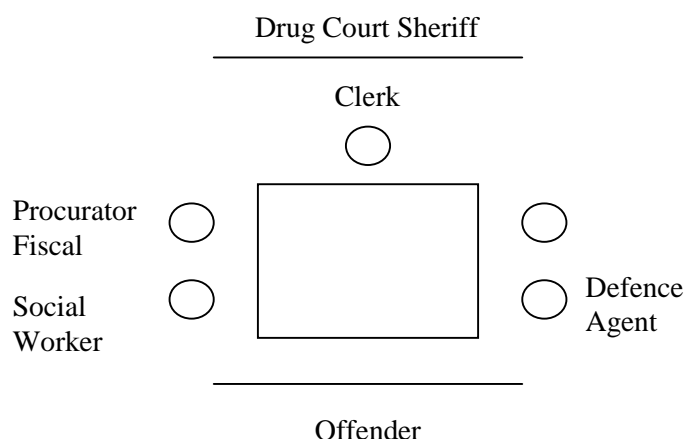
5.26 Finally, Drug Court Sheriffs considered it important that reviews be conducted in open court in order that the Drug Court procedures were seen by the public to be transparent. In this way they were less likely to arouse suspicion. The Drug Court Sheriffs felt that the main disadvantage of reviews in open court related to the discussion of material of a sensitive nature. Due to this, 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.

Review procedures

5.27 Thirty-two reviews were observed by the research team. At the front of Court, the professionals were typically seated as shown in Figure 5.2.

²⁴ This refers to the threat of catastrophe (in this case imprisonment) should things go wrong.

Figure 5.2: Typical seating plan for a review in the pilot Glasgow Drug Court



5.28 There was a consensual view that backs should not be turned on the offender during reviews. The ‘spare’ seat was occupied on some occasions by the researcher making observations. Otherwise, another defence agent would be seated there. Generally, there would be one social worker at the table for each case. While waiting, social workers would sit in the public seats and defence agents would stand towards the sides of the court. Across the 32 reviews observed, there was full attendance by defence agents while five reviews were conducted without a social worker being present.

5.29 The duration of the 32 reviews observed ranged from 1 minute long (where the client did not appear and a warrant was issued for arrest) to 14 minutes long, with an overall average of 6 minutes (Table 5.4). The first and second reviews were generally shorter than the later reviews during a Drug Court Order. This is mainly due to the greater confidence shown by the Client in developing the dialogue with the Sheriff. Compared to the observed reviews conducted in the Glasgow Sheriff Court as part of the DTTO pilot scheme evaluation, where the average review time was 5 minutes across all points of the Order, the reviews in the Glasgow Drug Court were longer.

Table 5.4: Length of reviews observed

| | N observed | Mean Time (mins) | Minimum Time (mins) | Maximum Time (mins) |
|---------------|------------|------------------|---------------------|---------------------|
| First review | 11 | 4.5 | 1* | 10 |
| Second review | 7 | 6.6 | 5 | 10 |
| Third review | 4 | 8.8 | 5 | 14 |
| Fourth review | 6 | 7.0 | 5 | 14 |
| Fifth review | 3 | 8.3 | 6 | 11 |
| Sixth review | 1 | 2.0 | - | - |
| All | 32 | 6.2 | 1 | 14 |

*At 4 of the first reviews observed, the client was not present and therefore the proceedings were 1 minute long.

5.30 At the beginning of each Court session, the client would confirm his/her name to the Clerk of Court and the Sheriff would invite the professionals around the table to report on progress. The two Sheriffs who sat in the Drug Court had differing approaches to how they engaged social workers in the review process. One Sheriff

would ask the social worker to address the court briefly, highlighting any areas of concern, before opening up dialogue with the person whose Order was being reviewed. The social worker's input at this stage was regarded as very valuable, with the Sheriff acknowledging that he had some admiration for the ability of the social workers to be appropriately critical of clients with whom they have regular and ongoing contact.

5.31 The other Sheriff, by contrast, usually addressed the person on the Order first but would then, if appropriate, ask the social worker to confirm or refute what the person had said. The Sheriff explained that this approach had been adopted for tactical reasons since it made it impossible for the offender to manufacture excuses in response to what the social worker has said.

5.32 Defence agents were said by Sheriffs to have a role in the Drug Court primarily if there was a new complaint against someone on a Drug Court Order. Otherwise their role was thought to be fairly limited and the Sheriffs observed that defence agents appeared often to be unsure what was expected of them in the Drug Court. The Sheriffs tended to outline the main issues for consideration at the review then ask to speak directly with the client. As one member of the Drug Court Team said of the defence agents in general:

“They don't tend to say very much and I don't think they're allowed to take over in the drug court really, I think that's one of the things (about) a specialist bench, they've got their own... they decide how they're going to deal with things and usually they listen to what the defence agent has to say, and they'll just say, 'Do you mind if I talk to your client now?' and off they go.”

5.33 One Sheriff suggested that offenders on Drug Court Orders were much more open and honest in the review hearings than they would be if the review was taken through a solicitor. Although their role might be limited, the Sheriffs nonetheless considered the presence of defence agents at reviews to be important since the Drug Court had the potential to impinge significantly on their client's liberty.

5.34 Of the 32 reviews observed by the researchers, on 22 occasions the defence agent took the lead in making a verbal statement from the Progress Report²⁵ and spoke first in the Court session. The social worker spoke first on nine occasions and the procurator fiscal once. Both the procurator fiscal and defence agents participated in all the 32 reviews observed, while on eight of the 27 occasions where the social worker was present, there was no observed participation. In these instances, the entire progress report was presented to the Drug Court by the defence agent, before the Sheriff invited the Drug Court client to comment on their progress.

5.35 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

²⁵ The Progress Report was typically presented in edited form to report on urine test results and self-reported drug use, attendance at appointments with workers, home environment and general 'motivation' towards the Drug Court Order.

received, though both Sheriffs commented that reports were, on occasion, not received in time for the pre-court review and indicated that they would welcome an earlier report or at least a verbal report. 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.

5.36 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. Sheriffs also assessed levels of motivation with regard to information provided by the drugs workers and social workers, through dialogue with the person in court and through visible changes in their appearance. As one Sheriff explained:

"I see them once a month and sometimes I can see a dramatic improvement physically in someone in the space of four weeks. And that will tell me, you know a sort of brightness about them that wasn't there before – that will tell me that they're motivated, they're keen."

Perceptions of reviews

5.37 Reviews were considered by all the clients interviewed to be an important part of the Drug Court and were seen as something to work towards. However, one respondent noted that reviews were occasionally a source of 'embarrassment', particularly if the Court was busy, which it often was due to professional visitors from external agencies and as a result of significant media attention. All the respondents saw reviews as very positive factors in terms of their Orders. Reviews were seen as an opportunity for everyone involved to discuss individual situations.

"These people actually want to give you a chance."

"...what's good about it is because I'm getting treated now like a human being and an equal..."

5.38 The respondents noted that the reviews gave them an opportunity to speak directly to the Sheriff, a very different situation to 'ordinary' courts.

"You don't think you're important enough to speak to a Sheriff. Cos you open your mouth maybe in court and go 'that's not right' they would just go 'silence' do you know what I mean? But in there if you were to say 'That's not right Sheriff', I don't know why that is, they'll listen and they make you feel important and you actually go out of the court on a high."

"Any other time you try to speak to the judge he usually gives you six months for contempt of court."

"Any other judge wouldn't even look at you... I think he's (Drug Court Sheriff) probably read books or something, but he knows more about it..."

"I have been through hundreds of courts and you're always wanting your lawyer to say something he doesn't say, it's always through your lawyer."

But it's quite good, he (the Drug Court Sheriff) gives you the chance to speak up for yourself."

5.39 While this could mean that they were publicly rebuked for unsatisfactory behaviour, the very fact that they were given the opportunity to speak in court and present their views and be listened to, was seen as universally positive:

"Aye, it's really good 'cos you feel important and you feel noticed and you know that they are respectful to you at the end of the day 'cos they're going with your wishes. So at the end of the day they're giving you your place and they're giving you respect, they're not just right on to your lawyer."

"If you're doing well, the solicitor really doesn't have to say much but they're there anyway."

"You get the same Sheriff all the time, it's not like you are coming one month and the Sheriff is just getting your paperwork. You could say it's like building up a relationship with the Sheriff."

"In a court room you like to hide a few of your feelings and in there you can just tell them what you think knowing you are not going to get criticised for speaking out."

"I think it's quite a good idea you can put your views across, good or bad he listens to you."

5.40 Good behaviour was rewarded by encouragement and with praise from the Sheriff and this was viewed as very important by all respondents.

"Now, it's in the back of my head 'don't take that' because the judge, ... gave me a chance, he'll not take it. At least he is giving me a chance to help me, he knows the score and in my head I'm not wanting to mess him about. In my opinion it was him that really helped me and it's him that put me on it."

"It gives you a wee boost...saying to you he's proud, 'I'm glad you have done this and done that' and it gives you a wee boost when you go home from court."

"You feel good cos you just spoke directly to the Sheriff. And he treats you with the utmost respect as you seen in the court for yourself. And he will, he'll praise you but if you're doing bad he'll kick your arse really severe."

5.41 The Drug Court Sheriffs considered the dialogue between the bench and the person on a Drug Court Order to be critical to the success of the Order. Through the dialogue with the offender the Sheriff could sanction non-compliance but could also praise and encourage progress. As one Sheriff commented:

“I think it creates a relationship and I think it matters to them whether you praise them or you’re disappointed...Some will get quite upset if you say ‘You’re not doing well and I’m disappointed that you’ve done this, that and the next thing. You’ve let me down.’ It will actually work. And likewise praise. You see people responding to direct praise...almost enjoying the experience, because praise is not a very great commodity in most of their lives.”

Another member of the Drug Court team describes the relationship between the Sheriff and the offender as “paternalistic”:

“They’re encouraged to tell the Sheriffs if they’ve got problems and they’re encouraged to deal with those problems.”

5.42 Social workers and addiction workers within the Drug Court Supervision and Treatment Team supported the impact of the prominence of the Sheriff-offender dialogue within the open court review. The quantity and quality of the dialogue was perceived as beneficial in terms of establishing a relationship between the sentencer and the client on a Drug Court Order, to maximise compliance and motivation and in terms of broader principles of restorative justice:

“ I would say its quite an intense relationship, I’m thinking now as Orders progress its certainly one which has a greater degree of familiarity and mutual familiarity. ... I think that offenders...take that very seriously. I think in part they are quite impressed that a Sheriff is taking an interest in their progress and their lives and what is happening to them.”

“Up at court and a lot of them when they get the feedback from the Sheriff in court it motivates them as well, ... a pat on the back basically ‘well done you’ve really progressed there’. ..to stand in front of the Sheriff and have that said in open court makes them because they’re used to dealing with the judicial system where they go in, they’re given a sentence and the Sheriff doesn’t look up from the papers sometimes, I think they appreciated it as well, the review system.”

“I’m quite surprised actually how beneficial it has been for some of the clients. I mean it really changes their view of the court system, I think and it will make them less antagonistic towards it I think.”

“I think its about giving the person a voice, it makes them part of the whole process, you know they’re not being talked at - this is not something that is being done to them, they are part of it and they have a say in what’s happening.”

5.43 There was interaction between the Sheriff and the Drug Court client in all reviews observed with the exception of one where the defence agent represented their client in answering the complaints against them. The Sheriff-Drug Court client dialogue lasted between one and eight minutes, with an average of two and half minutes across the 28 dialogues observed (Table 5.5). When the length of this dialogue is considered as a proportion of the total length of the review, its crux within

the review process is demonstrated. On average, the dialogue was 37 per cent of the review and ranged (with the exception of the client not invited to speak), from 20-100 per cent.

Table 5.5: Length of the Sheriff- Drug Court client dialogue

| | N observed | Mean Time (mins) | Minimum Time (mins) | Maximum Time (mins) |
|---------------|-------------------|-------------------------|----------------------------|----------------------------|
| First review | 7 | 1.4 | 0* | 3 |
| Second review | 7 | 2.3 | 1 | 5 |
| Third review | 4 | 4.0 | 1 | 8 |
| Fourth review | 6 | 3.5 | 1 | 6 |
| Fifth review | 3 | 3.0 | 2 | 4 |
| Sixth review | 1 | 1.0 | - | - |
| All | 28 | 2.6 | 0 | 8 |

*At 4 of the first reviews observed, the client was not present

Table 5.6: Sheriff- Drug Court client dialogue as a proportion of review length

| | N observed | Mean (%) | Minimum (%) | Maximum (%) |
|---------------|-------------------|-----------------|--------------------|--------------------|
| First review | 7 | 32 | 0* | 75 |
| Second review | 7 | 33 | 20 | 50 |
| Third review | 4 | 41 | 20 | 63 |
| Fourth review | 6 | 52 | 17 | 100 |
| Fifth review | 3 | 40 | 25 | 67 |
| Sixth review | 1 | 50 | 50 | 50 |
| All | 28 | 37 | 0 | 100 |

*At 4 of the first reviews observed, the client was not present

5.44 On the sentencers' side, 75 per cent of the sentencer-offender interactions were encouraging, irrespective of the degree of positivity in the progress reports presented at the pre-court review and in court at the start of the review. Across all the points in the Orders, Sheriffs gave general encouragement such as *“good, overall you are doing well”* to many offenders. At early reviews (1 and 2), both 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 *“its early stages and I'm pleased you've started well”* or *“you've made remarkable progress indeed”*. Acknowledgement was also made of strong personal motivation (*“you've shown us what you can do and that excellent with negative tests”*) to an offender who had stopped taking heroin and benzodiazepines: *“everyone is delighted, I congratulate you on your test results but you have to keep up progress.”*

5.45 Where progress had not been ideal at the earlier reviews 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 (*“you've been keeping up appointments”* and *“you are doing as well as can be expected”*), opening up to their key addiction worker (*“you have insight into the problem”*) and being honest in the Drug Court about their drug use (*“at least you are recognising the problem”*).

5.46 At the point of possible relapse, highlighted by the medical team to be around the 3-4 months 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.”

“I have been made aware that you are doing well but one slip up for the test of opiates”

“your progress is very mixed but you have done well”.

5.47 Some Drug Court clients had made substantial progress early on in the Order and had then struck difficulties in terms of motivational factors. Words of encouragement in these reviews, pointed to achievement earlier on in the Order, if it had been felt by the team at the Pre-court review briefing that the Offender remained motivated:

“In general terms you’re doing well, you’ve been making efforts that you’re doing well.”

“You’re making efforts you are trying and there are difficulties. You have shown us what you can do, you take advice on board and get on with it, you’ve done well enough.”

At the later reviews, where offenders were consistently producing negative urine tests, physical presentation was commented upon by the Sheriff during the reviews (*“you look better every time”*; *“You’re looking better than expected”*).

5.48 During the 32 reviews, Sheriffs were observed to ask very open questions to generate responses from the offenders. These prompts included *“How are you doing?”*; *“Any problems?”*; *“How are you surviving?”*; *“Have you had cravings?”*; *“What do you want me to do?”*; *“Have you been having difficulties?”*; *“Why did you start drugs again?”*; *“Spare time?”*; and *“Is there temptation?”*.

5.49 During the reviews, offenders were generally responsive, co-operative and honest. Across the different observed review points in the Orders, there were seven main areas of response:

- Getting off drugs
- The challenge of being on a Drug Court Order
- Dealing with temptation
- Reasons for drug use while on Order
- Feeling Good
- Boredom
- Fighting against possible sanctions by the Drug Court Sheriff.

5.50 In the open Drug Court at the observed reviews, offenders frequently expressed their motivation to reduce and eventually stop taking drugs (*“I want to be clean*

100%"; *"I will co-operate"*) but stressed their awareness of the challenge ahead of them (*"I will give it 100%"*) and that it would be difficult for them emotionally (*"I am frightened"*) and certainly no 'soft' option (*"For me prison is the easy option"*).

5.51 Sheriffs were clear to offenders that they recognised that, in their home environments and because they were 'known faces' as drug users, changing their lifestyle (in terms of drug use and offending) would take huge sustained efforts. Temptations from dealers, other users, siblings and friends may arise within their homes or elsewhere. One offender responded to the Sheriff that he had experienced considerable pressure from dealers at his home and elsewhere: "they don't want to see you on the up they want to put you down"; that was another part of the battle to win. In relation to reported positive tests for illicit drug use, the Drug Court clients were commended by the Drug Court Sheriffs for their honesty ("I'm not going to be a liar or make excuses") in replying to questioning about "why take drugs?". Reasons offered involved being with others who also used drugs: "I was just being sociable"; "I was with old friends and had a relapse" and "my partner was taking some heroin". Several offenders reported to the Sheriff that they regretted the drug-taking resulting in a positive test when the 'high' was not as before ("no use getting a dirty urine if no hit"; "I took it to see what I was missing but I wasn't missing anything").

5.52 While the Sheriff commented in several observed later reviews (3, 4, 5 and 6), that the physical presentation of the clients was much improved since their first calling, the offenders, in their own words, expressed the changes to them since the start of the Drug Court Orders: *"brand new"*; *"brilliant - the best I've been for along while"*; *"I'm feeling as though it's a lot better"* and *"Feeling good, I'm doing well I've never had this challenge before"*. Boredom during the day was highlighted in many cases as an issue, while awaiting that component of the Drug Court Order to be organised.

5.53 The Sheriffs' position as motivator was clear but also their roles as enforcer and sanctioner were evident in 40 per cent of the observed reviews. This related to the three major issues of 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:

"It's for your benefit at the end of the day, I walk out of the court and you may not. I want to see you back on the rails, please please co-operate over the next two weeks to make some kind of progress"

5.54 The Sheriffs generally stressed the importance of motivation, participation and reducing drug use to remain on a Drug Court Order. Offenders were generally responsive to these remarks. In four observed instances, the 'non-compliance' of the offender had been consistent over a couple of reviews. In these cases, the Sheriffs 'read the riot act' to the offender and reminded them of behaviour that could lead to contempt of court (*"I saw you grinning, you need to take this seriously"*), including swearing, and the possibility of the Order being breached (*"you have let me down very badly and I am going to do a number of things"*; *"I'm not going to stand for any member of the team to put up with behaviour like this"*). The breach of a Drug Court Order would typically mean that the offender would start a custodial sentence that had

been deferred at the first calling. As a Drug Court Sheriff reminded one client on a Drug Court Order:

“I don’t want to send you to prison... remember this is last chance time, I really mean that.”

5.55 Generally, offenders, rather than their defence agents, verbally fought against the possibility of sanctions by reaffirming their co-operation and their previous achievements (*“in my fairness I had done quite well last month”*) and, recognising that a Drug Court Order is their last chance, a strong desire for another opportunity (*“Give me another chance m’lord”*; *“I want another bite of the cherry”*).

5.56 From the 28 observations of the Sheriff-Drug Court client dialogue, it was notable that, irrespective of the quantity and quality of progress on the Drug Court Order, the final words concerning the next review in two or 4 weeks time were encouraging. 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”*; *“I want to see you negative”*). 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”*; *“shows what you can do - you’ve done very well if you keep it up”*) was also made by the Sheriff.

5.57 The Sheriffs remarked upon how the nature of the dialogue with offenders on Drug Court Orders changed through the course of an Order. Exchanges became longer as Drug Court clients became more confident at addressing the bench. Through the relationship that was built up with the Sheriff they were observed to become keener to relate their experiences, and Sheriffs emphasised the importance of them being listened to:

“This is the first time probably in their lives that anybody of any sort of authority has listened to what they had to say and I think it’s important that they’re treated like human beings.”

“I’ve tried when I’m imposing an Order in the Drug Court to have their input immediately in it. They’re usually quite reticent – they mumble something about wanting to change and so on and so forth. As the thing progresses they get more confident, they do give you an element of feedback.”

5.58 Comparing reviews of DTTOs conducted in the Sheriff Court to informal knowledge about the procedures in the Glasgow Drug Court, another Sheriff expressed that although the review procedures were identical in their adherence to the legislation (for instance, in being conducted at least one month after the last review), the quality of the review process was felt to be superior in the Glasgow Drug Court, compared to elsewhere in the Sheriff Court. The level of resources available to the Drug Court, and, to a certain extent, the relatively small number of Drug Court Orders under

review, was felt to allow a greater amount of time and consideration of the content of the dialogue between the Sheriff and the offender. The luxury of a greater time spent on Sheriff-offender dialogue during a review, and the impact of what is said to each other during this dialogue, was stressed by one Sheriff as beneficial to the successful outcomes of Orders:

“Based on my experience of conducting DTTO reviews myself, I would say yes, my impression is that people clearly attach a good deal of importance to the reviews, what they have to say and what will be said to them at the reviews.”

5.59 The concept of drug use as a relapsing condition was emphasised strongly in shrieval dialogue with offenders on Drug Court Orders. The Sheriffs had observed how offenders often struggled to avoid relapse after around three months on an Order (see also Eley et al, forthcoming) and took steps to ensure that those on Orders were aware that relapse –if it did occur – was not unexpected:

“I go out of my way to say to them that we understand that this will not be a process in which there are no setbacks, that we understand it is a relapsing condition and what we’re expecting is not miracles. We expect commitment and we expect honesty but we can’t expect miracles.”

“They always seem to do very well in the initial stages then take a huge dip and come back up again, We can recognise that but I think it is important that we say that to the accused as well. Because what we don’t want is the accused to be doing well and then relapsing and thinking ‘My God, that’s it!’ and running away and hiding and not turning up for the reviews and not turning up for the assessments and so forth. We know perfectly well that happens so we try and explain that as best we can. That’s one of the reasons we tell them not to be complacent, because that is a critical time during the Order.”

5.60 The Sheriffs stressed the pragmatic basis of this approach, which they were aware others not involved in the operation of the Drug Court might perceive as a ‘soft option’. Addiction workers within the Drug Court Supervision and Treatment Team commented on how informed the Drug Court Sheriffs were in their practice, through the induction training they had received. It was felt that both Drug Court Sheriffs had:

“a very good understanding of drug related issues and a non-punitive attitude to drug use as well which is probably essential to making best use of a drug court set up”

ENFORCEMENT

5.61 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.

5.62 The Drug Court Sheriffs were very satisfied with the way in which Drug Court Orders were being enforced by the Supervision and Treatment Team. The Drug Court Social Workers were seen to take active steps to respond to instances of non-compliance, including through the issuing of warning letters and disciplinary meetings. One Sheriff suggested that the Drug Court Social Workers were more ‘hard nosed’ in this respect than social workers involved in the supervision of Orders made in other courts:

“The accused must understand that they [the social workers] will not be mucked about and they are not shy in saying ‘this guy is mucking me about’. So they’re not shy in having disciplinary hearings and sending letters. So that’s good, I’m very impressed by that.”

5.63 The review process enabled 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 included increasing the frequency of testing, of supervision or of reviews. Data was available from the monitoring database for 29 reviews which had taken place.

5.64 In 21 of these reviews, the Drug Court clients had been fully compliant, or acceptably non-compliant, with all aspects of their Order. In 6 cases, clients had evidenced some element of unacceptable non-compliance. In the remaining 2 cases, clients had been charged with further offences and were unable to comply with the Order requirements as they were in custody. In 26 of the 29 reviews, no changes were made to the frequency of drug testing, while in three cases drug testing was reduced from twice weekly to once per week. No changes were made to social work provisions in 22 cases. Of the changes made to seven orders, additional support was made available in two cases, one Drug Court client had the frequency of visits to Drug Court social workers reduced as a result of review in three cases, it was noted at review that service-users were about to be assessed for groupwork and in one case educational opportunities were being pursued by the Drug Court client.

5.65 One of the Drug Court Sheriffs would have welcomed the option of conducting more frequent reviews in some cases where it appeared that weekly or fortnightly reviews would be necessary to sustain the offender’s motivation and compliance. The DTTO legislation does not allow for more frequent than monthly reviews. This being so, the Sheriffs were occasionally interspersing DTTO reviews with probation reviews to enable them to see Drug Court clients more often.

5.66 Both Drug Court Sheriffs thought that once sufficient progress had been made on an Order the reporting requirements could be relaxed (for example, changed from monthly to quarterly) though the Order would still be reviewed monthly in chambers because the person’s situation could change very quickly. If someone had made sufficient progress - that they had found a job, for example - the Sheriffs would not wish the requirement to attend for monthly review hearings to jeopardise their employment:

“I think there comes a time when you say ‘right, you’ve done so well that I will review them in chambers’. Because you don’t want an employer to

find out they're going to court every month and wondering what's going on."

Outstanding and new charges

5.67 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 by the Drug Court in the event of a guilty plea being tendered. Amongst the options open to the Sheriff is the imposition of a deferred sentence. The 37 offenders subject to Drug Court Orders at the end of May 2002 had 45 additional deferred sentence complaints between them. If the offender is entering a not guilty plea the case will be referred to the Sheriff Court, which then 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 may sentence the offender for the original offence.

5.68 The Reference Manual requires 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 seven days before deciding how to proceed. In practice, however, those who are 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.

5.69 Sheriffs believed that that 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 could not be dealt with in this way and offenders on Drug Court Orders, by the very nature of their offending, often had charges outstanding that would be dealt with in other courts.

5.70 No data from the monitoring data were available to the research team at the time of writing, and so the enforcement practices adopted by supervising officers, the extent to which they are consistent with agreed procedures on enforcement and the effectiveness of enforcement practices in securing compliance with Drug Court Orders could not be examined.

Sanctions available to the Drug Court

5.71 Both Sheriffs believed that the range of actions open to the Drug Court in the event of a person's failure to comply with their Drug Court Order was insufficient. 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 in 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:

“What we need are sanctions that are real sanctions but nonetheless allow the Order to continue. At the moment we are managing somehow but it’s quite inadequate.”

“If someone is not turning up frequently, failing to provide the samples, for example, it may well be they require a week in jail to think about it... I think something like that might be worth looking at... Apart from anything else it provides a wee bit of credibility... I think it might help the public perception of this to know that there are sanctions available and there are some teeth to it.”

5.72 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.

5.73 In the absence of sanctions of this type, the Sheriffs were taking measures such as increasing testing or deferring sentence on concurrent or new charges. This latter approach enabled them to reward progress and sanction further offending²⁶ but it could not be adopted to deal with other types of non-compliance, such as failure to attend for tests. When the interviews were conducted only one Order made in the Drug Court had been breached and Drug Court Sheriffs had, on very few occasions, made amendments to Orders to encourage compliance. 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.

SUMMARY

5.74 Pre-court review meetings were perceived to be a beneficial component to the process of supervising and treating clients 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 presented at the review with the client. While some offenders wished they were able to attend pre-court review meetings, all were confident that their progress was discussed in a fair and appropriate manner.

5.75 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 Glasgow Drug Court in its pilot stage. Sheriff-client dialogues were at the heart of reviews, ranging from 20 per cent to all of the review time. The sentencers on their side generally offered words of encouragement, regardless of progress, and the clients on their side were honest, responsive and usually co-operative. The concept of drug use as a relapsing condition was recognised by Drug Court Sheriffs and emphasised particularly in shrieval dialogue.

²⁶ Further offending does not constitute a breach of a DTTO, though one of the Drug Court Sheriffs believed that it should.

5.76 Supervision and Treatment Team workers took active steps to respond to instances of non-compliance. The Drug Court Sheriffs had a number of sanctions without recourse to formal breach proceedings, although sentencers believed that the range of actions currently available to the Drug Court was insufficient. During the first six months of the pilot Drug Court in action, only one Order had been breached and Drug Court Sheriffs has made very few amendments to Orders to encourage compliance.

CHAPTER SIX: EFFECTIVENESS OF THE DRUG COURT

INTRODUCTION

6.1 In this chapter we consider how effective the Drug Court has been in its first six months of operation. Clearly it is too early to determine the impact that the Drug Court has had on drug use and associated offending. However the interviews with offenders made subject to Drug Court Orders give some early (if necessarily tentative) indications in this respect. In this chapter we also consider the perceived strengths of the Drug Court approach - including the advantages of having a dedicated Drug Court - and factors which might have served to limit its effectiveness. The chapter continues with some suggestions as to how the effectiveness of the Drug Court might be further enhanced and concludes with a discussion of target numbers and capacity.

IMPACT ON DRUG USE AND OFFENDING

6.2 All the Sheriffs interviewed were clear about the pilot status of the Drug Court in Glasgow and commented that a full evaluation of its effectiveness was necessary, although one Sheriff noted that media coverage²⁷ around the time of the six-month anniversary of the first Order being made had suggested the Glasgow Drug Court was working well and was 'very successful'. While all the Sheriffs stressed in their interviews that it was 'early days' for the pilot Drug Court in Glasgow, and that their knowledge concerning its operation had been gained from informal discussion in Chambers with either one or both of the Drug Court Sheriffs, there was a consensual view that Glasgow Sheriff Court was in need of alternatives to custody for drug-misusing offenders who were currently offending (mainly crimes of dishonesty) to fund their illicit drug use. The pilot Drug Court, with its dedicated team and resources, was seen by the Sheriffs to contribute to reducing drug-related offences in Glasgow:

"You're really ... addressing this problem which is at the root of the offending of what brings them into court ... whereas a traditional method of dealing with these cases might appear to address the symptoms, it isn't actually curing the problem, whereas it seems to be this is a real attempt which will have a reasonable prospect of success in a number of cases of curing the problem."

"I think it will be quite effective, I'm optimistic that it's going to make a difference."

6.3 The Supervision and Treatment Team were also optimistic, based on their experience of working with clients on Drug Court Orders, that the Drug Court would be successful in addressing drug use and associated offending. For example:

"I've dealt with people that have gone from two hundred a day drug habits to nothing, to zero, to abstinence within two or three months."

²⁷ For example The Herald Tuesday May 14, 2002 pages 6, 15.

6.4 Team members also emphasised, however, that the Drug Court would only be effective in reducing *drug-related* crime:

“I think you have to be careful with some clients whose offending isn’t necessarily correlated to their drug use... The fact that you’re addressing their drug problem isn’t necessarily going to reduce their offending... We are targeting the disposal on people who are thieving. Breaking into houses and theft by shoplifting are really serious offences and we can really do a lot with that because it’s all to fund a drug habit. If you can address that you can address the offending.”

“If there are other factors in people’s offending behaviour or kind of acquired patterns of offending behaviour through their drug misuse that have bedded themselves in, then I’m not sure at the moment that I could say with confidence that it has or will impact with that group.”

6.5 They also observed that in some cases offenders on Drug Court Orders had continued to commit offences, not because they needed to do so to fund their drug habit, but because they find it difficult to break a long-established pattern of offending behaviour:

“I’ve got one client who continued to offend after he got his Order and he was saying to me quite clearly that ‘I didn’t need to shoplift, it was just because I had been used to doing that’.”

“There will be individuals that will say, especially in the early stages, they have still occasionally shoplifted when in terms of the drug use there is no reason for them to do that.”

6.6 The Drug Court Sheriffs, as an indicator of how effective the Drug Court had been, pointed to the fact that there had been only one Order breached in the first six months of its operation as an indicator of how effective the Drug Court had been. However they also acknowledged that the low breach rate might also reflect over-leniency on the part of the court and a reluctance to revoke Orders where offenders were clearly not complying. As one Sheriff observed:

“It’s rather hard to tell if the absence of breaches is due to the success of the Drug Court, the practice of the Drug Court or a little bit of each.”

6.7 The Drug Court Sheriffs also pointed out that the very nature of drug misuse meant that success should not be too narrowly defined in absolute terms:

“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. We can’t expect absolute success in every

case so when we're measuring the success we're going to have to have criteria other than drug abstinence... People have had ten years, twelve years, fifteen years of drug abuse and we're not going to have that kind of huge life change, complete life change in very many cases...Success may be different things for different people."

Both Sheriffs were reasonably optimistic that the Drug Court was having a positive impact on drug use and associated offending, as evidenced by the changes they had seen in offenders made subject to Drug Court Orders.

6.8 All of the Drug Court clients who were interviewed had extensively used a wide range of drugs prior to their referral to the Drug Court. While heroin and benzodiazepines appeared to be the most frequent drug of choice, all respondents were poly-drug users to varying extents:

"Heroin, temazepam, diazepam, but mostly heroin. I was using four or five bags a day of heroin you know, sometimes more than that but at the very least that anyway."

"Everything from valium to heroin, but heroin was my main problem. I could go without any other drug like cannabis, or alcohol or valium. It was just once I got introduced to heroin, it only took a few weeks...I can't explain, it's not like any other drug I can take and leave. Heroin I just had to take, take, take until I got addicted to it, it's really not nice at all, I couldn't give it up."

6.9 Since being on a Drug Court Order, all respondents had reduced their drug use significantly. All respondents were being prescribed methadone and were at various stages of stabilisation. In general, the early stages of a methadone prescription were characterised by occasional lapses when illegal drugs were used. However, for service users who had been in receipt of methadone for approximately three months, there appeared to be significant reductions in illicit drug use, with several respondents adhering to their prescribed medication alone.

6.10 All respondents had lengthy records of offending behaviour prior to being placed on a Drug Court Order, including shoplifting, house-breaking, drug offences, car thefts etc. All respondents stated that most or all of their offending behaviour had been drug-related, committed to obtain money for drugs and while under the influence of drugs:

"To fund the drug use cos, apart from anything else you wouldn't want to go shoplifting if you didn't need the money for drugs...because at the end of the day you don't want the jail."

"It always has been, nearly all my offending ...it always has been related to drug use, always has."

"All of them were committed when I was on drugs, most of them to get money for drugs, except the breaches, that's when I was on them. You know shouting and bawling, making a fool of myself more or less."

6.11 The majority of respondents noted that they had offended daily in order to obtain money for drugs and would spend whatever they could afford on drugs (from £20-£100 per day). Since being placed on a Drug Court Order, three of the respondents were facing further charges which were still to be dealt with but to which the respondents were intending to plead not guilty. Five respondents stated that they had not committed any further offences since being placed on a Drug Court Order:

“I couldn’t walk into a shop and lift anything now, I’m terrified whereas before I was normal I didn’t feel anything so lifting a bloody hi-fi and walking out a shop and everybody seeing me...you just did not care because you’d no feelings whatsoever. So it definitely worked for my offending anyway. I just couldn’t do it now, I’m terrified.”

6.12 Overall, all respondents considered Drug Court Orders to be a very positive opportunity, providing them with ‘another chance’ and ‘something to work towards’. Several respondents noted that the Orders provided them with an opportunity to stay out of prison, address their drug use and receive help to do so:

“I don’t think it’s a soft option the Drug Treatment and Testing Order. It is not a soft option.”

“To me, prison is the easier option than the Drug Treatment and Testing Order. Because in prison you don’t need to answer to anyone...whereas on the Drug Treatment and Testing Order I’ve got to answer to social workers, to probation officers, I’ve got to answer to Glasgow Drug Problem Service when I do my urine test, I’ve got to answer to a judge at my monthly reviews and I’ve got to answer to myself, because I’ve got to look closely at myself every time I do take a slip or whatever.”

“I think it’s been the best thing that has ever been introduced..., because if you look at my record it speaks volumes...It’s just been prison, prison (...) My longest sentence was eight years and nothing’s ever worked for me and now, I don’t know if you heard the Sheriff, he said I’ve done really, really well.”

“I think it’s been a good thing you know, it’s helped me in a big way.”

“They’ve got me on a methadone programme now and it holds me. Whereas if I wasn’t on that and I had a drug habit I couldn’t get up in the morning and do my everyday thing. Whereas now I just get up and take a walk to my nearest chemist ... When I go back to when I had the drug habit there was a lot of things I couldn’t do then but can do now.”

“The DTTO has really changed my life more or less and I am quite happy with the Sheriff and what he has done for me, and the other workers. They’ve all been like a team and they have all worked to get me on well, so I’m not wanting to let them down anymore, I’m wanting to try and make it up to them, like be there on time and things like that...”

6.13 Respondents noted that the Orders had made a significant impact on their lives, had enhanced relationships with their families and resulted in considerable improvements in their health and appearance. All respondents noted that their families were pleased with their progress, although they acknowledged that they still had to prove they were trustworthy, having relapsed on previous occasions.

“Just now I have never been so close to my family since I was a young boy, since before I was on heroin. They see me trying.”

6.14 Several respondents noted that boredom was a big problem and that they would like some organised structure to their lives.

“At the end of the day, boredom is (and any addict will probably tell you) the biggest thing that will cause you to relapse, because if you’ve nothing to do and you’re sitting twiddling your fingers it’s obviously going to be on your mind...”

“You see boredom plays a big part in it, you know you get bored but my girlfriend works now and I’ve got my daughter every day and that takes it away from me you know. But if she wasn’t there I think, I don’t know if I’d go back using or whatever but boredom does play a big part in it you know, so maybe if they can do something like employment-wise or a place to go, whatever...I think that would be a good thing in a way...”

6.15 This was being met, to some extent, by the possibility of group-work or day programmes which were offered by the drug treatment and testing team and external service providers. These activities were offered to service-users when they had made some progress with their Order. When such provisions did not materialise, respondents felt ‘let-down’. One respondent had been told to wait until he had been on his Order for longer before participating in additional activities:

“And that is a negative for me. Hold on? Hold on for what? Have me hanging about for what? You know what I mean, I’m hanging about doing nothing. Having nothing else to do with my time...”

Several respondents had, however, sought out voluntary work using their own initiative and two respondents were employed on a casual basis.

6.16 The requirements of the Drug Court Orders meant that service-users had to attend for treatment and testing twice weekly, and attend court every two weeks initially. For some respondents, this helped to provide some structure to their lives; however, when respondents had child-care responsibilities, this could be problematic as no provision was made for crèche facilities or assistance with child-care:

“My biggest problem is getting someone to look after the little one, because as I said, do you take her and get into trouble for taking her because it’s not a place for children, understandably because some people are sitting full of it, and she can’t crawl about or play with anything. Or do I stay at home and miss my appointments, this is the problem I have got.”

6.17 One respondent also noted that they would like their partner and parents to see how they were progressing, but would not be happy to take them along to the offices of the treatment and testing team, or to the Sheriff Court. The respondent commented that perhaps occasional home visits would alleviate this problem:

“I just keep going back and saying to my girlfriend, my mum and dad, that I am doing great and for all they know I could be lying. So it would be good for a social worker or whatever to come out to the house an odd time and see you on a one-one basis...because I don't really want to bring my mum and dad along with me to see how I am getting on, it's not a nice place, the waiting area.”

6.18 Drug Court Orders provided the respondents with what they considered to be 'another chance'. The majority of respondents noted that their ultimate objective was to be drug-free; several noted that they hoped to get a job and/or some educational qualifications or training experience. Three respondents were engaged in some form of voluntary work:

“I'm hoping to get to college in August to do [a college course] and progress to that and, you know, maybe do a university course on counselling, addiction, whatever, and hopefully get into a job that's going to suit me. Because I've got the life experience of it...but definitely total abstinence with drugs.”

“It's good for us to have been there and done that and go back into the community and say 'listen, we've done all this and these are your rights', cos a lot of people don't know there rights.”

“...I'd just like to put something back into the community 'cos I took so much out of it you know...”

“I want to get myself a job and be like everybody else instead of being an outcast because that's what you could call people out there who have a habit...Because you don't care about yourself when you are on them, the only thing that matters is getting that next bag.”

6.19 The motivation of offenders on Orders requiring treatment of their drug addiction was stressed by the Sheriffs as the key variable relating to successful outcomes of Orders. One Sheriff stated *“it very much depends on the offender as opposed to the court”*. In considering the role of motivation in determining suitable clients for the pilot Drug Court in Glasgow, another Sheriff responded:

“The expression is setting them up to fail and if there isn't a reasonable prospect and you really think that actually they are just going to breach it then what's the point because A) it's a lot of public money you're putting into this, B) and if it isn't going to work what's the point in doing it ...The Drug Court Order is never going to work unless they want it to work and so you need that commitment from their part. Just the fact that they have the habit would certainly not be a good reason to put them on any Order

like that unless you were assured that there was a reasonable prospect that they now had, they were prepared to make the commitment.”

6.20 The Drug Court Sheriffs were “cautiously optimistic” that the Drug Court would be more effective than traditional approaches in making offenders less likely to offend. Traditional approaches had, they observed, been relatively unsuccessful in this respect compared with their success in meeting other sentencing objectives.

PERCEIVED STRENGTHS OF THE DRUG COURT APPROACH

6.21 The Sheriffs reported that the ‘very full’ Reference Manual of the Drug Court, produced by the Working Party, had been their main source of information about the Drug Court to date. Informal dialogue between the Sheriffs individually and the two Drug Court Sheriffs had satisfied their demand, such as it was, for further information about the progress of the Drug Court. They therefore felt able to comment upon what they perceived to be main strengths of the Drug Court approach.

6.22 The Sheriffs perceived the Drug Court in Glasgow to have particular strengths over and above the ‘traditional’ procedures elsewhere in the Sheriff Court. These included the Drug Court team, the fast-tracking of cases and the procedures relating to pre-court review meetings and reviews. The Drug Court team, with dedicated Sheriffs and Clerk, was felt to be “*a team who work well together and they know what they’re doing*”. One Sheriff commented that, compared to their experience of the implementation of the Drug Treatment and Testing Orders pilot scheme, the pilot Drug Court in Glasgow was benefiting from the investment in training of the Drug Court Sheriffs:

“I think the DTTOs are a halfway house which aren’t totally satisfactory whereas the Drug Court Sheriffs are properly trained in dealing with these things...The Sheriffs are trained...they’ve had information about how, what it’s like to be a drug abuser, about particular drugs.”

6.23 The Drug Court was reported as being genuinely able to fast-track cases due to its resources. This was viewed as crucial in the treatment of drug-misusing offenders and contributed to the potential strengths of a dedicated Drug Court compared to other courts in the Glasgow Sheriff Court. As two Sheriffs expressed:

“I think the ability to deal with offenders quickly is the best root to trying to deal with the particular problems that they have, I think one of the difficulties that we have presently is where the offender pleads not guilty and then the trial is adjourned, and it’s maybe a year later before you’re dealing with the offender and so much has happened in that time, I think the fast tracking is probably the most important feature... I think the greater advantage that the Drug Court has is that it is dealing with the offender quickly after the offence is committed.”

“The screening is very quick, overnight .. they’ve got a very good screening system, there’s co-operation from all agencies which includes defence, prosecutor, police and .. I think they will be quite sensible about

who they do pick they'll weed out those who are just trying to take advantage of this .. you know the chap who thinks get out of jail free."

6.24 The procedures for pre-court review meetings and the nature of the reviews in Drug Court sessions were reported by the Sheriffs to contribute to the unique strengths of the Drug Court compared to courts elsewhere in the Glasgow Sheriff Court. Based on the informal information from a Drug Court Sheriff, one Sheriff commented on the advantages of being able to hold frequent pre-court review meetings for each case. The pre-court review meeting was perceived to enhance the process of gathering information about client progress, ensuring accuracy and therefore strengthening the decision-making process of the Drug Court Sheriff:

"I think the Sheriff is much more involved in the discussions before the offender actually appears which of course in the ordinary situation, Sheriffs are not involved in that at all, so I suppose the Sheriff is perhaps getting a much better flavour of the contents of a report because he's able to speak more directly with the authors of the report, so perhaps the Sheriff is getting a much better picture."

6.25 Their role in the Drug Court meant that Sheriffs had to be able to engage with offenders and use their influence with them directly. Drug Court Sheriffs believed that they had to be capable of empathising with people with whom they shared little in common. One Sheriff described the work of the Drug Court Sheriff as emotionally more demanding than the work undertaken in the Sheriff Court, not least because in the Drug Court the offender may on occasion seek advice from the bench:

"I feel as if it's some sort of duty to give them at least some sort of advice and point them in the right direction. So, I mean, that's the thing that's the most difficulty part of it. It's probably the most rewarding part of it as well."

6.26 Sheriffs did not believe their practice to have changed markedly as a result of sitting in the Drug Court, though they reported having a more informed attitude towards drug users as a result of their contact with them and with other professionals involved in their treatment and supervision. One Sheriff explained how he was, for example, now much more aware of the enormous pressures upon ex-users to start taking drugs, having previously not fully understood the nature of the difficulty people faced.

6.27 The factors highlighted by the Drug Court Sheriffs as having contributed to the effectiveness of the Drug Court in its first six months were the regular contact between different members of the team and the opportunity for dialogue between an offender on a Drug Court Order and the bench.

Advantages of having a specialist Drug Court

6.28 The Drug Court Sheriffs saw several advantages in having a specialist Drug Court. For example, it meant that clients were not required to discuss their drug use and other problems in public among people appearing for a variety of other reasons. Everyone appearing before the Drug Court was known to be there for the same reason, which might make the experience less embarrassing. In addition, through sitting regularly in the Drug Court the Sheriffs were also becoming increasingly experienced in dealing with offenders on Drug Court Orders. As a result they were better able to empathise with them and more subtle in their approach to dealing with them, than would be possible in a traditional court.

6.29 The creation of a dedicated Drug Court in Glasgow was broadly viewed by the Sheriffs to be “a good idea” as a step-change in addressing the context of chaotic drug taking and offending behaviour in Glasgow. The lament of the societal costs of drug-related offending was evident across the members of the Drug Court Team:

“The fact is we have a very serious drugs problem. It’s causing immense distress to all sorts of people because of the knock-on effects of the crime associated with drugs. You know you get mugging of old ladies and young people, you get, because people are thieving things and you get house break-ins. And I think the amount of money it’s costing the economy is vast and the upset it’s causing as well is vast.”

“For the right people it’s a better approach, at the end of the day if we can stop all this offending and giving of drugs, then it’s got to be better I suppose.”

FACTORS THAT HAVE DETRACTED FROM THE EFFECTIVENESS OF THE DRUG COURT

Defence agent remuneration

6.30 During the initial stages of the pilot, defence agents identified a number of concerns, which were being addressed to the Scottish Executive via the Glasgow Bar Association. These concerns centred primarily on the levels of remuneration for defence agents representing clients made subject to Drug Court Orders. Issues included:

- a verbal indication having been given that defence agents could not claim Advice and Assistance if a referral was being made to the Drug Court;
- the inability of solicitors to render interim fees, with the consequence that payment for all work undertaken with a client of a Drug Court Order could only be made on completion of the Order;
- the fact that no additional remuneration was being provided for defence agents to attend pre-court review meetings; and
- the fact that a single flat rate was being paid (£50) regardless of the number of cases an offender had calling in the Drug Court.

A particular concern was that different fee regulations applied to Drug treatment and Testing Orders imposed in the Sheriff Court and Drug Court Orders, creating an anomaly and a likely reluctance on the part of defence agents to represent clients dealt with by the Drug Court. The implication of these concerns was that if they were not adequately resolved, offenders made subject to Drug Court Orders might find it difficult to obtain legal representation.

Media attention

6.31 One factor that might have detracted from the effectiveness of the Drug Court in its first six months of operation has been the intense media attention that has been aroused by this innovative approach to drug-related offending. Media attention has, in particular, been intrusive for offenders on Drug Court Orders who have, on occasion, been ‘hounded’ by the press. One Sheriff was, however, confident that with time there would cease to be such intense media interest in the operation of the Drug Court, and that media interest in the early stages was inevitable in view of the innovative nature of the court:

“I think that’ll die down if this pilot takes off and more and more courts around the country are doing it. The interest, I think, will wane because nobody comes in and watches community service being doled out.”

Multi-disciplinary Working

6.32 Inter-professional collaboration across a number of sectors is a relatively recent phenomenon within the UK. It has been spurred on in the past decade by the implementation of the *NHS and Community Care Act*, although multidisciplinary working (as opposed to multi-sectoral working) has been common within primary health care since at least the early 1970s. However, the fact that such arrangements are increasingly common should not belie their complexity. Handy (1992) notes that successful organisations are underpinned by a strong cultural ethos which may not readily coincide with that of another organisation, despite an apparent similarity in stated aims and objectives. There was certainly evidence that senior members of the Supervision and Treatment Team were aware of the actual and potential difficulties but often, in their analysis of these problems, appeared content to assume that they would be resolved through goodwill and the passage of time.

“The drug court started only in October and we started from that time. There is lot of room for improvement in the system. I see the communication continuing to improve though (we) will have to look further and see how we can improve it further.”

“(We’re) trying to marry up some pretty diverse cultures and traditions, who customarily are not in the pattern of working together... given that, the scale of that task, it’s actually working extremely well. Again that’s probably a product of the personalities who are all working hard to fit together.”

“It’s been quite a turbulent relationship... it’s actually been quite difficult to actually work out a system whereby communication is seen

working and it's regular and it's agreed that it's priority and it's something that should be committed to."

6.33 However, Ovretveit (1993) suggests that goodwill and familiarity alone will rarely deliver the hoped-for "added value" that inter-professional collaboration should, in theory, deliver. The basic prerequisite for such multi-disciplinary teams is communication:

"For clients to get the help they need, team members need to know what help others in the team can offer and be able to explain what they can do to help clients."

Such communication, or 'role understanding', should be complemented by clear leadership, management and teamworking arrangements, and by adequate, equitable resources (Ovretveit, Mathias & Thompson, 1997).

Communication

6.34 There was little evidence of role-understanding or even mutual respect amongst the Team members interviewed. Team members generally recognised that part of the problem was attributable to differences in organisational culture, but there was scant evidence of compromise and the few meetings which had involved the Team in its entirety had not apparently been used to foster an understanding of these issues. One senior team member remarked:

"I am just one component of (the) drug court team. I am not aware of what is happening in other components."

6.35 Nor did there appear to be clear lines of communication in the everyday working life of the Team. The social work and counselling section of the Team use a notice board system to indicate the current and planned activities of the various individuals. However, the notice board gives no parallel information regarding members of the health services section of the team. Both sections apparently operate separate diary systems, and whilst individuals were working hard to ensure that there was minimum inconvenience to both the staff and the clients, team members reported a number of occasions when a breakdown in these arrangements had resulted in lengthy delays or rescheduling of client appointments:

"People would be waiting to come in for an appointment to go to see the nurse and then they take off and the GDPS don't even tell you. Or they phone GDPS and say that they can't come in and GDPS don't tell you. What I say to my own clients is don't - if you can't come to GDPS let them know, if you can't keep your appointment with me let me know. (One client said) 'I told sister'. I said, 'it doesn't matter I'm not getting that information through'."

"I know our nurses are annoyed because the drugs workers try and pitch into our clinics to see clients at roughly the same time. Which isn't ideal if they are seeing a nurse and then coming to a doctor and before I have got hold of them they have been whipped off by a drugs worker."

6.36 There was considerable awareness of this as an issue at all levels of responsibility within the Team, but maingrade staff in particular seemed at a loss to understand how these differences might be resolved and expressed frustration over barriers they were neither able to adequately define or remove:

“One major difficulty in communication between addiction and GDPS is the speaking a different language. Coming from different places. That’s not – well it’s communication problems because people aren’t hearing.”

“As far as I can see we work very well with them and it’s much better being across the hallway than being in a different building. But I think, sometimes they think we’re too rigid and too structured with the clients.”

Management and teamworking arrangements

6.37 The management arrangements for the Team appear to be somewhat complex and there appear to be significant areas of operation where issues of responsibility have not been resolved. This has led to an apparent lack of clarity over roles and duties:

“My role is to co-ordinate and ensure that the health bit are doing their bit as well, although I don’t have line management responsibilities for health, they have their own.”

Management of the health service section of the Team is the responsibility of the Senior Medical Officer, although the nursing staff are also responsible to the Health Board nursing hierarchy. Overall co-ordination of the Team lies with an independent Drug Court Team Co-ordinator but this post has no line-management responsibility.

6.38 Whilst the co-ordination of the different professional groups appears to work well at management and supervisory level, and the appointment of an independent co-ordinator has been useful in this respect, the mechanisms for translating this into practical co-operation at the client interface are not at all clear. Indeed, the rather confused nature of the management arrangements have led to many team members feeling that they are isolated from the decision-making processes and have little control over the direction of the project:

“More regular feedback from our own management team as to issues that are raised at our staff meetings, I think there should be more regular feedback from our management as to what the response from our management is.”

“We don’t actually know what management discuss when they’re having their separate meetings. And I dare say it’s about managing the Orders at a different level; managing the whole teams (sic) at a different level. But we really are not aware of what’s actually going on. And I think we maybe could do with some feedback on how well or how not so well, we are doing. There’s not a lot of that around to let us know if we are making really good steady progress; if we are making a difference.”

6.39 Three Team members expressed concern that a planned observational visit to an American Drug Court had been arranged without full discussion within the Team:

“Well, senior officers who make the decisions on all of the jobs are actually invisible. Well, we had an incident just the other day over the Washington trip where a senior manager made a decision that there shouldn’t be representation from social work or addiction in Washington.”

6.40 The normal vehicle for relaying senior management discussions and decisions to maingrade staff is the Team or staff meeting. However, the Drug Court Supervision and Treatment Team has struggled to establish a regular sequence of meetings and attendance by all sections has not yet been achieved:

“We have this big staff meeting and, to be honest with you, they just go on and on forever because people get all bogged down. They don’t stick to business any more (and) we get sidetracked very easily... it would be much better if they just addressed one thing and then we could actually deal with them and go onto the next one and people might be more eager to participate.”

“But actually we’ve never at this stage sat down as a full team with full representation from GDPS and I think that’s a failure because if we did that I know that we’d be talking about whether to do it monthly or bi-monthly. As yet it still hasn’t happened.”

6.41 In many multi-disciplinary teams, where all-member staff meetings are not possible for a variety of reasons, day-to-day multi-disciplinary task working is facilitated in order to foster communication and mutual role understanding organically. In such situations, joint supervision arrangements and rotation of staff ensure good understanding of the overall team ethic and the role of the individual disciplines within it. However, this too appears not to have occurred in any systematic way:

“We should all work together, I believe and instead of the GDPS and the social worker and the addiction workers being kind of a separate, we should have an addiction worker, a GDPS worker and a social worker who are a team, I think.”

“It’s only as good as the two or three people involved. If you have three people working with any one client... there has to be communication between the three of you... I think because of the time factors and the workload... we haven’t really got settled with some of things... like informal sessions where the three workers would get together and talk about individual cases... because people are so busy that hasn’t fallen into place.”

6.42 Where there is significant co-working at this level is in the production of court reports. Members of each of the three sections of the Team are assigned as keyworkers for individual clients. These keyworkers are responsible for producing written reports for the pre-review and review process. Overall ‘editorial control’ lies with the social

worker who co-ordinates report production and ensures that the views of the professionals involved are reflected in the final document. Although examples of good practice were cited where keyworkers had met to discuss their respective client and agree report content, this was by no means commonplace and appeared to occur usually where a client had proved difficult, or where progress was disputed by one section or another. This appears to have led to some dissatisfaction amongst some Team members regarding the content of reports:

“I am not suggesting there is any agenda there but what I am suggesting, is the process itself is open to misinterpretation and a number of mistakes can taken place when you are interpreting a technical report.”

“We are giving the report to social workers every month and then we see the social worker’s report going in, quite often it’s your report! So I do get a bit miffed about that sometimes.”

6.43 In part, this appeared to be as much a resourcing issue as one of communication. Heavy workloads left staff with little time to meet outside their respective disciplinary commitments, and poor resources, or resource training, meant that reports were often physically typed and retyped with consequently little opportunity for contributors to comment upon the final draft:

“I think we should all have access to the internet, have a drugs court website...there should be some form of system where we can communicate quicker. There is too much paperwork flying about.”

However, it should be noted that there was a general acceptance of the value of such multi-authored reports:

“I think they’re very useful ‘cause one person’s report can be interpreted in several ways and it’s not always the one person that’s involved with the client. It’s a kind of team effort.”

Resources

6.44 Ovretveit et al. (1997) argue that where inter-professional collaborative initiatives are established without clear management structures and an agreed and transparent approach to problem-solving, the resources available to the enterprise tend to be inappropriate for overall team needs. Almost inevitably, this will result in territorial disputes between the partner professions.

6.45 In the case of the Drug Court, there was general recognition that the problem of forging a working relationship between different professional groups had been compounded by inadequate premises. One senior member of the team remarked:

“...tension between the medical team and the addiction team and the social work team, but mostly between the medical and addiction and I think that’s because in no small part of the fact that we have a very unsuitable premises here and they’ve placed us in offices where we don’t nearly have enough interview space and when peoples environment

aren't suitable for the job that they have to do, that's inevitably going to cause tension..."

6.46 This view was echoed throughout all sections of the team with staff noting particularly the pressure upon interview/counselling rooms. This had caused tension between different sections of the Team and disagreements over proprietorial rights:

"There's two rooms downstairs plus there's a night porter's room so that only leaves like maybe one interview room for the social worker and addiction staff to see people. And if we have a clinic, say we have maybe two or three clients don't turn up so we're like quite... there's nobody really there to see for twenty minutes, half an hour, the addiction can't see why we just can't give over our room to them..."

6.47 The shortage of interview/counselling rooms has a consequent impact upon the waiting room and, again, there was concern at all levels that the facilities provided were inadequate and possibly deleterious to the treatment ethic of the project:

"I would probably think it's quite difficult, very difficult considering you are sitting... downstairs in this waiting room for so long as clients are required to wait because of just lack of space amongst people who are stable on script or unstable and it really is rubbing peoples nose in it."

"We need to improve our waiting area substantially, and make it much more user friendly and I think that we need to move out of these premises which have been unsuitable for us. We need an environment where the client comes in and feels relaxed, because a lot of the clients come in feeling quite tense and anxious and agitated and they know that they have to give a urine sample and I don't think they've been given the proper facilities to give that urine sample because the waiting area is overcrowded, people in for assessment sitting alongside people who are withdrawing or gouching..."

6.48 The procedures adopted for testing (urine analysis) too, have also had an impact upon the waiting area:

"What he (the client) says is, a lot of times there's a sort of atmosphere in the waiting room. Folk in all sorts of states and he's obviously quite anxious and uptight about passing the test anyway or doing the urine test anyway. And all the shouting and noises around and having to go to the toilet and it's very open. I think it's not conducive to... I don't think it's helping that client anyway."

6.49 Team members also noted that problems in dealing with clients timeously undermined the treatment ethos of personal accountability and responsibility:

"...we ask clients to turn up within twenty minutes and then we keep them waiting around for - how long is a piece of string - till we get a room. Or we send them away because we can't get a room and I just think that's not good practice..."

“You’re having to wait around maybe three quarters of an hour to get a room and you’re expecting them to turn up on time or they’re going to be gaoled. And then they come in and they’ve got to sit around for three quarters of an hour to see you for ten minutes! To give them feedback? Hah!”

6.50 Frustration, even anger was also expressed at staffing levels, which had increased workloads to an extraordinary degree, particularly within the social work and counselling section of the team. Senior members of the team noted:

“We don’t have the capacity in terms of staff to deal with the wider issues because we are in crisis, we’ve been in crisis for six months, we’re still in crisis. We don’t have enough social workers, we don’t have enough addiction workers, we can’t recruit... well we’ll not recruit quick enough. To me, we should have had 8 social workers, 7 addiction workers, a full medical team at the beginning of the drug court... we’re six months down the line and we still don’t have them. And people are leaving the team. We’ve had a very unstable start, we’ve had an unstable start to it and that’s affecting everything.”

“We don’t have enough social workers and we don’t nearly have enough addiction workers. Therefore, when people are worked off their feet - literally off their feet - there is only so much they can do. We want this to work but this won’t work with the current staffing levels. It won’t work with the current level of management support either, because there has not been enough management support to this team.”

6.51 One senior member of the team noted that this was in part due to an underestimation of the likely demand:

“I think the working party worked on the base that once the drug court came in, DTTO’s might fall away, because the drug court is taking away business, whereas in fact the drug court does seem to encourage other people to start using them and the number of DTTO’s suddenly swelled... instead of having those resources set up to deal with drug court cases and the anticipated small amount of (other) DTTOs you are suddenly looking at drug court cases and almost twice as many DTTO’s in the same period.”

6.52 Whatever the reasons, there was almost universal recognition that some sections of the team were labouring under extremely heavy workloads. Maingrade staff particularly were quite direct in their criticism of the staffing levels and consequent workload:

“The social workers are just constantly report writing. I mean, someone should really seriously sit down and look at how many hours a week does it take for one client, including the interview time, the paperwork time, the report writing time, your liaison with other agency’s time and figure out

what the maximum caseload is. And then folk on high should make sure the staff compliment is adjusted accordingly.”

“I think, because it’s working well at the moment, because they’re doing good work but it’s going to cave in, staff are getting demoralised, they’re going to just throw the dummy out the pram, they’re going to get burned out. You can’t expect staff to keep working at such a pace, and are no better paid, the addiction staff here are no better paid than they are in an area team and that is a disgrace. I’ve worked in local drugs projects and I know how some people operate and they are not under this level of pressure at all.”

6.53 A number of team members claimed that the workload had reached levels that were seriously undermining the quality of service they were able to provide:

“I’m a skilled social worker and I have things to offer clients that I could actually use my skills more effectively. But in many cases... I’m a care manager rather than a care worker... I could be doing more. Addiction workers could be doing more. But because of the volume of workload and because of the roles sometimes we play, it restricts the services we offer clients.”

“You’re not really getting a chance to stand back and sit down and actually structure your work, plan for it and prepare for it and take in materials with you. There’s not many resources here, we don’t have the leaflets, we should have information there for the clients.”

“Because of the time, because, I have never ever been so disorganised in my life as I have been since I’ve come to this place. I was always organised, a very, very good time manager. Used my time efficiently and effectively. And some days you are reduced to tears because it’s so much to do.”

6.54 One senior member of the team felt that the uniqueness of the project had not been reflected in appropriate staffing levels:

“This is not an area team, this is not probation, this is not community service. This is drug court DTTO and drug court probation. These are unique Orders that we are servicing for the first time, and I’ll tell you, they require a lot more input than your average criminal justice disposal.”

FACTORS THAT WOULD FURTHER ENHANCE THE EFFECTIVENESS OF THE DRUG COURT

6.55 The Drug Court Sheriffs identified a number of developments that they believed would made the Drug Court even more effective. These included the availability of sanctions to respond to non-compliance; the development of a more sophisticated system of rewards for good progress; and the possible introduction of a mentoring or

'buddy' system in which offenders who have been on an Order for some time provide support to others who are in the early stages of their Orders.

6.56 The Drug Court Sheriffs stressed the importance of continuing to learn from developments in other jurisdictions that have more experience of operating Drug Court. That said, they also recognised that approaches adopted in different jurisdictions needed to be culturally relevant and that some ways of doing things in, for example, North America, would appear incongruous in the Scottish context.

CAPACITY OF THE DRUG COURT

6.57 The Drug Court currently sits for four days per week, with pre-court review hearings held at 12 noon and the court sitting at 2 p.m. The Sheriffs acknowledged that their work was, at this stage, relatively sporadic because the court had only recently been established and caseloads would take time to build up. They therefore perceived themselves currently to have some extra capacity, but acknowledged that this situation was unlikely to persist. The Supervision and Treatment Team, on the other hand, were perceived to be working to full capacity even with the addition of further staff members and the Sheriff wondered how they would cope as numbers increase without having further additional resources.

6.58 An unexpected consequence of the Drug Court being introduced had been a perceived increase in DTTOs imposed by the Sheriff Court. One of the Drug Court Sheriffs reported that the number of DTTOs made in the Sheriff Court in the first month of operation of the Drug Court exceeded the number made in the whole of the previous year. He attributed this to the fact that Sheriffs' awareness of drug treatment disposal had been heightened by the training that was provided in relation to the setting up of the Drug Court.

6.59 When the Drug Court was established it was anticipated that it would make 150-200 Orders per annum during its first two years of operation. The Drug Court Sheriffs emphasised that the target was an absolute maximum and may, indeed, be an unrealistic workload for two Sheriffs. Their concern was that this might undermine the effectiveness of the Drug Court approach:

"A dozen cases, 15 maybe, a day would probably be the optimum. Any more than that and you'd begin to get very, very fed up and you would then go round in circles and start mixing people up."

6.60 The Sheriffs believed that the target numbers would pose more of a problem for the Supervision and Treatment Team and that their ability to maintain a high quality service should be a primary factor in establishing the appropriate target numbers for the Drug Court:

"I think their ability to cope is the most important thing because unless they're able to provide reports on time, quality reports, unless they're able to do their job properly we're kind of pointless. So I think they're the crucial factor in determining capacity rather than us."

6.61 The Drug Court Sheriffs did not consider the introduction of the Drug Court to have had any significant impact on the workload of the Sheriff Court. This was partly because offenders dealt with in the Drug Court represented a very small proportion of the total business going through the Sheriff Court. Furthermore, those appearing at the Drug Court would only appear once or twice every six months in the Sheriff Court since the nature of their offending and their criminal records would make it likely that they were, on each occasion they appeared, imprisoned. The Drug Court Sheriffs suggested that, on balance, 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 was probably increasing the incidence of guilty pleas and therefore resulting in fewer cases going to trial. However, they suggested that the introduction of a Drug Court in smaller courts would have a significant impact on other workloads.

6.62 The capacity of the Drug Court during the pilot scheme was considered by the Sheriffs sitting in the Sheriff Court to be modest in terms of its stated target. Views ranged from an acceptance of the status of the Drug Court as a ‘pilot’ to the view that ‘they should be aiming for more’:

“It depends how much work they get through, at the moment. . . I think there is only about thirty, thirty three, which doesn’t really seem an awful lot to have taken, I understand that the pilot group was to be about two hundred or there about, I think with the major drug problem that exists, then four days is not too much providing they could put into to those four day a few more customers.”

“I think the Drug Court is a very good idea, the trouble is it only scratches the surface, now truth be told if you’re really interested in Drug Court you’re going to have quite a lot of Drug Courts. One is not going to be nearly enough we’re talking about what two hundred cases.”

“It’s certainly not too much, about right, well I suppose it is at this stage in the game but It seems to me that this is an area where we really do have to go hard at it and there may well be a good case for putting a lot more into it.”

SUMMARY

6.63 There was a general optimism among those involved in the operation of the Drug Court that it would be successful in reducing drug use and associated offending behaviour. All of those on Drug Court Orders who were interviewed reported significant reductions in drug use and offending, and were positive overall about their experience of Drug Court treatment and supervision. Boredom was, however, a common problem and Drug Court clients would welcome more organised structure in their lives.

6.64 The main strengths of the Drug Court were perceived to be the ‘fast-tracking’ of offenders, the existence of a trained and dedicated team with regular contact with clients, and the system of pre-court review meetings and reviews. The Drug Court

Sheriffs reported feeling much better informed about drug use as a result of their contact with other professionals and with offenders on Drug Court Orders. There was support for the existence of a specialist Drug Court, including from among other Sheriffs who sat in Glasgow Sheriff Court.

6.65 Issues around multi-disciplinary team working within the Supervision and Treatment Team were believed to have undermined the effectiveness of the services provided to offenders in Drug Court Orders. The management arrangements were said by staff to be unnecessarily complex, the premises were inadequate and the staffing levels were too low, resulting in unrealistic workloads for the social workers and addiction workers. Each of these factors undermine opportunities for a genuinely collaborative, multi-disciplinary approach.

6.66 The workload for different professional groups involved in the Drug Court was variable, being more manageable for the Sheriffs and less so for the Supervision and Treatment Team. The Sheriffs who sat in the Drug Court did not believe that its introduction had impacted significantly – in either a positive or negative way – on the workload of the Sheriff Court.

6.67 Factors that the Drug Court Sheriffs thought would further enhance the operational effectiveness of the Drug Court included the availability of additional sanctions for non-compliance, a more sophisticated system of rewards and, possibly, the introduction of a mentoring system for offenders on Drug Court Orders.

CHAPTER SEVEN: CONCLUSIONS

INTRODUCTION

7.1 The pilot Drug Court in Glasgow aims to reduce the level of drug related offending, and reduce or eliminate offenders' dependence on or propensity to use drugs. The impetus for the establishment of a pilot Drug Court in Glasgow arose from an increasing recognition of the link between drugs misuse and crime, coupled with a growing knowledge base of the efficacy of drug treatment, including coerced treatment rather than services accessed on a voluntary basis. The introduction of the new Drug Court as a pilot in Glasgow followed the report of a Working Group which concluded in May 2001 that the establishment and operation of a Drug Court in Glasgow was feasible within existing legislation.

7.2 The detailed nature of both the Report of the Working Group and the Reference Manual that describes the procedures to be adopted by the Drug Court in Glasgow, were felt by the Drug Court Team and Sheriffs elsewhere in the Glasgow Sheriff Court to offer a transparent and clear view of the aims and objectives of the newly established court and the procedures relating to the criteria for screening suitable clients for Drug Court Orders. Public confidence was perceived by the Drug Court professionals to be important and it was noted that the largely positive media reporting about the Drug Court in Glasgow during this initial period had contributed to a public confidence in the Drug Court and its Orders being a legitimate alternative to custody, that it was not a 'soft option', and that drug misusing offenders did not present a 'danger' to the public.

7.3 In this final chapter we summarise the key conclusions that can be reached on the basis of the evaluation to date and identify a number of issues that will require consideration over the remaining duration of the pilot Drug Court in Glasgow.

THE OPERATIONAL EFFECTIVENESS OF THE DRUG COURT

Referrals

7.4 Of all cases referred to a screening group during the research period, 36 per cent were identified by the police, 34 per cent by the marking Fiscal Depute, 14 per cent by a defence agent, 13 per cent by a Sheriff and three per cent by other sources. The research highlighted a general perception among police officers that the Drug Court has potential, but that the referral system, as operated by the police, is not working effectively. Fewer referrals are being made by the police than might be anticipated, and referrals are coming, not from duty officers who are in direct contact with the offender and reporting officer, but from divisional case management officers. Duty officers are not referring for reasons that are difficult to understand in the context of police guidelines; the main reason appears to be based on a misunderstanding of their role. There is a low level of awareness among officers on the street or in the station of the aims and procedures of the Drug Court. Difficulties have arisen, not due to a lack of clear criteria, but as a result of the need for clear explanation of roles and responsibilities at different stages of the process. Additionally, police input to the

screening group is by an officer who receives reports via the Fiscal and has little contact with reporting officers or offenders. However, officers at all levels noted their support for the establishment of the Drug Court and its aims. Police respondents noted that they would support the extension of the Drug Court to offenders with less well-established patterns of offending.

7.5 From an analysis of the views of police officers, it is possible to suggest that the referral system could be improved by a combination of the following:

- a substantial programme of training at local level
- clarification of the precise role of duty officers in relation to the criteria
- improved mechanisms for feedback to reporting officers
- improved systems for updating SCRO records
- involvement of reporting and duty officers in the screening group
- a clear display of senior officer commitment to the court.

Referral Process

7.6 Referrals to the Drug Court are considered at the Screening Group, convened by the Drug Court Procurator Fiscal with a range of relevant professionals in attendance. There was evidence that the pilot Drug Court during its first six months was working well with the highest level of commitment and motivation across all the professional disciplines of the Drug Court Team (and, indeed, the offenders themselves on Orders). By the second month of operation a steady and sustained flow of referrals was being processed through the Screening Group. Sentencers and other professionals believed that the Screening process was of a high quality and that concerns about dual diagnosis, maturity of candidates and motivation to access and complete drug treatment programmes were being satisfactorily assessed. While the Screening Group operates to strict criteria for eligibility, there was some support for widening that criteria to include eighteen to twenty-one year olds and lower-tariff offenders, particularly women who are often dealt with by the district court. However, those most closely associated with the operation of the court believed the existing referral criteria to be appropriate and realistic.

7.7 Overall, there appeared to be a general satisfaction that the Screening Group was effective in identifying suitable cases for referral on to the Drug Court, with 79 per cent of cases which were considered by the Screening Group going before the custody court as potentially suitable for the Drug Court. However, offenders often failed to attend appointments during the assessment period, suggesting that in some cases their primary motivation in agreeing to be assessed was avoiding custody. It would be beneficial if refinements could be made in the referral process in order that offenders who are thus motivated were 'sifted out' before being bailed for four weeks for a full Drug Court assessment to be made. A significant amount of resources were being spent on the referral process and partial assessments that were not going to result in a Drug Court Order being made.

7.8 Whilst Orders appeared to be made on 'appropriate' offenders, the limited available information about offenders who did not get Drug Court Orders made it impossible to assess how they compared, even on basic variables such as criminal

history and history of drug use. It is recommended that monitoring systems are improved over the forthcoming months for the purposes of the final evaluation.

Assessment period

7.9 While ‘fast-tracking’ is a key element of the referral process, only 39 per cent of full assessment reports appeared to have been made available to the court within the four-week assessment period. There are many reasons for reports being delayed, not least the failure of offenders to attend for assessments. Similarly, review dates may be revised for various reasons, thus delaying sentencing itself. However, Drug Court Sheriffs were satisfied that reports were usually made available when required, a situation enhanced by the appointment of additional social workers to the team.

7.10 Sheriffs and Drug Court clients both noted that the four-week period was useful in enabling the full and thorough assessment of clients in order to establish their suitability for Drug Court Orders, and to ensure that clients were fully informed about the requirements they would be expected to meet. However, it was recognised that this was a difficult time for offenders, who were generally released on bail with a requirement that they did not re-offend yet who were unable to access treatment during this four-week period. Drug Court Sheriffs and clients were keen to see the assessment period kept to a necessary minimum, though a reduction in the assessment period would be difficult within the existing staffing resources of the Supervision and Treatment Team.

Workload and capacity

7.11 The Glasgow Drug Court was staffed by a dedicated team of two Sheriffs, a procurator fiscal, a Co-ordinator and a Supervision and Treatment Team consisting of a team leader, supervising social workers, addiction workers, treatment providers and medical staff. A multi-agency Drug Court Team had been established to review the working, development and operation of the Drug Court. The target of 200 Orders during the pilot was contested within the multi-agency setting: whether this referred to an absolute number of Orders (for example, the first client of the Drug Court received 6 Drug Court DTTOs, a practice which subsequently was not repeated during the initial period), or whether it referred to 200 offenders on Orders as an expected capacity.

7.12 There were notable differences in experiences and views within the professionals about the workload, and what capacity was achievable (and desirable) for the Drug Court. Sheriffs working in the Drug Court wanted as many ‘customers’ as possible and were flexible about the working hours of afternoon court to accommodate increased numbers. Sheriffs from elsewhere in the Court felt that to significantly impact on the Glasgow drugs and crime problem, there would need to be either greater throughput of offenders or more Drug Courts in the area.

7.13 Social workers and addiction workers reported being already hard-pressed. The Drug Court Treatment and Supervision Team was built upon the existing DTTO team in the Glasgow City Council Social Work Department. The existing demands placed by Drug Court Orders and by a perceived increase in DTTOs made by the Sheriff Court were contributing to low morale and a feeling of being overloaded by the

frequency of client appointments required. This resulted in staff taking ‘shortcuts’, such as using information directly from reports prepared by other professionals rather than providing an integrated summary of the relevant material. The increase in the staffing level of the Supervision and Treatment Team over the period of the pilot was intended to relieve the ‘high’ workloads of some staff in meeting the demands of the current moderate capacity level.

7.14 Offenders perceived the Orders as weak in the development of the social and educational aspects of their lifestyle change. Boredom was frequently cited by the offenders within reviews (often at a time when drug use had been stabilised or significantly reduced). The experience and impact of the Drug Court Orders was felt by offenders to be limited by professionals ‘not listening’ to their aspirations and being focused rigidly on their drug treatment. It is suggested that greater emphasis should be placed on activities aimed at promoting social inclusion and occupying clients’ time more effectively, and that there should be a greater degree of consultation with clients in order that the services provided might more fully meet their needs.

Reviews and enforcement

7.15 Pre-court review meetings were perceived to be a beneficial component to the process of supervising and treating clients 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 presented at the review with the client. While some offenders wished they were able to attend pre-court review meetings, all were confident that their progress was discussed in a fair and appropriate manner.

7.16 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 Glasgow Drug Court in its pilot stage. Sheriff-Client dialogues were at the heart of reviews, ranging from 20 per cent to all of the review time. The sentencers on their side generally offered words of encouragement, regardless of progress, and the clients on their side were honest, responsive and usually co-operative. The concept of drug use as a relapsing condition was recognised by Drug Court Sheriffs and emphasised particularly in shrieval dialogue.

7.17 Supervision and Treatment Team workers took active steps to respond to instances of non-compliance. The Drug Court Sheriffs had a number of sanctions without recourse to formal breach proceedings, although sentencers believed that the range of actions currently available to the Drug Court was insufficient and would welcome the option of a ‘short, sharp sentence’ to punish non-compliance while allowing an Order to continue. During the first six months of the pilot Drug Court in action, only one Order had been breached and Drug Court Sheriffs had made very few amendments to Orders to encourage compliance.

Professional roles

7.18 The process whereby an offender is assessed, screened, placed upon a treatment Order, monitored, supervised, regularly reviewed and, eventually, either discharged or breached, is a relatively complex one. A range of different professionals are involved

at different stages of the process and there was, generally speaking, only limited understanding of other parts of the whole amongst those whose responsibilities were restricted to a specific element (or elements) of that process.

7.19 Staff within the Treatment and Supervision Team, whether addiction workers, social workers or health workers, were generally clear and sanguine about their own role within the process, although some social workers were uncomfortable about assuming a case-manager role and expressed regret that their role left little opportunity for actual case-work. However, staff were less clear about the roles played by the other disciplines.

7.20 There was some evidence that the role of addiction workers in particular was not clearly understood or appreciated by other team members. During the course of this evaluation, addiction workers were variously referred to as ‘counsellors’, ‘drug workers’ and ‘drug counsellors’. Clearly, where even the job title is the subject of confusion, perception of job *content* is likely to even less appreciated. Some respondents suggested that the addiction workers were pivotal to the success of Orders but that they tended to be under-valued.

7.21 There was a feeling, throughout most of the interviews, of what one respondent described as, “*that bit of, my bit being more important than your bit.*” Whilst a certain amount of professional jealousy provides a useful stimulus to multi-agency working, the views recorded during this evaluation suggested a more unhealthy inter-disciplinary rivalry.

7.22 Some resentment was also expressed by staff in the social work and addiction work sections of the team about the fact that salary levels, whilst commensurate with that of other relevant professionals, failed to adequately reflect the increased workload and responsibility. Within the health service section of the team, this issue was not raised. Indeed, the level of nursing cover appeared generous in comparison to other grade arrangements elsewhere within the NHS.

Enhancing multi-agency working

7.23 Multi-agency working was a serious concern for virtually every team member interviewed. There was a general recognition that the various disciplines involved were not working together as well as might have been hoped. In general, senior members of the team appeared to feel that divisions were manageable and would be “*ironed out*” in time.

7.24 Maingrade workers however, were far less sanguine about the prospects for improved joint-working. Staff within the addiction and social work section of the team in particular, felt that there were fundamental differences in approach to treatment philosophy that could not be breached.

7.25 It was not entirely clear to what extent these difficulties and divisions were intrinsic and to what extent they were exacerbated by high workload and acknowledged understaffing. What was clear, was that these problems were having a serious impact upon staff morale (and possibly upon quality of service) and will require a concerted input from the project management team to ensure that a clear

structure is provided within which philosophical and practical disagreements can be considered and resolved.

7.26 During the review, many of these tensions were attributed to inadequate premises, understaffing, and even, on one occasion, “*growing pains*”. However, as these problems are addressed through the re-siting of the team and recruitment of additional staff, conflict issues will inevitably become more critical.

7.27 Even so, given likely activity levels over the remainder of the pilot period, the pursuit of an all-encompassing staff meeting as a vehicle for the resolution of inter-professional divisions is almost certainly a chimera, and more organic and pragmatic methods of encouraging and enhancing joint-working will need to be employed.

7.28 Action is, therefore, required to resolve divisions and discontent within the Treatment and Supervision Team and should include as a minimum:

- the establishment of clear management arrangements for the whole team
- development of multi-disciplinary working practices
- management prioritisation of multi-disciplinary case-management for all clients
- centralised diarising and recording arrangements
- improved technology and technology training to facilitate co-authored report writing

7.29 All of these issues will require clear leadership and prioritisation at management level and there is an urgent need to examine staffing and workload levels, grading and division of responsibilities in the light of experience thus far.

Operational objectives of the Drug Court

7.30 Operational objectives for the Drug Court Sheriffs were to keep offenders out of prison in order that they might receive help with their drug problem, and to establish a constructive environment to enable offenders to respond positively to the help that was made available to them through a Drug Court Order.

7.31 It appeared from the limited information thus far available 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. While deferred sentences were seen as affording Drug Court Sheriffs some flexibility in sentencing, they expressed reservations about the appropriateness of Restriction of Liberty Orders (RLOs) in dealing with drug court clients.

7.32 Drug testing was seen as a positive element of Drug Court Orders by Sheriffs and service users. Indeed all drug court client respondents noted that they considered drug testing to be an important part of their Order and one which was necessary to help them reduce or end their use of illicit drugs.

7.33 Drug Court clients were very positive about the impact of the Drug Court on their drug use and offending. All respondents noted that they were no longer offending to support their drug use and had considerably reduced (or ended) their use of illicit drugs. Drug court clients 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. It was noted that increased support with employment and training opportunities may be useful as drug use is reduced, in order to alleviate boredom.

CONCLUDING OBSERVATIONS

7.34 The commissioning of an independent evaluation of the pilot Drug Court in Glasgow was essential to determine whether the operation of the Drug Court is viable within the Scottish context. The formative and process evaluation of the first six months of the pilot Drug Court in action suggests that the initiative has largely been a success, with the role of the Drug Court Sheriffs having been critical in this respect. Overall, the Glasgow Drug Court was perceived to be very effective in providing a resource for drug-using offenders. The dedicated team and resources were viewed as a positive contribution to the reduction of drug-related offences in Glasgow.

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