

THERAPEUTIC JURISPRUDENCE AND PROCEDURAL JUSTICE IN SCOTTISH DRUG COURTS

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Gill McIvor
Department of Applied Social Science
University of Stirling
Stirling
FK9 4LA

e.mail: gillian.mcivor@stir.ac.uk

tel: 01786 467743

fax: 01786 466319

Abstract

Scotland, like other Western jurisdictions, has recently witnessed the development of problem-solving courts aimed at responding more effectively to issues that underlie certain types of offending behaviour. The first to be established were two pilot Drug Courts which drew upon experience of Scottish Drug Treatment and Testing Orders. In common with Drug Courts elsewhere, the Scottish pilots combined treatment, drug testing, supervision and judicial oversight. This article focuses upon the role of judicial involvement in the ongoing review of Drug Court participants' progress, drawing upon court observation and interviews with offenders and Drug Court professionals. Drug Court dialogues were typically encouraging on the part of sheriffs, aimed at recognising and reinforcing the progress made by participants and motivating them to maintain and build upon their achievements to date, while participants were generally responsive to the positive feedback they received from the sheriffs as their orders progressed. Interactions within the Scottish Drug Courts reflect key features of procedural justice (Tyler, 1990), including ethicality, efforts to be fair and representation. By contributing to enhanced perceptions of procedural justice, Drug Court dialogues may, it is argued, increase the perceived legitimacy of the court and by so doing encourage increased compliance with treatment and desistance from crime.

Key words: Drug courts; procedural justice; therapeutic jurisprudence; desistance

Gill McIvor is Professor of Criminology at the University of Stirling and Co-Director of the Scottish Centre for Crime and Justice Research.