JUDGING RECOVERY: AN ANALYSIS OF 'CARE' AND 'CONTROL' IN A SCOTTISH DRUG COURT

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PhD

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Business and Society

November 2022

For my mum and dad

Abstract

Background and Rationale: This thesis explores how professionals working in a Scottish Drug Court construct the programme in terms of 'care' and 'control'. This thesis is important for two reasons. Firstly, the Ministry of Justice has announced that several problem-solving courts, including Adult Drug Courts, will be established in England and Wales. Secondly, a review of the literature found a shortage of research on Drug Courts in the UK, particularly a lack of qualitative studies. Given the controversies surrounding Drug Courts, further research is needed to qualitatively explore British Drug Courts.

Methodology and Methods: A qualitative methodology was used to gain detailed understandings of the Scottish Drug Court. Using convenience sampling, a sample of professionals working in the Drug Court, including Sheriffs, social workers, and addiction workers, were recruited to participate in semi-structured narrative interviews. Observation of Drug Court hearings was also conducted to gain greater familiarity with the programme and understand 'care' and 'control' in Drug Court hearings. Data were analysed using a narrative approach and interpreted and explained in relation to the research base on Drug Courts.

Findings: The main finding was that whilst the Drug Court uses therapeutic, 'caring' approaches to reduce drug misuse and offending, therapy and 'care' is also used to justify punishment and control. The culture of 'care' and 'control' appeared to facilitate unique interpretations of 'supervision', 'recovery', 'desistance' and recovery 'capital'.

Conclusions: This thesis contributes to an understanding of how and why Drug Courts are constructed as 'caring' or 'controlling', and how they impact on the supervision, recovery, desistance, and recovery 'capital' of participants; contributing to the evidence base in this area. The themes identified in this thesis lay the foundation for future research on the understanding of 'care' and 'control' and the understanding of Drug Courts in UK drug policy.

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Acknowledgements

I would like to acknowledge and give my deepest thanks to my supervisors, Sharon Grace and Charlie Lloyd, without whom this PhD would not have been possible. Whilst I have doubted myself many times over the years, their wisdom, support, and encouragement has been invaluable to both the PhD process and my personal development. I hope you both know how brilliant you are and what an impact you make on your students' lives. I would also like to thank my Thesis Advisory Panel, especially Rachel Vipond, for your insightful feedback on early draft chapters of this thesis. Your humour and support helped me through both this process and the teaching process.

I would also like to give special thanks to professionals from the Scottish Courts and Tribunals Service and the Local Authority, especially the Sheriff Principal of the Drug Court and the Drug Court Manager. Thank you for your hospitality and for sharing your wisdom and insights. I would also like to thank the DCSTT for taking part in this research, without whom this study would also not have been possible. Thank you for welcoming me into your team and thank you for sharing your unique experiences as Drug Court professionals and contributing to this research.

Finally, I would like to thank my partner, Gareth Darbyshire, and my family (and Gary) for their continued support and understanding whilst undertaking this research and writing up this thesis. Thank you for all the lifts to York, for always being there, and for listening to my whinging. I could not have completed this without your support.

Author’s Declaration

I declare that I have designed and conducted the research that is presented in this doctoral thesis. This thesis has not been submitted for a degree prior to this submission in this institution or in any other institution. To the very best of my knowledge, all the material comprised in this thesis is original and has not been published elsewhere or attributed to any other author, except where this has been acknowledged using an appropriate referencing system. Apart from the data collected and reported in this thesis, views presented herein are my own and do not reflect those of any other person, institution, or entity.

- Amy Francesca Loughery, 2023.

Chapter 1

Introduction

1.1 The Drug Court Project

In 2020, the Ministry of Justice in England and Wales announced a new sentencing project: the trialling of several new problem-solving courts, including Adult Drug Courts (2020, p. 5). In recent years, problem-solving courts have received renewed attention, with courts targeting different types of offending, or different social 'issues' related to offending, appearing across the United Kingdom (UK). This has included Specialist Domestic Violence Courts in England and Wales (Bettinson, 2016; Centre for Justice Innovation, 2013), criminal alcohol courts in Scotland (Centre for Justice Innovation, 2020; Crowe, 2017), and a problem-solving "Choices and Consequences" programme for prolific offenders in St. Albans (Kawalek, Phillips, and Greenslade, 2022). Whilst problem-solving courts tend to be presented positively in the media (The Guardian, 2020; Birmingham Mail, 2022; Northern Echo, 2022), the proposed re-enlivening of the Adult Drug Court project has come as a surprise to commentators who argued that they had been all but "abandoned" in England and Wales, with only "remnants" remaining in Scotland (Collins, 2019, p. 99). Whilst there is a broad evidence base on Drug Courts in the US, where they are well-established (Marlowe, 2010; Nolan, 2017a), the arguably premature demise of the UK Drug Court project has meant that they have received comparatively little attention as a feature of British criminal justice and drug policy (Collins, 2019; Nolan, 2009).

Presently, international evidence on Drug Courts tends to suggest that they are effective at reducing drug misuse and drug-related crime (see section *4.3*; Belenko, 1998; Nolan, 2002; Nolan, 2017a; Logan and Link, 2019). However, most of this is quantitative in nature, and there is growing need to understand whether, how and why Drug Courts impact on recovery and desistance through qualitative methodologies (Seddon, 2007; Urbanoski, 2012; Nolan, 2017a, p. 127). One of the first significant qualitative studies on US Drug Courts highlighted a complicated relationship between "nurturing" and "coercing" responsibility for drug use and offending and more research is needed to explore how and

why the convergence of therapeutic and criminal justice values affects drug-related offending (Burns and Peyrot, 2003). In the UK especially, there is a scarcity of empirical research (qualitative, quantitative, and literature reviews), academic knowledge, and commentary on Adult Drug Courts, from the professional or participant perspective (see chapter *4*). Furthermore, there is a lack of empirical research and academic discussion about how new Adult Drug Courts would fit within the UK drug policy and criminal justice landscape (see Nolan, 2009; Collins, 2019).

This thesis, therefore, aims to address this gap in the evidence-base and make a significant contribution to a developing field of study. The literature review (see chapter *4*) will highlight the lack of research on UK Drug Courts, particularly qualitative research. This study, therefore, uses a qualitative approach to understand the relationship between 'care' and 'control' in a Scottish Drug Court, a problem-solving criminal court. This will involve an exploration of 'place' (see chapter *6*), 'professionals' (see chapter *7*), and 'participants' in the Drug Court (see chapter *8*), through which an understanding of the impact of a concurrently therapeutic and criminal justice environment is developed. A multi-method design in this thesis allowed for the presentation of multiple perspectives on the Drug Court process, broadening the lens through which 'care' and 'control in the Drug Court may be understood (see section *5.2.2*). Within this, the use of a semi-structured narrative methodological approach elicited rich and detailed stories of the complexities of 'care' and 'control' within dually therapeutic and supervisory relationships (see section *5.2.3*). To the best of my knowledge, this is the first piece of research that uses a narrative approach to the study of Drug Courts in the UK. The Drug Court that is the focus of this research, is in Scotland. To introduce this research, this chapter will address some of the controversies regarding the Drug Court movement (see section *1.2*), before outlining the local context where this study took place (see section *1.3*). This chapter will then introduce the research aims and questions (see section *1.4*), before presenting an outline of what will follow in this thesis (see section *1.5*).

1.2 Controversies in the Drug Court Project

Whilst the empirical research base tends to present a positive picture of Drug Courts in the US (see chapter *4*;Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp,

Holsigner, and Latessa 2005) where their use is widespread (Lowenkamp, Holsinger, & Latessa, 2005) and beyond (Latimer et al., 2006; Nolan, 2002), Drug Courts remain a controversial feature of criminal justice policy (see Collins et al., 2019). For example, it has been argued that the success of Drug Courts has been overstated (Collins, Soderholm, and Agnew-Pauley, 2019) and it has been noted that these approaches cannot be replicated in other locales (Nolan, 2009; Collins, 2019). A reason for this is lack of homogeneity in the Drug Court project, as whilst many follow the principles outlined by the National Association of Drug Court Professionals (NADCP) (1997), there are significant variations between different Drug Court models (Mitchell et al., 2012; Logan and Link, 2019). Further research is needed to understand how these models are different and how this might lead to different results (see section *4.3.1.1*). Drug Courts have also been criticised on the basis that they are unsuitable for certain types of offenders (Birkett, 2019) or might not be appropriate in different cultural contexts (see Nolan, 2002; Collins, 2019). For example, it could seem controversial, particularly in less litigious countries, to subject vulnerable offenders to extended or intensified exposure to the criminal justice system.

As such, whilst Drug Courts are hailed by some commentators as representing the incorporation of therapeutic principles and an understanding of substance misuse and vulnerability into the criminal justice system (Wexler and Winick, 1991; see section *2.4.4*), one of the principal controversies surrounding Drug Courts is the extent to which they represent a "widening of the net", or an intensification, of the control and supervision of drug dependent offenders by the criminal justice system (Drug Policy Alliance, 2011; Marlowe, 2021; Miethe, 2001). It is for this reason that Drug Courts have been labelled as unsuitable for some offenders, who might respond better to a 'softer' approach (Birkett, 2019). This criticism also underlies the notion that Drug Courts might not be successful in other less litigious and criminal justice-obsessed jurisdictions, as they represent a fundamentally 'American' approach to drug-related crime (see Collins, 2019). This is the chief controversy which is of concern to this thesis: the extent to which this Drug Court is constructed as intensification of the criminal justice control and supervision of offenders or the extent to which it is understood as a 'caring', 'therapeutic' intervention.

1.3 The Local Context

As Monaghan (2012) highlighted, the consequences and implementation of new drug policies are inevitably mediated by the political, socio-economic, and cultural climate in which said policy is developed. It is important to note, therefore, that whilst there are relatively few- if any- Drug Courts remaining in England and Wales, they have been an enduring feature of the Scottish approach to drug-related crime and this Drug Court has been in operation since 2001(Eley et al., 2002b; McIvor et al., 2009; McIvor, 2006). It has been noted that the Scottish Government has long been considered to have a pragmatic and cutting-edge approach to drug treatment and drug-related harm reduction (Nicholls et al., 2022). As well as being the only nation in the UK to feature Adult Drug Courts, Scottish drug policy has also garnered international attention for its' inclusion of controversial measures and interventions, such as Drug Consumption Rooms (ibid) and heroin-assisted treatment (Priyadarshi and McMahon, 2021), which has sometimes caused tensions between Westminster and the devolved Scottish government (see Christie, 2021). The relationship between Westminster and the Scottish government is complex and a full analysis of this is beyond the scope of this thesis, however, it is worth mentioning that this Scottish Drug Court has continued to operate whilst many problem-solving courts in England and Wales have been affected by the Westminster governments' austerity programme which resulted in significant criminal justice budget cuts and the widespread closure of buildings across the judicial estate (see Ward, 2018). As such, the Scottish Drug Court project must be understood as representing a distinctly Scottish approach to drug policy and recovery (Bean, 2002a, 2002b).

Moreover, the Scottish approach to drug policy must be understood as being a response to, and a reflection of, the Scottish experience of drug misuse and drug-related crime. Whilst chapter *3* will explore the development of Drug Courts in Scotland in more detail, it is worth giving some context here. Scotland's drug problem has gained international recognition as, in 2021, it was found to have the highest levels of drug-related deaths in Europe (National Records of Scotland, 2022), which has been described as a source of "national shame" (Evening Standard, 2021). Corresponding with this, Scotland has been found to have the highest levels of drug misuse and drug-related harms in the UK

and has a unique profile for drug misuse, with depressants and drugs with relatively high levels of harm such as heroin and benzodiazepines being particularly popular (National Records of Scotland, 2022). As such, this Drug Court, and the Scottish approach to drug policy, must be understood within the social context of high levels of drug misuse and drug-related harm. Moreover, this Drug Court is situated in a large, urban area in the West of Scotland, with an estimated population in 2020 of 635,640 people (National Records of Scotland, 2021). Compared to the rest of Scotland, this area has been found to have relatively high levels of drug misuse and drug-related offending (National Records of Scotland, 2022). This city is also well-known for having high levels of economic deprivation and a range of social and health-related 'problems' associated with this (Reid, 2011; Walsh, Bendel, and Hanlon, 2010). It is perhaps for this reason that this Drug Court is the longest established Drug Court in Scotland (Collins, 2019; Eley et al., 2002b; McIvor et al., 2006; Nolan, 2002).

1.3.1 The Drug Court and its Target Population

This Drug Court was established in 2001 and is run in partnership by the National Health Service, the Local Authority, and the Courts Service (Eley et al., 2002b; McIvor et al., 2006). Whilst a detailed description of this Drug Court and its policies, procedures, and processes is presented in appendix *7*, there are a few pertinent aspects of the project that are worth mentioning here. Following the model for Drug Courts outlined by the NADCP (1997), this Drug Court operates as a post-sentencing programme in which, following conviction, offenders are supervised through regular review meetings in Court and are required to complete a programme of drug treatment in the community (Criminal Procedure (Scotland) Act 1995; Eley et al., 2002b; Nolan, 2002; McIvor et al., 2006; McIvor, 2009).

Professionals working in the Court have described it as having approximately 100 participants at any one time. The Drug Court is aimed at offenders aged 21 years or older of both sexes, in respect

of whom there is an established relationship between a pattern of serious drug misuse and offending (McIvor et al., 2006 p. 4). As a result, the client group tends to comprise extremely vulnerable, marginalised individuals with complex drug-related personal and welfare needs (see Brown, 2016; Flint, 2009). Moreover, the Drug Court's location within a relatively deprived urban centre may contribute to an enhanced level of poverty and economic deprivation within the participant group

(Reid, 2011; Walsh, Bendel, and Hanlon, 2010). The Drug Court therefore targets individuals with entrenched drug-related and social problems, who have likely experienced multiple traumas. Both initial and subsequent evaluations of this Drug Court have found that it is generally effective at reducing drug misuse and drug-related crime (Eley et al., 2002b; McIvor et al., 2006).

1.4 Research Questions

Following the controversies and concerns raised about the Drug Court project, this research seeks to explore the extent to which Drug Courts in the UK are constructed in terms of either 'care' or 'control'. Specifically, this thesis seeks to explore the extent to which this Scottish Drug Court is constructed and interpreted as an intervention of 'care' or 'control' by the professionals involved in it. To respond to this inquiry, this thesis seeks to answer the following primary research question:

To what extent is the Drug Court characterised by 'care' or 'control' and how do 'care' and 'control relate and interact?

To operationalise this research question, this thesis seeks to respond to the following sub-questions:

1. To what extent is reducing substance misuse constructed as the primary aim of the Drug Court and to what extent is its' purpose constructed as control of drug-related crime?

2. To what extent is the Drug Court constructed as a therapeutic intervention, and to what extent does it operate on the principles of therapeutic jurisprudence compared to traditional criminal jurisprudence?

3. To what extent are Drug Court participants constructed as vulnerable adults and to what extent are they characterised as 'deviant' offenders?

4. To what extent are therapeutic, 'caring', and crime 'control' approaches integrated in the Drug Court? To what extent are therapeutic approaches constructed as beneficial to 'crime control' and to what extent are 'crime control' approaches constructed as beneficial to reducing substance misuse?

5. What can we learn from the literature about the qualitative research base about 'care' and 'control' Drug Courts?

These research questions were reflexively adapted as the research plan developed, but they nevertheless capture the essence of the key debates about Drug Courts and the extent to which they are perceived as a therapeutic intervention, or one concerned with control and punishment of offenders. The following section will outline the structure of this thesis and the way in which each chapter responds to the central research question upon which this study turns.

1.5 Thesis Outline

This thesis is presented across nine chapters; the first of which is this introduction. The second chapter outlines some of the key concepts and debates relevant to the study of Drug Courts, including recovery, crime-reduction, and offender supervision, with a focus on the 'care' and 'control' of offenders. This chapter contextualises these debates in UK criminal justice and drug policy and highlights their importance to this thesis. Chapter three outlines the 'policy story' of UK Drug Courts, by charting development of Drug Courts in the US and the UK, before focusing on the current proposal to re-enliven the Adult Drug Court project in England and Wales. The fourth chapter is a literature review that explores the literature base on Drug Courts. Whilst this chapter is primarily focused on the US research base, due to the overwhelming volume of this literature, this chapter also highlights the lack of research on UK Drug Courts and the limitations of this. Chapter five describes the methodology and methods used to gather and analyse data in this study. A detailed justification for the methodological approach of this study is followed by a thorough account of the methods used for data collection, followed by a reflection on the credibility and quality of this research.

The focus of chapters six, seven, and eight are the research findings. Chapter six, 'Place', presents the findings from the observational portion of the study and is structured around the key themes presented in hearings including recovery; desistance; health; housing; relationships; and income and employment. How the hearings are structured around 'care' and 'control' and feature a tension between the responsibilisation and infantilisation of participants is a focus of this chapter. Chapter seven, 'Professionals', presents findings from the semi-structured interview portion of the fieldwork and is structured around key themes raised in the interviews, including supervision and offender management; recovery and harm reduction; desistance and reduced offending; and participants'

welfare needs. How professionals justify ‘care’ as ‘control’ and, crucially, ‘control’ as ‘care’ is the focus of this chapter. Chapter eight, ‘Participants’, presents findings from the narrative portion of the interviews with professionals and is again structured around key themes raised in the interviews, including supervision and offender management; recovery and harm reduction; desistance and reduced offending; and holistic and social needs of participants. The storied lives of participants and how these are characterised by a complex web of ‘caring’ and ‘controlling’ interventions is the focus of this chapter, showing how the themes raised across all chapters intersect and interrelate.

Chapter nine provides further consideration of the findings and discusses these in relation to key concepts and ideas in the study of Drug Courts, drug policy, and criminal justice responses to drugs. The contribution made by this thesis, and some of the limitations of the research, are considered. Finally, a consideration of the policy implications and the avenues this study raises for further research is made before final concluding comments on the future of Drug Courts and the ‘care’ and ‘control’ of drug-dependent offenders in the UK.

Chapter 2

Key Theories and Concepts: Recovery, 'Crime Control', and the Nexus of 'Care' and 'Control'

2.1 Introduction

Building on the introductory chapter, it is important for this thesis to explore some of the theories and concepts at the core of the Drug Court project. As Drug Courts seek to reduce drug use and drug-related crime (see Nolan, 2002), an analysis must involve a discussion of the ideas that underpin recovery, desistance, and the treatment of vulnerable offenders in the criminal justice system. As such, a combination of theories, which represent developing theoretical frameworks to understand 'care' and 'control', are explored in this chapter. What follows, therefore, is a discussion of concepts and principles that have contributed to the development of Drug Courts in the UK, which are contextualised in their theoretical background. Firstly, this chapter addresses the 'recovery' debate and explores different meanings of recovery, from abstinence-based definitions to harm reduction. This is followed by the emergence of controlled use and the concept of recovery 'capital' (Granfield and Cloud, 1999; 2008), as well as social models of recovery (Best et al., 2015b). The second section of this chapter explores 'crime control' in theory and practice. Firstly, the 'what works' debate is explored, which charts the rise of rehabilitative approaches to crime. Secondly, the emergence of 'moral panics' is discussed, and criminal justice policy is contextualised in a discussion of social control theory (Cohen, 1972; 1985), which is followed by an account of the 'nothing works' turn and the 'punitive shift' in criminal justice theory and practice. This is followed by an exploration of desistance narratives as a framework to understand crime. The final section of this chapter turns to the 'care'/'control' debate, upon which the research questions for this study turn (see chapter *1*). The relationship between 'care' and 'control' is first explored in terms of practice, navigating the development of the Probation Service from 'befriending' offenders to managing offenders, as this Drug Court is a form of community sentence (see appendix *7*). This section then explores two key theories that combine 'care' and 'control' to promote a nuanced understanding of criminal justice

treatment for vulnerable offenders. As these concepts, theories, and debates are recurrent within the study of criminology and criminal justice policy, this chapter aims to give a concise overview.

2.2 Recovery, Drug Treatment, and Drug Policy

The concept of recovery is central to the understanding of Drug Courts and has significant analytical importance to this thesis. As this Drug Court seeks to reduce drug misuse and drug-related crime, it is focused upon changing peoples' relationship with drugs (Eley et al., 2002b p. 3). Recovery is a highly contested concept within academic, practitioner, and service-user circles, and there is no consensus about what recovery means or how this should be achieved (see: Best and Laudet, 2001; Laudet, 2007; The Betty Ford Institute, 2007; White, 2007; Sterling et al., 2008; UKDPC, 2008; Neale et al., 2014; Best et al. 2016). This also is true for what recovery means beyond dependence, as a wealth of sources have attempted to piece together understandings of 'recovery' in fields such as mental health (Lloyd et al., 2008) and nursing (Tuffour, 2017). Within drug policy and treatment, the concept of recovery is focused upon people's relationships with drugs, but the nature of this relationship may be conceptualised in a variety of ways. It is useful to explore different definitions of recovery, as this is a central premise upon which the Drug Court is based.

2.2.1 Abstinence and the 'British System'

'Abstinence' and 'recovery' are commonly used interchangeably, and it has been noted that media messages about recovery often conceptualise recovery as complete abstinence from drugs (Laudet, 2008 p.3). The prevalence of the abstinence definition can be traced back to the origins of British drug policy and early models of intervention in drug dependence. Until the 1960s "the UK drug problem had been notable by its absence" as for a long time, drug dependence was not 'problematised' in common or political discourse (Connell and Strang, 1994, p. 167). However, it was around this time that the enduring 'British system' of drug policy, which predominantly comprised long-term heroin prescribing for dependent users by general practitioners, began to be challenged (Berridge 2012, p. 23). Challenges to the 'British system' of heroin prescribing came from the international community, most notably the US who were beginning to wage their own domestic and international 'wars on drugs' but were also precipitated by the growing number of heroin-dependent individuals, and

younger dependent individuals in the UK, which were increasingly viewed as a 'problem' (ibid, Connell and Strang, 1994; and section *2.3.2*). In 1959 there were just 47 known heroin addicts, which had risen to 328 by 1964, and 40% were less than 35 years of age, compared with 11% in 1959 (Ministry of Health 1965, cited in Mold, 2007). Similarly, the practice of prescribing heroin was linked to this increase, for which doctors were largely blamed (Carnwath, 2004). By the end of the 1960s, heroin dependence was reconceptualised as a "socially infectious condition" requiring "epidemiological assessment and control" (Ministry of Health, 1965; cited in Mold, 2007). Consequently, the drug treatment landscape evolved from discretionary heroin prescribing by individual doctors to a network of specialist drug treatment clinics with increasing social control over dependent individuals (see Connell and Strang, 1994). Whilst medical professionals with a Home Office license continued to prescribe heroin (Carnwath, 2004; Metrebian, Shanahan and Stimson, 1996), the "new clinics" had an increasing focus on abstinence (Berridge 2012, p. 23). By the 1980s, the "new version of methadone clinics", which promoted methadone maintenance therapy (MMT) and detoxification over heroin prescribing, were firmly established, with a predominantly "abstinence oriented" treatment philosophy (ibid, p. 479).

The burgeoning self-help sector for drug treatment in the UK also contributed to the establishment of the abstinence model. Throughout the 1970s and the 1980s, the centralised system of drug treatment clinics had evolved into "a more extensive and diffuse response involving a broader range of agencies" (Stimson 1987, p.477). Compounding the abstinence-focus in drug treatment was an increase in law enforcement responses to drug-related crime, as well as self-help treatment responses with similarly abstinence-oriented messages (ibid). Self-help treatment agendas, such as those that take place in the voluntary sector were, like centralised responses, influenced by the cultures and practices of the US, in this case religious practices. William White (1998), in his history of dependence in the US described how nineteenth century temperance societies were early advocates of abstinence in a way that mirrors the abstinence-based approach of modern self-help groups such as Alcoholics Anonymous (AA). Emerging in the 1930s in the US and created by two alcoholics, AA and Narcotics Anonymous (NA) now operate in hundreds of countries- including the UK- and are

based on the premise that dependence is a "chronic biological disorder" characterised by a loss of control over drug and alcohol consumption, that can "only be cured by abstinence" (Durrant and Thakker 2003, p. 202). This central tenet has ostensibly informed modern abstinence-based conceptualisations of recovery, such as William White's (2009) famous formulation of recovery as composing of three elements, one of which is "abstinence from alcohol, drugs, and unprescribed drugs" (p.16). Abstinence has therefore formed the basis of some influential definitions of recovery. The primacy of abstinence-based approaches in the third sector is illustrated by the number of third sector and community-based programmes which require or seek abstinence (see Harrison et al., 2020). Community-based programmes also play an increasingly significant role in the delivery of drug treatment services following the neoliberal shift in criminal justice and welfare policy (see section *2.3.3*) and are a prominent mechanism through which abstinence is promoted and encouraged in common understandings of recovery.

2.2.2 Harm Reduction and Harm Prevention

However, the abstinence model has been subjected to ongoing criticism, particularly from advocates of harm reduction approaches. Harm reduction was defined by Hawk et al. (2017) as interventions which seek to reduce the negative health effects of behaviours without necessarily extinguishing the behaviours completely (p. 1). In the 1980s, a health crisis emerged in the UK, which concerned the appearance of a blood-borne virus known as HIV. During this time, HIV was being linked to a significant number of deaths in the country, which seemed to affect specific populations to a greater extent than others, such as gay men and intravenous drug users. Although HIV spread extensively amongst injecting drug users in Western Europe in the 1980s and 1990s, control over transmission was not achieved until a decade after the implementation of harm reduction measures including needle exchanges and substitution therapies (Wodak and McLeod, 2008). Scotland was the first government in the UK to prioritise HIV prevention, arguing that "the gravity of the problem is such that on balance the containment of the spread of the virus is a higher priority in management than the prevention of drug misuse" and that "on balance, the prevention of spread should take priority over any perceived risk of increased drug use" (Scottish Home and Health Department, 1986; cited in

Wodak and McLeod, 2008 p.9). A harm reduction approach was reinforced by the Advisory Committee on the Misuse of Drugs in 1988, who framed "the spread of HIV is a greater danger to individual and public health than drug misuse" (Advisory Committee on the Misuse of Drugs, 1988; cited in Wodak and McLeod, 2008 p. 10). By 2002, harm reduction approaches to drug use were seen as crucial to reduce HIV transmission globally and were endorsed by the World Health Organisation (WHO) (Wodak and McLeod, 2008), as well as the Home Affairs Select Committee, who argued that "harm reduction rather than retribution should be the primary focus of [drug] policy" (Home Affairs Select Committee, 2002, line 270). However, whilst harm reduction approaches began as "pragmatic approaches to a health crisis" (Wodak and McLeod, 2008), they became embedded in national drug strategies, including that of the Scottish Government (2008, 2018) which, citing the United Nations Office on Drugs and Crime (UNODC) (2008, p. i), have signalled an ongoing commitment to harm reduction approaches (Yates and Malloch, 2010 p. 150).

However, harm reduction approaches were arguably forsaken in favour of "harm-prevention", as maintenance therapies came under increasing scrutiny from the 'New Abstentionists' (Aston, 2008 p. 2). As mentioned above, the 'British system' of heroin prescribing endured for some time (see section *2.2.1*) and arguably informed harm reduction practices such as methadone maintenance therapy (MMT). Methadone is a substitute synthetic opiate which is used to prevent withdrawal symptoms during maintenance or detoxification. The debate between abstinence and maintenance is ongoing and a modern resurgence emerged in the 'New Abstentionist' movement of the 2000s, which was catalysed by a question to government from the British Broadcasting Company (BBC) about "how many patients end up drug free", to which the answer was a meagre 3% (Ashton, 2008, p. 2). MMT was heavily scrutinised at the time, given concerns that people were effectively "parked" on methadone prescriptions and presented with limited opportunities to engage in recovery (Yates and Malloch 2010, p. 150). Prior to this question, David Cameron's New Conservatives' addiction policy think tank argued that MMT "perpetuates addiction and dependency" and that "rehabilitation treatment [had been] marginalised" (cited in Ashton, 2008, p. 2). MMT came under similar scrutiny in Scotland, where the government was said to be planning to avoid MMT, "a softly-softly" approach, to

promote going "cold-turkey", which led to a review about MMT use in Scotland (Malloch and Yates, 2010, p. 150). Moreover, a resurgence in popularity for an abstinence approach has been reinforced by service users, who argued that the purpose of attending treatment services is to achieve abstinence (McKeganey et al., 2004, p. 426) as opposed to harm reduction. Nevertheless, the New Abstenstionist movement was arguably based on conceptual oversimplifications in its' understanding of drug treatment (Ashton, 2008). Moreover, the UNODC have argued that a false dichotomy has been drawn between harm reduction approaches and treatment and rehabilitation approaches:

Harm reduction has often been made an unnecessarily controversial issue, as if there were a contradiction between treatment and prevention on one hand and reducing the adverse health and social consequences of drug use on the other. This is a false dichotomy: they are complementary. (UNODC, 2008 p. i).

Concerns have nonetheless been raised about the extent to which the Westminster government continues to conflate recovery with abstinence within various policy documents (Monaghan and Wincup, 2013; McKeganey, 2014; Roy and Buchanan, 2016) and what this will mean for drug users who do not wish to pursue abstinence (Floodgate, 2017 p. 16). The 'New Abstentionist' movement also arguably heralded increased social control of drug dependent individuals by the criminal justice system, which will be discussed in further detail below (see section *2.3.3*).

2.2.3 Recovery 'Capital' and Controlled Use

In the 1990s and 2000s there was growing recognition that some people may stop using drugs without formal treatment or self-help services (see Humphreys et al., 2004; Sobell, Ellingstad, and Sobell, 2000) and that some recovering individuals may never interact with services at all. For example, the seminal work of Granfield and Cloud (1999) estimated that 90% of "problem drinkers" may never enter treatment and that many recover without formal services. This work introduced the theory of recovery 'capital', which conceptualised recovery in terms of the internal and external resources required to initiate and sustain it (ibid). Principally, this work suggested that four domains of resources are required for the recovery process: social 'capital', physical 'capital', cultural 'capital', and human 'capital' (Granfield and Cloud, 1999; 2008). Firstly, "social capital" was conceptualised as

the sum of resources that an individual or a group gets from their social network, the central premise being that "membership in a social group confers resources, reciprocal obligations, and benefits" with tangible consequences (Granfield and Cloud, 2008 p. 1973). Secondly, drawing on the work of social economists such as Shultz (1961), Becker (1964), and Coleman (1990), "physical capital" refers to financial capital, including income, savings, property, investments, and financial assets. This concept recognised that recovering persons with physical 'capital' can access support and resources that persons without physical 'capital' cannot access. Thirdly, "human capital" refers to a range of "individual human attributes" required to function in, and benefit from, society (Granfield and Cloud, p. 1974). Examples of human 'capital' included "knowledge, skills, educational credentials, health, mental health, and other acquired or inherited traits" essential in day-to-day life (ibid, p. 1974). Finally, "cultural capital" was constructed as "cultural norms and the ability to act in one's interest within those norms" to meet personal goals (ibid, p. 1974). Drawing on Bourdieu's (1986) work, it was argued that this includes values, beliefs, and perceptions of cultural groups. This framework has clear roots in the symbolic interactionist framework, particularly the Meadian (1934) tradition of conceptualising the self in relation to others and symbolic interactionist conceptualisations of how identity emerges from social interaction in different social contexts (Stryker, 1981; Burke and Reitzes, 1981; Serpe and Stryker, 1987; Burke and Tully, 1977; Stryker and Burke, 2001). As such, it recognises that the recovery process will vary from person to person and occurs in many ways and within a variety of relationships, emphasising a diverse and contextual understanding (Ashford et al., 2019). Recovery 'capital' can form the basis of individual, micro, meso, and macro levels of thinking about recovery processes (Hennessey, 2017).

To attempt to recognise the diversity of recovery experiences, the Betty Ford Institute (2007) established a Consensus Panel that defined recovery as a "voluntarily maintained lifestyle" characterised by "sobriety, personal health, and citizenship" (p. 223). Whilst this conceptualisation of recovery includes abstinence, the Institute recognised that recovery is "multidimensional" and is "not just sobriety" (ibid). The vision of recovery offered by the UKDPC (2008) went beyond the Betty Ford definition by emphasising "control over substance use". This seeks to accommodate both

abstinence and maintenance approaches but does not explicitly mention abstinence. As Floodgate (2017) argued, under this definition, a person who has made positive improvements in their lives, such as working full-time, could be considered as being in recovery regardless of their use of substitutes (p. 129). Under this definition, a person could also be considered in recovery if they continue to use drugs in a less harmful or problematic way. This approach to recovery was endorsed by the Westminster government in successive drug strategies (2010, 2017, 2022), wherein recovery has been conceptualised as "an individual, person-centred journey … that will mean different things to different people" (HM Government, 2010 p. 18). This emulated the Scottish approach, which has long sought to ensure that individuals are "fully supported" to "find their own type of recovery" (2008, p. 4). Whilst the 'recovery turn' ostensibly represented a significant reframing of British drug policy, from an agenda to control drugs and crime to a policy for the health and wellbeing of dependent persons, a point of continuity was the ongoing criminal justice control of drug-related offenders (Duke, 2013 p. 49). This, combined with an economic climate of austerity, has arguably created the sense that recovery is enforced in England and Wales (ibid, Floodgate, 2017) through governmental processes of responsibilisation (see section *2.3.3*; Garland, 2001; Du Rose, 2015). In contrast, the Scottish Government began to define recovery in terms of their historic commitment to harm reduction (Malloch and Yates 2010, p. 150, see section *2.2.2*). Ultimately, these definitions of recovery, whilst prioritising abstinence and harm reduction to different extents, attempt to include a variety of recovery experiences, including a recognition of relapse experiences. Nevertheless, whilst the recovery movement also attempt to recognises the personal, social, and physical 'capital' required to initiate and sustain recovery (Granfield and Cloud, 1999; Scottish Government 2008, 2018; Home Office, 2018, 2022) it has key parallels with responsibilisation (see section *2.3.3*).

2.2.4 Social Recovery and Recovery Narratives

Whilst abstinence and controlled-use definitions of recovery tend to conceptualise recovery as a "person-centred journey" (HM Government 2010, p. 18), emergent conceptualisations emphasise the social character of recovery (Mezzina et al., 2006). Contributing to the development of the recovery model, Best et al. (2015b) advanced a 'Social Identity Model of Recovery' (SIMOR) which

conceptualises recovery as "personal journey of socially negotiated identity transition that occurs through changes in social networks and related meaningful activities" (p. 111). Drawing upon symbolic interactionist theory and social identity theory, this model developed existing research about the stigmatised identity of dependent individuals and how social stigma is understood, negotiated, and overcome (see Lloyd, 2013). Using the model of Alcoholics Anonymous, the SIMOR proposed that identity change in recovery is socially negotiated: "recovery emerges through socially mediated processes of social learning and social control" and "recovery can be transmitted in social networks through a process of social influence" (Best et al., 2015b p. 111). The social nature of the recovery process has been analysed further in subsequent research (see Frings and Albery, 2015; Kay and Monaghan, 2019) and has particular importance for this thesis in terms of how recovery from both dependence and criminality is "socially mediated" through processes of 'care' and 'control' in the Drug Court environment (see Chapter *1*; Best et al., 2015b p. 111).

Social models of recovery, emphasising social contexts and social relationships, resonate with the principles underlying the 'narrative turn' in addiction studies. Whilst the narrative approach is explored in greater detail in the methodology and methods chapter, it is worth mentioning here that the 'recovery turn' in British drug policy (Duke, 2013; Floodgate, 2017) and social theoretical models of recovery (see Best et al., 2015b), have at their core an understanding of the social contexts and social relationships involved in the process of identity change. The narrative approach to recovery emerged from the use of narrative approaches in psychotherapy with dependent individuals (see Weegman, 2010) and has come to embody the work of structural interactionists such as Mead (1934) and Goffman (1959) in positioning the interplay between identity and social relationships as a crucial element of recovery narratives. Recovery narratives often take a life-course perspective to understand the recovery process in relation to significant transitions or turning points in the "storied lives" of recovering persons (Plummer, 1995 p. 2). This approach to recovery also has significant correlations with the conceptualisation of desistance and 'crime control' from the desistance narrative perspective (see section *2.3.4*). The following section will explore the concepts of 'crime control' and desistance in more detail.

2.3 ‘Crime Control’ and Social Control

The concepts of ‘crime control’ and social control are also of central importance to this thesis, as the second aim of this Drug Court is to “reduce drug-related crime” (Eley et al. 2002b, p.3). As such, an analysis of ‘care’ and ‘control’ in Drug Court must be contextualised within a discussion of ‘what works’ to control crime (see Scottish Government, 2014; Ward and Maruna, 2007). ‘Crime control’, like recovery, is a highly contested concept and there is no consensus on ‘what works’, with some advocating rehabilitative approaches (see Zedner, 2004; Ward and Maruna, 2007) and others advocating the retributive punishment of offenders (see Lacey, 1998). As such, definitions of crime-reduction and desistance can, like recovery, be interpreted in a variety of ways, which will be discussed here.

2.3.1 Early ‘Crime Control’ and the Rehabilitative Ideal

Understandings of crime and criminal justice policy develop in a symbiotic relationship. As Sharpe (2001) argued, “modern” attitudes to crime and “what ought to be done about it” emerged in the eighteenth and early nineteenth centuries (p. 113). The development of the criminal justice system in England, Wales, and Scotland was characterised by retributive and punitive responses to crime, which were perceived as morally appropriate, and which have persisted and evolved throughout centuries (see Ashworth and Horder, 2013 p. 74). The emphasis on punishment was reflected in the infamous ‘Bloody Code’, which introduced a breadth of offences for which the sanction was death (see Gatrell, 1994; Rawlings, 1999), and the “substantial prison-building programme” which took place at the end of the eighteenth century (Newburn, 2013 p. 38; see also Foucault, 1979). Furthermore, beyond being morally appropriate, the utility of punishment was promoted by early contributors to the study of crime, such as classicist Jeremy Bentham’s conceptualisation of “the punishment suffered by an offender” being an example to others “of what he himself will have to suffer” (quoted in Newburn, 2013 p. 530). Similarly, positivist theorists such as Cesare Beccaria conceptualised the purpose of punishment as “not that of the torturing or afflicting any sentient creature, nor undoing the crime that has already been committed…” but to “prevent the offender from doing fresh harm to his fellows and deter others from doing likewise” (Beccaria 1767/ 1995, p. 31). The lasting impact of early

conceptualisations of ‘crime control’ and the importance of punishment in criminal justice, in terms of moral value and deterrence, can be seen in modern approaches to punishment, particularly during the “nothing works” era and the rise of the concept of community protection (see section *2.2.2*).

However, whilst punishment dominated the early establishment of the modern criminal justice system in the eighteenth century, the height of rehabilitative approaches to crime arguably occurred in the nineteenth century (Newburn, 2013 p. 532). During this time, as Zedner (2004) stated, “punishment was recast as a means of restoring the offender to good citizenship” and criminal justice policy and practice began to incorporate programmes of training, treatment, counselling, psychotherapy, and drug treatment. This challenged early assumptions in the development of criminal justice policy, that offenders could not be reformed or rehabilitated. The emergence of the term “rehabilitative ideal” to describe approaches to criminal justice policy from the late nineteenth century until the 1970s (see Bailey, 2019) is often attributed to Francis Allen (1978), who defined the rehabilitative ethic as the notion that criminal sanctions must be employed to effect “fundamental changes in the characters, personalities, and attitudes” of offenders, not only for the benefit of society, but also “in the interests of the well-being of the offender himself” (p. 151). Moreover, David Garland’s (2001) conceptual framework of “penal-welfarism” offers insight into the development of criminal justice policy between 1890 and 1970, wherein it is argued that “tectonic plates of criminal justice policy shifted” from a “classical liberal belief in proportionate punishment, to a “positivist” and “correctionalist” commitment to treatment and training” (p. 35). This coincided with the rise in formalised approaches to drug dependence in the UK and the emergence of a network of drug treatment clinics (see section *2.1.1*). Whilst the extent to which welfarist and rehabilitative approaches emerged in practice has been questioned (Zedner, 2002 p. 344), criminal justice policy between 1920 and 1960 was dominated by the discourse of “treatment for offenders” (Bailey, 2019 p. 3) that has an enduring legacy in terms of the criminal justice approach to vulnerability and comorbidity (see section *2.4.4*).

2.3.2 Moral Panics and Social Control

Whilst the ‘rehabilitative ideal’ that dominated criminal justice policy was predominantly concerned with individualised approaches to offender treatment, criminal justice policy from the 1960s was

increasingly concerned with social order (Garland, 2001). The 1960s post-war period saw burgeoning recognition of different social groups, illustrated by the growing civil rights movements that took place in Western democracies during this time (see Moores, 2017), as well as growing sociological understandings of social groups as 'problematic' or 'deviant'. A prominent contributor to this perspective was Howard Becker (1963), whose research on "jazz musicians" and "reefer smokers" advanced 'labelling theory' as a framework for understanding deviance, wherein it was argued that "social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and [labelling] them as outsiders" (p. 9). Becker's (1963) writings reflected emerging "moral panics" at the time about the perceived threats that jazz music, cannabis, and African Americans posed to post-war American society. However, the term "moral panic" is attributed to British criminologist Stanley Cohen (1972), whose seminal contribution *'Folk Devils and Moral Panics: The Creation of Mods and Rockers'* developed Becker's (1963) ideas to posit that institutions of social control, predominantly the criminal justice system but also other institutions such as the media, are complicit in defining deviance. An example he gave was the characterisation of the 'drug fiend' by the media, images of whom are used to serve as "visual reminders of what we should not be" (Cohen, 1972 p. 2). These images were evoked during a 'moral panic' in the 1960s about an increase in heroin dependence in the UK, and an increasingly younger dependent population (see section *2.2.1*). During this time, the government defined dependence as a "menace to the community" (Ministry of Health, 1965, cited in Mold, 2007).

Central to Cohen's (1972) theory of moral panics was his conceptualisation of social order and social control. Developing the work of authors such as Edward Ross (1901), Albert Reiss (1951) and Ivan Nye (1958), Cohen (1985) defined social control as the "organised way in which society responds to the behaviour and people that it regards as… undesirable in some way or another… with planned and programmed responses to expected and realised deviance" (p.1). Cohen's theory conceptualises social control as an "organised response", which can include but is not limited to criminal justice agencies and implies the blending of criminal and non-criminal justice interventions. Cohen's (1985) theory of

social control bears a striking similarity to Foucault's (1978) definition of governmentality, which was defined as:

"Any more or less calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge, that seeks to shape conduct by working through our desires, aspirations, interests and beliefs, for definite but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes" (Michel Foucault, 'Governmentality', (1978)).

In this vein, Cohen's (1985) commentary on criminal justice reforms at the time introduced the concepts of "net-widening" and "net-deepening" to describe the expansion of social control (pp. 41-42). In this context, "net-widening" refers to the expansion of the criminal justice apparatus to include new programmes and services which were not previously criminal justice-based (ibid). Whilst many of these services seek to divert individuals from the criminal justice system, often they can envelop a new class of individuals into it. An example of this is the provision of drug treatment through the criminal justice system, which has historically been provided through drug treatment clinics and self-help programmes in the UK (see section *2.2.1*). "Net-deepening" in this context refers to the intensification of criminal justice interventions, which can result in prolonged and concentrated social control. Drug treatment in the criminal justice system is also arguably an example of this, as intensive drug treatment programmes can entail significant social control of offenders and their lives (see section *2.3.2* and chapter *3*). Social control theory therefore emphasises the enmeshing of criminal justice responses with other governmental approaches. Contemporary theorist David Garland also emphasised this enmeshing in *'The Culture of Control'* (2001), wherein it was argued that the new culture of 'crime control' has developed around three central elements: re-coded penal-welfarism; a criminology of 'control'; and an economic style of reasoning (pp. 167-205). The following section will explore these developments in more detail at the policy level.

2.3.3 Penal Welfarism and the Culture of Control

As the criminal justice "net" widened and deepened (Cohen, 1985 pp. 41-42) from the 1970s onwards, the "ends" of social control shifted from treatment to 'crime control' (Foucault, 1978) due to

the “decline of the rehabilitative ideal” (Allen, 1978; Bailey, 2019) at the policy (Vanstone, 2000) and practice level (Crow, 2001). The rehabilitative approach had been subjected to ongoing criticisms, including that ‘medicalised’ models of offending did not reflect the choices made by offenders and that they were “soft on criminals” (Newburn, 2013; p. 533). A seminal moment in the decline was the publication of Robert Martinson’s (1974) review of “what works” to reduce crime, which ultimately concluded that “nothing works”. Whilst there was no replacement model for the ‘rehabilitative ideal’ (Newburn, 2013 p. 533), there were several attempts to develop one, such as Bottoms and McWilliams’ (1979) “non-treatment paradigm” which recommended practical support and diversion out of the criminal justice system. However, the deteriorating status of rehabilitation also coincided with the election of Margaret Thatcher, and Ronald Reagan in the US, which is widely considered as a significant moment in the decline of the welfare state and the incorporation of neoliberal values into criminal justice policy (see Mair, 1997). This reflects the conceptualisation of penal-welfarism (Garland, 2001), developed from Garland’s (1985, 2018) ongoing study of the relationship between punishment and welfare state, in which penal and welfarist approaches were integrated and justified in terms of “a progressive sense of justice, an evocation of what “decency” and “humanity” required” (Garland, 2001, p. 10). Within neoliberal ‘penal welfarism’, reflecting the views of right-realist criminologists (see Newburn, 2017), it was argued that the bloated and costly welfare regime made individuals overly dependent on the state, and a ‘small state’ vision which prioritised market values underpinned policy development (see Mair, 2004). As such, individuals became increasingly expected to make prudent choices and the structural causes of disadvantage and criminality were reframed as the consequence of individual failings, in a form of governance that Garland (1996) and Rose (2000) termed ‘responsibilisation’. Whilst the relationship between punishment and responsibility has long been understood (Gahringer, 1969; Hart 1968/2008), there is a sense that responsibilisation is growing in neo-liberal states. As O’Malley (2009) claimed, it is “the process whereby subjects are rendered individually responsible for a task which previously would have been the duty of another- usually a state agency- or would not have been recognized as a responsibility at all” (p 276). This sense of responsibilisation can be seen in the seminal Misuse of Drugs Act (1971), which created strict liability offences for the possession of controlled drugs, where guilt can be proven regardless of intent (see

Duff, 2009). The neoliberal orientations of criminal justice policy were further entrenched by the Criminal Justice Acts from 1979 to 1990, which saw an increasingly punitive shift (Farall, Burke, and Hay, 2016), culminating in the 1991 Criminal Justice Act that formalised the 'just deserts' model (Mair, 2004, section *2.3.1*). This growing punitive focus was neatly encapsulated in the 1993 declaration by the Home Secretary that "prison works" to reduce crime (Michael Howard, cited in Newburn, 2013 p. 534).

The 'New Labour' era saw an intensification of the punitive orientation, as their policy agenda sought to be "tough on crime" and "tough on the causes of crime" (Tony Blair, cited in Loveday, 1999, p.7). The 'New Labour' government implemented several reforms to strengthen the 'safety net' of the welfare state and preventative approaches to reduce crime, such as the creation of 'Sure Start Centres' and the short-lived Social Exclusion Unit (2002). However, the penal-welfarist approach in this period arguably became consumed by the language and culture of control, as both punitive and welfare interventions were justified in terms of control and social order (Garland, 2001, 2013; Gelsthorpe, 2004). It also been argued that in the period since 1997, the Labour government "dismantled suspects' rights and increased police powers at an even greater rate" than previous governments (Sanders et al., 2010 p. 19). As Bell (2013) highlighted, the prison population in England and Wales rose by 58 percent between 1995 and 2012, due in part to introduction of mandatory minimum sentences by the Crime (Sentences) Act 1997 and the indeterminate sentences by the Criminal Justice Act 2003. Moreover, the concept of 'community protection' extended responsibility for crime to non-criminal justice agencies and entrenched the culture of control (Garland, 2001). The concept of 'community protection' was enshrined in the Crime and Disorder Act 1998, which made the police and local authorities jointly responsible for 'crime control'. As Tilley (2002) argued, "the late 1990s have seen crime prevention breach specialist walls, breaking into mainstream policy and practice" (p. 21) and such approaches have been criticised for contributing to a widening of the criminal justice net (see Cohen, 1985). A relevant example of this is the development of multi-agency policy on drug-related crime, which saw the creation of a US-style 'Drugs Czar' and anti-Drugs Co-ordinator and the introduction of a co-ordinated 10-year drug strategy which sought to "break once and for all the

vicious cycle of drugs and crime which wrecks lives and threatens communities" (Home Office, 1998) and "wage[d] war on illicit drugs and illicit drug users" (Buchanan, 2010; p. 254). It was also during this time that the original Dedicated Drug Court Pilot was first introduced in England and Wales (see section *3.3*). Therefore, whilst there were some attempts to rebuild rehabilitative approaches in criminal justice policy, 'community protection' and multi-agency approaches arguably strengthened the 'culture of control' in criminal justice (Garland, 2001).

2.3.4 Desistance Narratives

Nevertheless, whilst understandings of 'what works' to reduce crime have undergone significant transformations, as Ward and Maruna (2007) argued, rather than focusing on "what works", criminal justice policy should recognise that "nothing works for every offender in every circumstance" (p. 12). Moreover, rather than declaring that "nothing works", it was argued that although many things may hinder the process of desisting from crime, "surely some things can help it" (ibid). To recognise the diversity of human experiences in the social world, criminological and desistance scholars have increasingly turned to desistance narratives to understand transitions away from offending (see, Maruna, 2001; Farrall, 2005; Vaughan, 2007; Stone, 2015). In a similar vein to studies on the SIMOR (see section *2.2.4*), studies on desistance narratives often employ a symbolic interactionist framework (Maruna, 2001; Farrall, 2005; Vaughan, 2007) and frame desistance as a process of *social* identity transition (Stone, 2015 p. 956; original emphasis). This process is conceptualised as requiring social control as a form of reinforcement, but scholars in the desistance narrative movement have been particularly vocal that "empowerment" and "identity verification" can offer "promising avenues for effective intervention" over more punitive approaches (ibid, p. 971). A desistance narrative approach to understanding crime reduction complements the models of recovery presented in this chapter (see sections *2.2.1, 2.2.3*). It also mirrors the narrative framework through which 'care' and 'control' in this Scottish Drug Court will be interpreted in this thesis (see chapter *4*).

Moreover, there are parallels between the literature on desistance and recovery in criminology (Duke, 2013, p. 49). A further discussion of desistance narratives can be found in the methodology and methods chapter; however, it is worth mentioning here that this framework for understanding

desistance complements the narrative turn in studies of recovery (see chapter *5*). For example, the work of Laub and Sampson (2004), which is based on a life-course approach to offending, is referenced throughout recovery literature to "illustrate the analogies between problem drug use and criminal careers" (Duke, 2013 p. 49). From this perspective, recovery and desistance outcomes are not conceptualised as the product of treatment or interventions, but by significant transitions and 'turning points' in the life-course, such as becoming a parent or experiencing bereavements. These transitions are understood as products of a person's social environments and relationships (see section *2.2.4*) and the availability of social 'capital' (see *2.2.3*). Recovery and desistance are understood from this perspective as complex processes for drug-involved offenders (McSweeney, 2010). Whilst a range of criminal justice interventions target these processes, the following section will explore 'care' and 'control' of dependent offenders through Probation and community sentencing.

2.4 The Nexus of 'Care' and 'Control' in Criminal Justice

The third debate which is of central importance to this thesis is the 'care'/'control' debate in criminal justice theory and policy. As was outlined in the introductory chapter (see section *1.4*), the central research question that this thesis seeks to address is the extent to which this Drug Court, which operates as a form of community sentencing (see appendix *7*), is a programme that is characterised by 'care' or 'control' (see section *1.4*). Debates about 'care' and 'control' have been "perennial" in the study of Probation services and extensive debates about how to achieve the correct balance are featured in the literature (see Burnett, Baker, and Roberts, 2013 p. 227). Likewise, risk assessment, with a view to public protection, have also consistently featured in debates about 'care' and 'control' in criminal justice and probation services (see section *2.4.3*, also Hopkinson and Rex, 2003). As Drug Court exist as an 'alternative to custody' (see appendix *7*) is important to explore these debates here, to contextualise the discussion of 'care' and 'control' in this Drug Court in the context of 'care' and 'control' of offenders in the community.

2.4.1 From 'Advise, Assist, Befriend' to Punishment in the Community

The tension between 'care' and 'control' in offender supervision is inherent to its development. Early models of the Probation Service were characterised by 'caring' approaches, and the emergence of the

Probation Service was piecemeal and sporadic, with roots in the Victorian temperance movement in the seventeenth century (see Newburn, 2013; p. 691). Whitehead and Statham (2006) characterised the 'missionary ideal' of early Probation workers as "saving offenders' souls through divine grace" (p. 4). It was not until the first decade of the twentieth century that the Probation Service was put on a statutory footing with the Probation of Offenders Act 1907 and the missionary approach was gradually reformulated into what has been referred to as a therapeutic or diagnostic approach to the treatment of offenders in the community (see McWilliams, 1986). Section two of the 1907 Act stated that, upon release, offenders should be "under the supervision" of the Probation Officer named in the Probation Order for the duration of that Order and the original duties of Probation Officers were to: "visit or receive reports from the individual under supervision at… reasonable intervals; to see that he observes the conditions of his [release]; to report to the Court on his behaviour; and to *advise, assist, and befriend him* and, where necessary, find him suitable employment" (emphasis added). This gradual formalisation saw the Probation Service evolve from a system dominated by religious ideals which sought to reform the wicked, to a professionalised service which attempted to "heal the sick" (May, 1994, cited in Newburn, 2017 p. 715). The rehabilitative orientation of the Probation Service subsisted for the duration of the rehabilitative ideal (see sections *2.3.1* and *2.3.3*), mirroring social work practice (see Hardiker, 1977), and symbolising the influence of welfarist approaches on criminal justice policy. In the post-war period, the Probation Service operated in a "relatively benign political world", and the neutral, humane approach of Probation Officers was allowed to subsist with minimal intervention from central government (Whitehead and Statham, 2006; p. 21).

Nevertheless, with the emergence of the 'new criminology' and the decline of the rehabilitative ideal, the Probation Service became increasingly focused on control and "punishment in the community" (Newburn, 2017 p. 715). From the mid-1950s to the early 1980s, the number of offenders under the supervision of the Probation Service had increased from 55,000 to over 150,000 (McWilliams, 1981). However, in the late 1960s and 1970s, doubts about the effectiveness of rehabilitative approaches seeped into Probation, as there was negligible disparity in the reoffending rates of supervised and unsupervised offenders (see Wilkins, 1960; Folkard et al. 1974), reinforcing Martinson's (1974)

assertion that "nothing works" (see *2.3.3*). Following the punitive ebb of Thatcherite criminal justice policy (Farrall, Burke, and Hay, 2016), a significant policy focus of was on 'toughening up' community sentences and the ethos of the 1907 Act arguably was subsumed by punishment and control, which led to Probation Officers being termed "screws on wheels" (Haxby, 1978; p. 162). The increasingly punitive role of Probation was reflected in a 1988 Green Paper, wherein the primary purpose of community sentencing was described punishment through the restriction of liberty, and control measures such as curfews, tracking, and electronic tagging were introduced. Moreover, the 1991 Criminal Justice Act framed the Probation Order a form of sentence within a sentencing policy informed by 'just deserts', which enshrined Probation's role as punishment rather than rehabilitation or welfare. The punitive turn in Probation and community sentencing, which was arguably informed by the return of 'populist punitiveness' in criminal justice discourse in the 1990s (see Newburn, 2013; Burnett, Baker, and Roberts, 2013), was cemented by another Green Paper 'Strengthening Punishment in the Community' (1995) which stated that community sentencing was "widely regarded as a soft option" (p. 11). As Brownlee (1998) suggested, these changes aimed to ensure a "shift in responsibility" for community sentencing away from "caring professionals" (p. 28). This was met with hostility by practitioners, who expressed discomfort with the Probation Service's increasing association with "controlism" and delivering punishment in the community (Raynor, 1985; p. 42).

2.4.2 Risk Management and Public Protection

At the turn of the century, the Probation Service ostensibly found a new sense of direction as its purpose was reframed as risk management and reducing offending. A focus on risk-management had emerged in the Probation Service during the 1980s (Phillips, 2011), for example, the Statement of National Objectives and Priorities (SNOP) (Home Office, 1984) reoriented the principles of the service toward the effective management of risk in the name of public protection (Morgan, 2007 p. 92). This refocusing was initially deemed to complement the people-centred approach and rehabilitative ideals that had previously characterised the service (Burnett, Baker, and Roberts, 2013 p. 15). However, the election of New Labour under their manifesto to be "tough on crime" led to an intensification of the risk management and public protection agenda to reduce offending (Phillips,

2011). In 1997 the government announced it would discourage terminology which suggests "tolerance of crime", drawing a line between the Probation service and other "caring professionals" (Brownlee, 1998, p. 28). It is worth noting that it was around this time, in 1998, that the Dedicated Drug Court Pilot began in England and Wales (see chapter *3*). The shift toward control was reinforced by the creation of the National Probation Service (NPS) in 2001, which had been given new objectives of: "enforcement, rehabilitation, and public protection" (NPS, 2001). Enforcement was framed as the primary objective and was concerned with ensuring that offenders complied with the terms of their Orders, with the implication that the implementation of breach procedures for non-compliance had come to be perceived as necessary for the credibility of Orders rather than a sign of failure by the officer (see Hedderman, 2003; Hedderman and Hough, 2004). Furthermore, rehabilitation was no longer focused on ensuring the welfare of offenders by advising, assisting, and befriending, but became a clear objective measured by reconviction and reoffending rates (Mawby and Worrall, 2013 p. 4). Finally, public protection was to be achieved through the effective management of risk, which was the single most important criteria upon which offenders were assessed and matched with interventions wherein, beyond negotiating a balance between 'care' and 'control' in day-to-day work with offenders (Worrall and Hoy, 2005 p. 79), practitioners were now also required to embody an idea which Mawby and Worrall (2013) termed "risk-crazed governance" (p. 2).

Moreover, 'care' has had a diminishing role in Probation services with the reorientation of sentencing policy toward community sentencing. As Burnett, Baker, and Roberts (2013) argued, since the 1990s probation practice has become enmeshed with the public protection agenda in criminal justice policy, to such an extent that the balance between 'care' and 'control' is "increasingly angled more sharply towards control" (p. 227). Arguably, 'public protection' and risk management has been placed ahead of the goal to 'reduce offending' in strategies for managing offenders (ibid; Home Office, 2006), as the use of enforcement and control measures such as electronic tagging, curfews, and drug testing by the Probation Service has become routinised. During the Coalition government (2010-2015), the "proper punishment of offenders in the community" was listed as one of the central aims of the service on the National Probation Service website (Burnett, Baker, and Roberts, 2013 p. 227) and the

embedding of neoliberal values into the criminal justice and Probation Service arguably intensified (Tidmarsh, 2020). However, the Coalition government's plan to '*Transform Rehabilitation*' (2013) by outsourcing management of low-risk offenders to private Community Rehabilitation Companies failed after just four years, with responsibility for offender management services returned to the public sector in 2019 (Tidmarsh, 2020). This has caused severe disruption in the management of offenders in England and Wales, with some arguing that the sector is in crisis (Justice Inspectorates, 2022). The recentralisation of offender management services, and the increasing orientation of criminal justice and probation policy toward "control" through the language of public protection, has arguably laid the groundwork for the announcement that the Drug Court project would be revived in England and Wales through the establishment of several trial problem-solving courts (Ministry of Justice, 2020; section *3.3*). However, an incorporation of an understanding of vulnerability has led to a recent reframing of interventions of 'care' and 'control'

2.4.3 The Vulnerability/ Deviance Nexus and the 'Care' and 'Control' Nexus

As mentioned above, as well as becoming more "sharply angled toward control" (see section *2.4.2*), criminal justice processes and interventions have also come under increasing pressure to incorporate understandings of vulnerability as well as deviance (see section *2.4.3*). It has long been argued that the increasingly 'crime control' focused approach, and the 'punitive shift' in criminal justice policy, needs to be tempered by greater recognition of, and provision for, vulnerable people in criminal justice and welfare systems (Kemshall, 2001; Brown, 2012; Brown, 2016; McNeill, 2020). Whilst the concept of vulnerability and its' meaning is fundamentally unclear, it appears to have pronounced ethical connotations, invoking notions of legal obligations such as "duty of care", which is a particularly common conceptualisation in normative understandings (Brown, 2016 p. 42). It has also been argued that vulnerability may be linked to adverse experiences and trauma, in what Brown (2016), in her work on vulnerability and youth, helpfully termed "situational vulnerability" (p. 45). In this way, Drug Court professionals and Probation workers may be constructed in terms of their 'duty of care' to protect offenders who are vulnerable by their dependence. Beyond being just a concept or idea, however, 'vulnerability' "is loaded with political, moral and practical implications" for where

the boundaries between 'care' and 'control' are drawn for offenders (Brown, 2011 p. 313). As Brown (2016) argued, those who align with common conceptions of vulnerability may be more likely to be 'deserving' as worthy of welfare or support than those who do not or cannot, and those who do not embody the vulnerability concept may experience reductions in support or harsher penalties than those who do (p. 65). In this way, understandings of vulnerability are used not only to categorise individuals in terms of their deservingness but also inform understandings of deviance and the appropriate application of social control (see section *2.3.2*). Against a backdrop of the rise of neoliberal forms of governance (see *2.3.3*), Brown (2016) argued that the vulnerability/deviance nexus is increasingly used to inform decisions about limited resources and offenders' deservingness for either 'caring' or 'controlling' interventions (p. 65).

The incorporation of the "vulnerability zeitgeist" and the vulnerability/ deviance nexus into criminal justice policy and practice (Brown, 2016) has precipitated further widening of the criminal justice net and the (re)integration of therapeutic and punitive approaches, to the extent that the boundaries of 'care' and 'control' are almost indistinguishable (see sections *2.3.3* and *2.4.3*; also, Phoenix, 2008; Wacquant, 2013). This sense of integration reflects Foucault's (1975) conceptualisation of the "carceral continuum" of social control, "which permeates a whole series of institutions… well beyond the criminal law" from social work to prisons (p. 297). Therefore, whilst the vulnerability/deviance nexus is increasingly used to demarcate the boundaries of deservingness and allocate punitive or supportive interventions, it also intensifies the blurring of boundaries between punitive and supportive interventions. The nexus of 'care' and 'control' in the criminal justice treatment of vulnerable offenders also speaks to Garland's (2001) concept of penal-welfarism, Phoenix's (2008) concept of 'coercive welfare', and Wacquant's (2013) 'authoritarian therapeutism', which conceptualise the integration of punishment and welfare in the development of post-war criminal justice policy (see sections *2.3.2, 2.3.3*). Whilst it has been argued that the penal-welfarist direction of national criminal justice policy has been overtaken by the culture of control (Garland, 2001, 2013; Geslthorpe, 2004), vulnerable populations remain the focus of a complex framework of punitive and welfarist interventions (Brown, 2016). Vulnerable drug dependent populations are especially the subject of a

complex framework of welfarist and criminal justice interventions characterised by both 'care' and 'control' (Keene, 2010; Brown, 2016; Du Rose, 2015) and the purposive integration of therapeutic approaches and criminal justice structures (Wexler, 1990; Wexler and Winick 1991; Garland, 2001; see *2.4.4*). Whilst these interventions, from custody-based drug treatment (see Lloyd et al., 2017) to third-sector abstinence-based programmes (Harrison et al., 2020), represent an example to incorporate understandings of vulnerability into policy and practice (Brown, 2016) they inevitably result in complex relationship between 'care' and 'control' of drug dependent individuals. They also represent the piecemeal and variable development of drug policy in the UK, which is characterised by the state's response to both dependence (see section *2.2*) and 'crime control' (see section *2.3*).

2.4.4 Therapeutic Jurisprudence and Problem-Solving Courts

The final theory of concern to this thesis, is therapeutic jurisprudence (TJ), a theory and practice which, in this context, attempts to formalise therapeutic approaches to drug dependence in state responses to drug-related crime. The term first emerged in 1987, as a critique of the growing evidence that mental health law was producing counter-therapeutic and sometimes traumatic effects for the individuals it was intended to protect (Wexler 1992, 2008). Broadly, the term conceptualises the law and legal processes as "social force that produces behaviours and consequences" beyond their traditional purpose and functions (Wexler, 2010, p. 95). The concept was substantially developed by Wexler (1990, Wexler and Winick, 1991) who studied the 'therapeutic' potential of the criminal law and process, ultimately arguing that the therapeutic capacity of the criminal process should be emphasised. In this way, TJ originally represented an intellectual attempt to accentuate the potential for 'care' in systems traditionally characterised by 'control'. It has been noted that the theoretical basis for TJ is "inchoate" and has received limited engagement from criminal justice scholars (Wilson, 2021, p.1). Moreover, developments in the understanding of TJ have largely occurred at the policy and practice level, with therapeutic principles having been applied in broad spectrum of criminal justice domains: from the courts and criminal procedure to prisons and even policing (ibid). Nevertheless, it could be argued that TJ could be conceptualised as a development of symbolic interactionist frameworks on recovery and desistance, as TJ approaches are often conceptualised in

terms of therapeutic relationships and the capacity for therapy within legal relationships (Brooks, 2006). Therapeutic relationships between participants and the judiciary have been a particular point of interest for research, which has found them to be a key factor in successful Drug Court outcomes (Senjo and Leip, 2001; Lyons, 2013; Stimler, 2013) In this way, TJ has parallels with the narrative approach to recovery (see section *2.2.4*) and desistance (see section *2.3.4*).

It has been argued that problem-solving courts represent "therapeutic jurisprudence in practice" (Winick, 2013 p. 465; Winick and Wexler 2015) and that as such they have a "symbiotic" relationship with TJ (Winick and Wexler, 2003 p. 105-6). Problem-solving courts tend to focus on a single issue which cuts across different domains of policy and practice, such as drug dependence, domestic violence, or mental health, and take a multi-disciplinary approach; often incorporating professionals such as social workers and counsellors into the court process (see section *3.2*, also Carey, Finigan, and Putskas, 2004). Problem-solving courts also often involve a relaxation of formal courtroom procedures, to enable the development of therapeutic relationships, although problem-solving court programmes also often represent an extension of the court process, structured around recurrent hearings (see McIvor, 2009). It has been argued that one of the most prominent vehicles for the development of TJ are Drug Courts (Wilson, 2021) which arguably function as "laboratories" to test TJ theory (Wexler and Winick, 2003 p. 105). Whilst this testing is relatively extensive in the US, where Drug Courts have been established in almost every state (see section *3.2*), much less is known about Drug Courts and TJ in the UK. As mentioned earlier in this chapter, British Drug Courts emerged in 1998, during shifting definitions of recovery and understandings of 'what works' to reduce crime (see section *2.3.3*), and the Drug Court which is the focus of study in this thesis was established in 2001 (see Eley et al. 2002b p. 3). Whilst ostensibly only "remnants" of the Drug Court project remain in Scotland (Collins, 2019 p. 99), the Drug Court under empirical exploration in this thesis has endured seismic shifts in the approach to the 'care' and 'control' of offenders in the community. It is important that data is gathered from this experiment, to explore its' approach.

2.5 Concluding Comments

This chapter outlined some of the key theories and debates in drug policy and criminal justice policy, which are fundamental in the study of Drug Courts in the UK. Concepts that are in tension, or are difficult to define, such as recovery and 'crime control', will be referenced and explored throughout this thesis, as the founding aims of this Drug Court are to reduce drug misuse and reduce drug-related crime (see Eley et al. 2002b; McIvor et al. 2006). First, this chapter explored the concept of 'recovery': from early 'care' and 'control' of drug dependent individuals to the abstinence-oriented 'new clinics' (see section *2.2.1*), to the tension between harm reduction and the response of the 'New Abstentionists', and the 'recovery' turn in drug policy (see section *2.2.3*). Finally, this section highlighted social models of recovery and their links to recovery narratives as a basis for understanding 'care' and 'control' (see section *2.2.4*). This chapter then explored changing approaches 'crime control': from early models of punishment in contrast to the emergence of the 'rehabilitative ideal' (see section *2.3.1*), to the emergence of 'moral panics' (Cohen, 1985), and then 'penal welfarism' and the 'culture of control' (see Garland, 2001 and section *2.3.3*). In this section, desistance narratives were highlighted as means for understanding and approaching desistance, with links drawn between these and recovery narratives (see section *2.3.4*). The final section of this chapter explored the 'care'/'control' debate (see section *2.4*): from tensions between befriending offenders and delivering punishment in the community (see section *2.4.1*), to the rise of risk management and public protection (see section *2.4.2*), and the "vulnerability zeitgeist" in policy and practice (Brown, 2014, see section *2.4.3*). This led to an analysis of Therapeutic Jurisprudence, which crystallises 'care' and 'control' of drug dependence in the criminal justice system and is a key principle upon which Drug Courts operate (see section *2.4.4*).

Throughout this chapter, key developments in criminal justice and drug policy were highlighted, with specific reference to criminal justice 'care' and 'control' of dependent individuals. It is important for this thesis to present an outline of how the 'care' and 'control' debate has subsisted through, and contributed to, the development of strategies to reduce drug dependence, control crime, and manage offenders, as this illuminates the domestic policy context that precipitated the introduction of Drug

Courts in the UK (see section *3.3*). Moreover, the concepts of 'care' and 'control' have central analytical importance to this thesis as they form the basis of qualitative inquiry into this Drug Court. As the research questions presented in the introductory chapter explained, the central premise of this thesis is to explore the relationship between 'care' and 'control' in a Scottish Drug Court (see section *1.4*). In this sense, 'control' refers to the Drug Court interventions which seek to regulate the behaviour of individuals, the premise of which is rooted in theoretical and conceptual understandings of social control and responsibilisation (see sections *2.3.2* and *2.3.3*; Garland, 2001; Phoenix, 2008; Wacquant, 2013). Moreover, 'care' refers to interventions which seek to support participants and enable their access to services and resources, which speaks to the integration of 'welfarist' and criminal justice approaches and, specifically, the development of therapeutic jurisprudence (see sections *2.4.1, 2.4.2, 2.4.3* and *2.4.4*). Drawing upon the work of Kate Brown (2011, 2014, 2016), this thesis seeks to explore the balance between these approaches in the Drug Court and how demarcations between 'care', 'control', and vulnerability and deviance, are constructed and understood. This chapter has therefore laid the groundwork and provided context for the exploration of 'care' and 'control' in this thesis. Moreover, this chapter also introduced concepts with theoretical and methodological importance to this thesis, such as TJ and social control, which will be revisited in chapters three and four. The following chapter will expand on this chapter by exploring the policy development of Drug Courts, beginning in the US, and their emergence in the UK.

Chapter 3

The Drug Court Story: The US, the UK, and the Current Landscape

3.1 Introduction

Whilst the previous chapter gives a detailed overview of the social, economic, and political context in which Drug Courts were first incorporated into criminal justice and drug policy in the United Kingdom (UK) (see chapter *2*) this chapter will 'zoom in' on the emergence of Drug Courts. Firstly, this chapter aims to give a brief overview of the rise of Drug Courts as a feature of American criminal justice policy. This chapter will then explore the transfer of Drug Courts to the UK, with a focus on Scotland and England, and the subsequent "rise and fall" of the movement in British policy discourse. As the story of Drug Courts has been told many times (see Nolan, 2002 and 2009 for more detailed overviews), this chapter aims to give a concise and focused overview to contextualise the literature findings on Drug Courts (see chapter *4*) and the research findings presented in later chapters (see chapters *7*, *8*, and *9*). The policy story of Drug Courts, much like the stories presented from within this Scottish Drug Court (see chapter *9*), is characterised by a complicated relationship between approaches to 'care' and 'control'.

3.2 The Origins of Drug Courts: An American Approach to Drug-Related Crime

The origins of the Drug Court project are almost universally traced back to Dade County, in Miami, Florida, in 1989 (Nolan, 2002; Nolan, 2009; Collins, Soderholm, and Agnew-Pauley, 2019) and they have often been conceptualised as a quintessentially 'American' criminal justice policy movement (Nolan, 2002). The Dade County Drug Court's "treatment oriented" model, in which participants are provided with drug treatment and monitored in non-adversarial review hearings led by a judge, became the "prototype" for future Drug Courts in the United States (US) (Lurigio, 2008 p. 3). Most US Drug Courts tend to follow this model and defendants are presented with the option of pleading guilty and entering mandatory drug treatment through the Drug Court or going to trial and risking imprisonment

or other criminal justice sanctions (Nolan, 2002; Nolan, 2009). Therefore, whilst participants are presented with access to drug treatment services, the mandatory nature of the programme means that failure to comply can result in the use of sanctions, ranging from verbal reprimands to community and custodial sentences (Canadian Centre on Substance Abuse, 2007; Lindquist et al., 2006; Mugford and Weekes, 2006; Brown et al., 2011). As such, whilst there is considerable variation between different models (Mitchell et al., 2012; Nolan, 2009), it has been argued that the defining components of Drug Courts are consistent with Dade County's model (Lurigio, 2008 p. 3). For example, the Drug Courts Program Office (DCPO, 1997) in the US Department of Justice and the NADCP (1997) defined Drug Court programmes as comprising the following elements (Drug Strategies, 1999):

- the early identification and assessment of participants and their immediate placement in treatment;
- non-adversarial court proceedings involving a team of judges, lawyers, and treatment providers that are designed to protect community safety as well as defendants' and offenders' due process rights;
- regular contact between participants and judges in review hearings or other types of court sessions;
- intensive supervision practices that include close monitoring and frequent, random drug testing;
- holistic and evidence-based drug treatment interventions that are delivered on a continuum of care, with integrated for co-occurring psychiatric disorders;
- rewards and punishments that encourage compliance with treatment and other elements of the programme;
- ongoing evaluations to monitor program implementation and measure the accomplishment of program objectives and goals;
- close working relationships with a wide range of public sector and community service providers;

- and interdisciplinary educational opportunities to help program staff stay current with the latest advances in offender drug treatment and case management strategies.

This is the model of Drug Courts that has been replicated across the US (Lurigio, 2008). Whilst the development of Drug Courts has been sporadic and piecemeal across different states, each of which have considerable discretion over their criminal laws and drug treatment agendas, in 1997, more than 370 drug courts were operational or being planned in the US, with the largest numbers at that time in California, Florida, Ohio, Oklahoma, and New York (Cooper, 1998). By April 2007, more than 1000 specialized drug courts were operational in all 50 states as well as the District of Columbia, Guam, and Puerto Rico (American University, 2007, cited in Lurigio, 2008). By 2018, it was suggested that as many as 3100 US Drug Courts were in operation (Office of Justice Programs, 2018).

However, the US Drug Court movement has not been uncontroversial, and it has been the focus of many of the criticisms mentioned in the introduction (see section *1.2*). On one hand, as the early development of Drug Courts explicitly sought to incorporate principles of Therapeutic Jurisprudence (TJ), it has been argued that Drug Courts represent an example of TJ in action (Wexler, 1991) that have revolutionised traditional criminal courts from being "adversarial and legalistic" to "therapeutic and rehabilitative" (Lurigio, 2008 p. 5). The literature on Drug Courts generally tends to support this assertion, with meta-analyses of US Drug Court programmes finding significant reductions in offending and drug misuse (see Chapter *4*; Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa 2005). However, whilst Drug Courts have been found to reduce arrest rates and other measures of incarceration for drug-related crime (ibid), they have also been criticised on the basis that they extend and entrench the criminal justice control of drug dependent individuals (Miller, 2004; Drug Policy Alliance, 2011) and represent an ideological American obsession with judicial control of crime and crime-related problems (see Miller, 2009; Kaye, 2010, 2019). Despite extensive criticisms of the Drug Court project, they have nevertheless been replicated around the world, in an unprecedented example of criminal justice policy transfer (Nolan, 2002). Whilst the exact models used vary, Adult Drug Courts based on the therapeutic principles established in the Dade County model now exist in the US and Canada (Latimer et al., 2006), Australia and New Zealand (ibid, Carr, 2020),

Latin American countries (Social Science Research Council, 2018), and Europe (McIvor et al., 2009; McIvor, 2009).

3.3 The Origins of UK Drug Courts: England and Scotland

Whilst Drug Courts appeared in the US in the 1980s (see section *3.2*), they first emerged in England during the New Labour era. In 1998, the recently elected Labour government launched a new ten-year Drug Strategy that sought to "break once and for all" the cycle between drugs and crime (see section *2.2.2;* Home Office, 1998) and Tony Blair announced in 2001 that he would introduce a network of Drug Courts throughout England and Wales (ibid, p. 215). The Ministry of Justice announced its commitment to piloting the Dedicated Drug Court (DDC) model in England and Wales by 2005 and two sites were identified: the Magistrates' Courts in London and Leeds (Matrix Knowledge Group, 2008). Following implementation, Home Secretary Jack Straw praised Drug Courts and announced that the Home Office was likely to extend the pilot (Nolan, 2017a p. 215). Drug Courts were not the only American import into British drug policy during this time, as in 1998 New Labour also announced the creation of a 'Drugs Czar' and anti-Drugs Co-ordinator to oversee the response to drug-related crime, who himself supported Drug Courts (Nolan, 2017a, p. 90). Furthermore, Drug Courts were not the only form of 'coerced' or mandatory drug treatment in the criminal justice system introduced during this era, as the Crime and Disorder Act 1998 introduced Drug Treatment and Testing Orders (DTTO), a form of (or attachment to) community sentences that provided a statutory requirement for offenders to undergo a drug treatment and testing. These Orders, which have since been renamed Drug Rehabilitation Requirements (DRRs) (Heath, 2012), enshrined the judicial management of drug-dependent offenders into the criminal justice system and marked a shift toward mandatory drug treatment in the UK (see Powell, 2012). These were the Orders around which the DDC pilots were organised, with Magistrates holding regular review hearings attended by participants, Probation Officers, and other professionals (Nolan, 2017a, p. 108). Early findings suggested that the 'British' interpretation of the Drug Court model was moderately successful at reducing drug-related crime (see chapter 4; Matrix Knowledge Group, 2008). Whilst the DDC model did not become embedded in England and Wales to the extent that it has in the US, the practice of

holding ‘review’ hearings during judicial supervision and management of offenders on DTTOs and DRRs became common practice in several Magistrates Courts around the country (see Nolan, 2002).

The emergence of Drug Courts in England and Wales were preceded, however, by Scottish Drug Courts. The Drug Court at the centre of this thesis was established in 2001 (Eley et al., 2002b; McIvor et al., 2006). The American Drug Court movement (Nolan, 2001) is important to an understanding of this Scottish Drug Court, also, as the Scottish movement sought explicitly to follow the lead of the US, albeit in a distinctly “Scottish way” (Bean, 2002a; 2002b). Established with the dual aim of “reducing individuals’ propensity to misuse Drugs” and to “reduce drug-related crime”, the Scottish Drug Court project was initially trialled in Glasgow and Fife (Eley et al., 2002b; Malloch et al., 2003; McIvor et al., 2006). Like the English approach, Scottish Drug Courts have been structured around the use of DTTOs, which were introduced by the Scottish Parliament in the Criminal Procedure (Scotland) Act 1995. However, like the American approach, Scottish Drug Courts were far more structured and explicitly focused on therapeutic jurisprudence (TJ) than their English counterparts, with a similar model being adopted to that outlined by the Drug Court Program Office (DCPO) (1997) and NADCP (1997; see also appendix *7*; Nolan, 2009). The term ‘therapeutic jurisprudence’ refers to the sociopsychological consequences of substantive law and legal procedures and asserts that the law can act as a therapeutic agent (see section *2.4.4*; Wexler and Winick, 1991). It has been argued that problem-solving courts such as Drug Courts and TJ have a symbiotic relationship (Wexler and Winick, 2007) and, as Nolan (2009) found, Scottish practitioners argued that TJ was “reflected in what they [were] basically doing at these Courts” (p. 132). Initial and subsequent evaluations of the Drug Courts in Fife and Glasgow were found to be successful at reducing drug-related crime and substance misuse (Eley et al., 2002b; Malloch et al., 2003; McIvor et al. 2006) and the Drug Court model has become an “embedded” feature of the Scottish criminal justice and drug policy landscape (Collins, 2019 p. 95). A detailed outline of the policies and procedures of the Scottish Drug Court that is the focus of this thesis can be found in appendix *7*.

3.4 The Rise, Fall, and Re-enlivening of UK Drug Courts

As mentioned in the previous section, the DDC Pilot in England and Wales was relatively short-lived, despite early research findings suggesting that it was successful at reducing drug-related crime (Matrix Knowledge Group, 2008), as by around 2010 it seemed that the Drug Court project had been abandoned (Ward, 2018; Collins, 2019). Moreover, whilst Drug Courts seemed to be relatively "embedded" in Scotland, the Fife Drug Court was closed in 2013 (ibid, p. 95). The reasons underlying the failure of the Drug Court movement to take hold in the UK to the same extent that it did in the US have been the focus of commentary from academic and practitioners and a range of reasons have been suggested (see Nolan, 2017b; Collins, 2019). Firstly, it has been suggested that the Drug Court project was transplanted into an unsuitable legal and policy framework for the control of drug-related crime (Collins, 2019). At the time, British Drug policy had begun to move away from strict abstinence-based approaches toward a recovery approach (see *2.2.2*; Duke, 2013; Floodgate, 2017), although Drug Courts might now be seen as complementary to offender management approaches (see *2.4.2*; Nolan, 2009). Additionally, as the medical profession had primarily been responsible for the 'care' and 'control' of drug dependent individuals in the UK for some time, existing structures for this within the criminal justice system were limited (see section *2.2.1*; Nolan, 2017a p. 95). Moreover, it has also been argued that the cultural differences in the US and UK could account for the decline of the UK Drug Court project, as some of the more "theatrical" and "expressive" qualities of Drug Courts have been regarded as culturally unsuitable for the British criminal justice context, particularly within the more senior courts (Nolan, 2009; p. 121). Nevertheless, it has been argued that Scottish Drug Courts have negotiated these cultural differences by modifying the model, to find a "Scottish way" of doing things (Bean, 2002a, 2002b; Nolan, 2009). Finally, and perhaps most significantly, the deterioration of the British Drug Court movement has also been linked to the effect of 'austerity' and public-sector budget cuts that have been implemented by the Coalition and Conservative governments that followed the New Labour era (Floodgate, 2017). The 'austerity' movement in British politics, which has seen significant cuts to criminal justice budgets and the closure of several court buildings throughout the country (Ward, 2018), has arguably come to dominate approaches to criminal justice

policy (see sections *2.3.3* and *2.4.2*). Whereas this Scottish Drug Court has survived significant changes since its' inception in 2001, in England and Wales the Drug Court movement, and 'welfarist' or rehabilitative approaches to criminal justice policy, have arguably given way to the perceived need for a smaller state and lower public spending on drug-related crime.

Nevertheless, as mentioned in the introductory chapter, there has been renewed interest in Drug Courts in the UK, which has been precipitated by a renewed interest in problem-solving courts (see section *1.1*). Specialist Domestic Violence Courts (Bettinson, 2017) and Family Drug and Alcohol Courts (in the Family Court network rather than the criminal courts) have become commonplace in England and Wales (Centre for Justice Innovation, 2021). In 2020, the Ministry of Justice (2020) announced a plan to formalise these approaches, with the trial of several new problem-solving courts including Adult Drug Courts. As such, it seems Drug Courts in the UK have undergone a rise and fall in popularity, wherein characterisations of Drug Courts have taken turns at being perceived as too focused on 'care' or too intensively focused on 'control' (Wade, 2021). However, much of the criticism about Drug Courts in popular discourse arguably reflects the American approach (see section *3.2*; Collins, 2019). This time, the renewed interest in Drug Courts in the UK is a 'bottom-up' response to the growth in problem-solving approaches, rather than a 'top-down' attempt at international policy transfer (Freedland, 1998; Nolan, 2017a p. 101). It is therefore important that current research explores problem-solving approaches in the UK, such as that of this Scottish Drug Court.

3.5 Concluding Comments

This chapter briefly outlined the emergence of US Drug Courts, where the movement originated and traced the transfer of Drug Courts into the English and Scottish policy context. Whilst this chapter is concise, it also briefly highlighted how Drug Courts have developed within the wider policy context of 'care' and therapeutic approaches to drug-related crime, contrasted with criminal justice 'control' of offenders, that were raised in the previous chapter (see chapter *3*). The structure of this chapter, and its focus on the interrelated development of Drug Courts in three key jurisdictions which are relevant to this study, the US, England and Wales, and Scotland, lays the groundwork for the next chapter,

which explores the relevant literature base and academic knowledge on the Drug Court movement (see chapter *4*).

Chapter 4

The Drug Court Research Story: The US, the UK, and the current Landscape

4.1 Introduction

The purpose of this chapter is to give an overview of the current research landscape on Drug Courts. Despite the overwhelming number of studies on Drug Courts, there is a shortage of qualitative research (Kearley, 2017) and, especially, a shortage of research on British Drug Courts, given the relatively small number of them compared to the US where the model was first established (see chapter *3*, also Nolan, 2017a). Ultimately, the purpose of this literature review is to demonstrate why the present study was undertaken, given the shortage of qualitative literature on British Drug Courts, as well as to contextualise the findings from this study within the broader research landscape.

4.2 Methodology

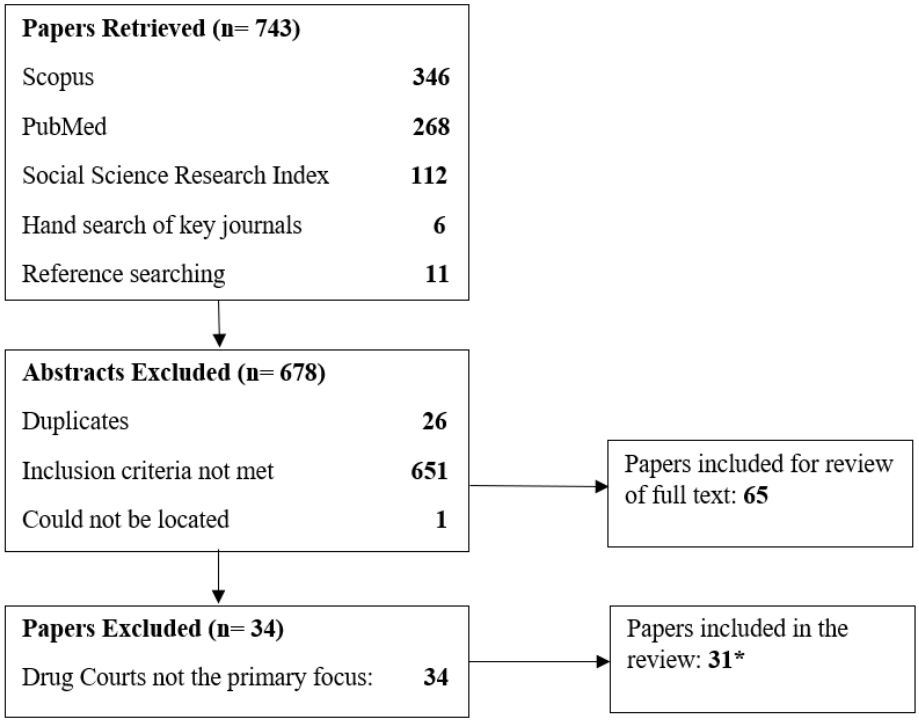
This literature review seeks to critically establish the nature of the literature that currently exists on Drug Courts (Arksey and O'Malley, 2003). As Drug Courts are one of the most highly researched areas of criminal justice policy and practice, a full systematic literature review is beyond the scope of this thesis (Marlowe, 2010). Therefore, rather than seeking to review all the literature that exists on Drug Courts, this section will review the most important and critical aspects of the current knowledge of the topic (Onuwegbuzie and Frels, 2016 pp. 24-5). This literature review incorporates a wide range of studies with varied research methodologies, which allows for the summation and dissemination of a range of findings to effectively identify gaps in the research base (see Grace, 2017). Whilst this literature review is not systematic in nature, a clear and rigorous approach to literature searching and selection has been undertaken to make this review as transparent and comprehensive as possible. Each stage of this review has been documented to ensure its reproducibility and methodological rigour.

To identify relevant studies for this literature review, comprehensive searches of three databases were undertaken. The electronic databases included in this literature review were:

- Scopus (1974 to 27 April 2021)
- PubMed (1946 to 27 April 2021)
- Social Sciences Research Index (1956 to 05 May 2021)

The searches of these databases involved several search terms, a full list of which is included in appendix *1*. Figure *1.1* below is a flow-diagram of the search strategy and resulting numbers of papers collected from the electronic databases.

Figure 1: Flow Chart of the Search Strategy



**See appendices 2-6 for more information on these studies.*

The search strategy for electronic databases related to three key areas:

- Studies relating to Drug Courts;

- Studies relating to drug treatment as a community sentence;
- Studies relating to judicially supervised drug treatment.

These areas were selected based on the substantive focus of this thesis. Studies related to Drug Courts were included in the review but those related to alcohol courts or other specialist courts such as domestic violence courts were excluded. Studies focused on participant groups of any gender were included, but studies focused on juvenile Drug Courts were excluded given the specialist laws and procedures which apply to juveniles. Finally, studies which were not published in English and duplicate studies were excluded.

To select the databases in which to perform the searches, reviews by external researchers were considered. For example, Burnham's (2006) evaluation of the Scopus database found that the database claims to have full coverage of MEDLINE, EMBASE and Compendex, meaning it comprises extensive coverage of both health science and social science titles (p. 1). In addition, Kulkarni et al. (2009) found that the research on Scopus has a European bias, as it covers many European journals, as well as content from South America and the Asia-Pacific region, so its focus is broader than other databases which often predominantly comprise US titles (p. 1096). Falagas et al (2008) state that Scopus's European bias is so because the database originated in Europe, and it has one of the largest collections of any online databases (p. 339). Because of its broad coverage and European focus, Scopus was the first database selected for inclusion in this literature review. As figure 1.1 illustrates, electronic databases yielded a high number of search results. PubMed was selected as the second database as it comprises more than 17 million articles from MEDLINE and other life science journals that are beyond the scope of MEDLINE (Kelly and Pierre-Hansen, 2008; p. 1577). And, finally, Web of Science was chosen as this database covers older publications, with its core collection dating back to 1900 (Falagas, Pitsouni, Malietzis and Pappas, 2008; p. 339). However, because of the breadth of this database, the decision was taken to limit the searches to the Social Science Research Index (SSRI) collection on Web of Science, as this would provide a more focused approach but still retrieve articles that date back further than Scopus (SSRI covers articles from 1956, Scopus from 1974). Furthermore,

it was anticipated that the US bias of the SSRI would balance the European bias of Scopus (ibid; p. 339). This search strategy generated 726 results.

The second search strategy technique involved hand searching key research journals. Whilst electronic databases offer a relatively fast and accessible means to access research papers, they may be incomplete or inaccurate (Arksey et al, 2002). As a result, the decision was taken to hand search the following journals:

- International Journal of Drug Policy
- Probation Journal
- Journal of Criminal Justice

These journals were selected for hand searching as several papers selected from the electronic database searches were published in these journals. These journals were searched back to 1980, as the first Drug Court began operating in 1989 (Lurigio, 2008). This process generated 6 results. The final search strategy employed in this literature review was hand searching reference lists of the articles selected from the electronic databases and journal searches. Whilst this arguably represents a diversion from the strict search strategy employed in the database searches, hand searching reference lists can produce a vast number of relevant articles, which are worthy of inclusion. This generated 11 results. All the full text articles selected from electronic database searches, hand searches of journals and 'snowball' reference searching were downloaded into Mendeley desktop version 1.19.

The title and abstract of the papers were first reviewed to exclude irrelevant articles. The inclusion and exclusion criteria were then applied to all full-text articles selected from electronic database searches, hand searching of journals and reference searches, which represented a 'best fit' with the literature review research question: *What can we learn from the literature about the qualitative research base about 'care' and 'control' Drug Courts?*

The inclusion criteria were as follows:

- **Study type:** empirical studies (a quantitative or qualitative study) that explored Courts in the UK. Given the number of studies from the US, only qualitative studies and meta-analytic reviews from the US were included.
- **Intervention type:** Drug Court intervention.
- **Outcome:** studies that assessed effectiveness (quantitative) or perceived effectiveness (qualitative), primarily in terms of 'care', 'control', reoffending and drug misuse.
- **Recipient group:** studies in the US and UK were included. Participants of any person of any race, ethnicity, age, or gender. Mixed-gender studies included. Adult studies only included.
- **Language:** only English language studies included.

The exclusion criteria are as follows:

- **Study type:** studies that were not empirical in nature, such as reviews, policy, or commentary pieces. Quantitative studies from the US which were not meta-analytic reviews.
- **Intervention type:** drug treatment programmes that took place outside of Drug Court. Interventions which were not formal/ legal in character, such as family or employment related interventions. Legal interventions that are not in the criminal justice system such as civil or family court interventions.
- **Outcome:** studies that did not have Drug Court effectiveness or 'care' and 'control' of offenders as the primary focus (such as harm reduction or quality of life measures).
- **Recipient group:** studies which focused on limited recipient groups such as just juveniles, pregnant women, or persons with HIV were excluded.
- **Language:** non-English language studies were excluded.

After the inclusion and exclusion criteria was applied, and the abstracts were reviewed, the total number of studies identified was 31.

The data extracted for each study was separated into demographic and design information. This information can be found in appendices 2-6. Appendices 4 and 5 illustrate the design information for the studies included in the literature review. Design information includes the following:

- Sample size
- Sample origin
- Research Design/ Methodological information
- Instrument of assessment

Appendices 2 and 3 illustrate the demographic information for the quantitative and qualitative studies respectively. The demographic details in these appendices include the following:

- Authors
- Country
- Sampling (% males and females)
- Mean age of the sample
- Ethnicity/ Race of the sample
- Mean Marital Status of the sample
- Mean Years in Education of the sample
- Mean Employment Status of the sample

The information collected from the data extraction has been compiled in an Excel spreadsheet and used to inform the analysis presented in this chapter.

4.3 Results

This section will present the results from the literature search. To present the research base on Drug Courts within the policy context outlined in the previous chapter, this section will first highlight the

relevant literature from the US, exploring firstly the significant quantitative literature on Drug Courts, before presenting a more detailed outline of the qualitative literature. This section will then explore the UK research base on Drug Courts, exploring first the small number of large-scale evaluations, before examining the qualitative literature.

4.3.1 Drug Courts in the US

As has been mentioned throughout this thesis, Drug Courts are one of the most intensively researched features of criminal justice systems (Marlowe, 2010) and this is particularly true for the US where over 3100 Drug Courts were found to be in operation as of 2018 (Office for Justice Programs, 2018). It was therefore unsurprising that many of the hundreds of studies retrieved from the literature search process were about US Drug Courts. Corresponding with previous reviews of the literature on Drug Courts in the US, hundreds of these studies were single site, each using different measures to analyse different Drug Court models (see Mitchell et al., 2012; Logan and Link, 2019). Attempting a comparison of this extensive and non-homogenous research base was beyond the scope of this thesis. Therefore, given the number of high-quality reviews of the quantitative literature that were sourced from the search strategy, only meta-analyses and reviews were included in this literature review. This has ensured that this literature review is focused on the qualitative research base, given the qualitative approach of this study, whilst still illustrating the themes that emerged throughout the quantitative literature.

4.3.1.1 Reviews and Meta-Analyses

Many of the meta-analytic reviews that have explored the research and evidence base on US Drug Courts measure their success in terms of the relationship between Drug Court involvement and reduced reoffending, with a specific focus on desistance outcomes. Generally, these analyses tend to conclude that the research suggests that Drug Courts are successful at reducing offending. For example, Mitchell et al. (2012) systematically reviewed 92 independent evaluations of Adult Drug Courts and found that they reported an average reduction in offending between 38% to 50%. Prior to this, Wilson, Mitchell, and McKenzie (2006) analysed 55 comparative reviews of Drug Court and non-Drug Court interventions, including both experimental and quasi-experimental studies, and found

that their results corresponded with a 14% to 26% average reduction in offending. Both meta-analyses found a significant relationship between Drug Court involvement and a reduction in offending and reinforce the findings of previous meta-analyses which have found reduced recidivism rates of between 8% and 9% (Shaffer, 2011; Lowenkamp, Holsigner, and Latessa, 2005). As Shaffer (2011) noted, whilst the findings of individual Drug Court studies have varied significantly in their results on reoffending, meta-analyses have consistently found positive associations between US Drug Court involvement and recidivism. Similarly, a meta-analysis by the Canadian Department of Justice, which included evaluations of Drug Courts in Canada, the US, and Australia, found a reduction in offending and future drug use that equated to 14% (Latimer et al. 2006). This suggests that Drug Court involvement is associated with reduced offending in not only the US, but also other jurisdictions with similar models. Moreover, this study also suggested that Drug Court involvement is associated with reduced drug use (see below). However, meta-analytic findings on Drug Courts and their effect on reoffending are not always straightforward. More recently, a meta-analysis by Sevigny, Fuleihan, and Ferdik (2013) found that whilst Drug Courts reduced incarceration rates for offenders, with an 8% reduction in "confinement" and a 12% reduction in "incarceration", they did not reduce the average amount of time that participants spent "incarcerated". This finding could suggest that a reduction in the frequency of imprisonment for successful or involved Drug Court participants is offset by an increase in the length of sentences for unsuccessful participants (Logan and Link, 2019). Additionally, there is evidence to suggest that Drug Court intervention could have unintended consequences. Using Braithewaite's (1989) theory of reintegrative shaming as an interpretive framework, a review by Miethe, Lu, and Reese (2000) found that the risks of recidivism for Drug Court participants were significantly higher than for comparable offenders processed outside the Drug Court, which could suggest that Drug Courts are more stigmatising than conventional courts and "oriented towards punishment" (p. 522). Therefore, whilst there are divergent findings as to the relationship between Drug Courts and recidivism, the plethora of quantitative inquiry in this area reflects the 'crime control' purpose of Drug Courts (see section *2.3*).

Whilst recidivism rates are the measure of success in most of these reviews, some meta-analyses of Drug Courts in the US also explore the extent to which Drug Court interventions are associated with reduced drug misuse. As mentioned above, a meta-analytic review by the Canadian department of justice found that the evidence presented a statistically significant reduction in drug misuse amongst Drug Court participants in the US, Canada, and Australia (Latimer et al. 2006). Similarly, Link and Logan (2019), in their recent review of 7 prominent meta-analyses of research on Drug Court effectiveness, also concluded that the research on Drug Courts tend to find a positive relationship between involvement and both reduced reoffending and reduced drug use. As Drug Courts typically aim to reduce drug-related offending (Lowenkamp, Holsinger, and Latessa, 2005), in many of these meta-analyses, a reduction in offending was understood as a reduction in the drug use underlying the offending (see Logan and Link, 2019; Mitchell et al., 2012). However, rather than measuring Drug Court effectiveness by measuring drug use and offending, Shaffer (2011) argued that future meta-analytic reviews should focus on the relationship between treatment quality and Drug Court effectiveness. As such, a meta-analytic review by Public Safety Canada explored the relationship between treatment quality on Drug Court effectiveness in previous meta-analyses and found that treatment quality was significantly related to effectiveness, as there was a relationship between reviews comprising studies of Drug Courts which incorporated therapeutic principles and those which found successful outcomes (Gutierrez and Bourgon, 2012). However, it was also highlighted in this review that significant methodological flaws in the meta-analytic process of previous studies made it difficult to draw comparisons and conclusions (ibid). Therefore, whilst the meta-analytic approach can resolve some of the issues involved in attempting to draw conclusions about Drug Court effectiveness from different models, approaches, and outcome measures, attempting to compare meta-analytic findings is still complicated by methodological limitations. These reviews are also ontologically constrained by their methodological approach, as quantitative reviews can only compare studies which measure relationships and explore the significance of associations. Nonetheless, meta-analytic reviews of the extensive quantitative literature on Drug Courts tends to paint a positive picture of their effect in reducing drug misuse and offending (Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa, 2005). However, to

understand how and why Drug Courts are effective, qualitative approaches are needed (see chapter *5*). The following section will contribute to this discussion of treatment quality, and therapeutic and 'crime control' approaches, by exploring the qualitative research base research on US Drug Courts.

4.3.1.2 Qualitative Studies

As this thesis is primarily concerned with understanding the 'hows' and 'whys' of 'care' and 'control' in Drug Courts (see chapter *1*), this thesis is focused upon qualitative understandings of Drug Courts. As such, the following section presents a detailed insight into studies which address Drug Court effectiveness, or perceived effectiveness and reference the 'care' and 'control' of participants within the programme.

4.3.1.2.1 The Drug Court Process and Procedure

The qualitative research base on US Drug Courts is not as expansive as the wealth of quantitative research. Some of these studies explored qualitative data and perspectives on Drug Court processes and procedures, such as Lindquist et al (2006), who compared Drug Court sanctions and rewards with traditional courts in five judicial circuits in Florida using interviews with 86 key stakeholders including Drug Court workers and offenders. This study found that Drug Courts use a lot more sanctions than traditional courts and more behaviours were identified as sanction-worthy, but the sanctions were more treatment-oriented than in traditional courts and the Drug Court was more focused on tailoring sanctions to offenders' individual needs rather than being concerned with implementing standardised sanctions (ibid, p. 141). This suggests that sanctions were interpreted in therapeutic terms Drug Courts rather than traditional courts. Moreover, Burns and Peyrot's (2003) ethnographic study, which involved observation of 75 Drug Court sessions at two sites in California, examined 'nurturing' and 'coercion' (p. 420). The authors found that Drug Courts are an alternative to the prevailing retributive criminal justice treatment of substance abusers, which has been shown to be both expensive and ineffective, that mark a shift in criminal justice policy away from punishment and deterrence and toward rehabilitation and treatment (Burns and Peyrot, 2003; p. 433). This speaks to the concept of therapeutic jurisprudence, which frames the law as having therapeutic effects beyond its purely punitive functions (see section *2.4.4*; Wexler and Winick, 1991; Wilson, 2021). Whilst drug

treatment enforced by the threat of legal sanction was identified as never truly "voluntary", participants retained the power to negotiate and to explain their behaviour to judges, given the relational emphasis (Burns and Peyrot, 2003; p. 423). This relational approach enabled judges to have a better understanding of participants and to tailor services to their needs (ibid, p. 423). Thus, whilst Drug Courts may be an example of "net widening" (see section *4.3.1.2.1*), Burns and Peyrot (2003) argued that they are an attempt to incorporate principles of recovery and an "understanding of disability" into the criminal justice system (p. 435). As 'care' was ultimately found to outweigh 'control', it would have been interesting to have explored whether this interpretation was reinforced by Drug Court actors.

However, the conclusions which can be drawn from qualitative research on Drug Courts is especially limited in their applicability to other courts, given the variation in models and procedures. Bouffard and Taxman (2004), following a larger study by Anspach and Ferguson (2003), used direct observations to examine the organisational structure of Drug Courts. This included more observational sites than Burns and Peyrot (2003), including: a long-running Drug Court in California, a rural Drug Court in Louisiana, a rural Oklahoman Drug Court, and a large Midwestern Court (Bouffard and Taxman, 2004; p. 198). It was found that nearly all programmes offered 'caring interventions such as individual and group counselling, substance abuse treatment, relapse prevention, social, coping, and skills courses, and self-help (12-steps) interventions, as well as some offering family treatment sessions, anger management, follow-up counselling, and case management services (Bouffard and Taxman, 2004; p. 203). The authors suggested that whilst this "eclectic" mix of interventions could 'care' for the varied needs of participants and bolster outcomes, which reflects meta-analytic findings about treatment quality (see section *4.3.1.1*), the result of this was a relatively small amount of time being spent on any specific intervention or approach (Bouffard and Taxman, 2004; p. 212). However, these findings were only exploratory, and more research is needed to determine whether Drug Courts are "organized and integrated with treatment providers in such a fashion to effectively use drug treatment to achieve reductions in recidivism" (2004; p. 215). Wolfer (2006) also conducted an exploratory analysis of 55 graduates' views of a Pennsylvanian Drug Court.

This found that whilst graduates found that ‘control and surveillance in the programme structure and drug testing were beneficial to their rehabilitation, there were also concerns over perceived differential treatment or favouritism by staff members as well as a disregard for client time (ibid, pp. 314-5). Wolfer and Roberts (2008) subsequently explored 26 graduates’ views on the programme, to provide a conceptual explanation of how and why Drug Courts work. These participants felt that the programme was effective because it helped them to reintegrate into society without further stigmatisation and it provided a “form of outer containment” or a system of accountability for keeping participants’ behaviour in check, which strengthened participants’ internal controls over their behaviour (ibid, p. 481). This complements quantitative reviews which advanced reintegrative shaming as a model for understanding why Drug Courts work (Miethe, Lu, and Reese, 2000). A similar finding was made by Gallagher, Nordberg, and Kennard (2015), who used phenomenological analysis to explore perceptions of Drug Court effectiveness, such as the quality of treatment and judicial contact, amongst 41 participants at an Indianan Drug Court (p. 69). They found that participants viewed the ‘key components’ favourably, as they perceived the team as non-adversarial and found ongoing judicial contact beneficial, despite findings that increased judicial contact was associated with more failed drug tests (ibid, p. 76). This reflects Burns and Peyrot’s (2003) finding about the relational emphasis in Drug Courts. However, the participants had unfavourable views about the quality of treatment and counselling, as this Drug Court favoured group therapies over individual counselling (Gallagher, Nordberg, and Kennard, 2015; p. 77). This complements Bouffard and Taxman’s (2004) finding about variation in Drug Court models and approaches. Given the different approaches of different Drug Courts, the researchers ultimately recommend that further qualitative research using direct observation and participant interviews is needed to explore how social actors perceive Drug Courts (Gallagher, Nordberg, and Kennard, 2015).

4.3.1.2.2 Participant Outcomes and Experiences

The following studies explored participant perspectives on their own outcomes. Fischer and Geiger (2011) stressed the importance of using qualitative methods to explore “what works” and why in Drug Courts and analysed interviews, observation, and video-taped interactions with 11 female Californian

Drug Court participants. These participants identified dedicated staff, graduated sanctions, supervision, accurate drug testing, wraparound services, and resources and referral, as contributing factors in their success (ibid, p. 752). Participants also identified that links with treatment facilities that accepted children, individualised treatment plans, and therapists who are also recovering from dependence and were also female, increased their confidence in living a drug- free life (ibid, p. 752). This followed Fischer, Geiger, and Hughes (2007), who used semi-structured interviews with the same 11 women, to explore which elements of the Drug Court programme were, in their own words, most conducive to their recovery. These female participants identified support from the judge and staff as vital, as they felt that they cared about their progress (ibid, p. 703). Again, caring interventions with female counsellors who had experienced dependence, alongside wraparound services for employment skills and programmes for contact with children were identified as having empowered participants to change their lives (ibid, p. 703). Qualitative approaches such have this have enabled an understanding of subjective Drug Court experiences. Additionally, Roberts and Wolfer (2011) used the constant comparative method to thematically analyse interviews with 10 women who had completed a Pennsylvanian Drug Court programme and found that the women framed their successful completion in terms of the fear of punishment. However, whilst women emphasised fear of punishment as a primary motivator for their recovery, participants also identified patterns of improved self-images, improved physical and mental health, improved coping mechanisms and improved interpersonal relationships (ibid, p. 84). This suggests that even where the Drug Court is primarily defined in terms of 'control', the use of therapeutic interventions enables participants to engage with the programme and avoid punishment (ibid, p. 84). In this way, qualitative research can unpack the interactions between different factors affecting 'crime' control and treatment quality identified in quantitative research, to explore perceptions of 'care' and 'control' in Drug Courts.

Similarly, Gallagher (2013) explored 14 'African American' participants in a Texas Drug Courts' views on racial disparities in Drug Court outcomes. Participants in this study reflected that the following elements could enhance racial disparities in outcomes: sanctions not being implemented in a culturally sensitive manner; mandated attendance at AA and NA meetings; a lack of employment-

related support; a lack of individualised treatment; and a lack of African American participants and staff to relate to (ibid, pp. 156-7). This was followed up by Gallagher and Nordberg (2016), who noted recent evidence that found African American participants were less likely to graduate from programmes than white participants (see Schiff and Terry 1997, Brewster 2001), and interviewed 38 Midwestern Drug Court participants to compare African American and white lived experiences of the programme. The findings suggested that both participant groups felt that the team was supportive, compassionate, and wanted them to succeed (Gallagher and Nordberg, 2016 p. 117). However, white participants found balancing programme demands with other obligations in their life challenging (ibid, p. 117). African American participants tended to be more critical, especially of treatment quality, and reported feeling that they were forced to accept culturally incompetent labels (ibid, p. 117). This research provides an insight into how 'care' and 'control' is subjectively experienced in Drug Courts. However, given the limited applicability of these findings to other courts further exploratory research is needed to explore how different Drug Court models are interpreted (Bouffard and Taxman, 2004).

The searches also retrieved literature on the lived experience of Drug Court participant cohorts. Fulkerson, Keena and O'Brien (2012) compared the lived experiences of 15 graduated and terminated participants in Arkansas, using interviews which were analysed using a phenomenological approach (p. 1303). This found that Drug Courts were largely perceived as a restorative institution (Fulkerson, Keena and O'Brien 2012; p. 1313), which complements earlier findings that Drug Courts are perceived therapeutically despite the potentially coercive nature of the threat of legal sanction (Burns and Peyrot, 2003). There was a prevailing view that even some of the more traditionally 'coercive' elements of the programme, such as being required to adhere to a rigorous schedule of meetings, drug testing and judicial monitoring, were beneficial for participants in making them accountable for their own behaviour (Fulkerson, Keena and O'Brien, 2012; p. 1313). This speaks to the concept of therapeutic jurisprudence, which asserts that legal actions and processes, even those which may be perceived as punitive or surveillance-based, can produce therapeutic effects (see section *2.4.4*; Wexler and Winick, 1991). This is a key empirical finding which underpins the research questions in this

thesis (see section *1.4*). Furthermore, Gallagher, Nordberg, and Lefebvre (2017) explored the lived experiences of 42 Midwestern Drug Court participants, using narrative and phenomenological approach (p. 472). These participants felt that Drug Court-specific surveillance, like frequent drug testing and having recurring contact with the Drug Court judge, were beneficial to programme completion (Gallagher, Nordberg, and Lefebvre, 2017; p. 468). This reflects the quantitative research base which tends to find that Drug Courts are effective at reducing drug misuse and offending (see section *4.3.1.1*). However, participants reflected that punitive tactics and judgemental approaches sometimes compromised the quality of the treatment they received (Gallagher, Nordberg, and Lefebvre, 2017; p. 467). This finding contrasts with that of Fulkerson, Keena and O'Brien (2012), whose participants articulated that some of the punitive techniques in the Drug Court were beneficial in helping them to 'take responsibility', but perhaps reflects an attempt to combine elements of the traditionally punitive criminal justice system with relational and therapeutic approaches to recovery (see Burns and Peyrot, 2003). However, it was again emphasised that these findings cannot be generalised beyond this programme and further research exploring perceptions of Drug Courts is needed (Gallagher, Nordberg, and Lefebvre, 2017; p. 478; Bouffard and Taxman, 2004). The present thesis will attempt to respond to this call in a UK context. The following section will explore the research base on UK Drug Courts.

4.3.2 Drug Courts in the UK

The body of research on UK Drug Courts is much smaller and tends to focus on Scotland, as these are the most established and long-running Drug Courts in the country (see sections *3.2*, *3.3*), and only one study was sourced on English Drug Courts. Following the implementation of the Scottish Drug Court pilots, Dedicated Drug Court (DDC) pilots were established at two sites in England, in West London and Leeds, and a pilot review was published by Matrix Knowledge Group (2008). This report was predominantly concerned with cost-benefit analyses of the DDC project, however, it also found that continuity of judiciary had a statistically significant effect on key Drug Court outcomes like turning up to appointments, being more likely to complete the sentence, and being less likely to be reconvicted (ibid, p. 23). This finding echoes qualitative findings on US Drug Court participants'

lived experiences, wherein judicial contact was highlighted as being beneficial (see *4.3.1.2.2*). This study also highlighted the enthusiasm of those involved in the Drug Court pilots and the working partnership, the availability of resources for high quality drug treatment through the Drug Court, and an increased understanding of offender motivation by staff (Matrix Knowledge Group, 2008, p. i). Ultimately, relevant to this thesis, this report suggested that both 'care' in the form of high-quality drug treatment and increased surveillance through judicial contact was successful in reducing drug misuse and offending, despite the pilots' termination (ibid, p. i; see section *3.3*).

In Scotland, Eley et al. (2002a) evaluated the Scottish Drug Treatment and Testing Order pilots (DTTOs), the report from which was published shortly after the launch of the Scottish Drug Court pilot. The DTTO programme implemented elements of US Drug Court programmes including mandated treatment and ongoing judicial contact (see section *3.3*). The success of DTTOs laid the foundations for the Scottish Drug Court pilot, as Eley et al. (2002a) found that almost half of DTTO completers had not been reconvicted within two years. Two subsequent formative reviews of the Scottish Drug Court took place in Glasgow (Eley et al., 2002b) and Fife (Malloch et al., 2003), respectively. In Glasgow, Eley et al., (2002b) found that the initial launch of the Drug Court had "largely been a success" (p. 95) and that clients "were thought to regard the Drug Court as less punitive and more constructive than a traditional court" and that they "generally responded well" to the support that was available (p. 34). It was found that all the interviewed participants reported significant reductions in drug use and offending and there was a "general optimism" amongst those involved in the Drug Court's early operation (ibid, p. 87). In Fife, Malloch et al. (2003) similarly found that the Drug Court pilot was "successful" and was perceived as an "important and innovative response to drug-misusing offenders" (p. 94). Most of the professionals and clients involved in the study were reportedly "reasonably confident" that the Drug Court would be "capable of bringing about reductions in drug use, offending and associated problems" (ibid, p. 89). Moreover, the Scottish Drug Court pilot was then the focus of a large, mixed methods process and outcome evaluation by McIvor et al (2006), which included interviews with staff and participants, alongside analysis of records, observed hearings, and surveys from the two sites. This found that whilst Drug Courts cannot

"provide a panacea for all drug-related crime", a "sizeable proportion" of participants had sustained reductions in drug use and offending (ibid, p. 9). The programme was overwhelmingly supported by participants, staff, and other courts and reported strengths included the "fast-tracking" system, the dedicated Drug Court Supervision and Treatment Team (DCSTT), and pre-court meetings and reviews (ibid, p. 9). Direct dialogue between Sheriffs and participants in hearings was viewed as a central component (ibid, p. 10), which reflects the relational emphasis of US Drug Courts (Burns and Peyrot, 2003). Sheriffs also reported feeling more knowledgeable and well-resourced to respond to drug-related crime (McIvor et al 2006, p.10). Overall, this suggested that both therapeutic and surveillance-based interventions were viewed positively.

Finally, three qualitative studies on UK Drug Courts were sourced. Firstly, Nolan's seminal book *'Legal Accents, Legal Borrowing'* (2009) included extensive fieldwork of Drug Court sites in both the US and UK, including England and Scotland, which included Drug Courts and DTTO sites (p. 109). The study included observations of Drug Court hearings, observations of meetings between participants, and interviews with Drug Court professionals (ibid, p. 109). Firstly, it was noted that Britain had implemented a very different approach to the US (ibid, p. 108), wherein rather than mandating abstinence, harm reduction or reduced use was interpreted as success (ibid, 95). This reflects the 'recovery' approach in British drug policy (see section *2.2.3*) and could suggest that these Drug Courts are more therapeutic than the US approach, which enforce 'abstinence' to improve offending rather than promoting recovery and harm reduction (see sections *3.2, 3.3*). This reflects a "deeply held conviction in the validity of therapeutic treatment" following Britain's long history of therapeutic and medical approaches to drug control (ibid, p. 259, also section *2.2.1*) which complements the Drug Court approach to 'care' of offenders in the criminal justice system (ibid, p. 218). However, this study acknowledged that therapeutic approaches were combined with social control and coercion in terms of both supervision and punishment (ibid, p. 27). It was therefore recognised that Drug Courts involve a complex relationship between 'care' and 'control'.
Furthermore, Eley et al. (2005) interviewed 27 men and 2 women to qualitatively explore their views on co-operation with drug treatment Court Orders. All the participants interviewed were the subject of

either a Supervised Attendance Order or a Community Service Order in the period June to August 2001 (Orders that were replaced by DTTOs and Drug Courts) (ibid, p. 402). This study found that participants expressed little reservation about being coerced into drug treatment by the courts (ibid, p. 407), which suggested that participants are undeterred by the 'control' aspects of Court-Ordered drug treatment, but they also expressed that supportive approaches to treatment ensured their compliance with the programme (ibid, p, 407). This suggests that Drug Court effectiveness is predicated upon a complex balance between approaches to 'care' and 'control'. Furthermore, McIvor (2009), explored direct dialogue and the judicial role in review hearings at the Scottish Drug Court pilot sites. This study drew upon court observation and interviews with offenders and professionals and found that ongoing judicial contact and interaction was used to "encourage increased compliance" and "support offenders in their efforts to address their drug use and associated offending" (p. 45). This suggests that increased surveillance of offenders is therapeutically beneficial. However, it was also recognised that myriad factors affect Drug Court interactions, which were difficult to capture in interview and observations, and further research is needed to understand how and why direct dialogue affects relationships and outcomes in the Drug Court.

4.4 Concluding Comments

There is a clear shortage of research on UK Drug Courts. In this review, 23 US studies were analysed, whereas only 8 UK. studies were included (see section *4.2*). Hundreds of quantitative studies on US Drug Courts were sourced from literature searching, the vast majority of these were singe site studies. This meant that a full review of this literature was beyond the scope of this thesis. Because of the volume of studies retrieved, meta-analytic and systematic reviews were used to illustrate the quantitative US research base, as these attempted to systematise the diverse research methods and Drug Court models that have been studied across the US. A total of 9 meta-analytic US studies and literature reviews were included in this review. Of these studies, a clear majority were concerned with recidivism and the extent to which Drug Court interventions successfully reduce reoffending, whilst a small but growing number sought to review the quality of treatment provided (see section *4.3.1.1*). Most of this research tended to find that Drug Courts were successful at reducing crime, although

some studies found they intensify criminal justice responses or lead to adverse consequences (ibid). The reviews of treatment quality suggested that Drug Courts underpinned by therapeutic principles are more successful at reducing crime and drug misuse.

As this thesis is purely qualitative, this review was predominantly concerned the qualitative research base. A total of 14 qualitative studies on US Drug Courts were included in this literature review. Whilst some of these studies elicited qualitative interpretations of Drug Court processes and procedures (see section *4.3.1.2.1*), others focused on the lived experience of Drug Court participants (see section *4.3.1.2.2*). These studies presented conflicting conclusions, wherein in studies of Drug Court procedures, participants often interpreted punitive 'control' measures in the Court as beneficial (see section *4.3.1.2.1*), whereas in lived experience studies some participants reported that they struggled to manage the demands of the Drug Court and felt that certain participant groups were punished more (see section *4.3.1.2.2*). Women and ethnic minority participants especially seemed to interpret the Drug Court in terms of 'care' rather than 'control' (ibid). Only one study explicitly focused on the relationship between 'care' and 'control' in Drug Courts, which explored this conflict and suggested that whilst Drug Courts arguably represent an example of criminal justice net-widening, they also represent an attempt to incorporate an understanding of dependence into the criminal justice system, which results in participants being simultaneously 'nurtured' and 'coerced' into taking responsibility for their recovery (Burns and Peyrot, 2003). The themes raised in this study are particularly relevant to this research.

As this thesis explores a Drug Court in the UK, this literature review also focused on the UK research base on Drug Courts. Compared to the US, there was a significant dearth of qualitative research on Drug Courts in the UK as only 8 relevant studies were sourced during the search process (see section *4.2*). Most of these studies were initial reviews of the Drug Court pilots, such as the one study from England: the DDC pilot review (Matrix Knowledge Group, 2008). This found that the pilot had been quite successful, with an emphasis on the continuity provided in review hearings (ibid) More studies on Drug Courts in Scotland, where they are more well-established (Collins, 2019), were sourced from the search, which included the initial and subsequent reviews of the Scottish Drug Court (Eley et al.,

2002b; Malloch et al., 2003; McIvor et. al 2006). These mixed-methods studies reinforced some of the findings that emerged in the meta-analyses of US Courts, that Scottish Drug Courts were seemingly similarly successful at reducing drug misuse and drug-related crime and this was largely attributed to the therapeutic approach (ibid). Initial findings from Scotland also reinforced findings from US qualitative studies, that participants often interpreted punitive or 'control' measures as beneficial to their recovery. For example, McIvor (2009) found that judicial surveillance was interpreted as therapeutically beneficial to participants in Scottish Drug Courts. Moreover, James L. Nolan's (2002) seminal contribution to the study of Drug Courts from the international perspective explored Scottish and English Drug Courts and drug review hearings found that the UK approach was distinctly therapeutic as it did not enforce abstinence. Finally, Eley et al. (2005) found that offenders expressed minimal reservations about being 'coerced' into Court-Ordered drug treatment programmes, which reinforced the findings from across the literature that even 'control' measures in Drug Courts can be interpreted as therapeutic. The relationship between 'care' and 'control' that emerged in the literature is the primary focus of this thesis. The following chapter will explore the methodology and methods used to explore this.

Chapter 5

Methodology and Methods: A Semi-Structured Narrative Approach

5.1 Introduction

This chapter outlines the methodological framework and methods used in this project, comprising both a discussion of the research tools used to gather data and the conceptual frameworks underlying them (Payne and Payne, 2006). A multimethod design and a narrative methodological framework, using qualitative observational methods alongside remote semi-structured, narrative interviews, were selected as the most appropriate approaches to address the research questions (see section *1.4*). The main aim of this project is to explore the extent to which the Drug Court is constructed and understood as an intervention of 'control' and to what extent it is constructed as a 'caring' intervention. As such, this study sought to elicit rich, qualitative insights on the Drug Court.

This chapter is structured into five sections. First, the methodological framework and its underlying assumptions are discussed in relation to this research. This includes a discussion of the qualitative approach, the multi-method research design, and the semi-structured narrative methodology. The second section explores the research methods used in this project: qualitative observations and semi-structured, narrative interviews, and seeks to tell the 'story' of, and justify, the approaches used in the fieldwork process. Third, the ethical issues encountered during this research are discussed, with an emphasis on the impact of the Covid-19 pandemic, which is followed by a discussion of the method of data analysis, the dialogical approach outlined by Riessman (2008), and how this was utilised. The fourth and final section discusses the credibility of this research, with reference to the work of Guba and Lincoln (1981). Ultimately, this chapter presents an account and a reflection on the methodology and methods used in this study.

5.2 Methodology: A Definition

This section outlines the methodology of this thesis and the theoretical background of the research methods. 'Methodology' refers to the "science of the methods" (Payne and Payne, 2006) which underlies the methods themselves and reflects the theoretical assumptions upon which they are based (Kumar, 2008; p. 5). As this thesis explores how professionals interpret and make sense of the Drug Court, this section will present the rationale underpinning the methodological approach. This will be addressed over three sub-sections: the rationale of the qualitative approach, the multi-method research design, and the rationale of the semi-structured narrative approach.

5.2.1 A Qualitative Approach

The rationale behind the qualitative approach reflects the purpose of this thesis in its' attempt to elicit a detailed analysis of how Drug Courts are understood by those working within them. Firstly, as the literature review chapter illustrated, there is a significant dearth of qualitative research into Drug Courts (see section *4.4*). Whilst there is evidence that Drug Courts are successful at reducing drug-related crime, less is known about how and why (ibid). Qualitative approaches allow for a detailed exploration of social processes and phenomena, from the perspective of individuals involved in them (Lapan, Quartaroli and Riemer, 2012). Qualitative studies are also concerned with how people make sense of social realities and personal experiences, and how these are interpreted (Denzin and Lincoln, 2008). They explore how and why 'things' happen (Huberman and Myles, 1994), such as 'care' and 'control' in Drug Courts. Qualitative methodologies therefore involve 'deep' exploration of interventions, which can explain the conclusions drawn from quantitative research. A qualitative methodology is an appropriate approach to address the research questions that underpin this thesis, which seek to elicit an understanding of 'how' and 'why' Drug Court participants are 'cared for' and 'controlled' (see section *1.4*).

Because this thesis sought to elicit rich qualitative insights about how 'care' and 'control' is interpreted by Drug Court professionals, this study is approached from a constructionist epistemological perspective. The ontological and epistemological assumptions underlying a researcher's position fundamentally influence the development of research (Vasilachis de Gialdino,

2009). Thus, it is important to highlight these assumptions in this research. Ontology is the study of 'being' and is concerned with the nature and existence of reality (Crotty, 1998) or what it is possible to know about the world (Snape and Spencer, 2003). Ontological assumptions, therefore, are those we make about the nature of reality and what exists in the world (Richards, 2003). Ontological assumptions in turn form the basis of epistemological assumptions. Epistemological assumptions are those we make are concerned with the nature and existence of knowledge (ibid) and how it is possible to *know* about reality (Snape and Spencer, 2003). Epistemological approaches, therefore, are ways of constructing knowledge to make sense of the world (Crotty, 1998). The constructionist epistemological orientation of this thesis is underpinned by the conceptualisation of knowledge as socially constructed. This complements the interpretive, qualitative approach as, from this perspective, the knowledge developed in this study reflects the interpretations and subjective experiences of the participants, rather than an objective reality of the social world (Vasilachis de Gialdino, 2009). Moreover, the qualitative approach of this research complements the theories on which this study is based as many of these, such as social control theory (Cohen, 1985) and the 'vulnerability zeitgeist' (Brown, 2014; 2016), emerged from qualitative research (see chapter *2*). Nevertheless, several methodological traditions exist under the umbrella of 'qualitative' or 'interpretive' research, from grounded theory to phenomenology. Specifically, this study employed a semi-structured narrative approach. The rationale underpinning the selection of this approach will be outlined below, following a discussion of the multi-method design.

5.2.2 A Multi-Method Design

This study utilised a multimethod design, drawing on qualitative observations and semi-structured narrative interviews with Drug Court professionals. The term 'multi-methodology' emerged in Brewer and Hunter's (1989) *'Multi-method Research: A Synthesis of Styles'* and refers to designs which incorporate more than one method of data collection. This approach therefore emphasises methodological pluralism (Johnson & Christensen, 2014) and varied research paradigms (Tashakkori and Teddlie, 2010). Multi-method research is a broad category, encompassing quantitative and qualitative approaches and both macro and micro perspectives (Leisering and Walker, 1998). Johnson,

Onwuegbuzie and Turner (2007) identified three classes of multi-method design: quantitative approaches, qualitative approaches, and equal status designs, (or mixed method). This study uses a qualitative design, incorporating two qualitative methods, to gain detailed insights into Drug Court experiences. For example, by incorporating both an analysis of the minutiae of social interaction in interviews and an understanding of structure from observations, multi-method research can explore participants' understandings in the context of structural processes (Mills, 1959; Riley, 1998). This complements the nature of this thesis, which seeks to explore professionals' subjective interpretations of a social structure: the Drug Court. However, some definitions of multi-method research, such as that from Hesse-Biber (2010), argue that even qualitative studies must incorporate a quantitative method to be considered multi-method research. This is differentiated from equal status designs or even both qualitative, quantitative, and mixed-methods quality criteria (Johnson & Christensen, 2014). Nevertheless, from this perspective, it is unclear where the line between mixed-methods and multi-methods should be drawn. As such, it is commonly held that mixed-methods research essentially involves the use and integration of both qualitative and quantitative approaches, whereas a multi-method approach may combine any research methods, qualitative or quantitative (Hunter and Brewer, 2015). Given the narrative and qualitative methodological approach of this thesis, a qualitative multi-method design was selected, comprising both semi-structured narrative interviews with professionals and observations of Drug Court hearings.

The principal benefit of a qualitative multimethod design, which involved observations and subsequent interviews, is the depth of analysis of 'hows' and 'whys' (Huberman and Myles, 1994). By combining interviews with observations, a multi-method design allowed the microsocial stories of change observed in hearings to be contextualised within a grander, macrosocial narrative of the Drug Court process gleaned from interviews and vice versa. This design complements the semi-structured narrative approach, which explores how stories are told and retold in different contexts (Bruce et al, 2016). It has been argued that the multi-method approach has at its core a "narrative moral", as it seeks to tell a story of the social world that spans different methodological approaches (Hunter and Brewer, 2015). As such, a qualitative multi-method design is appropriate for the aims of this thesis

(see section *1.4*), to supplement quantitative findings on Drug Courts with rich qualitative insights (see section *4.3.1.1*). Nevertheless, it is necessary to recognise the potential drawbacks of using a multi-method design. Multi-method research is often a lengthy process as it is characterised by multiple episodes of fieldwork and different types of data collection (Hunter and Brewer, 2015). As this research comprised both an observational and an interview phase of data collection, the study was lengthier than if it had been mono-methodological. Moreover, the disruption to the fieldwork process caused by the Covid-19 pandemic made this process lengthier, as the research plan had to be adapted to the constrained research environment (see section *5.3.2.2*). Nevertheless, if the original fieldwork plan had been feasible, which involved observations and interviews with professionals *and* participants, the fieldwork process would likely have been even longer (ibid). Given the challenging environment in which this study was conducted, a lengthy fieldwork process was arguably inevitable.

5.2.3 A Narrative and Semi-Structured Methodology

As the research questions illustrate (see section *1.4*), this thesis explores how 'care' and 'control' is interpreted by Scottish Drug Court professionals. The study of narrative is the "study of the way humans experience the world" (Connelly and Clandinin, 1990; p. 2) and it is concerned with the exploring individuals' "storied lives" and how stories 'do their work' to give meaning to experiences (Plummer, 1995). Connelly and Clandinin (1990) argued that narrative methodology is attractive for its capacity to present life experience in relevant and meaningful ways. Arguably, there is no such thing as raw, uninterpreted experience, as it is actively appropriated by meaning-making social selves who construct and reconstruct narratives "to bring them into greater congruence with identities, roles, situations and available vocabularies" (Gagnon and Simon, 1974; p. 13). Narrative provides a structure around which human events may be "emplotted" or organised (Kramp, 2004; p. 106) and storytelling can be conceived of as a "dialogue of imaginations" (Frank 2012; p. 50) that is very real in its consequences for how people act (Sparkes, 2015). Whilst stories may be revised and retold, they are powerful representations of life as it is imagined (Frank, 2012; p. 50). Narrative methodology seeks to explore both how individuals perceive their daily life experiences, as well as how people construct a sense of the past and imagine futures, using interpretive approaches (Roberts, 2002; p. 2).

This research project seeks to explore how 'care' and 'control' is presented, interpreted, and understood in the Drug Court. As it is predominantly concerned with understanding individual interpretations, a narrative methodology is an appropriate framework for this project.

Dialogical narrative methodology is the elicitation and analysis of stories that are co-constructed during the interview process (Frank, 2010). However, the narrative approach is not merely concerned with story being told, but also the social context in which it is told. As Stevi Jackson (2010) explained:

The story each of us tells about ourselves typically invokes a past (distant or recent), implicitly or explicitly linked to a present and perhaps possible future. The act of telling a story takes place within the flow of time and is situated within a sequence of social interactions between the narrator and the audience. Both the narrator and the events recounted position the teller in a social landscape (Jackson, 2010; p. 123).

As such, the dialogical method outlined by Frank (2010, 2012) and the approach to narrative analysis outlined by Riessman (2008) emphasise both the importance of the thematic content of stories and their structural context. This resonates with Gubrium and Holstein's (2009) focus on the production and reception of stories, as a social practice that give meaning to experience. Furthermore, dialogical narrative analysis emphasises that a story is shaped not just through lived experience but is co-constructed through dialogue. The dialogical approach emphasises "a shared narrative construction and reconstruction" between the storyteller and listener (Connelly and Clandinin, 1990; p. 5). This is particularly important for this research project, which seeks to explore how 'care' and 'control' is interpreted and understood in interviews with professionals and presented in the social setting of Drug Court hearings. Crucially, the stories told in hearings and interviews were also likely to have been co-produced and co-constructed by a variety of social actors, both within and beyond the Drug Court. Using a contextualised narrative methodology, specifically the dialogical approach outlined by Riessman (2008) which will be explored in further detail below (see section 5.5), allowed for a context rich exploration of experiences of 'care' and 'control' in the Drug Court.

Complementing the dialogical method, which perceives narratives as co-constructed, a semi-structured approach was used to guide the discussions and narratives that took place in the interviews toward the research questions (see section *1.4*). A semi-structured approach to interviewing is one where the interview process is based on a schema of topics or questions, representing a middle-ground between fully structured question-and-answer interviewing and unstructured conversational approaches (see Jamshed, 2014). In this case, a scheme, or framework, of interview topics was used to both guide and support the elicitation of narratives and to produce information on the Drug Court that were not explicitly narrative (see chapter *7*). Whilst a semi-structured approach might be considered distinct to a narrative approach, in which purely unstructured approaches are often idolised, has been argued that there is no such thing as a pure or perfect narrative and narrative elicitation in interviewing is inevitably fragmented and interspersed with the interpretations, values, and beliefs of the narrator (see Frank, 2012). In this way, rather than eclipsing the formation of narratives, a semi-structured approach was used to support narrative interviewing, to 'lead into' the explicitly narrative prompts and provide participants with a structure through which they could organise their thoughts.

5.2.3.1 Narrative Criminology

The growing use of narrative methods in criminological research underpinned their use in this project (see sections *2.2.4* and *2.3.4*). Narrative methods became increasingly popular following the "narrative turn" sociology in the 1970s and 1980s (Chamberlayne et al, 2000; Roberts, 2002; p. 3), which precipitated the re-emergence of microsocial theories in scholarship (see Roberts, 2006; p. 134-153). Narrative methods in criminology, "stories of crime" and "desistance narratives" (see section *2.3.4*), have become so common that narrative criminology has arguably become a theoretical and methodological framework itself (Presser and Sandberg, 2015; Sandberg and Ugelvik, 2016). However, whilst narrative criminology as a methodological framework could be considered novel, stories of crime and the study of these are not. As Sandberg and Ugelvik (2016) highlighted, writers as early as Aristotle have discussed the cathartic nature of mimetic stories of trauma. Moreover, American sociology in the 1950s and 1960s focused on stories of crime, as Sykes and Matza (1957) explored how young offenders told stories of crime to neutralise moral components of offending and

Scott and Lyman (1968) examined individual's accounts of criminality were constructed as an amalgamation of action and expectation. Then, in the 1980s and 1990s, writers inspired by symbolic interactionism, such as Katz (1988), framed crime as the performance of narrative scripts (Sandberg and Ugelvik, 2016) and related internal narratives to offending behaviour (Canter, 1994). In 1993, Laub and Sampson's (1993) study of delinquent boys made a significant contribution to the criminological life-course approach, linking the criminality and desistance to life-course transitions or 'turning points' and the growing narrative tradition precipitated Shadd Maruna's 'Making Good' (2001), which emphasised how life stories influence desistance and recidivism. The term 'narrative criminology' eventually emerged in a paper by Presser (2009) and was quickly adopted by criminologists, particularly in relation to studies on drugs, including drug dealing (Sandberg, 2009), cannabis use (Sandberg, 2012; Sandberg and Tutenges, 2015) and drinking (Tutenges and Sandberg, 2014). Narrative criminology is a nuanced framework influenced by a range of methodological traditions, which emphasises diversity and ambiguity of storytelling and emphasises multidisciplinary approaches and a plurality of perspectives (Sandberg, 2010; Sandberg and Ugelvik, 2016). The growth of narrative criminology as a methodological framework and its focus on drugs arguably established a growth of narrative work in addiction studies. This work has explored how narratives are used to make sense of their past drug use and construct possible future recovering identities (see Andersen, 2015), as well as how narratives are used to make sense of drug-related interventions (see Damon et al, 2017). However, narrative studies of addiction are not yet as established or extensive as narrative criminology, and there is a need for more research which explored drug-related interventions from a narrative perspective (see Urbanoski, 2010). Given the relationship of this thesis to both the criminological tradition and addiction research, the use of a narrative framework is methodologically justified.

5.3 Methods

The two methods used in this research project were qualitative observations and semi-structured narrative interviews. The rationale and use of each of these methods in this research project is discussed, in turn, below.

5.3.1 Qualitative Observation of Drug Court Hearings

The observational period took place between February and April 2019, prior to the interviews with professionals, and before the Covid-19 pandemic began (see sections *5.3.2* and *5.4*). The purpose of the observations was to address the research questions through an exploration of the presentation of 'care' and 'control' in public review hearings in the Drug Court (see section *1.4*). Observation of Drug Court hearings has elicited rich and detailed 'vignettes' of 'care' and 'control', the findings from which are presented in chapter six of this thesis. The rationale and practicalities of using observations in this project is discussed in further detail below.

5.3.1.1 The Rationale

A considerable body of work underpins the use of qualitative observations in research. Observation is one of the oldest sociological research methods, established by the classical Chicago school, wherein writers such as Robert Park (1921) studied patterns of development and social change in geographical areas and Everett Hughes (1958) developed accounts of life in Chicago from direct observation. Whilst this study is approached from a semi-structured narrative methodological framework, the emphasis on 'structural' social change that underpinned emergent observational approaches complements the emphasis on social context in the dialogical approach to narrative study that was adopted in this thesis (see section *5.2.2*). To get a rich and comprehensive qualitative understanding of Drug Courts, there is a need to appreciate both the narrative themes running through the data and the social and structural context in which stories are told.

Observing participants allows the researcher to witness an individual's actions and understand these in context (Silverman, 1985). Qualitative observation allows for an understanding of how an action unfolds, which lends greater analytical power to an analysis of that action, to explore different interpretations and meanings that might be attributed to this (Bowling, 2009). Observation of Drug Court hearings also allowed for an examination of their function, as well as a deeper understanding of the role of participants, sheriffs and Drug Court staff, and their interactions (see chapter *6*). Additionally, observing Drug Court hearings allowed for an analysis of how the Drug Court fit within the wider criminal justice system, the different professional domains within it, and how the procedure

of the Drug Court differs from traditional criminal trials; all of which enhanced the understanding of 'care' and 'control' (see chapter *6*). This also influenced the depth and quality of the semi-structured narrative interviews with professionals, as the scheme of prompts was supplemented by contextual information about 'care' and 'control' from the observations.

Passive observation was selected over participant observation as it would have been inappropriate for the researcher to attempt to participate in formal Drug Court hearings. Direct observation, wherein the frequency of behaviours is recorded, is often considered a primarily quantitative method, whereas "inherently qualitative" approaches emphasise interaction with participants and embedding the researcher in the social context (Guest, Namey and Mitchell, 2012; p. 79). Nevertheless, uninvolved observations may still be used to gather data for qualitative analysis, and it can be a very useful observational tool in constrained settings, such as courtrooms. Uninvolved observations are an established method in the linguistic study of courtroom interaction, such as O'Barr's famous study *'Language, Power and Strategy in the Courtroom'* (1982). Passive courtroom observations have also been used as the basis of sociological and legal studies of the substance of legal judgements (Downs and Lyons, 1991) as well as the procedural 'rituals' of the legal processes (Tait, 2001). Moreover, observational methods are an established practice in the study of Drug Courts specifically, as the literature review (see chapter *4*) highlighted US studies in which observed hearings were the primary source of data (such as Burns and Peyrot, 2003). It therefore follows that observed hearings were a valid source of data for this study.

The observations were also beneficial to the semi-structured narrative interviews. The observational period allowed the researcher to be introduced to Drug Court professionals, which enabled the researcher to form a rapport with them prior to interview. The regular presence of the researcher in Drug Court hearings helped to promote the sense of trust between the researcher and the DCSTT (see section *5.4.1* below), as by the time the interviews took place many were already aware of the project. Moreover, structuring the observations before the interviews with professionals was beneficial to the development of the scheme of prompts, by providing contextual and procedural information about the Drug Court, which facilitated the co-construction of narrative (see appendix *9*).

5.3.1.2 Sampling

Hearings were selected using convenience sampling. A total of 136 Drug Court hearings were observed over 6 sittings between February and April 2019, once research access had been granted by the Scottish Courts and Tribunal Service and the local authority; and the study had received ethical approval. As the Drug Court employs 3 Sheriffs (see appendix *7*), the research plan sought to observe an equal number of hearings for each Sheriff. However, the number of hearings observed for each Sheriff was ultimately determined by the number of hearings scheduled on the roll, which varied given each Sheriff's number of active cases and the frequency of hearings for each case. It was also anticipated in the research plan that one hearing per participant, or an equal number of hearings per participant, would be observed but the frequency at which participants were required to attend hearings was determined by their progress and the Court roll. At the time of writing, the Drug Court hearings only took place on Tuesdays and Thursdays, from 2pm onwards. Pre-court hearings took place in the morning before the public review hearings and were attended by members of the DCSTT, the Sheriff, the Procurator Fiscal, and the Defence. The participant was not allowed to attend these hearings and researcher could not attend these meetings as they were strictly confidential (see appendix *7*).

The observational data from Drug Court hearings was used to supplement and contextualise the semi-structured narrative interview data, as well as being a key source of data itself. A benefit of using a convenience sample to select hearings for observation was the speed and relative ease of this method. Developing a research plan wherein the researcher sought personal information about hearing attendees prior to the hearings would likely have been a time-consuming pre-requisite to negotiate, which may have presented ethical challenges. Moreover, as this study interviewed Drug Court professionals, there was no need to match the observed hearings attended by Drug Court participants to the interviews. Whilst the use of convenience sampling did not generate an equal sample of observed hearings for each participant, this thesis took a qualitative and interpretative approach to the insights into 'care' and 'control' which does not necessitate the counting of hearings. The rich

qualitative insights from the observations have been more substantial than anticipated when this approach was selected.

5.3.1.3 The Content of Observations

The qualitative observations were structured to maximise the data gathered on each hearing. The main areas of interest during each observation were:

- The role played by the sheriff. Do they assume a position of power, and if so, how do the other actors react to this?
- How do different Drug Court actors interact?
- The role played by professional staff and other court staff (where present).
- How participants interact with professional staff and other court staff.
- The topics discussed by the court actors, such as offending, drug use, housing, employment.
- How professionals and participants behaved and coped with the topics being discussed, such as offending, drug use, housing, employment.
- How do professionals and participants navigate the Drug Court environment? Do they seem nervous, intimidated, calm, confident, happy, or sad?

5.3.1.4 Recording Fieldnotes

Detailed fieldnotes were taken for each observed hearing (see appendix *8*). Making detailed fieldnotes, which record exactly what takes place in the research field, is an essential component of observational studies (Jorgensen, 1989). Furthermore, making fieldnotes which accurately reflect the reality of what took place is crucial to maintaining a high level of credibility in research (see section *5.6.2*). It is therefore crucial that fieldnotes are taken whilst activities are taking place, to avoid any retrospective bias which could affect the 'validity' of the data. Unlike participant observation studies, the researcher did not take part in the activities being observed in the Drug Court hearings, which meant it was possible to take detailed, contemporaneous fieldnotes as the activity was unfolding (see section *5.3.1.1*). Moreover, as the observations took place in the Drug Court, taking notes was

unlikely to alienate the Drug Court participants and discourage involvement in the project as the Drug Court hearings are often attended by a range of multiagency professionals who engage in notetaking, including court clerks. Overt notetaking did not affect the dynamics of the Drug Court hearing, given the passive role of the researcher, and the researcher's presence did not appear to influence the behaviour of the participants, given the structured nature of the hearings.

5.3.1.5 Observing the Hearings

The observed hearings took place in a small but busy courtroom on the ground floor of the Court building. Participants gathered in the corridor outside the courtroom prior to the hearings commencing, before being permitted entry by a court usher. Drug Court professionals could enter the courtroom prior to the hearings commencing, without permission, through a separate door to the left of the 'public' door for participants. In the courtroom, the Sheriff was seated to the north on a raised bench made of dark wood, whilst the Sheriff's clerk was seated due south of this at a desk with a slightly lower height than the Sheriff's. Facing the Sheriff and the clerk, the procurator fiscal and defence agents were seated to the east and west of a long desk and behind them was the dock, where participants were seated. Along the western wall, Drug Court professionals including social workers, addiction counsellors, and students, were sat on chairs taking notes and observing the hearings. To the south of the courtroom, the furthest away but still facing the bench, was the public gallery where other participants waited their turn with friends, families, and representatives from external agencies. The researcher was seated amongst the professionals and students, and it was from here that the detailed hand-written fieldnotes were taken as the action unfolded.

On reflection, the process of conducting the observations was much different in practice to how it was envisaged in the research plan. Firstly, the pace and frequency of hearings in the Drug Court during each sitting was much greater than expected, and this created challenges in structuring the observations. Rather than the notetaking being structured around the research aims, the focus in the moment was on making accurate and detailed notes of the hearings and the observations became structured around the hearings themselves. On reflection this became an advantage, as the observational period resulted in detailed transcripts of hearings which were subjected to bottom-up

inductive analysis, rather than imposing a pre-determined structure. Furthermore, given the speed of the hearings and the position of the researcher in the courtroom, it was not always possible to catch participants' names and type of Order. Whereas not hearing participants names helped to maintain anonymity throughout the process, it would have been beneficial to know the type of Order each participant was on as well as their stage in the Order. Nevertheless, the observations proved to be a richer source of qualitative data than was previously imagined and counting the number of participants on each different type of Order is less relevant to this thesis than the rich qualitative analysis of courtroom interactions in the Drug Court (see chapter *6*).

5.3.1.5.1 Reflections on the Characteristics of Observed Participants

It is worth noting here, following discussion of the observational process, some of the characteristics and demographics of the observed participants. Whilst the speed and frequency of the hearings was much faster than anticipated and it was as such not possible to form a consistent record of the characteristics of every participant (see section *5.3.1.4*), there were some notable demographic trends within the observed sample. Firstly, all the participants appeared to be White Scottish in terms of nationality. Secondly, almost all the participants were male, with only a small number of female participants appearing in the observed hearings, and the vast majority appeared to be over 30 years of age, with only one or two participants observed who were younger than this. Moreover, all the observed participants appeared to be working class and many appeared to be living in circumstances of severe economic deprivation. This was apparent from the content of the hearings and the presentation of some of the participants, with a small number of participants confirming that they were homeless at the time that the hearing took place. Some participants also presented with what appeared to be physical disabilities and, from the content of the hearings, many participants appeared to have learning difficulties and mental health conditions. The sample of observed participants therefore seemed to reflect the Drug Court's target population in terms of demographics (see section *1.3.1*).

5.3.2 Semi-structured Narrative Interviews with Drug Court Professionals

5.3.2.1 The Rationale

The fieldwork plan for the interview portion of this study underwent substantial revisions, from carrying out interviews with Drug Court participants, to solely interviewing professionals (see section *5.3.2.2*). Interviews were selected for this project as they allow for empirical data about the social world and individual interpretations of this to be collected, by asking people to talk about their life experiences (Grbich, 1999). Individual interviews are arguably the most effective means of collecting an account of subjective experiences, hence why they are perhaps the most widely used method in qualitative research (Miller and Glassner, 2004). This study also initially intended to use a purely narrative approach to interviews, however, as the sample changed from Drug Court participants to professionals, the decision was made to use a combination of semi-structured and narrative approaches (see section *5.2.3*). The use of a semi-structured interview format complements the narrative approach of this study (see section *5.2.3*), as it gave participants the space to produce narratives but was sufficiently flexible as to allow the researcher to influence the interview discourse through dialogue (Frank, 2012).

Using a semi-structured narrative approach allowed participants the freedom to tell stories whilst the researcher maintained control of the interview. The semi-structured narrative approach was achieved using a framework and scheme of prompts which, to an extent, determined the content of the interviews (see appendix *9*). However, this also had sufficient flexibility to enable participants to give account freely without the imposition of set questioning and expand on areas of particular interest or concern (see Frank, 2012). Beyond the interview structure, however, it is worth mentioning that the accounts and stories told by professionals were inevitably influenced by the values underpinning their context (Andersen, 2015). Therefore, whilst this research sought to elicit theoretically unbounded interpretations through an inductive approach to data analysis (see section *5.5*), these were inevitably shaped by the therapeutic and criminal justice contours of the Drug Court environment. As such, implementing Riessman's (2008) approach to dialogical narrative analysis, the semi-structured narratives presented during interview precipitated an analysis of the Drug Court environment and how

this was represented in the content of interviews (see section *5.5*). Semi-structured narrative interviews are consequently an appropriate method for analysing individual interpretations of 'care' and 'control' in the Drug Court.

Moreover, it has been argued that there is a need to make greater use of qualitative methods in studies of drug treatment in the criminal justice system (Seddon, 2007; Urbanoski, 2010), due to the preponderance of quantitative work in this field (see section *4.3.1.1*). In particular, the corpus of quantitative literature on Drug Courts is predominantly focused on outcome measures, with a heavy emphasis on measures of reoffending and recidivism, which does not fully capture the complexity of Drug Court functions (see section *4.3.1.1*). Further qualitative research is needed to enhance limited positivist understandings of recidivism in Drug Courts with interpretivist explorations of how these interventions are understood and subjectively experienced. As such, researchers have specifically suggested that narrative methods should be used to supplement quantitative understandings of coercive drug treatment practices (Urbanoski, 2010). This thesis aims to respond to this call with a focus on British Drug Courts.

Finally, the use of narrative interviews complemented the use of qualitative observation, which combined to give a rich source of data for analysis (see section *5.2.2*). Interviews are often used alongside observational research methods, as interviews can precipitate deeper insights into how observed events are interpreted by individuals (Grbich, 1999). The use of qualitative observation alongside narrative interviewing provided two rich sources of qualitative data on the Drug Court, which allowed for multiple empirical perspectives on 'care' and 'control' and corroboration between datasets (see sections *5.2.2*, *5.6.2.5*). This enhanced the quality of the data.

5.3.2.2 Interview Planning and the Impact of Covid-19

The initial interview plan for this study envisaged that it would be possible to conduct narrative interviews with Drug Court professionals *and* Drug Court participants. The interviews with Drug Court participants, which were initially concerned with the extent to which they interpret the Drug Court as therapeutic or coercive, were the focus of the study and interviews with professionals were initially intended to provide supplementary information to contextualise these narratives. Significant

preparation and planning went into selecting and justifying a narrative approach to participant interviews and developing an interview plan and scheme of prompts for these. Significant time and effort also went into the consideration of ethical implications of conducting research with vulnerable Drug Court participants and applications for research access from the Scottish Courts and Tribunal Service and local authority, as well as application for ethical approval from the University; all of which featured detailed research designs. However, as the Covid-19 pandemic emerged globally, and restrictions on travel were imposed by the British and Scottish governments in March 2020, the fieldwork plan for this study had to undergo substantial revisions to ensure that it was feasible in a significantly constrained research environment.

Narrative interviews with Drug Court participants were scheduled to commence around March to April 2020, following a planned meeting with gatekeepers regarding the level of interest in the study amongst participants. However, this meeting had to be cancelled on the 18th of March 2020, as it became clear that restrictions on travel and a "lockdown" of the UK were imminent. As the British Government espoused that these restrictions would be short-lived, it was initially anticipated that the original fieldwork plan would still be feasible but delayed. This time was used to analyse the data from the observational findings, which informed the plan for participant interviews. However, approximately six months after the initial imposition of restrictions, these were still in place in Scotland and had been re-imposed in England following the summer of 2020. At this time, it became increasingly clear that the interview plan would have to be substantially revised to be feasible without requiring travel to the fieldwork site. Most importantly, the overriding concern throughout this was the risk posed to vulnerable Drug Court participants by Covid-19, and the potential for transmission during the research process.

As such, the decision was made to refocus the fieldwork toward interviews with professionals and to delay (potentially indefinitely) the interviews with participants. As it was unknown whether the participant interviews would take place, the plan for professional interviews was substantially reworked and became the focus of the study, in case these were the sole source of interview data. As such, the focus of the study, which initially was the extent to which participants interpreted the Drug

Court as therapeutic or coercive, became the extent to which Drug Courts are characterised by 'care' or 'control'. This reframing of the research questions was beneficial, as it opened the object of inquiry up to exploration from the professional perspective and allowed the interviews to be conducted remotely (see section *5.3.2.5.1*). The likelihood of interviewing Drug Court participants remotely was minimal, given their chaotic lives, the difficulty accessing technology, and the impact of the pandemic. As such, the framework and scheme of prompts for professional interviews was revised, from basic criteria about Drug Court policies and procedures, to explore their interpretations of 'care' and 'control' in the Drug Court (see section *5.3.2.4*). Whilst the reframing of the project was difficult and time consuming, it allowed for the elicitation of rich insights on 'care' and 'control' in the Drug Court from the professional perspective.

5.3.2.3 Sampling

A convenience sample of 10 Drug Court professionals were interviewed in this study, who were recruited with assistance from gatekeepers. Gatekeepers disseminated information about the revised research project to members of the Drug Court Supervision and Treatment Team (DCSTT) and gained their consent to provide the researcher with their professional email address. Participants were then invited to interview via their professional email address and sent information sheets and consent forms. It was necessary to use a convenience sample in this study, given the complications arising from the Covid-19 pandemic and the impact on staffing levels in the Court (see section *5.3.2.2.*). Given pressures that the pandemic placed on Drug Court staff's time, and the secondment of Drug Court professionals to other local authority services, there was a concern that alternative sampling techniques such as purposive or random sampling would be unfeasible or might not draw a large enough sample. The key strength of the convenience sampling in this study was that it allowed a sample of professionals to be accessed with relative ease and accounted for participants' availability. Using this technique, every Sheriff, social worker, and addiction worker in the DCSTT at the time were interviewed, except for one social worker. The sample of 10 professionals included 3 Sheriffs (2 male, 1 female), 4 social workers (3 male, 1 female) and 3 addiction workers (3 female) were interviewed.

Participant	Role	Gender
S1	Sheriff	Male
S2	Sheriff	Male
S4	Sheriff	Female
SW1	Social worker	Male
SW2	Social worker	Male
SW3	Social worker	Male
SW4	Social worker	Female
AW1	Addiction worker	Female
AW2	Addiction worker	Female
AW3	Addiction worker	Female

Table 1: Professional Interview Sample

Whilst gatekeepers often play a role in recruitment in research with government or local authority services, this is not without implications and there was the potential that this could influence the composition of the sample (Singh and Wassenar, 2016). For example, the sample could have overrepresented professionals who were perceived as more favourably by gatekeepers. Nevertheless, given the restrictions on travel and additional pressures on the Drug Court during the pandemic, the gatekeepers' support was especially beneficial. This helped to ensure that the project was perceived as credible and that participants were approached at an appropriate time. Moreover, as this study adopted a qualitative, narrative methodological approach, it is concerned with how the Drug Court is subjectively interpreted (see sections *5.2.1* and *5.2.2*) and is not intended to be representative. Therefore, the need for elaborate sampling techniques was less relevant than the need to ensure the viability of the project.

5.3.2.4 The Scheme of Prompts

As the interviews in this study were semi-structured narrative interviews, a rudimentary framework and scheme of prompts was developed to guide the topic of interviews and encourage narrative construction (see appendix *9*). Whilst narrative inquiry is often conceived of as "just telling stories", the practice of narrative inquiry requires preparation (Clandinin, Pushor and Orr, 2007; p. 21). Whilst structured interviewing often involves lines of questioning, dialogical narrative interviewing features interaction between the researcher and participant that encourages the telling of stories. Drawing on the unpublished work of Schütze (1977), Jovchelovich and Bauer (2000) refer to this process as "elicitation" (p.1). Here it was emphasised that the influence the interviewer exerts should be

minimal, to render a valid insight into the interviewers' perspective, but there is a need for the interviewer to provide a structure through which participants can organise their thoughts and perspectives (Jovchelovich and Bauer, 2000; p. 3). This is the "paradox of narration": "the constraints of the tacit rules that liberate the storytelling" (ibid).

To strike a balance between structured and liberated storytelling, the interview plan incorporated Jovchelovich and Bauer's (2004) four phases of narrative 'elicitation': initiation; narration; questioning; and concluding" (p. 4). The initiation phase comprises development of the interview topic which lays the groundwork for the narration phase, in which participants are given the space to develop narratives without interruptions and encouraged using non-verbal cues (ibid). The scheme of prompts therefore started with open questions about professionals' roles (see appendix *9*). From the initial discussion of roles, "coda" from these were reflexively used to supplement follow-up questions for the "questioning phase" (Jovchelovich and Bauer's (2004), p. 4). Specifically, professionals were asked about their successful and challenging participants and subsequent prompts attempted to facilitate continued storytelling by asking "what happened then?" and "where are they now?" (ibid, p. 4). As such, 'questions' in this sense were limited to prompts for more information and did not include any opinion questions, contradictory questions, or "why questions" (Jovchelovich and Bauer, 2000, 2004). This intended to limit the researchers' influence, whilst supporting participants to coproduce substantial narratives. The final "concluding" section included basic questions for after the recording stopped at the end of the interview, which reinforced the stories told and concluded the interview.

The interview plan and scheme of prompts were developed reflexively, drawing upon the narrative framework, the research aims and objectives, prior research on Drug Courts, and observational findings. It was important that the narrative framework informed the scheme of prompts, so that the interview content reflected the methodological purpose of the study. The prompts included were broad, which allowed for the discussion of a wide range of topics and ensured that prominent themes raised by participants were thoroughly expanded upon (see appendix *9*). A broad scheme of prompts was important, given the diverse nature of the narratives and the diverse professional roles

interviewed. The scheme of prompts was expanded as new areas of interest were raised in subsequent interviews.

5.3.2.5 Conducting the Interviews

Interviews with professionals were conducted between March and August 2021. A total of 10 professionals were interviewed, including Sheriffs, social workers, and addiction workers, and the interviews lasted up to 2 hours and 43 minutes. The following section will tell the story of, and reflect on, how the semi-structured narrative interviews with professionals were conducted. Firstly, the use of remote research methods is considered, which evaluates the implications of this method and considers its' necessity in the context of the Covid-19 pandemic (see section *5.3.2.2*). The second section reflects on the quality of the narratives elicited from interviews with professionals, with reference to the 'second-hand' nature of these stories. Finally, this section will reflect on the researcher's position and influence on this research, considering the effect of interviewees' professional status and the influence of the researcher's legal background, before considering the ethical implications of using a professional sample with relative power over vulnerable Drug Court participants.

5.3.2.5.1 Conducting Interviews Remotely

As mentioned above, because of the Covid-19 pandemic, the interviews with professionals were conducted remotely using the videoconferencing platform 'Zoom' (see section *5.3.2.2*). Whilst remote data collection methods can be plagued by weaknesses and shortcomings (Khan and McEachen, 2022), in this study they allowed what would have otherwise been an impossible fieldwork plan to be undertaken. However, the combination of narrative method and remote methods led to two concerns, which will be reflected upon here. The first of these is immersion within, and proximity to, the research environment and the second is the quality of remotely elicited narratives.

Many qualitative approaches emphasise that the researcher should become "immersed" and participate fully in the research environment, to capture the true essence of the social world being studied (Howlett 2021). Indeed, whilst there is no consensus regarding the relative value of technologically facilitated interactions as opposed to in-person methods for gathering data (Johnson, Scheitle, and Ecklund, 2019; Jowett, Peel, and Shaw 2011), it has been argued that digital methods of

interaction do not allow for "participation and immersion" in the research environment and fail to fully capture the nuances of life experiences (Abidin & De Seta, 2020; Howlett, 2021). However, in this research, the data collection methods used were not fully remote. It was possible to achieve some level of immersion in the research environment during the observational phase, which took place prior to Covid-19 pandemic. Moreover, further information about the Drug Court environment was also extracted from Drug Court documents (see appendix *7*). This ensured that the findings from remote interviews could be interpreted and understood in context, to a greater extent than if the study were conducted purely remotely. As such, rather than precluding immersion, remote methods were combined with observations to gather richer insights than could have been gained from observation alone (see section *5.2.3*).

A second concern with the use of remote data collection methods was the impact this would have on the quality of narratives. As Khan and McEachen (2022) noted, interviews conducted using videoconferencing methods can be plagued by practical issues such as lost internet connection, missed or misheard words, or difficulties navigating the online platform. Whilst some of these issues were encountered during the data collection process, the most common of which was lost internet connection or the platform 'freezing', this was easily overcome by asking participants to repeat themselves and did not occur to an extent that would undermine the quality of the narratives. Furthermore, the quality of the data was perhaps enhanced by remote data collection. Firstly, remote data collection facilitated high levels of participation and low attrition, as every participant that was invited was interviewed except one social worker. The 'stay at home' order may also have contributed to high participation levels, as participants mostly took part from home and the interview may have seemed a novel activity (see section *5.3.2.2*). These interviews yielded a wealth of data, as some lasted over 2.5 hours. It is uncertain whether, if the interviews had taken place before the pandemic, they would have been as lengthy or detailed. It should be noted that there was one instance of a participant being interrupted during the interview, by their partner entering the room, although this disruption did not impact on the quality of the interview. Finally, the use of videoconferencing was particularly effective in this study as the researcher had already been acquainted with the participants

during the observational period. This meant that it was easier to form a rapport with the participants than it might have been if the study was purely conducted remotely and there had been no face-to-face meetings. As such, whilst it was impossible to interview the Drug Court participants (see section *5.3.2.2*), remote methods ensured that interviews with professionals were viable and contributed to the richness of this dataset.

5.3.2.5.2 Reflections on the Nature of the Narratives

As mentioned throughout this chapter, the research plan had to be revised considering the Covid-19 pandemic and as such, the focus of this study evolved from stories told by Drug Court participants to stories told by professionals (see section *5.3.2.2*). Whilst the initial portion of the interviews asked professionals about their role in the Court, professionals were then posed an open but binary question about their successful clients and their challenging clients (see appendix *9*). As such, the stories told during the second half of the interviews featured narratives which were biographical, not autobiographical. As Kim (2015) explained, unlike autobiography or autoethnography, "biographical narrative inquiry tells stories about others" (p. 125). As these stories are told from a 'second-hand' perspective (Faherty, 2010 p. 138), they arguably exist on a diegetic level (Bunia, 2010, p. 679). Whilst diegesis lacks a coherent definition, it generally refers to stories which are told by a narrator (ibid). In these stories, the professionals were "homodiegetic narrators", as they told stories of which they were a part (Pier, 2014). The use of homodiegetic biographies raised two concerns in this study. The first concern was ethical and concerned the extent to which professionals had the 'right' to tell stories about their participants. The second concern was the analytic value of this type of narrative.

Diegetic or "second-hand" stories (Faherty, 2010 p. 138) could be considered counterintuitive to the purpose underlying the 'narrative turn' in social sciences, which attempts to move beyond professional perspectives to empower vulnerable client and service user voices (see Aldridge, 2016). However, whilst this study originally sought to make Drug Court client perspectives the focus of the research, the limitations on fieldwork resulting from the Covid-19 pandemic rendered this impossible (see section *5.3.2.2*). Whilst this altered the orientation of the research, homodiegetic biographies told by professionals were an appropriate way to elicit narratives about Drug Court experiences in a

challenging research environment. Moreover, because of this shift in orientation, from therapy and coercion to 'care' and 'control', the stories elicited from professionals were not their attempts to tell clients' stories for them but were biographies of their professional experience working with clients. As such, any concern that these stories might undermine the paradigm of empowerment in narrative research was quelled.

The second concern about the homodiegetic (Pier, 2014) or "second-hand" (Faherty, 2010 p. 138) nature of the narratives was the analytical value they would have. Beyond ethical concerns, there was a concern that stories told by professionals might lack the level of insight into Drug Court experiences that could be construed from participants' autobiographical narratives. However, as mentioned above, the stories elicited from professionals did not assume the perspective of participants' or their identities but were narratives of professionals' experiences working in the Drug Court. These had significant analytical value in terms of exploring the meaning that professionals attach to their work with clients and their interpretation of the Drug Courts' purpose and functions. This reflects a growing trend in social sciences to explore perspectives, identities, and experiences in narratives told by professionals (see Butina, 2015; Ryynänen and Rusko, 2014; Watson and Mcluckie, 2020). As such, the narratives produced in professional interviews, beyond supplementing the observations, were a rich source of data that addressed the complex and interrelated approach to 'care' and 'control' in the Drug Court.

5.3.2.5.3 Reflections on the Power of Professionals

As the interview sample comprised Drug Court professionals but could not feasibly include participants, the sample was exclusively composed of relatively 'elite' and powerful actors. The concept and identity of 'elite' research participants have been variously defined in the literature (Liu, 2018; Empson, 2018) but they are generally considered individuals who have "the ability to exert influence" through "social networks, social capital and strategic position within social structures" (Harvey, 2011, p. 433). As mentioned above, the nature of the narratives, which featured stories about professionals' interactions and experiences with participants, raised ethical concerns in terms of whether professionals had the 'right' to tell these stories. Given the relative power imbalance between the professional interview sample and the Drug Court participants featured in the narratives, ethical

considerations arose concerning the use of an elite professional sample. The first consideration was the extent to which this sample could undermine the voices of Drug Court participants as well as attempts to amplify the voices of marginalised groups within criminology more broadly (Lumsden and Winter, 2014; Petintsiva, Faria, and Eski, 2019). However, the potential ethical value of understanding how Drug Court professionals interpret policy and ascribe meaning to their work with vulnerable groups was also considered. There is a growing movement within criminology and the wider social sciences to attempt to amplify the voices of marginalised groups (ibid). The critical criminological tradition, and its' emphasis on the ethical responsibility of criminological researchers to critically address power imbalances, arguably influenced this trend as criminological research has increasingly incorporated empirical approaches with powerless and marginalised groups (see Lumsden and Winter, 2014). Given the status of the interview sample as social control agents and organisations responsible for the creation and maintenance of definitions, labels, and boundaries of crime, and markers of criminality, there was a concern that this study might become complicit in promoting the very definitions, boundaries, and markers that marginalise and stigmatise vulnerable groups such as Drug Court participants (ibid). As such, there was a concern that this study might end up "doing research *for* the powerful" and reproducing ideologies which contribute to marginalisation (ibid, p. 1). There was also a concern that the voices of the powerful might obfuscate the voices of marginalised Drug Court participants.

However, there is ethical value of exploring elite voices in, and interpretations of, the Drug Court. To understand the extent to which elite and policy discourses become embodied in practice and the everyday institutional operation of the apparatus of 'coercive welfare' (Phoenix, 2008), there is a need to examine how practitioners frame the context and causes of the circumstances of their clients (see Crawford and Flint, 2015; Flint, 2019; Polsky, 1989). Whilst social scientists have often studied poor and marginalized individuals (Haggerty, 2004), conducting criminological research with 'elites' and professionals is often considered 'tricky', particularly in terms of negotiating access and power imbalances (Petintsiva, Faria, and Eski, 2019). These difficulties could be reflected in the relative dearth of qualitative literature on professional perspectives of Drug Courts, compared to client

perspectives (see section *4.3.1.2*). Moreover, criminology and social sciences "cannot ignore the fact that much of the social problems faced by the 'powerless' (e.g., poverty, precariousness, crime, violence, drug use, migration) are, in many respects, closely intertwined with acts and omissions of the powerful" (ibid, p. 4). Understanding the practices, decision-making, ideologies, and expertise of the powerful is vital to a balanced research agenda and has transformative potential (Kezar, 2003). As such, whilst this research explores elite voices, it seeks to critically examine and deconstruct some of the assumptions that underlie their interpretations of policy and practice in the Drug Court. In this way, rather than obscuring marginalised voices, this study highlights underexplored perspectives on marginalisation.

5.3.2.5.4 Reflections on the Influence of the Researcher

Finally, it is also necessary to consider the extent to which the researcher may have influenced the stories which were told and how they were told. As Frank (2012) highlighted, from the dialogical perspective, stories are co-constructed by the interviewer and the interviewee. The interactions between the researcher and participants in interviews were the vessel for narrative formation and these interactions were shaped not only by the subjective experiences, interpretations, and assumptions of participants but also those of the researcher. Throughout the interview process, three aspects related to the researcher, and their position in relation to the interviewees, emerged which are worthy of reflection. The first of these is the power dynamics in these "elite" interviews (Empson, 2018), the second is the influence of the researcher's legal background, and the third is the cultural differences between the researcher and the sample.

The nature of the power dynamics between the researcher and interviewer may have influenced the elicitation and presentation of narratives during the interviews. Firstly, there were some demographic differences between the researcher and some of the participants being interviewed. Secondly, due to the high status of some of the interviewees, particularly the Sheriffs, these can be interpreted as elite interviews (see Empson 2018). "Elite" participants are typically relatively "powerful, highly educated, and self-assured" and "work in organizations which guard their external image very carefully" (Empson, 2018). The researcher is a woman who, at the time of writing, was 26. Whilst the sample of

participants had an equal gender split of five women to five men, the interviewees were mostly over the age of 40. Some professions in the sample had different characteristics, for example the addiction worker sample was all female, whilst the Sheriffs had a ratio of 2 males to 1 female, and the influence of these differences seemed to be more pronounced in interviews with male professionals who were older than the researcher. Interestingly, the longest interview, which lasted over 2.5 hours, and the shortest interview, which lasted less than 20 minutes, were both conducted with male social workers over the age of 40. Whereas other factors may naturally have affected this, some interviews had the sense that professionals were keen to educate the researcher on the Drug Court, whereas in others, professionals seemed to want to get the interview 'over and done with'. The power dynamics resulting from the "elite" status of some professionals (Empson, 2018), combined with differences in gender and age, and the participants' perception of the researcher, could have influenced the length and detail of the narratives.

Furthermore, the researcher's legal background could also have influenced the nature of the narratives told during interview. Whilst in some ways the researcher could be considered separate from the "elite" sample of participants (Empson, 2018), due to their status as a PhD student and external researcher, rather than a Drug Court professional. However, the researcher's legal background could have led them to be considered as a colleague by some participants. Prior to commencing doctoral study, the researcher completed an LLB Honours degree and has been employed by solicitors across the North of England. This, combined with the researcher's detailed knowledge of Drug Courts, could have influenced the level of detail in the narratives. In above examples, the interview lasting less than 20 minutes could have been cursory as the participant assumed the researchers' knowledge about the Drug Court, rather than a difference in gender or power. Similarly, the longest interview may have been so detailed because of a keenness to share their experiences with a knowledgeable colleague. The influence of the researcher's legal background was most pronounced in the interviews with Sheriffs, wherein it was particularly easy to form a rapport over shared experiences in the legal profession. It is likely that the researcher's legal background lessened the power imbalances these interviews and enhanced the content of the narratives.

Finally, the geographical and cultural differences between the researcher and the sample must be considered. Just as "elite interviews" (Empson, 2018) entail a navigation of power imbalances, cultural differences can also be a methodological obstacle in fieldwork (Lapan, Quartaroli, and Riemer, 2012; Pelzang and Hutchinson, 2018). Whilst this research explored a Drug Court site in Scotland, the researcher is from Yorkshire. Differences in culture and the use of language are evident even over short distances in the UK and these differences are particularly evident when comparing England and Scotland, which have distinct histories and cultural identities (see Hibbert, Hogg, and Varey, 2001). This could have impacted both the elicitation and analysis of stories, as the participants and researcher may divergently ascribe social, linguistic, and cultural meanings. Moreover, interviewees' perception of these differences could have affected the stories told, or particularly *how* the stories were told, during interview. However, the cultural differences between the Scottish sample and the English researcher may have been mitigated somewhat by the researcher's connections to, and familiarity with, the local area. This helped the researcher to establish "cultural integrity" with participants, as the researcher was able to understand the colloquialisms, cultural references, and symbols used by participants (Pelzang and Hutchinson, 2018, p. 1). Therefore, whilst there are some cultural differences between the researcher and participants, the researchers' familiarity with the cultural norms of the fieldwork environment likely minimised this.

5.4 Ethical Considerations

Several ethical issues were considered throughout this research, mostly concerning the interview period. Gaining informed consent, providing participant information sheets, and making assurances about confidentiality and pseudonymisation were all necessary for this study. Information sheets and consent forms were provided to participants by email when the interviews were arranged, which in some cases was over a month prior to the interview taking place (see appendices *10* and *11*). This ensured that participants had time to understand the nature of the study and consider participation. Participants were also sent second copies of the information sheet and consent form either the night before, where interviews took place in the morning, or the morning of the interview where they took place in the afternoon. This ensured that each participant had a chance to (re)read the information

sheet and reconsider participation. Written consent was provided by all participants prior to the interview commencing. Participants were given additional verbal assurances at the start of the interview that the content would be pseudonymised and nobody would be able to trace what they had said back to them.

Second, as these interviews were conducted with professionals, it was unlikely that participants would become overwhelmed or distressed by the interview. Nevertheless, the information sheet and consent forms were clear that participants could stop the interview at any point and could withdraw from the study entirely if they wished (see appendices *10* and *11*). Given professionals role in running the Drug Court, it was also considered unlikely that they would feel uncomfortable due to the content of the interviews. This risk was nevertheless minimised using remote data collection methods (see section *5.3.2.5.1*), as in many cases, the interviews took place whilst participants were in their own home. This, combined with the narrative interview method, which involves a greater level of participation than more traditional qualitative interviews, allowed participants greater agency in shaping their own interview experience.

The third ethical concern in the interviews was anonymity and pseudonymisation. Given the limited number of Drug Courts in the UK, there was a potential for participants to be identified if the specific court was named. To reduce the likelihood of participant identification, the Drug Court where this project was carried out has not been specifically named, although the country it is in has been named given the specific nature of its legal system and social policy. To further reduce the likelihood of participants being identified from the research data, during the transcription phase, the names of interviewees were pseudonymised using their job title, and any secondary identifiers were also removed. This has limited the likelihood that the participants involved in the research would be identifiable.

Ethical concerns relating to the use of observational methods to observe the Drug Court process were minimal, as these took place in open court, which the public may attend. Members of the public and professionals are permitted to take handwritten notes in open court, so this was the method of recording selected for the observations (see section *5.3.1.4*). Permission for this was nevertheless

sought from the Scottish Courts and Tribunals Service and reaffirmed by the clerk of court at the start of each observation. Primary and secondary identifiers were also removed from the observational fieldnotes.

5.5 Data Analysis

Three types of data were analysed in this study: the observational data from Drug Court hearings (see chapter *6*), semi-structured narrative interview data (see chapter *7*), and explicit narratives from this data (see chapter *8*). These were analysed using Riessman's (2008) approach to dialogical narrative analysis. This approach has two key elements: a thematic analysis of narrative content and an analysis of narrative context (Riessman, 2008). Riessman (2008) stressed that dialogical analysis, with its' focus on context, conceptualises narrative as co-constructed, multi-voiced, and emerging from social interaction. It is strongly influenced by the symbolic interactionist tradition, such as Goffman's (1959) dramaturgical analysis (see section *2.2.4*), which conceptualises social actors as 'performing' roles in the social world. In constructing these roles, the pragmatics of word choices are considered as important as the broad themes of narrative.

The thematic element of Riessman's (2008) approach was guided by Braun and Clarke's (2006) six-step outline. This six-step outline involves: becoming familiar with the data; generating initial codes; searching for themes; reviewing themes; defining themes; and writing up. For the observational data, 'data familiarisation' began on the train back from the fieldwork site and continued throughout the transcription process. This led to the formation of initial codes, which focused on the key issues addressed in hearings, such as domestic violence issues or organising a prescription, which were developed into 'themes' such as 'relationships', or 'health' (see chapter *6*). Following a review of the themes, a subset of 'meta-themes', which were more nuanced issues that hearings intended to address such as responsibility or attendance, emerged. This led to a defined set of themes and meta-themes that are presented in chapter 6. For the semi-structured narrative interview data, 'data familiarisation' was ongoing during the lengthy transcription process, which took place alongside the interviews, and allowed for a reflexive approach. This led to the formation of initial codes, which focused on key issues in the Drug Court as interpreted by participants and an analysis of their role, which developed

into a similar set of themes that emerged in the observational chapter (see chapters *6* and *7*). During the review of the themes, it became clear that, because of the inductive approach to the data, the themes did not align exactly with those from the observations, as the divergent theme of supervision became key to the analysis. This analysis is presented in chapter seven. This process was repeated for the explicit narratives but combined with an exploration of the narrative context (see chapter *8*).

The thematic analysis was combined with an exploration of how storytelling is used in the Drug Court context. Riessman's (2008) approach emphasised the social context of stories, through its emphasis on how stories 'do their work' (Plummer, 1995), and the meanings *of* stories are considered as important as the meanings *within* stories. The two strands of dialogical narrative analysis are not mutually exclusive, however. The macrosocial context and roles adopted by participants influence the microsocial language choices arising in social interaction, and the minutiae of language can influence the determination of roles and the perception of social context. The duality of dialogical narrative analysis, which casts its' net in terms of content and context, is appropriate to explore the meanings within and the meaning of stories told about the Drug Court. Combining thematic analysis of the story being told, with an analysis of the social context of stories, allowed for an analysis of *how* and *why* a story is told. Adopting Riessman's (2008) approach to dialogical narrative analysis, which is arguably more complex than a purely thematic analysis of narrative, allowed for an exploration of the function of narrative in this study.

5.6 Reflections on the Methodological Approach

The exploratory nature of this research necessitated a qualitative methodology and led to the adoption of a narrative approach (see Frank, 2012; Riessman, 2015). Observations of Drug Court hearings and semi-structured, narrative interviews with Drug Court professionals were the chosen methods of data collection. The underlying traditions of qualitative research and the narrative approach allowed for a rich and detailed understanding of the Drug Court and its procedures, approaches, cultures, norms, and expectations. It also enabled an in-depth exploration of the interpretations of Sheriffs, social workers, and addiction workers toward the Drug Court project and participants within it. This rich and

detailed understanding enabled this study to address the fundamental research question: the extent to which the Drug Court is interpreted in terms of 'care' or 'control'.

The methodology also facilitated an understanding of time within the data. Whilst this research was cross-sectional, as the observations and interviews took place at one point in time (see section *5.2.3*), the data collected from semi-structured narrative interviews provided a sense of change over time, which gave insight into the processual nature of the Drug Court and the range of outcomes that can be produced (see Jackson, 2010). Although narratives are temporally situated (ibid; Mead, 1934), a sense of time was achieved by asking professionals for stories about memorable participants: what happened, what was successful, what was unsuccessful, and where they were now. Furthermore, this was combined with observational data from 136 Drug Court hearings in which participants were observed at various stages of their Orders, which created a sense of time through the collection of experiences and feelings of different participants at different stages of the Drug Court process.

During the observational phase of data collection, the hearings comprised a convenience sample of those attending the Drug Court at the time (see section *5.3.1.2*). Whilst convenience samples inherently have certain flaws, such as an inability to influence the representativeness which can affect generalisability (Silverman, 2010), this research was not explicitly intended to generate findings that could be extrapolated to other social contexts. Rather, its purpose is to specifically explore 'care' and 'control' in one Scottish Drug Court, and as such, the use of a convenience sample was not methodologically problematic. Furthermore, the use of convenience sampling for the observational phase was supported by extensive and detailed interviews with Drug Court professionals, which included social workers, addiction workers, and Sheriffs (see section *5.3.2*). Every professional working in the Drug Court at the time that the fieldwork took place was interviewed, except for one social worker and NHS medical staff (who were not interviewed due to pressures associated with the Covid-19 pandemic), with interviews lasting up to 2 hours and 43 minutes. This produced a particularly rich qualitative dataset for analysis. The data collected in this study and the conclusions and findings which were drawn from it were based on a diverse cohort of Drug Court professionals, which lends credence to the generalisability of the study's findings to similar Drug Court contexts.

There is a significant methodological limitation in this study that needs to be addressed. It was not possible during the fieldwork process to interview Drug Court participants, as was originally planned, due to Covid-19 (see section *5.3.2.2*). The inability to interview Drug Court participants meant that it was impossible to gauge whether the findings on 'care' and 'control' in this study would align with their feelings and experiences. For example, Drug Court participants could have felt that measures to supervise and manage offenders were too 'light touch' rather than highly intensive, or that it was not therapeutic at all. However, this thesis does not seek to attribute the findings to Drug Court participants but is concerned with how the balance between 'care' and 'control' was presented in the data collected from Drug Court professionals. Collecting data from Drug Court participants would have arguably produced a very different study and would have explored 'care' and 'control' from a very different, if equally valuable, perspective. Exploring participant views of 'care' and 'control' in British Drug Courts offers an important line of future inquiry, as an exploration of how and why participants construct Drug Court experiences in terms of 'care' or 'control' would contribute to existing research and enhance collective understandings of Drug Courts.

5.6.1 A Remote Narrative Approach

As the Methodology and Methods chapter explained, the interview portion of this research was conducted remotely, using online videoconferencing platform 'Zoom' (see section *5.3.2.5.1*). This has not been included in the above section reflecting on the methodological limitations of this study as, whilst the use of remote data collection methods can be plagued by weaknesses and shortcomings (Khan and McEachen, 2022), the use of remote data collection methods in this study allowed what would have otherwise been an impossible fieldwork plan to be undertaken. However, the use of remote methods led to two concerns: the extent that immersion would be possible and the impact on the quality of the narratives (see section *5.3.2.5.1*).-To ensure immersion in the Drug Court, the data in this study were not solely collected remotely and in-person observations of hearings allowed for familiarity with the research environment. This ensured that the findings from remote interviews with Drug Court professionals could be interpreted and understood in context, to a greater extent than if purely remote methods were used. Moreover, there was also a concern that the quality of the

narratives might be impacted by technological issues associated with the use of videoconferencing platforms, such as lost internet connection, missed or misheard words, or difficulties navigating the online platform (see Khan and McEachen, 2022). However, these issues were minimal and were easily overcome by asking participants to repeat themselves. Ultimately, rather than undermining the quality of the narratives, the use of remote data collection methods allowed interviews to take place which would have otherwise not been possible and facilitated a high level of participation (see section *5.3.2.5.1*). As such, it can be confidently asserted that the use of remote data collection methods did not undermine the methodological approach or the quality of this study.

Moreover, the use of remote data collection methods to conduct narrative interviews in this thesis arguably makes a substantial methodological contribution to the narrative approach, highlighting the complementary nature of the approaches in constrained research environments. Very few studies have used remote data collection methods to conduct narrative interviews or elicit narratives within interviews and those that have, like this study, took place during the challenging research environment created by the Covid-19 pandemic (see Gałęziowski, 2021; Mattiauda, Hassiotis, and Perovic, 2022). Whilst there were significant concerns that the narratives elicited using remote methods might be superficial or of limited quality (see section *5.3.2.5.1*), the narratives elicited during this study were comparable to those which might have been produced during face-to-face interviews with professionals. This thesis therefore contributes to the current 'remote' methodological turn in social sciences, highlighting its' applicability to narrative paradigms. This quality of the methodological contribution presented by this study is further enhanced by the credibility and quality measures that were undertaken throughout the research process.

5.6.2 Reflections on Credibility and Quality

A significant hurdle facing qualitative researchers in the context of data collection, and presenting data, is demonstrating credibility and trustworthiness (Guba and Lincoln, 1981). In quantitative research, this is determined using measures of validity, reliability, and objectivity. However, there is a level of debate about the appropriateness of external quality criteria in qualitative research. Some argue that imposing objective quality measures on individual interpretations of subjective accounts

contravenes the inherent purpose and philosophy of qualitative work (Emden and Sandelowski, 1999), whereas others argue that qualitative quality measures are needed to bridge the divide between qualitative and the quantitative traditions and ensure methodological rigour (Goodwin and Goodwin, 1984). Whilst this qualitative study is inherently bound up in the individual interpretation of subjective accounts, a level of reflection on the quality of this research is nevertheless required to ensure that it is credible. Guba and Lincoln (1981) proposed a series of quality measures to ensure credibility in qualitative research, which include: credibility and reflexivity; transferability; dependability and iterative processes; confirmability; transparency; and triangulation (corroboration). This section explores the extent to which this thesis incorporated a focus on these criteria during the research process and develops the claims made throughout this chapter to comprise practical reflections on the quality and credibility of this research. This section will conclude with a reflexive analysis of the methods of data collection used in this study.

5.6.2.1 Credibility and Reflexivity in the Approach

The term 'credibility' refers to how 'truthful' or 'valid' the data are (Guba and Lincoln, 1981; Silverman, 2010; Korstjens and Moster, 2018) and it engenders a focus on whether the social actors involved in the research could extrapolate the same interpretations of the social world as the researcher (Archard, 1979). Given the need for research to be credible, particularly within qualitative research, the fieldwork process was designed to enhance the credibility of the data (Steinke, 2004; Korstjens and Moster, 2018).

Credibility was promoted through prolonged engagement with the participants, extensive observation of Drug Court hearings, and in-depth interviews with professionals in which they were encouraged to form their own meanings, interpretations, and narratives (see Frank, 2006; 2012). It was also enhanced through researcher reflexivity (Holmes, 2020). Reflexivity is fundamentally an understanding of "the human as an instrument" (Guba and Lincoln, 2005; p. 185), to recognise the influence of the researcher and their conceptions, biases, and flaws on the research process (see Corlett and Mavin, 2018; Holmes, 2020). Reflexivity is the process through which the researcher endeavours to have a conscious awareness that his or her own beliefs are socially constructed and that

these are inevitably the lens through which their understanding of the social world is produced. In the research setting, it is arguably inevitable that this will impact on interactions and interpretations (Holmes, 2020). Reflexive awareness engenders the production of high-quality qualitative research, allowing researchers to critically examine their approach and their role in the research setting, considering their methodological and epistemological orientations (ibid). To practice reflexive awareness in research, it has been argued that researchers must be critically aware of their own experience and positionality, to maintain objectivity, and navigate power structures encountered in the research process (ibid).

Credibility and reflexivity were also enhanced through the extensive observational period and in-depth semi-structured interviews with a range of professionals, which, within the scope of doctoral study, ensured continued and prolonged engagement. In terms of practicalities, details such as the date, time, length, and the participants involved in each observation and interview were recorded. Furthermore, reflexive journals were utilised to make notes and reflections on the research experience and the interactions that took place during the fieldwork, data analysis, and the writing up process (Denzin and Lincoln, 1994). These notes and reflections were used to inform the reflections in this chapter and were occasionally used to supplement data in the chapter presenting findings from Drug Court hearings (see chapter *6*). Using these notes to inform the write-up and analysis ensured that any unanticipated biases on the part of the researcher are presented transparently in the thesis and can be questioned by the reader.

5.6.2.2 Transferability of Data

The concept of transferability, or generalisability, of data assumes that qualitative research data can be applied to other sociocultural settings and contexts (Guba and Lincoln, 1981). As this research adopted a single-site, case-study approach to data collection, the extent to which this can be considered transferable in the traditional sense requires scrutiny (Gomm, Hammersley, and Forrester, 2009). As this research focused on ‘care’ and ‘control’ in a Scottish Drug Court, the findings are perhaps not transferable to other Courts, such as those that focus on alcohol-related offending. However, whilst the data collection process was limited to one Scottish Drug Court, it addressed

broader concepts such as ‘care’ and ‘control’. Whilst the case study design limits the direct transferability of these findings to other samples or projects, theoretically the findings could be testable in other Drug Courts (Yin, 2009). This ensures that this study is identifiable within the extensive catalogue of research on Drug Courts (see Marlowe, Hardin, and Fox, 2010; Marlowe, 2016), through which the findings are transferable to the wider understanding of Drug Courts. For example, the findings on supervision, recovery and harm reduction, crime-control, and welfare support are all examples of theories that could be transferable to other Drug Court contexts.

5.6.2.3 Dependability and Iterative Approach

The concept of dependability refers to the extent to which data is consistent, with consistent data being a characteristic of high-quality research (Silverman, 2010). However, from the qualitative perspective, consistent and reliable data is produced through a consistent approach to data collection and analysis (ibid). In this research, consistent data was produced through corroboration of methods and the application of an analytical process which encouraged immersive and reflexive approaches (see section *5.6.2.6*). These approaches allowed for a detailed analysis of the social phenomenon under inquiry: the Drug Court project. Keeping a reflexive diary during the fieldwork and data analysis process and using this to inform the analysis and write-up further ensured dependability of the data through enhanced researcher reflexivity and the transparent presentation of the analytic process in the thesis (Denzin and Lincoln, 1994).

An ‘iterative’ approach refers to an approach in which the data collection and analysis are conducted concurrently, so that new lines of inquiry may be investigated during fieldwork, to enable an ongoing process of meaning-making (Srivastava and Hopwood, 2009). In terms of applying an iterative approach, Blumer’s (1969) concept of ‘exploration’ posited that emergent conflicting information may shift the lines of inquiry in a new direction and alter the object of study (p. 150). Such an approach, it is argued, allows the researcher to gain a rich and detailed understanding of the social world, but also enables the development of an empirical line of inquiry, data, and analysis (ibid, p. 150). In this research, new lines of inquiry were developed during the observational phase which were investigated during the interview stage, and new information gained during interviews was

incorporated into the interview framework. In particular, the gap in the fieldwork process resulting from the Covid-19 pandemic enabled a highly iterative approach, as a significant portion of the observational data analysis was completed during the 'lockdown', and this reoriented the approach to the semi-structured and narrative interviews (see section *5.3.2.2*).

Dependability in qualitative research also requires the researcher to recognise the evolving social context in which their research unfolds. Using the reflexive fieldwork journal technique allowed for an ongoing narrative about the social context of the research to be developed as well as the evolving political and policy narrative. For example, a Government White Paper which signalled that new Adult Drug Courts would be trialled in England and Wales reoriented some of the analysis in this thesis at a late stage of the doctoral process, by bringing a greater focus on Drug Court procedures and professional roles (Ministry of Justice, 2020). Maintaining an awareness of the social context of this research through a reflective journal contributed to the dependability and transparency of this research.

5.6.2.4 Confirmability and Transparency of Data

Confirmability in qualitative research refers to the extent to which it would be possible for another individual to confirm the data (Guba and Lincoln, 1981). Whilst social interaction is temporally and contextually bound (Jackson, 2013), a sense of confirmability can be achieved in qualitative research through transparent research practices. It has been suggested that transparency refers to visibility and accessibility of the data collection methods, which allows for an assessment of the research design and tools (see Hakim 1987; Moravcsik, 2019). As mentioned above, reflective journals were compiled during the fieldwork process, which comprised a detailed account of each stage of data collection and a reflective narrative of the events that took place during the fieldwork process. This process enabled a reflexive awareness of any potential areas of bias or misinterpretation during the analytical process. The reflective fieldwork diary has informed this chapter and allowed for a detailed and transparent account of both the fieldwork process and the frameworks, theories, and thoughts underlying it. The detailed and transparent account of the research process allows for independent scrutiny and enhances the potential for confirmability of this research by future studies.

5.6.2.5 Corroboration of Data

Triangulation of data refers to the use of, and comparison of, two or more methods of data collection, or data from two or more sources. The use and comparison of multiple methods is referred to as the 'triangulation of methods', and the evaluation of data from two or more sources is referred to as 'triangulation of data' (see Flick, 2004). Rather than taking a strict approach to triangulation, in this research, data from the observation of Drug Court hearings and semi-structured narrative interview data were analysed in corroboration with one another, to allow for cross-comparison and confirmation of findings. In this way, multiple methodological perspectives on a single empirical reality could be examined (Denzin, 1978). The use of multiple qualitative data collection methods enabled a detailed understanding of the reality and process of this Drug Court (see section *5.2.3*) and allowed for links to be made between the datasets (Silverman, 2005). Observation of the Drug Court hearings allowed for an overview of how the Drug Court operates and the relationships between the principal actors in the Court, whilst the interviews allowed for a deeper and more direct understanding of how and why relationships in the Drug Court comprise 'care' and 'control'. The use of multiple methods of qualitative data collection allowed for a rich and detailed understanding of this Drug Court. The following section will reflect on the methods used for data analysis.

5.6.2.6 Reflections on the Analytic Method

This study adopted Riessman's (2008) approach to narrative data analysis, which was considered appropriate for several reasons. Firstly, the approach comprises a comprehensive and straightforward method for the manipulation of large amounts of qualitative data. Utilising Riessman's (2008) method ensured that each theme explored in the Findings chapters were led by the data and constructed through a bottom-up, inductive approach in which the dataset was allowed to 'speak' (see Moscarola, 2022). Moreover, Riessman (2008) designed the dialogical approach to be conducted in a chronological fashion, with an analysis of narrative themes followed by an analysis of social context. For the thematic analysis, the six discrete steps to data analysis outlined by Braun and Clarke (2006), starting with "data familiarisation" through to the identification of "codes" and the grouping of these codes into overarching "themes", was applied. This chronological approach to data analysis reflects a

sense that throughout the research process, initial intuitive labels in the data may be developed into more highly abstracted themes. Thematic approaches have been praised for offering a comprehensive and logical approach to data analysis but also encouraging researchers to embrace reflexivity, subjectivity, and creativity (Byrne, 2021).

However, reflecting upon the data analysis process, many of the processes described in this approach were conducted over a much broader timeframe. For example, data analysis did not just take place during a discrete 'data analysis phase' and it is difficult to draw boundaries between the data collection, analysis, and writing up processes. Rather, data analysis commenced following the observational phase of the fieldwork, was revisited following the interview phase, and recommenced once again in the writing up phase. Additionally, the development of codes and themes overlapped and was an ongoing process throughout. Thus, whilst Riessman (2008) offers a logical framework to approach data analysis, the steps involved this analytical process were not discrete. Nevertheless, by utilising a recognised framework for data analysis, and applying this to the overarching theoretical framework, the processes adopted for the analysis of data had methodological rigour. This was also enhanced by the incorporation of the qualitative quality criteria outlined by Guba and Lincoln (1981), which contributes to the sense that this thesis comprises high quality and credible research.

5.7 Concluding Comments

This chapter outlined the methodology and methods used in this study. Exploring how individuals assign meaning to the Drug Court involves the study of a range of criminological and sociological concepts (see chapter *2*), so a qualitative approach is appropriate as this allows for an interpretative and contextual understanding. As this project explores Drug Court professionals' subjective experiences, a narrative methodological framework was selected to allow participants to tell their own stories. As this project sought rich and varied data on the Drug Court, a multi-methods research design was selected. Within the narrative methodology and multi-methods design, two methods of data collection were employed: qualitative observation of Drug Court hearings and semi-structured narrative interviews with a sample of professionals. This chapter has presented the 'story' of the fieldwork process and how the methodology and methods were influenced by a challenging research

environment caused by Covid-19. Details of the ethical considerations in this project, the credibility of the research, and the method of data analysis employed were also discussed.

The following chapters explore the findings of this research. Chapter six will analyse the observations of Drug Court hearings. Chapter seven will explore the semi-structured interviews with Drug Court professionals to explore the extent to which the court is constructed as therapeutic or punitive, and Chapter eight explores the stories they told about participants. The research findings discussed in these chapters will be explored with reference to the concepts and theories outlined in Chapter two and the literature discussed in Chapter four.

Chapter 6

Place: 'Care' and 'Control' in Drug Court Hearings

6.1 Introduction

This chapter will outline the findings from observational fieldwork, in which 136 Drug Court hearings were observed over 6 sittings between February and April 2019. This chapter is split into two sections: the themes of the hearings and meta-themes. Firstly, reflecting the key aims of the Drug Court (see section *3.3*), the themes of recovery and desistance are explored. The theme of recovery highlights how a complex relationship between 'care' and 'control' emerged in approaches to responsibilisation, therapeutic jurisprudence, and harm reduction; whilst the section on desistance and 'crime control' explores the relationship between 'care' and 'control' in approaches to punishment and 'crime control', and the balance between this and therapeutic approaches. This is followed by an analysis of how social and welfare needs were addressed in hearings, such as health, relationships, and housing and how these interventions represent 'care' or 'control'. The second section of this chapter explores an underlying subset of meta-themes which emerged during the analysis of the observed hearings, which speak to the principles and values underlying Drug Court hearings, rather than the issues that were explicitly addressed. The discussion section of this chapter pulls the themes and meta-themes together, presenting a nuanced analysis of 'care' and 'control' in the Drug Court, using Granfield and Cloud's (1998, 2008) framework of recovery 'capital'.

6.2 Themes

The following themes emerged during coding of the dataset (Guest, MacQueen and Namey, 2012, p. 255). The first two themes, recovery, and desistance, relate to the key stated aims of the Drug Court (see section *3.3*; Criminal Procedure (*Scotland*) Act 1995, s.234B-234K; Eley et al., 2002b). The further themes relate to the social and welfare needs addressed during Drug Court hearings.

6.2.1 Recovery

As this Drug Court seeks to "reduce offender's dependence on, or propensity to use, drugs" (Eley et al, 2002b, p. 2), the hearings observed were dominated by discussions of participants' dependence on, and recovery from, drugs. Even where the purpose of a hearing involved discussions of other social issues affecting participants such as housing or income, the purpose of these seemed to ultimately be to facilitate recovery (Burns and Peyrot, 2003; McIvor, 2009). Discussions about recovery also featured a complex relationship between 'care' and 'control'.

6.2.1.1 The Personal Responsibility to Recover

To an extent, recovery was characterised in Drug Court hearings as a highly personal experience and a sort of individual 'journey'. This reflects some of the conceptualisations of recovery that were explored earlier in this thesis (see section *2.2*), as well as some of the 'grand' narratives of recovery explored in the analysis of interviews with professionals (see chapter *9*). In this sense, the individual was constructed as the architect of their recovery and was perceived as being ultimately responsible for it (see section *2.3.3*):

> Defence Agent (DA): *There are some rays of sunshine in this report,* [P77]*'s presentation is better, and he is taking small steps toward recovery… Nevertheless, there is a small ray of sunshine, and it will perhaps be a long road.*

The construction of this participant's engagement with the recovery process as "rays of sunshine" conjured a 'sunny' image of the recovery process, which might not reflect the realities of a process that seeks to initiate substantial behavioural changes in different areas of participants' lives (see section *2.2.3*; Scott and Gosling, 2016). Nevertheless, this 'sunny' image of recovery was tempered with the recognition that this process would be "a long road for [his] client". Fundamentally, these conceptualisations of recovery placed responsibility on the participant to take the necessary "steps" and actively make changes in their life. As mentioned in chapter two, 'responsibilisation' refers to the way in which state organisations seek to strengthen individuals' ability to self-govern (Raitakari et al, 2018) and is a form of governmentality in which individuals are viewed as choice-makers with the power and responsibility to maximise their own health and wellbeing (see section *2.3.*3; Juhila et al.,

2017). However, problematic drug misuse can severely compromise some individuals' ability to behave in a rational fashion (Fletcher et al., 2016). The emphasis on personal responsibility could orient the Drug Court more sharply toward punishment, as a failure to recover may be conceptualised as a consequence of personal moral failings (see Garland, 2001, Du Rose, 2015). This reflects an underlying philosophy of "moral behaviourism" in the Drug Court, which underpins expectations about how participants should recover (Wacquant, 2013 p. 249).

However, the emphasis on the personal responsibility to recover was juxtaposed with an emphasis on the resources available to 'support' recovery in the Drug Court. Nevertheless, often Drug Court hearings were used to reprimand participants who were perceived to not be making adequate use of resources:

S2: *What's the problem? We're throwing a lot of time and resources at you but you're not buying into it- why?*

P77: *Don't know.*

…

S2: *Do you want to go back to the life you had, or do you want to sort this?*

P77: *I want to sort it.*

S2: *We will help you, but it has to come from you now.*

In this extract, the "time and resources" available in the Drug Court was emphasised, but this was undercut by the instruction that "it has to come from you". This highlighted the way in which the provision of social support was conditional upon participants demonstrating personal responsibility for recovery in the Drug Court. Whilst it was recognised that recovery requires time and resources (Mezzina et al, 2006), the provision of support was conditional upon compliance with disciplinary regulation (Flint, 2019). In this way, Drug Court participants were responsibilised for their own recovery insofar as they were expected to make use of the Drug Court's resources, use of which was reinforced by intertwined techniques of surveillance and empowerment to engender responsibility

(Raitakari et al., 2018). Accordingly, the "time and resources" reserved for surveillance in the Drug Court, such as regular drug testing and hearings with Sheriffs (see appendix *7*), were used to ensure engagement with 'caring' "time and resources" like individual and group therapies (ibid, see also section *9.3*). Moreover, the Drug Court's power to punish and implement 'interim sanctions' such as imprisonment served not only 'crime control' purposes in the Court (see sections *2.3*, *8.4*, *9.4*) but were also used to compel engagement with resources and ensure that participants were, or were seen to be, and taking responsibility for their own recovery (see section *2.2.*3; Duke, 2013; Floodgate, 2017). This approach could risk framing dependence as primarily stemming from individuals' inability or reluctance to take advantage of opportunity (Mead, 1991) and could orient punishment in the Drug Court toward participants who are most vulnerable and least able to make rational use of resources (Barn and Mantovani, 2007; Brown, 2014; Fletcher et al., 2016).

6.2.1.2 Therapeutic Jurisprudence

Nevertheless, whilst there was often a construction of recovery as a 'personal' journey, for which participants were ultimately responsible (Garland, 2001; Du Rose, 2015), there was also an emphasis on 'public health', which reflected the incorporation of 'caring' and 'therapeutic' values in Drug Court hearings and dialogue. As was explored in chapter two, the concept of therapeutic jurisprudence (TJ) posits that legal processes and dialogue can have therapeutic effects (see section *2.4.4*; Wexler and Winick, 1991) and the incorporation of a therapeutic approach in Drug Court hearings was reflected in the dialogue:

S3: *it seems you've gone from having a hiccup to a wobble and you are not as well as you have been before. Perhaps the crisis centre might help. Would you be willing to engage with this?*

P30: *Yes… I want to be supported by others who are positive focused on recovery.*

Recovery in this extract was conceptualised as a personal journey, as this participant had gone from a "hiccup to a wobble" (see section *6.2.1.1*). However, drug dependence was essentially framed as a public health issue, as it was noted that this participant was "not as well" as he had been, referring to a relapse, and this hearing was punctuated by overall concern for the participants' health and wellbeing.

This reflects the incorporation of therapeutic values in the Drug Court, which allows for an explicitly 'public health' rather than a solely criminal justice understanding of drug use (see section *2.4.4*; Burns and Peyrot, 2003). In this way, dialogue in the Drug Court was sometimes explicitly focused on 'care' and providing services that support and empower vulnerable participants (see Brown, 2014; 2016).

Moreover, the way in which this Drug Court incorporates TJ principles in practice, often involved the deferral to, or inclusion of, other professionals and experts within courtroom dialogue (see Nolan, 2009; p. 132). This enhanced the use of public health dialogue in hearings and sometimes resulted in nuanced conceptualisations of recovery:

S3 [to Drug Court Manager (DCM)]: *What do you think?*

DCM: *There are concerns about his honesty, staff have discovered his drug usage to actually be around eight times higher than he originally disclosed… but a 3-week detox at the crisis centre might be helpful as he would have to present at the centre daily.*

S3: *Can you do that? We need to get you back on track, I'm confident it will help.*

P30: [nods].

S3: *It is not a straight line to being drug free.*

As this hearing continued, the Sheriff deferred to the Drug Court Manager (DCM) which allowed the DCM to propose that the participant attend an intensive detoxification service that might have been unavailable outside of the Drug Court. This highlighted that, in practice, TJ can facilitate integrated multidisciplinary approaches to dependence, linking together vital services (Perlin, 2017; Yamada, 2020). Furthermore, the underlying therapeutic principles facilitated a nuanced conceptualisation of recovery, wherein rather than punishing relapses, it was recognised that recovery from dependence is "not a straight line". This is arguably emblematic of the Scottish approach to TJ in Drug Courts, which do not enforce abstinence (see section *3.3* and Nolan, 2009). As such, whilst TJ has been criticised for being paternalistic in practice (Slobogin, 1995; Stobbs, 2015), and the combination of therapeutic principles and control measures in this Drug Court sometimes resulted in paternalistic

approach to responsibility (see section *6.3.1*) and a philosophy of moral behaviourism (Wacquant, 2013), the nature of this conditional support often went beyond that which was available in the community (see sections *2.2.2*, *3.3* and Nolan, 2009).

6.3.1.3 Harm Reduction

Drug Court hearings also featured dialogues around harm reduction. As mentioned in chapter two, Scotland's drug strategy has maintained a commitment to harm reduction to reduce the risks associated with drug use (see section *2.2.2*; Scottish Government, 2018) which has been incorporated into the Scottish Drug Court approach (see section *3.3* and Nolan, 2009). As such, nuanced conceptualisations of recovery which centred upon harm reduction emerged as a feature of Drug Court hearings and the interview findings (see sections *8.3* and *9.3*). Complementing the recognition that "it is not a straight line to being drug free", relapse was also not considered a barrier to entry in the Drug Court:

DA: [P51] *had also been honest with Drug Court workers during his assessment about a recent relapse, in which it was noted that* [P51]*'s prescription for 30ml of methadone may not be sufficient for him.*

S1: *I would consider an SDS with a view to imposing a DTTO in the future* [to P51] *you had a relapse?*

P51: *Yes.*

S1: *Are you still on it?*

P51: *No.*

S1: *I'll impose an SDS. You'll do fine.*

Here, relapse was recognised as part of the recovery journey. Whilst it has been noted that the Scottish approach does not enforce abstinence (see section *3.*3; Nolan, 2009), here recovery was conceptualised as a dynamic process featuring lapses and relapses. This was reinforced by a discussion of substitution therapies, which have been found to have utility in reducing harms

associated with drug use (see Aceijas, 2012), reflecting a recognition of the role of maintenance and substitution therapies within recovery journeys (see section *2.2.3*). There was a sense that, rather than punishing this participants' offending or continued substance misuse, despite a recent relapse, intervention could minimise the harms associated with this participants' drug use. This evokes a quotation explored in chapter eight, where an addiction worker argued: "at least if they're coming in, they're not using" (see section *8.3*). However, this participants' contribution to the hearing was minimal. This reflects concerns that Drug Courts in practice can be paternalistic (Slobogin, 1995), as whilst this hearing featured a focus on harm reduction, decisions seemed to largely be made on this participants' behalf (Brown 2014, 2016). In this way, the beneficial potential of interventions was sometimes used to justify paternalistic and tutelary mechanisms as being in the interests of the subjects (see Flint, 2019).

6.2.2 Desistance and 'Crime Control'

As another key aim of the Drug Court is to "reduce the level of drug related offending", desistance and 'crime control' also emerged as a key theme in Drug Court hearings (Eley et al, 2002b, p. 2). Encouraging desistance from crime is a key function of the Court, and as such, dialogue in hearings often utilised the language of 'crime control'.

6.2.2.1 'Crime Control' and Punishment

Whilst recovery and harm reduction were key themes in the hearings (see section *6.2.1*), in some cases, 'crime control' seemed to be constructed as more important. This speaks to the core research question of this thesis and the relationship between 'care' and 'control' in Drug Courts. As mentioned above, in discussions of recovery and recovery-oriented interventions, a complex relationship between 'care' and 'control' emerged in terms of responsibility (see section *6.2.1*). However, in discussions about offending, the emphasis on recovery was sometimes superseded by discussions about 'crime control':

DA: *My client had an excellent employment record until recently-*

S3 [interrupting]: *-and positive drug tests and a recent allegation of assault, vandalism, and breach of the peace which has been made against him. It is hard to identify any progress since his last review, especially as he did not attend the internal review. This was his last opportunity to put his cards on the table. I am reluctant to continue with the Order as I do not see the point.*

...

S3 [to P38]: *Why did you not attend the internal review?*

P38: *I got the dates mixed up… my lawyers' receptionist gave me the wrong date.*

S3: *The purpose of this Order is to benefit the public, to stop you committing more crime, as well as to help you have a normal life. It will be terminated if you don't start to show improvement.*

This participant's offending was given precedence over any "small steps" made toward recovery (see section *6.2.1.1*). The focus on 'crime control' was crystallised in a powerful statement that the key purpose of Orders was to "protect the public" and "to stop [participants] from committing more crime", which was framed as being more important than the aim to "help participants to have a normal life" free from dependence. This exchange reflects the residual 'crime control' focus within Drug Courts and their position as an extension of punitive criminal courts (see Burns and Peyrot, 2003), This raises concerns that attempts to incorporate TJ into existing systems might be hindered by the punitive paradigm of those systems and their focus on control and surveillance of offenders (Drug Policy Alliance, 2011; Slobogin, 1995). In this way, Drug Courts may be interpreted as an intervention characterised by 'punitive populism' and the perceived need to control drug-related offenders in more elaborate and intensive ways (see Kaye 2010, 2019). As such, the 'control' purposes of the Drug Court may be seen to outweigh therapeutic approaches as participants may be mandated into a closely supervised and demanding programme of treatment under the manifesto of public protection rather than their recovery (see section *2.2.2*).

6.2.2.2 Crime Reduction and Harm Reduction

However, much like the way in which harm reduction was central to the recovery approach in Drug Court hearings, 'crime control' was sometimes interpreted in terms of harm reduction (see section

7.3.1.3). As such, discussions about offending in Drug Court hearings were not always characterised by a discourse of 'crime control' and public protection, but were often punctuated by discussions about harm reduction:

DA: *… My client's prognosis is one of very slow progress, which the team is frustrated by, and say the Order should end. However, I would like to highlight that my client's offending stopped last year and since then, he has been totally out of trouble. Therefore, whilst my client's participation has not been a success, it has prevented reoffending. His client's last two drug tests showed him to be positive for only methadone and he has started to be more transparent about his use of benzodiazepines. My client has been attending AddAction and said it helped, but he understands that his engagement and commitment is in question…Ultimately, whilst we accept that he should have made more progress, there has been some improvement backed up by a lack of offending…*

This participant had continued to test positive for drugs by the end of his Order, which was labelled "frustrating", and there was a recognition that "he should have made more progress". However, as there had been "some improvement, backed up by a lack of reoffending", this outcome was framed in somewhat positive terms. This again reflects the sense that desistance from crime is considered a more important outcome than recovery or abstinence (see section *6.2.2.1*). However, it could also symbolise a harm reduction approach to offending, as whilst this participants' "Order [had] not been a success, it [had] prevented reoffending". In this way, the blending of 'care' and 'control' in this Drug Court was manifested in the transplantation of harm reduction approaches into 'crime control' functions (see sections *2.2.2* and *2.3.3*), as harm reduction approaches seek to reduce the risks associated with dependence and offending could be considered one of those risks. In this way, a reduction in offending might be perceived as a successful outcome in the Drug Court, rather than complete desistance (see section *2.2.2*):

S1: *I am sorry to see you go but this is where we are with things. Your report is good… I will revoke the DTTO but it's not all bad news as there's been no more reoffending… I will revoke the DTTO and impose a CPO with a requirement for unpaid work to be completed and a course of drug treatment to be completed.* [To P68] *You'll come back to me if you breach it.*

This participants' Order was revoked, and he was still testing positive for some drugs. However, this Order was nevertheless presented as a successful intervention, as there had been behavioural change in the form of "no more offending". This suggests that, in some cases, reducing offending may be interpreted as a more desirable, or perhaps realistic outcome, in the Drug Court rather than expecting complete recovery, abstinence, and desistance from crime. This arguably represents a harm reduction approach to 'crime control', which recognises that supporting participants to reduce the harms associated with their offending, and perceiving offending in terms of the harm to participants, might be more effective to reduce crime than traditionally punitive criminal justice approaches (see Bacon, 2022), illustrating the potential of Drug Courts to be perceived as a genuine alternative to inherently punitive prison regimes (see Scott and Gosling, 2016)As such, whilst 'care' and 'control', and recovery and 'crime control' might sometimes seem to be competing aims, there was a distinct attempt to reconcile the two in the Drug Court approach.

6.2.2.3 Balancing 'Care' and 'Control'

However, the 'crime control' and public protection purposes of the Drug Court resulted in a balance between 'care' and 'control' wherein 'crime control' and public protection were interpreted as serving therapeutic purposes. In some cases of continued offending by a participant, the termination of their Order and the revocation of Drug Court support and resources (see sections *6.2.1*, *6.2.3*), was justified in terms of the need to protect other participants' recovery and the Drug Courts' recovery community:

P103: *How could I? I was on a ward; how could I be selling drugs to people?*

SW [to P103]: *I have been clear that these are only allegations, but there are multiple allegations of a similar nature, so we have to take them seriously.* [to S2]: *We need to keep him away from other service users, he is a threat to other people's recovery. He could come back to the Drug Court at a later time if things change. For now, I would suggest a Restriction of Liberty Order.*

This participant was the subject of three criminal complaints during his Order and despite attempts to convince the Sheriff otherwise, his Order was terminated. This reflects how the therapeutic approach in Drug Court hearings was limited by the emphasis on 'crime control' and the perceived need to

protect the public from drug-related offending (see section *6.2.2.1*). However, punishment for this participant was also interpreted in therapeutic terms, as it was argued that the provision of support cannot continue where the subject's continued offending becomes a risk to the recovery of others. As such, sanctions were framed as being necessary to instigate behavioural change and support recovery (see chapter *4* and Burns and Peyrot, 2003; Fulkerson, Keena and O'Brien, 2012; Nolan, 2002; McIvor et al., 2006; Roberts and Wolfer, 2011)- just not *this* participant's recovery. In this way, whilst there were distinct attempts to reconcile 'care' and 'control' through the emphasis on harm reduction and the language of risk, the Drug Courts' brand of 'care' and 'control', or "authoritarian therapeutism", may sometimes seem more authoritarian than therapeutic (see Squires and Lea, 2013; Wacquant, 2013 p. 249).

6.2.3 Social and Welfare Needs

Whilst the Drug Court had two explicit aims, to reduce individuals' "propensity to misuse drugs" and "reduce drug-related crime" (Criminal Procedure (*Scotland*) Act 1995, s.234B-234K; Eley et al, 2002b, p. 3), hearings also featured dialogues about the range of social and welfare issues that participants' presented with. These discussions were key sites which crystallised the complex relationship between 'care' and 'control' in the Drug Court.

6.2.3.1 Health

Drug dependence can present alongside a range of mental and physical health difficulties, and the recovery from dependence and co-existing health problems is closely intertwined (Johnson, Brems and Burke, 2002 and section *2.2.4*). As such, health was a recurring theme in Drug Court hearings, the approach to which reflected a complex relationship between interventions of 'care' and 'control'. The dialogue about health in hearings was often characterised by concern for the health and wellbeing of the participant, although participants' health was also sometimes used to encourage compliance. Sometimes, participants framed 'health reasons' as the primary motivation for change:

DA: *My client has an excellent report and is found to be embracing the scheme wholeheartedly.*

S2: *Why is this working?*

P104: *It was my time to be straight. I saw lots of people around me dying and I have a young family. I'm doing it for health reasons as well… I'd just had enough.*

S2: *We are all delighted, we're all trying to take credit, but it's all you. Just be careful reducing the methadone.*

For this participant, a decline in physical health seemed to be a catalyst for engagement with the Order and her recovery, alongside an awareness of her own mortality prompted by the death of drug using friends. This participant also stated that she was "doing it for health reasons" which may have been neglected for some time during her drug using career (see Drumm et al., 2011). The Drug Court has a dedicated medical team and participants are provided with extensive support with their mental and physical health, from surgery to dietetics (see appendix *7*), which represents a significant element of the therapeutic approach in this Drug Court. However, participants' health and mortality were also used to coerce engagement in health-conscious behaviours in hearings:

S1: *What did the doctor say to you?*

P20: *The doc said he had never seen a heart rate so low in his entire career.*

S1: *Do you get all of this? We are worried about you. You could die.*

P20: *Aye.*

S1: *I want to see you back here next month for review. Will you be back? This is serious stuff- have you got the message?*

This hearing was dominated by significant professional concern for this participant. Arguably, the Sheriff used the participant's declining physical health, and perhaps impending death, as a threat to encourage engagement and compliance. The repeat interrogatives from the bench: "do you get all of this?", "will you be back?", "have you got the message?", alongside a reminder that the participant "could die", could be considered an example of 'tough love' shown by Drug Court judges, as the Sheriff emphasised his concern and "desire to see [P7] back next month" (see Burns and Peyrot, 2003). This reflects the pivotal role of judges in delivering TJ in Drug Courts (Senjo and Leip, 2001;

Lyons, 2013; Stimler, 2013). However, the use of threats also raises questions about the extent to which coercion is perceived a prerequisite for some marginalised individuals to engage with welfare support or for this support to be made available to them in the first place (see Flint, 2009).

6.2.3.2 Relationships

Much like the approach to health, a balance between 'care' and 'control' also emerged in the approach to relationships. Whilst participants were encouraged to build new, recovery-oriented social networks (see Bathish et al, 2017 and section *2.2.4*), they were also morally obligated to end personal relationships which were deemed 'unsuitable' by the Court (see Squires and Lea, 2013; Wacquant, 2013). In hearings, Drug Court Orders were often framed as an opportunity to rebuild relationships that have been damaged by dependence, and the support provided to rebuild relationships seemed to be a key element of the Drug Court's therapeutic approach:

S1: *You turned it round some time ago.*

P12: *Regular contact with my son has helped, I did it for him.*

S1: *What else have you been doing with your time?*

P12: *I want to go to GalGael*[i] *and learn something new.*

S1: *How are your family?*

P12: *My mum is great. We're much better. She's been helping with my son. She took him on holiday last week. I want to go with them one day.*

S1: *Keep this up and you'll be able to.*

This participant framed regular contact with his son as a catalyst for change and said that his relationship with his mother was "much better". Support with relationships and building support networks was a key element of the 'caring' approach in Drug Courts, particularly that of addiction workers (see appendix *7*), as a strong social network can significantly influence both Drug Court outcomes and the recovery process (see Best et al., 2015a, 2015b; Belenko et al. 2021). Moreover, this participant expressed a desire to go on holiday with his mother and son one day, a desire which

might seem trivial to those not in recovery, but which was likely significant goal for this participant, which was encouraged by the bench. The support for healthy relationships in the Drug Court could be construed as an element of the 'caring' approach to empower vulnerable participants (see Brown, 2014).

However, whilst supportive relationships, and support to develop these, symbolised attempts to incorporate a therapeutic approach, there was also a sense of 'control' exerted over participants' relationships, which could represent punitive and overt intervention in participants' private domestic lives (see section *2.3.2*; Garrett, 2007; Rodger, 2008; Flint, 2009). This was particularly clear where participants' relationships caused issues in hearings:

DA: *I was very worried when I saw him this morning as he is very thin-*

S1 [interrupting, to P52]: *That woman that was with you this afternoon? Don't bring her with you again. She is an embarrassment to this court.* [S1 referring to one of the two women who were "under the influence", for each of whom he had stopped the proceedings and had the clerk remove them from the courtroom].

DA [resuming]: *My client's father had recently passed away, and this is severely impacting his recovery. He has, however, recently had a dietician allocated to him to try and help him gain some weight as there is a concern that this may lead to further health complications. There is some complexity about* [P52]*'s housing situation. My client is now out of his temporary B&B accommodation and is back living with his sister again but noted that there is a concern about this as there has been some difficulty in the past between* [P52] *and his sister's partner, which led to him becoming homeless and being placed temporary accommodation. My client is a man needing help right now.*

S1: *I am worried about you. Don't be going 'round with her anymore, coming in here like that. Say no to her.*

This participant's partner was removed and labelled "an embarrassment to the court". There was a clear emphasis on 'control' in the Courts' response, as the Sheriff directly instructed the participant to

"stop going 'round with her". This exchange was somewhat reminiscent of a parent-child relationship and represented a demand that extends beyond the powers of traditional Sheriffs (Drug Policy Alliance, 2011; Slobogin, 1995; Stobbs, 2015), highlighting the net-deepening impact of criminal justice 'add-ons' such as the Drug Court (Cohen, 1985; Scott and Gosling, 2016). Furthermore, the DA highlighted that this participant's progress had been severely impacted by his fathers' recent death. Significant events in the life-course, such as births and deaths, can have a profound impact on recovery either way (Schulenberg, Maggs and O'Malley, 2003). As such, whilst this participant was subject to 'control' and shaming for his dysfunctional personal relationship, this was integrated with support in the form of grief counselling which was perceived as a 'legitimate' issue that required support. In this way, relationship-based interventions reflected a complex balance between 'care' and 'control', the line between which was drawn in terms of the values of the professionals involved (see Polsky, 1989; Flint, 2019).

6.2.3.2.1 Domestic Violence

Following the theme of relationships, discussions about domestic violence (DV) also emerged in observed hearings. As some participants' offending was both drug-related and domestic violence-related, the Drug Court had fostered links with programmes which provide tailored support domestic violence perpetrators (see appendix *7*). Discussions about access to these services also painted a picture of a complex relationship between 'care' and 'control' in terms of balancing recovery-oriented approaches with the need to control DV:

SW: *As his offending is domestic violence related, his social worker suggested an assessment for the Caledonian Programme*[ii] *before a Drug Court assessment. A Caledonian assessment in the first instance takes 6 weeks.*

S2: *Will you cooperate with specific support? Because this can't go on. I would like to explore the Caledonian Programme before the Drug Court; will you co-operate with that?*

P98: *Aye.*

This participant's offending seemed to be domestic violence-related, and he was referred to a specialist programme. Whilst links with specialist services which offered tailored support to participants reflected the integration of therapeutic approaches in in the Drug Court (Wexler, 1990; Wexler and Winick, 1991), this participant was essentially diverted into an alternative criminal justice programme and out of the therapeutic environment. As such, the need to punish participants for violent offending could be perceived as being of greater moral utility than providing participants with support to manage their drug dependence. However, it is worth noting that dependence and violence are not responsibilised to the same extent, as the moral component of dependence is arguably reduced from a public health perspective (see section *2.2.2*) and it is often described as a 'victimless crime' (de Miranda, 1991). Domestic violence is responsibilised to a greater extent, although drug and alcohol use may be framed as a reason for it (see Gilchrist et al, 2014). As such, the need to control violent crime might sometimes supersede the need to reduce offenders' drug misuse, even when drug misuse precipitates violence. This, and participants return to the criminal justice system or diversion to different criminal justice programmes, can limit the extent to which the Drug Court can be seen as a genuine alternative to carceral regimes (see Scott and Gosling, 2016). Nevertheless, domestic violence was not always a barrier to entry:

DA: *The report also states that his girlfriend is willing to allow him back if the Sheriff will impose an Order, which suggests this is his last chance.*

S1 [to P25's girlfriend, who is sat in the public gallery]: *You. Stand up. Are you sure about this? Do you know what you're doing?*

P25's partner: [nods]

S [to P25]: *You're under close scrutiny, do you know that? I'm watching you and I'm gonna continue to watch you.* [The Sheriff imposed an Order and bails him to his girlfriends' address].

This participant appeared from custody and had also been recommended for the Caledonian Programme[iii]. However, unlike the previous extract, a Drug Court Order was also imposed. This perhaps represents a more balanced approach to 'care' and 'control', as this participant was 'given the

opportunity' to engage in the Drug Court, which is often perceived as important by participants (Fischer, Geiger, and Hughes, 2007). However, this participant received one of the clearest warnings from the bench, that he was under "close scrutiny" and would be intensively supervised. As mentioned above, whereas drug-related crime is often defined as 'victimless' (de Miranda, 1991), domestic violence offences have identifiable victims and the victim in this case was present in Court. Therefore, whilst this participant was 'allowed' by the Court to continue their personal relationship to ensure continued access to stable accommodation, this dialogue suggested that this participants' personal relationship would be subjected to intensive and individualised micro-regulation by the Court (Holt, 2008 p. 210).

6.2.3.3. Housing

Housing also emerged as a key theme in the hearings. Adequate housing has been found to be significantly important for both successful recovery from dependence and desistance from crime (Scottish Government, 2016). Discussions about the provision of adequate housing for participants was a common feature of hearings and whilst this represented a tangible element of the Drug Court's welfarist approach and support with physical recovery 'capital' (Granfield and Cloud, 1999), housing and homelessness-related interventions remain central to the regulation of conduct and the management of marginalised populations (Flint, 2009 p. 255):

S3: *Well done on the negative drug test but why have you not been attending your appointments on Mondays?*

P32: *My appointments used to be on the Thursday now they're Monday and I don't remember.*

S3: *How is your new accommodation?*

P32: *It's great, it's away from the local boozer.*

S3: *I'm looking forward to your next report, with you in your new house, attending all your appointments.*

The provision of housing for this participant seemed to be a significant, as it precipitated their negative drug test and seemed to signify a turning-point in the recovery process. The participant described his new accommodation as "great" and "away from the local boozer", which suggests that it could have facilitated a reduction in his association with his former social network and perhaps limited access to drugs and alcohol (Best et al, 2015a). This reflects the Drug Courts' therapeutic and welfarist approach (Wexler, 1990; Wexler and Winick, 1991), which is reinforced by a recognition of, and provision for, the physical resources needed to sustain recovery (see section *2.2.2*; Granfield and Cloud, 1999; 2009) which likely contributes to literature findings that participants view Drug Courts favourably (see Fischer, Geiger, and Hughes, 2007; Eley et al., 2002b; McIvor et al., 2006). However, the physical relocation of this participant represents intensive socio-spatial regulation of participants and the encroachment of criminal justice control and decision-making into the private sphere of the home (see Flint, 2019).

Moreover, several hearings featured discussions about the difficulty housing participants. In some discussions about housing, the structural configurations of housing access were highlighted (see sections *7.5.2* and *8.5.3*) and the provision of housing represented a tangible element of 'care' and support with physical recovery 'capital' (Granfield and Cloud, 1999; 2008). However, participants were also often constructed as personally responsible for their engagement with housing-related resources:

S1 [clearly irritated]: *What's going on with <u>her</u>?* (Points to P65) *Are you housing her?*

HF: *We're hoping to have a meeting with* [P65] *and the Housing Authority, tomorrow or Monday. The process has taken longer than usual with* [P65] *as we have difficulty contacting* [P65] *when she is staying in* [a neighbouring town] *with her partner as that relationship is quite [...] rocky.*

P65 [interrupting]: *I admit contact broke down with them but they're happy to speak to me when I'm sleeping on the streets but ignore me when I'm in* [a neighbouring town].

S1 [to P65]: *It is obvious that you have a view on the practices of Housing First, but this is not the appropriate forum in which to debate housing provision and it is not for me to affirm or deny the ethics or legality of their processes. You'll be back for review in April.*

Representatives from Housing First were present for this hearing and its' focus was the provision of housing, as it emerged that a lack of suitable and stable accommodation was likely affecting this participants' engagement. However, whilst some of the structural barriers that preclude housing access for marginalised groups were hinted at in this hearing, this participants' "rocky" personal relationship was framed as contributing to her homelessness and instability. In this way, as Du Rose (2015) argued, female drug users are often perceived as "badly behaved, bad choice makers, responsible for their dependence and recovery, deserving of disciplinary treatment and/or coercion" but "also as neglected service users whose needs do not fit the existing structure of services" (p, 267). Moreover, the provision of accommodation for this participant could represent significant interventions in both her personal relationship *and* housing, which female drug users may experience more frequently, and which can be perceived negatively (see Du Rose, 2015). In this way, the provision of housing represents an example of the Drug Court's approach to 'coercive welfare', as welfare support is inherently interwoven with control and regulation (see Phoenix, 2008).

6.2.3.4 Income

In a similar vein to housing, income was a prominent issue in hearings. Given the link between drug use and acquisitive crime, offending often formed the basis of participants' income prior to Drug Court entry (see Seddon, 2000). As the Drug Court seeks to break the cycle between dependence and offending, participation can precipitate a range of income-related issues and highlight the physical 'capital' required to recover (Granfield and Cloud, 1999; 2008). Discussions about income in hearings was predominantly benefits-related, and highlighted the structural, multifaceted vulnerabilities and compound disadvantage that was often experienced by participants (see Fletcher et al., 2016):

S2: *You need to attend all your appointment, even if it means walking.*

P97: *I've got a broken hip.*

S2: *You've got no money at all?*

P97: *None at all, my ESA was stopped because I missed an appointment, but I didn't get a letter for it. I need to make a new claim for Universal Credit but it's all online and I struggle with reading and writing.*

SW [intervening]: *Other organisations can help with benefits. We had a couple of appointments to discuss meeting with a benefits advocate, but he didn't show up- hence he's had 4-5 weeks with no money.*

This extract demonstrated the extent of physical deprivation experienced by participants in this Drug Court, as well as highlighting the physical resources needed to be a Drug Court participant (see Zschau et al., 2015). A lack of physical resources was constructed in this extract as cyclical and compounded, as a lack of funds to attend appointments, particularly welfare-related appointments, meant the lack of funds cannot be addressed (see Jones, 2019). This was highlighted by the social workers, who stated that professionals can advise and provide guidance with access to welfare support through the Court (see appendix *7*), but this process was ultimately frustrated by this participants' lack of physical 'capital'. This participant also appeared in a second observed hearing, in which there seemed to be less sympathy for his financial situation:

S2 [to P97]: *I'm listening.*

P97: *I'm trying my best Mr... I've no money at all, just £33 a week from the Scottish Welfare Fund.*

S2*: I've told you before, you've got to go, it's as simple as that.*

Whilst there was some progress in this participants' financial situation, as he had begun to receive support from the Scottish Welfare Fund, this was only £33.00 per week. After food and accommodation costs, it was unlikely that this would be sufficient to support this participant to break out of the 'vicious cycle' of compound disadvantage (see Fletcher et al., 2016; Jones, 2019) or adhere to the demands of the Drug Court (see Gallagher and Nordberg, 2016). Moreover, this extract highlighted the extent to which Drug Court participants were considered responsible for their recovery and engagement as participants are expected to fully engage in the programme, and their recovery,

without necessarily having adequate resources to do so (Granfield and Cloud, 1999, 2008; Zschau et al., 2015). In this way, the emphasis on participants' personal responsibility to adhere to the programme, could lead to participants being punished for lacking the physical resources to comply, regardless of the entrenched deprivation that contributes to this (see Fletcher et al., 2016).

6.2.3.5 Employment and Skills

Another way in which the Drug Court recognised and promoted physical recovery 'capital' (see sections *7.2.3.3* and *7.2.3.4*), was through support with employment and skills, including education. As many with drug using careers have little employment history, (Holtyn, Defulio and Silverman, 2015), the Drug Court was associated with external services for employment-related skills. However, it could be argued that the emphasis on employment suggests that Drug Court interventions can be based on middle-class norms of behaviour and conceptions of paid employment and financial autonomy as the primary characteristic of legitimate citizenship (see Holt, 2008; Flint, 2009; Whiteford, 2008):

S2: *I hear you have completed a college course? Well done.*

P105: *Aye.*

S2: *Terrific, how does your son feel about it?*

P105: *Great.*

S2: *This is a very good report. You didn't attend your last appointment, but you gave reasons for that. Your health seems to be better. I'm going to postpone your next review until June and reduce your drug testing from weekly to fortnightly testing, in recognition of your honesty and hard work.*

P105: *Thank you.*

This participant was praised for their completion of a college course, which the Drug Court had links with (see appendix *7*). Providing educational training and courses to recovering individuals can be beneficial to employment and give a sense of dignity and long-term security, both of which can help sustain recovery (see Laudet, 2012). As this participant had made progress in their recovery (see

section *6.2.1*) and personal relationships (see section *6.2.3.2*), education and employment-related interventions were arguably the logical next step to maximise the chances that they would sustain their recovery beyond the term of the Order. However, the extent to which paid employment was praised could reinforce middle-class values about economic activity that disregards the compound disadvantages and numerous obstacles that can preclude marginalised groups' participation in labour markets (see Fletcher et al., 2016; Flint, 2009). Moreover, access to employment and skills-related resources was sometimes explicitly used in a 'carrot and stick' approach to socially 'control' participants:

DA: *My client has a mixed report-*

S1 [Interrupting, to P23]: *Sit down and take your hands out of your pockets!*

DA: *There is a need to ensure that my client's life is more rewarding, especially following his recent arrest relating to a domestic violence incident and his positive drug test for opiates, methadone and cocaine.*

S1: *This is not good enough. Whys that?*

P23: *I'm trying to change my life… I'm off to GalGael.*

S1: *There is plenty of time to engage in other programmes once you've started to be more honest with the Drug Court… tell me, have you been honest? Because if I found out that you've not been honest… do you understand? I know you've had a rotten life, and we want to help you, but remember I can send you back to jail.*

The DA highlighted a need to ensure his client's life was "more rewarding", which hinted at the deprivation and disadvantage experienced by marginalised groups (see Fletcher et al., 2016; Flint, 2009). However, engagement with skills courses was constructed as a reward for honesty, which positioned access to skills and resources as a reward for compliance with behavioural regulation (see Wincup, 2017; also, Lea and Squires, 2013; Wacquant, 2013). Whilst recovering persons are not always perceived as preferred employees, research shows that paid employment and participation in

employment-related programmes can give recovering persons a sense of achievement, as well as improving their chances of obtaining paid employment and sustaining their recovery (see Laudet, 2012). Instead, using skills courses to reward compliance represents a "carrot and stick" approach, in which participants were sometimes denied the very resources needed to comply (McKay, 2017; Wincup, 2017). As such, rather than empowering participants with skills and resources (Brown, 2014), 'coercive welfare' (Phoenix, 2008) or 'authoritarian therapeutist' (Wacquant, 2013) approaches might constrain participants' ability to comply with the moral behaviours required of them.

6.3 Meta-Themes

This section explores the meta-themes, which are a subset of underlying themes, that emerged during the observed hearings. Meta-themes are considered more intangible than themes, as they do not have specific codes associated with them, emerging at a "higher level of abstraction" (Guest, MacQueen and Namey, 2012, p. 255). As such, whilst the extracts explored in the following section may not directly mention the meta-theme, they give a sense of it. The meta-themes explored in this section include honesty, turning up, and infantilisation, and humour and camaraderie, which represent the underlying philosophy of moral behaviourism in the Drug Court (see Wacquant, 2013). This section explores how the meta-themes underpin the Drug Court's functions, their representation in exchanges between participants in the hearings, and how they contribute to relationships between Sheriffs and participants.

6.3.1 Attendance

The three golden rules, and desired behaviours, that were emphasised in Drug Court hearings were: be honest with the Court, turn up to appointments, and do not reoffend (see section *6.3.1*). Attendance was an underlying theme throughout the hearings. As participants were living in the community, they were essentially at liberty to not attend meetings and it was repeatedly emphasised that where participants fail to attend, they cannot engage with the support offered (see section *6.2.3.4*). Like dishonesty (see section *6.3.2*), attendance was reinforced by surveillance measures such as absence

monitoring, and non-attendance was a precursor for termination (see appendix *7*). The importance of turning up to court and attending appointments was often stated in initial hearings:

S2: *Show up, be drug tested, and no more offending, okay?*

P106: *Aye.*

S2: *I'm gonna put you on a Structured Deferred Sentence, you'll be back in a month, okay?*

P106: *Thank you.*

The three main expectations of Drug Court participants: "show up, be drug tested, no more offending", were offered as instructions in this hearing. Whilst attending appointments might be considered a less invasive form of surveillance than drug testing, in practice, attending regularly scheduled appointments and hearings can prove difficult for chaotic, drug dependent participants (Milward, Lynskey and Strang, 2014). This was found in the literature review, where US Drug Court participants reported struggling to manage demands on their time (see chapter *4*, Gallagher, and Nordberg, 2016). As such, difficulties attending appointments were also a common feature of hearings:

DA: *There was a letter for* [the Sheriff] *which related to my client's health problems.* [P108]*'s report stated that he had missed an appointment on the 10th of April, but my client said that he did not have an appointment for that date. Ultimately, the report advised that he was suitable for an SDS.*

P108: *I had my last appointment on Monday with nursing staff and they said a DTTO might work… I thought I only had 3 appointments.*

S2: *Before we look at a DTTO, we'll look at an SDS. But you must turn up to appointments and cooperate. You'll be drug tested once a week and no more reoffending. Welcome to the club.*

This hearing reinforced the three main expectations of participants, which was again followed by: "welcome to the club". This ostensibly alluded to the popular film "Fight Club" and the infamous "rules of fight club", which reinforced the sense that participants 'prove their worth' by adhering to the three rules. Moreover, whilst this participant had missed an appointment during the assessment

phase, which can be a reason to not impose an Order (see appendix *7*), he was given the opportunity to explain himself and this was accepted by the Sheriff. This reflects findings that whilst Drug Courts represent an intensive criminal justice intervention, participants have an ability to negotiate rules through direct dialogue (Burns and Peyrot, 2003). In this way, the therapeutic approach could minimise the impact of some of the Courts 'control' measures.

Whilst participants were able to negotiate and explain non-attendance through direct dialogue in hearings (ibid), there was also a recognition in the Drug Court, in some cases, that participants were managing a range of Drug Court-related demands on their time (see Gallagher and Nordberg, 2016). Several of the observed hearings concerned absent participants:

DA: *My client is not in attendance. I cannot find him anywhere.*

S3: *Should I grant a warrant and keep him in over the weekend?*

DA: *If you don't do that, I'll tell him he's very lucky.*

S3: *He has a new tenancy?*

SW [intervening]: *He's getting the keys for his new tenancy which might be why he's not here, but court should be a priority.*

In this hearing, a social worker intervened and informed the Sheriff that the participant was likely absent because he was collecting keys for new accommodation. Without this intervention, the Sheriff may have issued an arrest warrant, which could have precipitated the termination of his Order and a custodial sentence (see appendix *7*). This could have also affected his new accommodation (see Maguire and Nolan, 2012 p. 148). The social worker's intervention is an example of a multi-disciplinary approach, where a non-legal perspective of the issues affecting the participant was incorporated into the legal process (see Winick and Wexler, 1991 and section *6.3.1.3*). In this way, the social workers' intervention shaped the exercise of judicial discretion and allowed the Court to construe the absence positively rather than as non-compliance. This ultimately resulted in the decision not to impose a warrant, representing how the incorporation of 'caring' perspectives can minimise punishment and 'control' measures.

However, whereas the participant in the previous extract was "very lucky" to avoid a warrant, other participants were not quite so lucky, even in similar circumstances. This highlighted the impact of discretion in determining the balance between 'care' and 'control':

DA: *My client is unfortunately not in attendance for this hearing. We have tried calling him multiple times to no avail.*

S3: *I am not willing to wait for him as we are nearing the end of the roll. I will issue a warrant for his arrest.*

In this hearing, the Sheriff was unwilling to delay proceedings for this participant and there was no intervention from other professionals. This extract highlights the influence of judicial discretion in determining 'care' and 'control' of participants. Whilst the reasons for this absence were likely discussed at the pre-court meeting, this was not explained in the courtroom (see appendix *7*). This reflects the ultimate power of the Sheriff in their court, like a king and a royal court, as the clerk silently and immediately processed the warrant. Absent participants were essentially depending on shrieval discretion, and this was not always exercised mercilessly without guidance. Moreover, this may have been a warning to other participants present who may struggle with attendance, reflecting the social structure of the Drug Court where participants watch each other succeed and fail (see section *2.2.4*; Belenko et al., 2021). Ultimately, whilst there appeared to be some discretionary leeway, the rules around attendance could be perceived as representing middle-class (see Flint, 2009; 2019) norms and values about the division of work and play (see Young, 1971), where participants are expected to dedicate much of their day to the Drug Court, regardless of constraints or demands on their time.

6.3.2 Honesty

Honesty was also a prominent meta-theme in hearings, which often defined the relationship between professionals and participants. The Drug Court requirements mentioned throughout the hearings were: be honest with the Court, turn up to appointments, and do not reoffend. As participants were living in the community rather than incapacitated in custody (see section *2.3.1*), they were potentially at liberty

to reoffend and misuse drugs, whilst the Drug Court employed methods of community surveillance to deter this (see appendix *7*). As a result, questions about honesty often emerged in hearings during discussions about drug testing. Participants on Structured Deferred Sentences (SDS) and Drug Treatment and Testing Orders (DTTOS) were required to produce urine samples for testing, at either weekly or fortnightly intervals, to provide insight into whether participants were transparently reporting their drug use (see appendix *7*). The relationship between drug testing and honesty emerged in several hearings:

DA: [P5]*'s progress has been very poor… he seems quite disengaged from the programme… there have been some accommodation issues and issues with underreporting his drug use to staff.*

S1 [to P5]: *I sympathise with the accommodation issues, but you have to be honest with the team about your drug use, if you can't be honest there's no point in keeping you on this. We can't set people up to fail.*

This participant had "accommodation issues" which may have impacted his ability to engage with the Drug Court (see section *6.2.3.3*), however, the behavioural requirement for honesty was given primacy over a structural discussion about housing access (see Garrett, 2007; Flint, 2009). Furthermore, this hearing demonstrated that a lack of honesty can ultimately lead to termination and the imposition of a custodial sentence. As the Drug Court seeks to reduce "the use of illicit drugs" (Eley et al, 2002b, p. 2), dishonesty reporting drug use was interpreted as a lack of co-operation. Where participants were found to be underreporting their drug use, this was used as evidence to suggest that they would "fail" to engage with the entire process. In this way, compliance with 'control' measures over drug use, such as co-operating with professionals and submitting to an arguably invasive form of surveillance (Feeley and Simon, 1992), seemed to come before access to 'care' and support.

The sense that honesty demarcated the boundaries between 'care' and 'control' is reinforced in the following extract, in which a Sheriff repeated the importance of honesty on the part of participants.

The following extract was explored in relation to employment and skills (see section *6.2.3.5*) but is repeated here as it comprises strong themes of honesty:

DA: [P23] *has a mixed report-*

S1 [interrupting, to P23, irritated]: *-Sit down and take your hands out of your pockets.*

DA: *There is a need to ensure that life is more rewarding for* [P23], *particularly given his recent arrest for domestic violence offences and his recent positive drug test for opiates, methadone, and cocaine.*

S1: *This is not good enough. Why's that?*

P23: *I'm trying to change my life… I'm off to Galgael.*[iv]

S1: *There's plenty of time to engage in other programmes once you've started to be more honest with the Drug Court… tell me, have you been honest? Because if I found out that you've not been honest… do you understand? I know you've had a rotten life, and we want to help you, but remember I can send you back to jail.*

The Sheriff's Order for participant to take his hands out of his pockets set the tone for this hearing. This instruction was almost barked the participant, in such a way that was reminiscent of a schoolmaster shouting at a schoolboy, reflecting the Sheriffs' position as an authoritative figure to the participant and the rest of the court. This demonstrates how therapeutic jurisprudence can be paternalistic in practice, as whilst simultaneously claiming that the Court is there to "help him", it was also publicly chastising him (Miethe et al., 2000; Stobbs, 2015). Furthermore, the threat from the Sheriff, "remember I can send you back to jail" was a stark warning about compliance with the Court and a reminder to the participant that the Sheriff is empowered with the ability to send the participant back to jail largely at his own discretion, and the participant is essentially at his mercy. Honesty therefore seemed to be a key element of the Drug Court's approach to 'moral behaviourism' (Wacquant, 2013), compliance with which seemed to contribute to participants having more exposure

to therapeutic programme elements than those who were dishonest. Honesty was therefore a key site at which the 'care' or 'control' of different participants was determined.

6.3.3 Responsibility

The concept of responsibilisation was explored in the second chapter (see section *2.3.3*), but throughout the observations, it emerged that Drug Court participants had numerous responsibilities from attending appointments (see section *6.3.2*) to being honest with the Court (see section *6.3.1*). This sense of responsibilisation was complicated, however, by a focus on welfare and social support (see section *6.2.3*). Whilst participants were responsible for their recovery and desistance, the Drug Court also seemed to attempt to address entrenched social and welfare issues in drug recovery, which may be beyond participants' control. Nevertheless, participants were also sometimes viewed as unwilling or incapable of taking responsibility for their recovery and desistance in such a way that minimised their agency and status as an adult (see Flint, 2009). Consequentially, a tension between infantilisation and responsibilisation emerged:

DA: [P87] *is the subject of two complaints, for which he has been placed on a Structured Deferred Sentence on the 20th of February.* [P87] *has a disappointing report, when he obtained liberty* [P87]*'s old peer group came back into his life. However, my client accepts he is a big boy and needs to take responsibility, so he is moving back in with his mother to try and stay away from his old peer group. He also needs to start keeping appointments and being more honest about his drug use. There has also been an allegation made about his involvement in an incident outside Norfolk Street, which he denies.*

S2 [to P87]: *I see you have deep-seated, longstanding problems but you need to engage with us because we can help you. You need to start attending appointments.*

This participant was described as a "big boy" who needed to take "take responsibility". The power dynamic between the DA and participant was reminiscent a schoolmaster and schoolboy, as this participant was reprimanded before the court and told he should "move back in with his mother", due to a perceived failure to "take responsibility". This reflects the intense responsibilisation of Drug

Court participants, to make prudent choices to recover and desist from crime (see section *2.3.3*; Du Rose, 2015; Garland, 2001). Whilst Sheriff reiterated the "help" offered by the Drug Court, the instruction "you need to engage" placed ultimate responsibility for success on the participant. The extent of this responsibilisation arguably undermines the realities of dependence, in contrast to a purely therapeutic approach (Wexler, 1990; Wexler and Winick, 1991), which is heavily dependent on a range of personal and physical resources (Granfield and Cloud 1999, 2008). Therefore, "help" and 'care' in the Drug Court was sometimes dependent on participants' responsibility to comply with 'control' measures, which could undermine access to the resources needed to comply in the first place.

However, the emphasis on responsibility in hearings was sometimes more subtle. Whilst participants were constructed as personally responsible for their recovery, they were often chastised in in the Drug Court in terms which emphasised their agency:

S3: *The report references a cycle of drug use and offending, and it is recent.*

SW [intervening]: *Her offending is linked to her drug use, and it seems the recent period on remand was a wake-up call. She engaged with the assessment process and seems to be eager to avoid custody, it's purely down to* [P127] *if she's committed or not*.

S3 [to P127]: *I will impose a Structured Deferred Sentence. You will be back in 4 weeks. You are not a stupid woman, and you are not a young girl. What happens is up to you.*

This hearing had a focus on responsibility, as it was emphasised that it was "purely down to [the participant]" and direct dialogue was used to remind the participant: "you are not a stupid woman, and you are not a young girl". This echoes the previous extract concerning a "big boy" who arguably needed "to take responsibility" and again invokes the dynamic of a schoolmaster chastising a schoolchild, reflecting the concern that therapeutic jurisprudence in practice can be paternalistic (Slobogin, 1995; Stobbs, 2015). The reminder that "what happens is up to you" reinforced the sense that Drug Court support is conditional on participants ability to take responsibility and adhere to the

three golden rules of the Drug Court, but also suggested that participants are perceived as having the agency to make substantial behavioural changes (see section *2.3.3* and Floodgate, 2017).

Furthermore, whilst participants were encouraged in hearings to take responsibility for their drug use and offending, and chastised verbally when they failed to do so, personal responsibility was also enforced using sanctions, which included short stays in prison (see appendix *7*). As such, some hearings framed punishment as a natural consequence of irresponsibility:

(P8 was brought from custody) DA: [P8] *is currently in custody in relation to new charges of assault and breach of a harassment Order, both of which were committed against his former girlfriend.*

S1: *We are trying to help you… but you make your own choices. We'll see you again next month, but until then you can languish in prison.*

In this extract, the Drug Court support was constructed in terms of conditionality: "we are trying to help you" but only if you help yourself. This was reinforced by the emphasis on choice: "you make your own choices", which reflects the increasingly neoliberal orientations of criminal justice policy (see section *2.3.3*; Garland, 2001; Wacquant, 2009; 2013). Furthermore, whilst the phrase "languish in prison" may seem uncharacteristic of a therapeutic environment (Wexler and Winick, 1991), custodial penalties and sanctions are sometimes interpreted as beneficial by participants in taking responsibility for their recovery and desistance (see Fulkerson, Keena, and O'Brien, 2012). The prison environment is ultimately punitive, and punishment is considered a critical aspect of responsibilisation, to negatively reinforce undesirable behaviours or unhealthy choices (Garland, 2001; Du Rose, 2015; Wacquant, 2013). Thus, punishment in the Drug Court was seemingly used to condition responsibility in participants (see Gahringer, 1969; Hart 1968/2008). Nevertheless, the Drug Courts' sometimes paternalistic (Slobogin, 1995; Stobbs, 2015) approach created a tension in which participants were expected to take responsibility for their actions whilst also being perceived as lacking the skills, resources, and moral character to do so (Brown, 2012; Wacquant, 2009; 2013).

6.3.4 Humour and Camaraderie

The serious nature of the hearings and the emphasis on rules and responsibility was undercut however by a sense of humour and camaraderie. Whilst this may be atypical even of Drug Courts, it has been argued that "Scottish humour and self-derogation are widely recognised as peculiar ethnic traits" (Francesconi, 2011 p.1480) and as such, the emphasis on humour may represent an example of what Nolan (2002) termed the "distinctly Scottish approach" to TJ (see section *3.3*). Humour and jokes were a common feature of the observed hearings:

S3: *How have you been filling your time?*

P29*: I've been working on my skills… I'm officially an actor* [holds up certificate from acting course]-

P [from the public gallery, interrupting]: - *He's a thespian!* [everyone laughs].

S3 [laughing]: *Well* [P29], *I shall look forward to your next performance.*

Reflecting the provision of social and welfare resources, this participant had been on an acting course (see section *6.2.3*). This exchange was interrupted, however, by an interjection from the public gallery by a participant who had thus far appeared to be asleep, who leapt up with a raised arm and outstretched fingers, as though grasping Hamlet's invisible skull. Such interjections are less common in traditional courts where interruptions can result in contempt charges (Contempt of Court Act 1981 s.12), but rather than undermining the proceedings, this was seemingly well-received. This distraction, which shifted attention and scrutiny away from the participant, is an example of the Drug Court's 'relaxation' of traditional courtroom decorum (Nolan, 2002, 2009). The use of humour created a sense of camaraderie between participants and professionals, and this relaxation of the courtroom procedure arguably facilitates the development of therapeutic relationships, by allowing participants to relate to Drug Court professionals.

Moreover, beyond participants relating to Sheriffs, humour was also used by Sheriffs in ways which were atypical for the courtroom environment to attempt to relate to participants. However, whilst this was often intended to enhance the relationship between professionals and participants, this sometimes highlighted the differences between them:

S2: *Are you staying out of bother?*

P87: *I'm not committing crime, I'm just not so good with the drugs.*

S2: *May I ask how you're financing it, if you're not committing crime? Do you have a family trust?*

P87: [Laughs along with everyone else]

When this participant stated that he was desisting from crime but still using drugs, the Sheriff asked the participant, who was in recovery from heroin, whether he had a "family trust". This prompted laughter throughout the courtroom, including from the participant, which could reflect that the therapeutic relationship between them had developed to the point that they can joke about the participants' relative economic disadvantage (Wexler, 1990; Wexler and Winick, 1991). However, this exchange ultimately highlighted the divide between the Sheriff and participant in terms of resources and to have the courtroom laughing along again evokes the image of the Sheriff as a king in their royal court, laughing at the peasant. This reinforces the sense that systems of 'coercive welfare' (Phoenix, 2008) are often composed of middle-class professionals and marginalised, disadvantaged client groups (see Flint, 2009; 2019).

Moreover, humour was also used by participants to negotiate rules and minimise transgressions. The extract shown below occurred after this participants' Drug Court hearing, but during active proceedings in the Drug Court. It therefore has a different format than extracts from hearings:

Whilst the other participants left after their hearings, [P119] *stayed which, as it became clear later, was because he had not taken his letter with the date of his next hearing. Whilst waiting to speak to the Sheriff to get his letter, he began rolling a cigarette in the public gallery, before slipping out into the corridor and beginning to smoke it. When the smell of smoke wafted into the courtroom, everyone in the courtroom looked at each other recognising the smell of tobacco, and a clerk and police officer went to deal with this. After the hearings, the police officer told the professionals remaining in the Drug Court that when she told him that he was not allowed to smoke in a court building, he had responded "ah it's okay hen, it wisnae me", whilst the cigarette was in his hand. The remaining professionals in the courtroom laughed.*

This participant was caught by a senior clerk and a police officer smoking in a public building, which is an offence in Scotland (Smoking, Health and Social Care (Scotland) Act 2005). However, because of his humorous response, in which he maintained "it wisnae [him]" whilst a lit cigarette was still in his hand, he escaped any repercussions beyond being told to stub it out. As noted throughout this chapter, the relationship between traditionally punitive 'control' measures and therapeutic approaches was complex and it was unclear where the lines between where punishment and support should be drawn. However, whilst humour could illustrate the divide between Drug Court actors, it was also a tool for disadvantaged participants to minimise punishment, negotiate 'control', and position themselves as working toward common goals.

6.4 Discussion

The observational data illustrated a range of themes, from live issues which the Drug Court seeks to address, like recovery, desistance, and welfare, to underlying meta-themes concerning the moral values underpinning the process, including honesty and responsibility (see Wacquant, 2013). The two aims that have endured since the Drug Court's conception are: to reduce "offender's use or propensity to misuse drugs" and "to reduce the level of drug-related crime" (Criminal Procedure (*Scotland*) Act 1995, s.234B-234K; Eley et al, 2002b, p. 3). These sit at the apex of the Drug Courts agenda. Firstly, the Drug Court took a fluid, yet individualised approach to recovery. Whilst it was recognised that "it is not a straight line to being drug free" and abstinence was not enforced, a "voluntarily maintained lifestyle" characterised by control over drug use was, and participants were expected to take responsibility for their dependence (see section *2.2.3* and Betty Ford Institute Consensus Panel, 2007). Nevertheless, whilst participants were highly responsibilised (see section *2.3.3*; Garland, 2001; Du Rose, 2015) as the "agent of their own recovery" (SAMHSA, 2005), it was recognised that this process is mediated by professional input and social support to develop the skills and resources needed to initiate and sustain change (see sections *2.2.3* and *2.2.4*; Granfield and Cloud, 1999, 2008). There was a concern, however, that the emphasis on responsibility, whilst arguably intended to empower participants to control their drug misuse (Burns and Peyrot, 2003; Fulkerson, Keena, and O'Brien, 2012), sometimes resulted in sanctions which did not reflect how structural correlates of

dependence, such as entrenched deprivation and limited social, educational, and employment resources, constrained participants' choices (Brown, 2016; p. 35; Holsapple and Jensen, 2013; Watts and Bohle, 1993).Moreover, there was an emphasis on harm reduction (see section *6.2.1*) which, in the recovery context, manifested in practical support to minimise the risks associated with dependence, which is a hallmark of the Scottish approach (see sections *2.2.2* and *6.3.1.3*; Nolan, 2009). Rather than enforcing abstinence in Drug Court hearings, engagement was enforced, as participants were responsibilised to engage with welfare-related resources and harm reduction interventions, but also surveillance and control measures (section *2.3.3*; Garland, 2002; Du Rose, 2015). This was emblematic of the Drug Court's blend of supportive, inclusionary interventions and punitive, exclusionary legal approaches (Measham and Moore, 2008, p.298).

The Drug Court's second aim, to reduce the level of drug related crime, was sometimes framed as the Court's primary function in hearings (Criminal Procedure (*Scotland*) Act 1995, s.234B-234K; Eley et al. 2002b, p. 3). The Drug Courts purpose was sometimes constructed primarily in terms of public protection (see section *2.4.2*) and therapeutic approaches to help participants "have a normal life" sometimes seemed ancillary (see section *6.2.2.1*). Therefore, a tension emerged between the extent to which the Drug Court has primarily therapeutic or 'crime control' purposes (see sections *2.4.3*, *2.4.4*), which speaks to fundamental criticisms about Drug Courts as an extension or intensification of 'crime control' mechanisms (see section *1.4*; Drug Policy Alliance, 2011; Lindquist et al., 2006).Whereas criminal jurisprudence is predominantly punitive in character (see section *2.3*), therapeutic jurisprudence (TJ) emphasises the supportive and relational capacity of criminal procedures (see section *2.2.4*; Wexler and Winick, 1991; Wilson, 2021), which can obfuscate the 'care' and 'control' functions in practice (see Drug Policy Alliance, 2011; Slobogin, 1995; Stobbs, 2015). However, just as complete abstinence from drugs was not enforced in the Court (see section *6.2.1*), complete desistance from crime was also not a static requirement, as in some cases of continued offending, participants were not punished and allowed to remain in the programme (see section *6.2.2*). Rather than complete 'crime control', the Drug Court seemed to sometimes be satisfied with crime reduction, which mirrored the harm reduction approach to drug misuse (see section *2.4.2*). In this way, the

Court's approach reflects the growing use of harm reduction approaches in other areas of criminal justice practice (see Bacon, 2022) and could contribute to Drug Courts being seen as a genuine therapeutic alternative to prevailing punitive approaches in criminal justice (see Scott and Gosling 2016). Nevertheless, this approach was not always applied uniformly and depended upon Shrieval discretion, which was reminiscent of the absolute power exercised by a king in his royal court (see section *6.3.1*). Moreover, the crime-reduction approach was inevitably conceptually bound to the Drug Court's moral behaviourist approach (see Wacquant, 2013), in which participants who could demonstrate conformity to the norms and values of the Drug Court, such as attending and being honest, seemed less likely to be punished, despite the level of offending.

Social and welfare support seemed central to Drug Court hearings (see section *2.4.4* and Wilson, 2021), where issues such as health, relationships, housing, income, and employment and skills were addressed. The emphasis on welfare support reflected a recognition of the resources, or recovery 'capital' required to initiate and sustain recovery (see section *2.2.3*; Granfield and Cloud 1999, 2008). As mentioned in chapter two, human 'capital' includes skills, positive health, aspirations and hopes, and personal resources that can enable an individual to flourish (Best and Laudet, 2010; Granfield and Cloud, 2008). The Drug Court attempted to reinforce participants' human 'capital' through a range of health and skills-related services, such as a dedicated medical team providing services from prescriptions to primary healthcare (see appendix *7*).-The approach to health in the Drug Court however this was a site for both empowerment and encouragement, as health was framed as a reason to engage but also became the focus of verbal reprimands underscored by moral attitudes to responsibility (see section *6.2.3.1*; Wacquant, 2013). The Drug Court also had links with external educational and employability-skills organisations, from boatbuilding to traditional academic college courses. However, access to these was often used in a "carrot and stick" approach (see Wincup, 2017), in which they were sometimes used as a reward for engagement, rather than reinforcing the recovery 'capital' needed to engage in the first place (Granfield and Cloud 1999, 2008). In this way, therapeutic interventions were often constructed as a reward for compliance with 'control' measures. Secondly, social 'capital' is the sum of resources that accrues from relationships and belonging to

social groups (Best and Laudet, 2010). In hearings, participants were encouraged to maintain healthy social relationships which benefitted engagement, but there was also a significant level of control exercised over participants relationships (see section *6.2.3.2*). Within the approach to relationships, the issue of domestic violence (DV) also represented a delicate balance between 'care' and 'control', as it was not clear whether offenders were primarily categorised as drug-dependent or violent and whether they required more 'authoritarian' or 'therapeutic' approaches (see section *6.2.3.2.1;* Wacquant, 2013). Similarly, it was noted that women especially may be blamed for dysfunctional personal relationships, precipitating greater levels of control over their lives (see Du Rose, 2015). Thirdly, physical 'capital' is the tangible assets, such as property or money, which increase participants options for how to initiate and sustain their recovery (Granfield and Cloud, 1999, 2008; Best and Laudet, 2010). The Drug Court attempted to reinforce physical 'capital' through access to housing services and welfare benefits advice. However, this support required attendance and engagement which might itself be constrained or complicated by insufficient physical 'capital' (see section *6.2.3.4*), which undermined the Court's recognition of the structural correlates of dependence (see Grace, 2017). Therefore, whilst a nuanced and diverse understanding of, and provision for, recovery 'capital' was observed in hearings, access to 'care' and support services was ultimately conditional upon compliance with the rules, and values, of the Drug Courts moral behaviourist programme (see Wacquant, 2013).

Finally, cultural 'capital' includes the values, beliefs, and attitudes that underpin social conformity and socially acceptable behaviours (Granfield and Cloud 1999, 2008; Best and Laudet, 2010), captured in the meta-themes which underpinned the Drug Court. Firstly, several hearings featured an emphasis on attendance, to reinforce ability to comply with socially acceptable behaviours such as attending scheduled appointments (see Flint, 2009; 2019). Whilst this arguably represented a significant form of 'control', as attendance was enforced through absence reporting methods and multidisciplinary communication, attendance was also constructed as important to therapeutic relationships (see section *6.3.1*).-Moreover, attendance was an inevitable precursor to engagement with therapeutic services, and absence was sometimes interpreted as a disregard for the Drug Court's

"time and resources", which justified an intensification of 'control' measures (see Flint, 2009). Secondly, there was an underlying emphasis on honesty in hearings, to promote moral values of trustworthiness and truthfulness (see Wacquant, 2013), which was also reportedly fundamental to the development of therapeutic relationships (see section *6.3.2*). Honesty was verified through regular drug testing, and whilst relapse was recognised as an element of the recovery process, dishonestly reporting usage could result in sanctions or termination (see appendix *7*). A third underlying value that emerged in hearings was responsibility, which was crucial to recovery approaches (see section *6.2.1*), 'crime control' (see section *6.2.2*) and social and welfare support (see section *6.2.3*). The theme of responsibility emerged throughout the themes and meta-themes and there was a clear sense that participants were held accountable for their engagement in hearings (see Burns and Peyrot, 2003; Fulkerson, Keena, and O'Brien, 2012). However, whilst participants were empowered and supported to take responsibility and make prudent choices for their recovery, desistance from crime, and engagement with welfare services (see Garland, 2001; Du Rose, 2015), the agentic power of participants and their status as adults was sometimes minimised (see Flint, 2009). In this way, participants who were constructed as unwilling and incapable of engaging with the Drug Court's time and resources were often subject to stricter control measures than those who had the resources to do so, regardless of the structural constraints that impacted engagement (see Brown, 2016; Grace, 2017). Finally, there was an underlying sense of humour and camaraderie in the hearings. Whilst Drug Courts are often characterised by a relaxation of formal rules (see section *2.4.4*, Wilson, 2021), the prevalence of comedy in the observed hearings might be regarded as a distinctly Scottish feature (see Bean, 2002; Francesconi, 2011). Whilst the Drug Court is in the criminal court network, with a client-base of high-tariff offenders who may have been sentenced by the same Sheriffs in the past, the use of humour both created a sense of togetherness and highlighted the socioeconomic divide between participants and practitioners (see section *6.3.4*; Flint, 2009; 2019). This also represented a significant mechanism through which participants could influence interventions of 'care' and 'control' and how they were implemented (see Burns and Peyrot, 2003; McIvor, 2009). Ultimately, the observed hearings sought to address sometimes contradictory issues of recovery, desistance, and welfare, underpinned by values such as attendance, honesty, responsibility, and humour, and a complex

relationship emerged between competing the competing aims of ‘care’ and ‘control’. The following two chapters present an analysis of how ‘care’ and ‘control’ emerged in semi-structured and narrative interviews with Drug Court professionals.

Chapter 7

Professionals: Semi-Structured Narrative Interview Findings on 'Care' and 'Control'

7.1. Introduction

This chapter draws on semi-structured narrative interviews with Drug Court professionals, including social workers, addiction workers, and Sheriffs (see sections *5.2* and *5.3.2*). This chapter is the first of two on the interview findings and it explores how the concepts of 'care' and 'control' emerged within the themes of supervision, control, and therapeutic relationships; recovery and harm reduction; desistance and 'crime control'; and social and welfare needs. This analysis presents valuable insights into the Drug Court, as during interview, professionals were invited to define their role, responsibilities, and explore the purpose of the programme (see section *5.3.2*). The second chapter analysing interview data explores the stories told during interview, which shows how the key themes unfold within the complex lives of Drug Court participants. First, this chapter will explore how professionals construct and navigate the complex interaction between 'care' and 'control' in the Drug Court.

7.2. Supervision, Control, and Therapeutic Relationships

7.2.1 Supervision and Offender Management

The predominant Drug Court Order, the Drug Treatment and Testing Order (DTTO), is legislatively defined as a "programme of judicially *supervised* drug treatment" (Criminal Procedure (*Scotland*) Act 1995, s.234B-234K, emphasis added). It is perhaps unsurprising, then, that a prevalent theme within the interview data was supervision and offender management. Given the legislative requirement for judicial supervision, Sheriffs are principally responsible for this (see appendix *7*). This was evident in the observational findings, where Sheriffs were responsible for managing review hearings (see chapter *6*). Similarly, the Sheriffs explained their role as the head of the Drug Court Supervision and

Treatment Team (DCSTT), and the part they played supervising participants' progress, during interview:

S1: *So... my role, as a Drug Court Sheriff* [is] *in terms of the justice role… the premise is that there's a Court Order, they are on a Court Order to be rehabilitated and they will be monitored... and there's a team, the Drug Court team, and each of them has a social worker who supervises them, an addiction worker who works with them and sort of holds their hand in dealing with their day-to-day needs, and we have a medical team of doctors and nurses who help them with their health issues…*

The premise of Drug Court Orders was explained in terms of 'care' and 'control': "they are on a Court Order to be *rehabilitated* and they will be *monitored*" (emphasis added). This dual purpose of Orders is emblematic of the integration of drug treatment within criminal justice services, as the therapeutic drug treatment environment is enveloped within criminal justice frameworks of control and offender management (see section *2.3*; Seddon, 2007; Urbanoski, 2010). The dually therapeutic and supervisory nature of the Drug Court was explained in terms of organisational structure (see appendix *7*). Whilst the Sheriff was described as responsible for matters of "justice" and social workers for "supervision", which suggested a focus on the legal administration and monitoring of Court Orders, the medical team were framed as "helping" with healthcare, and addiction workers were depicted as "hold[ing] the hand" of participants (see sections *8.2.1*, *8.2.2*). Sheriffs, being responsible for matters of "justice", played a significant role in not only managing participants' progress through direct dialogue in formal review hearings (see chapter *6*, also McIvor et al. 2006; McIvor 2009), but also through information gathering and meetings with other members of the DCSTT:

S1: *Well, we're fortunate that we've had a lot of people who, like me, have been working in the Drug Court for a long time and I've got to know them… and I just treat them as just the same as me… I fulfil a role and they fulfil a different but nevertheless very valuable role… and they provide reports to me on the morning of Court, Court is in the afternoon, but the morning before I read the reports, and there's input from the social workers, the addiction workers, the medical team… and the review meetings take place in the Court but there's no one in the Court, it's just a convenient place to be…*

we go through all of the people who are appearing in front of me in the afternoon, and we go through all of the reports and the reviews and I ask questions… and sometimes the reports might be a few days old so they can give me an update as to where we are… so by and large with each of them, and there can be anywhere from 20 to 40 cases a day, I will have decided at the pre-Court reviews what is likely to happen, if it's going to be a good thing or something else, and what kind of approach I am going to take, but they help me with that… so we have an open discussion about each of them and then the reports that have to be read…

S1 described the process in which formal review hearings were preceded by private DCSTT meetings in the Court (see appendix *7*). Whilst this speaks to the multidisciplinary approach to 'care' and support in the Drug Court as each meeting was attended by a range of professionals, all of whom were focused upon rehabilitating and supervising Drug Court participants (see sections *2.4.4* and *6.2.3*; McSweeney et al., 2008; Wilson, 2021), participants could not attend. It was explained that Sheriffs will "have decided at the pre-Court reviews what is likely to happen [at the public hearing], if it's going to be a good thing or something else", which could undermine the meaningfulness of direct dialogue in hearings (see chapter *6*, McIvor et al. 2006, McIvor 2009). Whilst their exclusion limited the number of meetings that participants were required to attend, which potentially reduced the demands of the Drug Court (see Nordberg, 2015), this also arguably allowed less room to manoeuvre in hearings and reduces their influence on the outcome (see Burns and Peyrot, 2003). This is one way in which Sheriffs exerted 'control' over participants' Drug Court experiences. Nevertheless, the direction of Drug Court hearings was not always entirely predetermined:

S1: *Well, I don't mess around… in my Courts anyway, I don't kind of go on forever, I just sort of think "let's get this done"… and the lawyer will come in and say a few things but my main conversation is not with the lawyer, my main conversation is with the service user, because I want to get to have a dialogue with them because that's important… and I think some of them were quite taken aback because I talk to them and encourage them and praise them, just as much I will not praise them if they're not doing so well and tell them to change so they know where they stand with me… I find it quite good to be firm and fair.*

The emphasis on direct dialogue between the judiciary and the participant in Drug Court hearings was highlighted by this Sheriff, as rather than communicating through counsel, Sheriffs supervised participants through direct dialogue (see chapter *6*, Burns and Peyrot, 2003; McIvor et al., 2006; McIvor, 2009). Within these interactions, S1 described how they used "praise" and "encouragement" combined with discouragement, to (positively and negatively) reinforce participants' behaviours (see section *6.3.3*). The relationship between the bench and the participant, and the use of sanctions and rewards within this, can influence Drug Court outcomes (Jones and Kemp, 2013; Lindquist et al., 2006; McIvor et al., 2006; Stimler, 2013). Whilst sanctions are a typical feature of criminal jurisprudence, the combination of these with incentives reflects the principles of coercive welfare (Phoenix, 2008) or authoritarian therapeutism (Wacquant, 2013) that are used to reward responsibility, punish irresponsibility, and encourage compliance with penal-welfare regimes (see section *6.3.3*). As such, the construction of professional roles as both therapeutic and supervisory reflects the Drug Court's position as an intervention of both 'care' and 'control'.

7.2.2 Therapeutic Relationships

Whilst Sheriffs described using their supervisory powers to encourage and ensure that participants took responsibility for their engagement with resources, and hold them accountable, the supervisory element of the shrieval role was also constructed as serving purposes beyond accountability. Regular reviews, contact, and monitoring were also described as providing routine and structure for participants and as a form of support:

S4: *That direct dialogue is key… some of them find it more difficult to talk and to open up in the Court and articulate their feelings… but it's important for them to realise that they are being listened to… what they think and how they say it matters… when they're doing well we will reduce hearings from every 4 weeks to 6 weeks and some of them will say that they don't want that 'cos they like having the hearing as part of their routine and they find it helpful to check in with me… it can keep them going and keep them motivated… when participants have long lists of complaints and previous offences we will go back to the earliest one or the least serious one and admonish them there and then… and*

that's motivational for them because that's a tangible thing… it's had to keep going over an 18-month Order…

This Sheriff discussed their attempts to ensure that participants feel "they are being listened to" during direct dialogue in hearings, which gave the impression that Sheriffs were attempting to nurture therapeutic relationships (see section *2.4.4*; Burns and Peyrot, 2003; Lyons, 2013). Although, this meaningfulness might be undermined by participants' exclusion from pre-Court review hearings, public hearings were unpredictable and were an opportunity for new information, and new perspectives, to emerge (see section *6.3.1*). There was also a sense that these meetings were meaningful for participants, as they could "keep them going" (see Gallagher, Nordberg, and Kennard, 2015). Review hearings were constructed as "part of [participants'] routine" and a "helpful check in", which could reflect the value of healthy, pro-social routines in recovery processes (see section *2.2.4*; Best et. al, 2015a, 2015b). The structure of the criminal justice system therefore, rather than being the structures through which social exclusion is reinforced (see Duff, 2003; Scott, 2008), could also promote social inclusion. This reflects qualitative findings from US Drug Courts, that intensive or punitive programme elements were sometimes interpreted as helpful and therapeutic by participants (Burns and Peyrot, 2003; Kuehn and Ridener, 2016; Roberts and Wolfer, 2011). This was underscored by the view that participants sometimes resisted a reduction in the frequency of hearings, which was surprising, as reduced hearings were often used as a reward and represented a relaxation of what might be seen as intensive, value-laden intrusion and judicial monitoring (see appendix *7*).However, this is perhaps an ameliorated view, as the social benefits of the Drug Court structure could be outweighed by the damaging effects of ongoing, long-term criminal justice involvement (see Cracknell, 2021; Padfield and Maruna, 2006;Scott and Gosling, 2016). As such, whilst 'control' interventions may come to be seen as helpful rather than intrusive as the therapeutic relationship between the Sheriff and participant develops(see Roberts and Wolfer, 2011), and Sheriffs may be increasingly viewed as a source of support by participants rather than a supervisory authority figure (Jones and Kemp, 2014; McIvor, 2010; Stimler, 2013), the therapeutic benefits of this might not outweigh the lasting impact of continued criminal justice involvement on participants' lives.

Nevertheless, whilst the supervisory role of the Drug Court Sheriff was sometimes interpreted therapeutically, distinctions were still made between this and the therapeutic role of other workers in the DCSTT:

S4: *Exactly… and principally I am not a social worker… although it may feel like I am sometimes, my objective is quite different… I want them to stop them offending because of both the consequences of their offending on them and to others… whether it's shouting and bawling at relatives when they're off their head or trying to get them to buy drugs… stealing money from family… burgling…. and shoplifting in the city centre, carrying on to security guards… these people are at work, and they don't need to be putting up with that… I want the offending to stop, if there are no more offences during the Order then that's a positive… but ideally, I want it* [desistance from offending] *to continue after the Order and I hope that eventually they want to stop because they're fed up of it not because they don't want to go to jail…*

This Sheriff explained that they "sometimes feel like a social worker", reflecting the enhanced judicial role in Drug Courts, which incorporates a therapeutic emphasis (see section *2.4.4*; Wexler and Winick, 1991). However, the therapeutic effect of some of the measures at the Sheriffs' disposal, such as referral to external services (see appendix *7*), could arguably be undermined if their role is primarily perceived as being to reduce drug-related crime rather than to promote public health approaches to recovery or encourage behavioural change to reduce drug-related harms (see section *6.2*). The balance between the competing aims of 'care' and 'control' was explored in several interviews:

S4: *This is the dilemma… and my approach will change sometimes… I'm sometimes a carrot sometimes a stick and as much as I want to try to support people and make sure they have access to the services they need to have the best chance on an Order, I do remind them that it is their responsibility to try to keep themselves away from bad influences as best as they can to give themselves the best chance of succeeding on their Order… I can't do it for them…*

In this extract, S4 described a balancing act between 'care' and 'control' in terms of how they promote personal responsibility in the Drug Court (see sections *2.3.3*; *6.3.3*). The emphasis on 'care' in this approach seemingly extends beyond that of other judicially supervised community sentencing programmes (see Ramsden and French, 2020), as this Sheriff articulated the need to ensure that participants have "access to services they need to have the best chance" on an Order and to bolster their recovery 'capital' (see Granfield and Cloud, 1999; 2008; Maruna, 1999). However, therapeutic relationships between Sheriffs and participants, and access to resources and support, was balanced with the need to ensure participants took personal responsibility for their recovery journeys and desistance from crime (see section *6.3.3*; Garland, 2001; Du Rose, 2015; Floodgate, 2017). This was a powerful statement about the duality of 'care' and 'control' in Drug Courts as professionals were seemingly expected to fine-tune a dually therapeutic and punitive approach that promoted access to resources and social support without undermining the criminal justice punitive rationale which ignores the structural context of disadvantage, dependence, and criminality (see Scott, 2008; Scott and Gosling, 2016), within both a punitive and therapeutic environment.

7.2.3 Balancing 'Care' and 'Control'

Beyond hearings, responsibility for day-to-day monitoring and supervision seemed to rest with the social workers and many of the interviews with social workers featured discussions about how they supervised and monitored participants. For example, SW2 described the four key roles in the Drug Court: the medical role; the addiction worker role; the social work role; and the judicial role, and how these differed in terms of their relationships with participants:

SW2*: The ones* [professionals] *that are sort of involved on a more regular basis are, I would say, the principal relationship is a treatment one, the clinic-based relationship with the addictions nurse. That's the most important relationship from a harm reduction perspective, it's almost always a positive relationship because a nurse is generally trying to help and not hinder the course of an Order. That's the person that the client is obliged to see according to the terms of the Order. The other two relationships are the addictions worker, and that is the one in which counselling principally arises, a degree of problem solving as well arises from that relationship. The third is with a social*

worker who is defined as the supervising officer of an Order. That relationship is primarily about compliance, but also problem solving and hopefully it is a therapeutic relationship as well… hopefully all four relationships [including the Sheriff] *are therapeutic…*

The social work role was defined as being "primarily about compliance", as opposed to the relationships with the medical and addictions team, which were conversely framed as being mostly about "harm reduction" and "problem-solving". Whilst this arguably reflects the structural organisation of social care in Scotland as opposed to England and Wales, wherein Criminal Justice Social Workers in Scotland largely undertake the work of Probation Officers in England and Wales, and social work is therefore perhaps more explicitly concerned with supervision and offender management (see Tidmarsh, 2020); the supervisory and compliance-oriented nature of the Drug Court social work role stands in opposition to some of the perhaps more therapeutic roles in the Court such as the medical or addictions team. This is demonstrated in the following extract:

SW2: *So, the supervising officer has a sort of aspect of their role that can potentially antagonise the client and it may not always be a therapeutic relationship. But as long as you're fair and as long as you communicate with the client about your intentions and why you're doing what you're doing, hopefully you can also preserve the therapeutic relationship.*

A tension emerged here between the therapeutic and potentially antagonistic nature of relationships between social workers and participants. Social workers are responsible for compiling reports on Drug Court participants, such as the Criminal Justice Social Work report, at the point of initiation into Drug Court treatment (see appendix *7*). These reports are used by Sheriffs and often formed the basis of judicial decision-making in Drug Court hearings such as decisions around breach and sanctions. Whilst compiling these reports, social workers are responsible for closely monitoring participants through regular meetings, communication with other members of the DCSTT, and reviews of urinalysis drug testing. Given the emphasis within the social work role on promoting recovery, and on delivering one-to-one support with participants (see section *8.3*), it is perhaps not surprising that social workers might have a potentially antagonistic relationship with participants (see Staniforth et al., 2016; Sudland, 2020; Ferguson et al., 2021). This paints a complex picture of the relationship of

'care' and 'control' that social workers, and other Drug Court professionals, must navigate while delivering interventions.

7.3. Recovery and Harm Reduction

7.3.1 Perceptions of Recovery and Harm Reduction

A key focus of the Drug Court is to "reduce… the propensity to misuse drugs" (Criminal Procedure Act (Scotland) 1998; Eley et al. 2002b, p. 3) amongst participants, and as the observational chapter highlighted, the Drug Court seeks to promote personal responsibility for recovery and 'control' over drug use (see chapter *6*). However, whilst recovery was key focus of the Drug Court, and "grand" narratives of participant recovery were told by professionals during interview (see chapter *8.3*); recovery was also often framed in more pragmatic terms, with an emphasis on harm reduction (see section *2.2.2*). To revisit SW2's helpful definition of the different professional roles in the Drug Court, many of the relationships between professionals and participants were constructed in terms of harm reduction (see Garcia and Lucas, 2021):

> SW2*: The ones that are sort of involved on a more regular basis are, I would say, the principal relationship is a treatment one, the clinic-based relationship with the addictions nurse. That's the most important relationship from a harm reduction perspective, it's almost always a positive relationship because a nurse is generally trying to help and not hinder the course of an Order. That's the person that the client is obliged to see according to the terms of the Order. The other two relationships are the addictions worker, and that is the one in which counselling principally arises, a degree of problem solving as well arises from that relationship. The third is with a social worker who is defined as the supervising officer of an Order. That relationship is primarily about compliance, but also problem solving and hopefully it is a therapeutic relationship as well… hopefully all four relationships are therapeutic…*

Relationships between participants and professionals were described as predominantly "therapeutic", although some relationships were labelled as perhaps being more therapeutic than others. The therapeutic approach was defined in terms of harm reduction, as even the 'most' therapeutic role of

addiction nurses, who reportedly "generally [try] to help" participants through Orders, was interpreted in terms of "harm reduction". This reflects the distinctly Scottish approach to Drug Courts, which do not enforce abstinence and recognise that it may be an unrealistic expectation (see section *3.3*, Nolan, 2002; Bean, 2002a, 2002b), instead seeking to reduce the risks associated with drug use (see section *6.3.1.3*; Betty Ford Institute Consensus Panel, 2007, UKDPC, 2008). This is unusual compared to the US model of Drug Courts, where abstinence is often expected, or even enforced by the Court (see Bean, 2002a, 2002b; Nolan, 2002; Transform Drug Policy Foundation, 2013). The emphasis on harm reduction also reflects the nature of the medical role within the DCSTT, as the medical team might be more concerned with allocating healthcare resources than supervision and 'control', responsibility for which seemed to primarily rest with social workers and Sheriffs (see section *7.2*). Furthermore, much of therapeutic recovery-focused work was described as undertaken by addiction workers, whose relationship with participants was similarly perceived in terms of "harm reduction":

AW1: *I'm an addiction worker so what I'd trying to be doing is first of all looking at building up a relationship with clients and looking at harm reduction, but also relapse prevention and trying to help clients understand their patterns for drug use, identifying warning signs and alternative ways of coping.*

This addiction worker described their role as primarily therapeutic, with a focus on harm reduction and relapse prevention. This role was also described as being to support participants to manage their day-to-day lives. These are some of the key elements of a therapeutic approach to recovery: one-on-one, client-led work to identify patterns of drug use and support participants to develop alternative coping strategies (White 1996, p. 478). The emphasis on one-to-one recovery work in the addiction worker-client relationship speaks to the conceptualisation of recovery as a personal and subjective journey, for which participants were personally responsible (see section *6.2.1*). However, the emphasis here was not on 'grand' recovery narratives but on managing usage, which suggested that addiction workers were also responsible for supervising participants' drug use (see section *7.2*). This emphasis on harm reduction in one-on-one addiction work was emphasised in several interviews with professionals:

AW2: *Yeah and we've got a lot of good resources here, like I say about looking at things like relapse prevention and harm reduction, I've got a lot of worksheets that I work through with people, I think the younger ones benefit from the worksheets and getting into that, they like to… a guy came in the other day and was like 'I love working with you' and I wish they were all like that, but they're not, you know, it'd be boring if they were anyway… and I've got a pile of worksheets that he done last week and when I see him, I'll have a wee read through them before, and then I'll go through them with him this week, and he's just so keen, he's just so… but then there's other people you're doing that work with but you're doing it verbally to make it feel more informal to them, although you are still doing the work, you know? So again, it's just about different things working for different people… and sometimes I'll be thinking should I be doing more? If people don't want to do worksheets or don't want to engage in more structured work, but you know what, the fact is that they're coming in…*

This quotation reflects the notion that some participants may benefit from more structured approaches, whilst others might benefit from more unstructured sessions, to "do the work" in a more "informal" way (see Fischer and Geiger, 2011; Dominey and Gelsthorpe, 2020). This reinforces the sense that recovery, and desistance, is perceived as a highly personal and subjective journey (see section *2.2.3*; Scottish Government, 2008) and that participants are expected to engage in an intense level of personal change (see Maruna, 1999). However, the emphasis on harm reduction where the goal seemed not to enforce personal change in big and flashy ways, but the "fact... that they're coming in", accessing resources, and not misusing drugs or committing crime during that time, illustrates the therapeutic interpretation of punitive 'control' measures and sanctions by Drug Court professionals, which were perceived to reduce harms through incapacitation (see section *2.3.1*; Stevens, Stöver and Brentari, 2010; p. 81). Therefore, whilst the emphasis on harm reduction promoted pragmatic conceptualisations of recovery, it also legitimised and justified punishment and supervision in therapeutic terms (.

7.3.2 The Personal and Social Nature of Recovery

However, one-on-one work and individual counselling was not the only tool addiction workers used to engage participants in harm reduction work: an emphasis on group work and the social nature of recovery also emerged from the interview data (see section *2.2.4*, Mezzina et al., 2006; Best et al., 2015). Whilst there has been a prevailing construction of recovery as a personal 'journey', for which participants were individually responsible, an inherently social conceptualisation of recovery (see Best et al., 2015) and understanding of the social resources required for recovery (see Granfield and Cloud, 1999; 2008) also emerged (see section *6.2.1*). Therefore, whilst recovery was reinforced within individual relationships (ibid), it was also encouraged through group work:

AW1: *one of my big roles is linking people into some kind of structured activities in the community, group work, ensuring meaningful use of time that kind of thing…*

AW1 described the process of initiating participants into group work and "structured activity in the community" as "one of… [their] big roles". Therefore, there seemed to be a sense of balance between one-on-one, individualised approaches to recovery work and social, group-based recovery work, which suggested that the level of personal responsibility implied in the construction of recovery as a personal 'journey' (see section *6.2.1.1*) was balanced by a recognition of the social resources needed to recover (Granfield and Cloud 1999, 2008; Best et al., 2015). Like the importance of one-on one therapeutic relationships (see section *6.2.1.2*), the importance of recovery groups to participants was also highlighted:

AW2: *Do you know that* [recovery groups] *works really well, initially people were really wary of it but what made it work was it's the same building, they're used to coming into this building and they loved it, most of them loved it, and they miss it, and I think it was more about the social interaction rather than the recovery skills work and you know, which is part of it, seeing the guys and getting a bit of banter that was almost as important to them as the recovery skills work.*

This addiction worker argued that group work was perhaps "more about the social interaction" than the "recovery skills work", which reflects a growing body of research that identified the social value

and nature of recovery work (see Best et al. 2015a, 2015b). Recovery groups present participants with a tangible opportunity to reconfigure actively criminogenic and drug using social networks toward those in recovery and similar programmes, which can significantly impact recovery journeys (Mezzina et al., 2006; Best et al. 2015a, 2015b). Whilst participants were described as "initially wary", which might reflect its' mandatory status in the programme (see appendix *7*), group recovery work was ultimately presented as highly important to participants. This could undermine the emphasis on personal responsibility (see section *6.3.3, 9.3*), as the incorporation of group work recognises the social resources needed to make meaningful changes (Granfield and Cloud 1999, 2008; Best et al., 2015). The emphasis on engaging with others, both in terms of peer-related recovery (see Belenko et al., 2021), but also in terms of the social value, was repeated throughout the interviews:

AW1: *Yeah, fear of the unknown, I guess there's difficulties visualising life for some clients, but it's a balance between having difficulty visualising and having unrealistic expectations… it's kind of difficult, sometimes there's a kind of thought of "I'm just going to stop doing this and I'm not going to do this again"… or sometimes there's difficult emotions or thoughts that could be risky from that side of things, that's why one of the things I try and do is try and do worksheets or even kind of, in [this city] there's a lot of focus on peer support, spending time with other people who've been through this and they've come out the other side…*

This extract reinforced that the Scottish Drug Court approach does not involve mandating abstinence (see sections *7.3.1*; *6.2.1*; Nolan, 2002; Bean, 2002a, 2002b). Whilst complete restraint from misuse was constructed as "an unrealistic expectation", instead this addiction worker emphasised that providing structured activities to fill time and distract from drug using social networks arguably has more value (see Goodwin, 2020). Therefore, rather than seeking to 'control' and enforce abstinence, the social structure of the Drug Court and opportunities to spend "time with others who have been through this" and made progress in their recovery (see Mezzina et al., 2006; Best et al. 2015a, 2015b) meant that it could be constructed as a tool to enhance participants social recovery 'capital' (see Granfield and Cloud, 1999; 2008). In this way, the Drug Court could again be perceived as a criminal

justice mechanism which attempts to promote social inclusion, despite the exclusionary nature of criminal sanction (see Duff, 2003; Scott, 2008).

7.3.3 The Conditional Nature of Drug Court Support

The Drug Court incorporates a range of support and resources to bolster recovery 'capital' in the recovery process (see sections *6.2.1*, *7.3.1*, *7.3.2*, *8.3.2*). However, allocation of these resources was ultimately conditional upon participants compliance with a range of supervisory and control measures (see sections *7.2* and *8.2*; Fletcher et al., 2016; Wright, Fletcher, and Stewart, 2019). The capacity to provide multidisciplinary support in the Drug Court compared to community addiction services, and other criminal justice services, was emphasised throughout the interviews:

AW1: *Yeah, it's all these things, and this is what we're trying to encourage clients, is getting involved in all these things that the public wouldn't have bothered with before, you know like the jigsaws, the home baking, growing plants, DIY, all these things that never used to do, you know adult colouring in and jigsaws…*

I: *Things that can fill their time?*

AW1: *Yeah and there's a challenge in trying to make that something that the clients can relate to, you know, there's some clients who'll have a book or there's some clients who would just have no interest in that or it's just something they wouldn't do… what's quite nice is the Service Manager got packs- I'm not sure where he got them from- but they have colouring books and a wordsearch book, and you know, maybe it's the case that you don't wanna go out and buy one but maybe having one… you'll do it. So, things like that, you know having a mug with a sachet of hot chocolate, marshmallow, or a few wee cleaning products… I guess that's back to being able to give them something to use as a survival strategy… trying to encourage exercise or to take more interest in nature… I think some clients take it on board, others are maybe not interested and maybe don't offer other strategies either and are maybe just trying to get on with the best of what they know.*

Addiction workers described using a range of resources to support participants to fill their time. The diversity of these was impressive, and the tangible nature of this support was arguably atypical of

what offenders might be considered 'deserving of' in the criminal justice system (Brown, 2016) or whilst completing a community sentence (Rowlingson, Newburn and Hagell, 1997; Hartfree, Dearden, and Pound, 2010; Dominey and Gelsthorpe, 2020). The level of resources enhanced the construction of the Drug Court as a therapeutic environment (see section *2.4.4*; Wexler and Winnick, 1991; Wilson, 2021) and demonstrated professional recognition of the diverse range of resources required to initiate and sustain recovery (Granfield and Cloud, 1999; 2008). Nevertheless, given the Drug Court's criminal justice origins, there was an understanding throughout the interviews that this support was conditional on participants' compliance with 'control' measures:

AW2: *They see their addiction worker and their nurse normally once a week, so you know, not every service… with the community addiction teams you go in and get your test and that's it. And they don't have the staff to provide much more really, but this is the benefit of the Drug Court, and this is why I'm still here, really… just getting to know their different personalities, what they're capable of, what they're not capable of, getting to know their different strengths and weaknesses, I really enjoy the work… I don't like a lot of the other stuff, but I like the actual work with the clients.*

This addiction worker differentiated between the quality and intensity of addiction treatment in the Drug Court and that provided in the community, which reportedly offer "a test and that's it". This reflects the enhanced "time and resources" available in the Drug Court compared to other addiction services and participants' responsibility to engage with it (see section *6.3.3*; Floodgate, 2017). Nevertheless, given the Drug Court's function as an alternative to custody, participants must have committed a crime to access this enhanced support (see appendix *7*). As such, this support entails "other stuff", such as supervision, sanctions, and social control, with compliance seemingly determining the extent to which participants were understood as "deserving" or "undeserving" of support (see Brown, 2016). Therefore, whilst Drug Courts provide enhanced therapeutic services for drug dependent offenders, this support was ultimately conditional, which again raises questions as to what extent coercion and control are prerequisites for some marginalised individuals to engage with resources or for these to be made available in the first place (see Flint, 2009). One condition for

support was desistance from crime (see Criminal Procedure (Scotland) Act 1995; Eley et al., 2002b, p. 3).

7.4. Desistance and Crime Reduction

7.4.1 Desistance and Public Protection

Another function of the Drug Court, alongside the objective to "reduce individuals' propensity to misuse drugs", is to "reduce drug-related crime" (see Criminal Procedure (Scotland) Act 1995; Eley et al., 2002b, p. 3) thus desistance and 'crime control' also emerged as a key theme during interviews. Several of the quotations explored above referred to the 'crime control' functions of the Drug Court, although this was often juxtaposed with the other aims such as recovery and harm reduction, or supervision and offender management (see *7.2.2, 7.3.3;* Garcia and Lucas, 2021). Several of the professionals interviewed framed 'crime control', rather than being a consequence of the key aim of initiating recovery (see sections *6.2.1, 7.3*), as the overriding purpose of the Drug Court:

S4: *I have to show a level of understanding to them to be able to work together but principally I want to stop the offending… and the drug taking is offending too, we often talk about the offending that is related to drug taking but being in possession of drugs is also an offence and I want them to stop that too…*

In this extract, rather than being interpreted in therapeutic terms (Wexler and Winnick 1991; Burns and Peyrot, 2003), the Drug Court was interpreted as an intervention to "stop the offending". Whilst therapeutic approaches such as direct dialogue, therapeutic relationships, and recovery work (McIvor et al., 2006; McIvor, 2009) are arguably not necessary to "stop… offending", as this could be achieved through traditional criminal justice processes (see Newburn, 2017), these techniques were interpreted as serving 'crime control' purposes. The 'crime control' orientation of the Drug Court reflects the preponderance of research that measures Drug Court success in terms of offending (see section *4.3.1.1* and Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa 2005) and suggests that, rather than incorporating therapeutic approaches and resources to improve participants lives, this is intended to reduce crime and benefit

the wider community (see section *6.2.2.1*). Furthermore, whilst Sheriffs were principally concerned with offending, professionals from other disciplines also constructed this as a priority:

SW2: *Going back to the pattern of offending that we're talking about, we're talking about people that essentially are quite a nuisance to other people, but a sort of public nuisance if you see what I mean… and some do have really serious convictions, most are very high risk and very persistent offenders but they're at very low risk of harm, we don't get very sinister characters and unusual forms of offenders on Drug Court Orders mainly speaking… we may get the odd domestic offender on an Order where the principal risk factor is actually seen as the drug problem rather emotional relationships* [being a risk factor for offending]… *So, the thing is we're tending to talk about people who are a nuisance to other people, but you know things like getting your house robbed are more than just a nuisance it's really traumatic so we are talking about people who can sometimes cause quite a high degree of harm…*

Rather than attracting individuals with involvement in serious crime, Drug Court participants are often repeat, acquisitive offenders who are known to the community (Eley et al., 2002b; McIvor et al. 2006; McIvor, 2009). In this way, the enhanced resources provided in the Drug Court might seek to reduce the impact participants have on the wider community, rather than seeking to benefit participants. This was reminiscent of a quotation from S4 below, where they reflected on "sometimes feel[ing] like a social worker…" but concluded that they were primarily concerned with minimising the public nuisance caused by Drug Court participants (see section *8.2.2*). Community sentencing and work with offenders has come to be defined by the ethos of public protection (see section *2.4.2*), however, this approach transforms the object of Drug Court interventions from participants to community and reinforces notions of participants as morally deficient 'others' who are a nuisance to 'normal' populations (see Measham and Moore, 2008; Moore, 2008). Therefore, whilst community protection could legitimise the allocation of support and resources, it also reinforces the use of criminal justice penalties.

7.4.2 Reducing Offending and System Involvement

However, the Drug Court's emphasis on 'crime control' (see sections *2.3* and *4.3.1.1*) was sometimes interpreted in terms of crime reduction. In a similar vein to how abstinence is not enforced (see section *7.3.1*), discussions about 'crime control' often questioned the extent to which complete desistance was considered achievable during an Order (see Maruna and Mann, 2019). The 'crime control' approach, or crime reduction approach, was often discussed in terms of the risk factors related to offending:

SW2: *We're talking about these things that are changeable and that change should materially reduce the risk of reconviction and those are you know, things like… it's fairly obvious but they're all interrelated, it's things like housing, peer associations, physical health, mental health, and a primary one is drug or alcohol habit. Then there's things we would refer to as someone's criminogenic attitude if you like, that refers to their ability to change the way they think in terms of their offending behaviour.*

In this extract, crime control was interpreted using the language of risk. Rather than expecting complete desistance from crime, like many US Drug Court (see sections *3.2* and *4.3.1*), participants were expected to significantly reduce their risk of reconviction. Whilst the language of risk reflects the increasing 'public protection' and control orientations of community sentencing (see section *2.4.2*; Moore, 2008), it also arguably represents an approach to offending that could considers structural factors such as health, relationships, and housing (see sections *6.2.3, 7.5* and *8.5*). Whilst the concept of risk is emblematic of the Scottish harm reduction approach (see Bean, 2002; Nolan, 2002), the incorporation of a structural conception of offending could position Drug Courts as a radical alternative to prevailing punitive, carceral regimes (see Scott and Gosling, 2016). However, the ongoing and repeated use of criminal justice sanctions against participants could undermine the extent to which the Drug Court could be seen as incorporating a structural approach to crime:

S2: *If they're not doing well we can impose interim sanctions on them, they might get a wee "right, we'll suspend the Order and give you a wee 7 day prison sentence" then they'll go to jail and once they get back out, then they'll come back and see us and we'll see where we go from there, you know,*

just to let them know that that behaviour is not acceptable… or if they're getting made the subject of new complaints, if they're committing new offences, most of them have multiple complaints against them, but they might get sentenced for one of those to show them, look you now have to toe the line here with this Order…

Where participants reoffend or do not engage with their Order, the bench may impose "interim sanctions" including short custodial sentences (see appendix *7*). Drug Court Sheriffs also retain their traditional sentencing powers and may defer sentences for the duration of Orders (ibid). The Sheriffs' discretion to impose shorter or deferred sentences to allow for Drug Court involvement, and the provision of support services (see sections *6.2.3*, *7.5* and *8.5*), could imply a prioritisation of therapeutic approaches over the perceived need to control crime (see section *2.3*). Whilst Drug Courts arguably represent an example of criminal justice 'net widening' (see section *2.3.2*; Burns and Peyrot, 2003; Drug Policy Alliance, 2011; Stewart, Lilley, and Tucker-Gail, 2020), discretionary leniency to alternatively impose Orders could reduce the future risk of reconviction and reduce participants' future involvement with the criminal justice system (see section *4.3.1.1*; Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa 2005). Nevertheless, there was a sense that Drug Courts can feature more sanctions, or more frequent sanctioning, than traditional Courts (see Lindquist et al., 2006):

SW4: W*e have good Sheriffs as well who come from a sort of social work-y background and they don't want to put people in prison if it can be avoided and it's not about public protections and people being a risk to themselves or others… because when people are using drugs they can not only be a danger to themselves but they might be going out and committing offences and not remembering that they've committed offences, and they could be violent offences, so we do have a duty to protect the public as well… and I think a lot of Sheriffs will maybe give people a period of remand if they're using chaotic drugs and that's coming from a welfare perspective, because they might be powerless to stop it in the community, so it can be for their own safety.*

This social worker highlighted the therapeutic potential of 'crime control' responses, such as 'interim sanctions', and custodial sentencing (see appendix *7*). Despite the Drug Courts' purpose as an

alternative to custody, short periods of imprisonment were justified as being "for [participants'] own safety" and benefit. Whilst sanctions, or the threat of sanctions, have been interpreted as beneficial to engendering responsibility amongst Drug Court participants (see Fulkerson, Keena, and O'Brien, 2012), to justify imprisonment and all its' pains as being participants' best interests (Sykes, 1958) inverts the purpose of Drug Courts as a brake on the "revolving door" of prisons (Padfield and Maruna, 2006, p.329). Therefore, whilst 'crime control' motivations were interpreted as having therapeutic purposes, they also risk further entrenching participants in the criminal justice system.

7.4.3 Balancing 'Care' and 'Crime Control'

A complicated relationship between therapy and 'crime control' emerged during the professional interviews. As Drug Courts represent an explicit attempt to incorporate a broader understanding of dependence and a therapeutic response in the criminal justice system (Wexler and Winick, 1991; Winick, 2013), this was sometimes addressed explicitly during interview:

SW4: *And also the reoffending as well, because some guys that we work with… women as well… they've been in and out of prison from a very early age, it's a revolving door, they've been in and out of prison and it's about the cost of that to the taxpayer as well… the costs of criminal justice services on central government… but you want to you know, apply a more therapeutic approach, and show guys you know, there's another way… there's another way other than just being in and out of prison…*

The Drug Courts' function as an alternative to the "revolving door" of the traditional criminal justice process drug-dependent offenders was highlighted in this extract (Padfield and Maruna, 2006). However in attempting to provide an alternative to imprisonment, it has been argued that Drug Courts represent a significant example of criminal justice net-widening (Burns and Peyrot, 2003; Drug Policy Alliance, 2011; Lilley, Stewart, and Tucker-Gail, 2020), as those who may have avoided traditional prosecution due to low levels of risk or harm in their offending become enveloped within a complex framework of social control and exposed to increased frequency of criminal sanctions (see section *7.4.2*; Miethe et al., 2000; Lindquist et al., 2006). As such, in the Drug Court, increasing levels of control might be justified being in participants' own best interests (see section *7.4.2*), engendering

concerns from commentators about paternalism (Slobogin, 1995; Stobbs, 2015). The complex relationship between 'care' and 'control' in the Drug Court was complicated further by the requirement that participants must have committed a crime to be eligible to receive support and resources (see section *7.3.3*):

S2: *One of the big problems with getting them on these Orders is that they've got to have a serious drug problem and they've got to be…that's got to have related to their crimes…*

I: *Hmm, yes, they've got to have committed a crime to get access to this intensive level of support…*

S2: *And not just one crime but a whole load of crimes… mainly shoplifting or housebreaking or drug dealing, which is usually pretty minor drug dealing… erm, to get onto the Order and to get the help they need and that's not right… there are crisis teams and community addiction teams and things like that but to get access to the intensive support through the Courts they have to have committed a crime AND have a serious drug problem… erm, and that's the way it is but it's maybe not right…*

This discussion explicitly addressed how intensive support in the Drug Court is predicated upon participants having committed a crime. This is the same model for many Drug Courts, in which access is conditional upon conviction (see section *3.2*; Mitchell et al., 2012). The extent of the resources available through the Court is perhaps unusual as, within the criminal justice system, offenders are often seen as responsible for their own predicament and 'undeserving' of therapeutic resources (see Brown, 2016; Kulesza et al., 2016; Livingston et al., 2012). This is especially true for drug-dependent offenders, who might be doubly stigmatised for their dependence and criminal status, or triply stigmatised where issues such as mental health or homelessness also intertwine (see Hartwell, 2004; Fletcher et al., 2016). The Drug Court, however, appeared to subvert traditional views about the deservingness of drug-related offenders, as repeat offenders with entrenched dependence were perceived as most in need of support (McIvor et al. 2006, 2009). Nevertheless, the incorporation of therapeutic values, given the emphasis on direct dialogue and specialist services (see sections *6.2.1*, *7.5*, *7.3*, *8.3*, and *8.5*), is inevitably located within the broader 'crime control' agenda of criminal justice policy which, even where participants are viewed as deserving, constrains the wholesale

integration of therapeutic and rehabilitative ideals, and engenders a focus on punishment and social control (see section *2.3*). In this way, the Drug Court might be viewed as a therapeutic 'add-on' to the prevailing punitive rationale of the criminal justice system (see Scott and Gosling, 2016).

7.5. Social and Welfare Support

7.5.1 Mental and Physical Health

As mentioned above, and in the observational findings chapter (see section *6.2.3*), the Drug Court incorporates a range of services and welfare-related interventions in its' "judicially supervised programme of drug treatment" (Criminal Procedure (*Scotland*) Act 1995, s.234B-234K). Some of the social and welfare needs that emerged in the observational findings included: mental and physical health; housing; family and relationships; income; and employment (see section *6.2.3*). Several interviews with professionals, particularly within the addiction work and social work disciplines, explained that participants' social and welfare needs formed a significant portion of their workload. To address health-related issues, the Drug Court has a dedicated medical team:

AW2: *It sounds a bit strange but I don't think addiction worker really covers all of what we do… but anyway that's my title and our kind of role is mainly working on harm reduction and relapse prevention with the clients and it's also a holistic approach so it's not just about that… it's about getting to know the clients as a person, getting to know what their needs are, assessing their situation, and working at a pace that suits them and I think that's an important thing because not everybody's the same, you know… some people can make small changes and some people can make big changes and that's quite important, you know, the relationship building… but I think we're quite lucky in that we get to build a relationship with people, and that involves things like making referrals to other agencies, if they need support with their health we can flag that up to the health team and again, assessing to see which things are right for the person and talking about what they think they need to do to address their addiction and their issues.*

This addiction worker constructed their role as working with participants to build therapeutic relationships and meet their needs. Whilst referrals to external services was identified as a mechanism

through which Drug Court professionals reinforced participants' personal, physical, and social recovery 'capital' (Granfield and Cloud, 1999; 2008), the Drug Court has a dedicated medical team for health-related concerns (see appendix *7*, sections *7.3* and *8.3*). A significant proportion of the observed hearings involved discussions about participants' mental and physical health conditions (see sections *6.2.3.1* and *8.5.1*), and this also emerged within professionals' stories (see *9.5.1*). The emphasis on health reflects the incorporation of therapeutic principles and a recognition of the 'capital' needed for recovery (Granfield and Cloud 1999; 2008). However, given that Drug Court involvement is limited to 18-month Orders, it is important to note that this holistic support is limited to participants' involvement and compliance with the criminal justice process:

AW1: *Also, clients don't work with us forever, so we're trying to build in exit strategies and letting them know of the kinds of groups and support available for clients when they come to the end of the 18 months… because when it gets to the end of the 18 months they've been working quite closely with us and then it ends so it's a big adjustment as well although the nurses will oversee the healthcare until the prescriptions and care management team in the community take over…*

Whilst the Drug Court seemed to direct a significant level of resources towards the range of social and personal issues associated with recovery from drug dependence, access ends when participants' (typically) 18-month Order ends, which could leave participants on somewhat of a cliff-edge (Criminal Procedure (Scotland) Act 1995 s.234B-234K, see also Eley et al., 2002b; McIvor et al., 2009; McIvor, 2006). Whilst this extract suggested that the Court was attempting to build in "exit strategies" to support participants to take responsibility for their recovery independently after their Order, the limited nature of support and this being constrained to the duration of judicially imposed Court Orders, reflects conditionality upon involvement with, and compliance with, the criminal justice system (see section *7.3.3*; Phoenix, 2008). Furthermore, participants might be unlikely to ever receive this level of support with their drug dependence elsewhere (see section *7.3*), given the chronic underfunding of community recovery services in 'austerity Britain' (see Duke, 2013; Floodgate, 2017; Ward, 2018). Arguably, the withdrawal of support could be construed as the most significant 'control' measure in the Drug Court, as non-compliant participants might not ever receive such support again.

7.5.2 Housing

Housing emerged as a key theme in the observations of hearings (see section *6.2.3.3*) and some unusual housing situations emerged in the narratives about Drug Court participants' lives (see section *9.5.3*). Housing support formed a significant element of the Drug Courts' holistic approach to recovery 'capital' (Granfield and Cloud 1999; 2008) and housing need was framed as a key issue by several professionals:

AW1: *I suppose also as well we'd be looking at housing although that is sometimes the responsibility of the social worker and they would do it… but looking at supported accommodations, getting a tenancy, a lot of the clients have housing support as well… at times as well clients who are moving houses don't have many goods and we spend time looking at trying to get some items for them or applying for grants…*

I: *Hmmm, so that they can function in their new tenancy?*

AW1: *Yeah, absolutely, and looking all those kind of social issues, whatever kind of needs to be done really. Sometimes it's just about having someone to talk to…*

Whilst this addiction worker discussed addressing "all… kind[s] of social issues", there was an emphasis on housing, grants and supported living arrangements. Homelessness amongst the participant group was mentioned frequently (see sections *6.2.3.3* and *9.5.3*) which reflects high incidences of homelessness in the local authority area (see Scottish Government 2020) and a chronic shortage of affordable housing (see Dunning et al. 2020). Whilst the emphasis on meeting housing need reflects the Drug Court's recognition of recovery 'capital' (see sections *6.3* and *7.3*; Granfield and Cloud 1999, 2008), the emphasis on the personal responsibility to recover and engage with the Drug Court could result in participants being blamed for housing issues beyond their control (see sections 6.*2.1.1* and *6.3.3*; Floodgate, 2017):

SW2: *That is the thing that is perhaps a bit frustrating, is the resources that are available… I might say that housing at the minute is a pretty good resource. We've got* Housing First *at the minute, which* Housing First *is their sort of guiding philosophy, and it's ours too that really the first thing people*

need, who are chaotic in the community, is secure housing before we can try and do any other work with them... And we will typically try and use a HF *approach to people who are homeless and on an Order, and that's pretty well-resourced. The other thing I was alluding to, was their cooperation with that, because people in this situation are quite often lacking resourcefulness and initiative and can be quite hapless. We are… reliant on being able to get to somebody when something is happening that's important… So, if you imagine somebody is offered a tenancy, but at the time they're offered the tenancy they're actually disengaged and you don't know where they are and have no way of getting them on the phone, you will track them down eventually through one of the means but by that time, the offer may be gone.*

This extract highlighted the structural barriers involved in accessing housing, as whilst Housing First[v] was described as "fairly well-resourced", offers of housing were inevitably time-limited due to the shortage of this resource (see Dunning et al. 2020). However, the structural elements of housing access were juxtaposed with the notion that participants were sometimes responsible for their poor housing situation. Whilst this could arguably reflect a view that housing, as the "wobbly pillar" of the welfare state, is ultimately the individuals' responsibility (see Torgersen, 1978), this extract illustrated that Drug Court participants' chaotic lives were not necessarily conducive to the receipt of services. The interrelation between entrenched drug dependence and homelessness likely holds significant explanatory power as to the high prevalence of homelessness amongst the Drug Court population (see Kemp, Neale, and Robertson, 2006; Huntley, 2014). However, the interaction between structural limitations on housing resources and the chaotic lives, and limited personal responsibility, for housing amongst the participant group could limit the success of Orders and risk participants being blamed for structural forces beyond their control (see Grace, 2017). Whilst participants might not make prudent choices about their housing, there is a risk that this could become the focus of cases involving homelessness, despite broader political, social, and economic factors impacting housing supply (see Flint, 2009).

7.5.3 Family and Relationships

Another issue that emerged during the interviews was family and relationships, reflecting the recognition of social 'capital' in the Drug Court (Granfield and Cloud 1999, 2008; Best et al 2015a, 2015b). Issues concerning relationships and social networks emerged during the observed hearings (see section *6.2.3.2*) and relationships played a substantial role in professionals' narratives about participants (see section *8.3* and *8.5.3*). Relationships were also a theme throughout the semi-structured narrative interviews:

> SW2: *It's about the Order hitting at the right time at that sweet spot, and a lot of the time with this group you get people who've seen a lot of morbidity as well, you know… they've seen members of their peer group and they've seen people died, they've been in relationships, perhaps co-dependent relationships where their partner has died, or had family members or friends die and they're the survivor and they don't want to go that way… and that can be a good juncture which we can exploit.*

In contrast to the discussions about recovery that emerged during interview, in which the responsibility to recover was often placed on individual participants (see sections *7.3* and *8.3*), this discussion concerned the social and relational nature of Drug Court interventions. As the client-base is predominantly composed of high-tariff offenders with entrenched drug dependence (see Eley et al., 2002b; McIvor et al., 2006), participants were likely to have complex personal relationships that could involve trauma and bereavement (see Bates-Maves 2020). Relationships, and significant events within them, were framed as critical points for Drug Court interventions. The notion that it must be the 'right time' for participants to be successful on Orders was echoed by several professionals during the interview process:

> SW3: *Yes, and that's what we try to do, to create an environment where people know the support is there, but it might not be the right moment… it's not always the right moment.*

> I: *Do you find that women tend to have more difficulties engaging in the Drug Court?*

SW3: *Yes, we do, and we're looking at this right now with the government in terms of drug deaths… they tend to have a lot of stuff going on, a lot of past trauma, a lot of problems with childcare, a lot of problems in general…*

I: *And problems with relationships too?*

SW3: *Problems with relationships, their reasoning in relationships tends not to be good, particularly those in domestic violence relationships, and we've got those patterns that are just constant and they're really difficult to get into in the longer term… that's why we have groups like* Tomorrow's Women[vi] *who can focus on those issues closely. And without pathologizing them, it's not that these issues are all a result of bad reasoning…*

Whilst significant events within personal and familial relationships could offer "critical juncture[s]" for interventions, this extract gave the impression that an entanglement in perceived unhealthy relationships can frustrate engagement, particularly for women. Whilst this Drug Court does not tend to admit many women (see Eley et al., 2002b; McIvor et al., 2006), the relational trauma and abuse often experienced by dependent women (see Gilbert et al., 2001; Logan et al., 2002; Salom et al., 2015) could contribute to perceptions that Drug Courts are unsuitable for female participants (see Myer and Bucholz 2018, Birkett 2019). However, whilst a therapeutic approach might be a more appropriate method to respond to relational abuse and trauma experienced by dependent female offenders than the traditional criminal justice system (see Hetherington, 2021), it was noted that women especially may be pathologized and punished for their problems, which are constructed as a result of "bad reasoning" rather than vulnerability or exploitation (see section *6.3.3*; Brown, 2014; Du Rose, 2015). This suggests that especially for some participant groups, the incorporation of therapeutic values might be undermined by the conditions of personal responsibility upon which Drug Court support seems to be predicated.

7.5.4 Income and Employment

Income and employment also emerged as a key theme during the interviews with professionals, complementing the discussions about income and employment that emerged during the observed

hearings (see sections *6.2.3.4* and *6.2.3.5*) and the narrative portion of the interview (see section *9.5.4*). This again reflected the role of physical 'capital' in the Drug Court (Granfield and Cloud, 1999; 2008) and the emphasis on providing structured, prosocial activities (see section *7.2.2*; Burdon, 2001; Bonomo, 2012):

AW1: *Yeah and one of my clients, he was staying in B&B accommodation until just before Christmas, up until that point the food was still getting dropped off*[vii] *… the downside on that though was when he moved into a flat, he's now liable to pay electricity and to feed himself and budgeting wasn't a strong point to start with… and that's something that I've been known to do with clients, talk about budgeting and try and see what kind of support benefits wise… if it's out of my remit then I'll refer them to welfare rights groups.*

This discussion emphasised the need for fiscal responsibility and budget management by Drug Court participants. The emphasis on the integration of welfare advice, from both Drug Court workers and external organisations, reflects a recognition of the poverty and deprivation that might be experienced by participants, as well as their need for social resources and physical 'capital' to sustain recovery (Granfield and Cloud 1999; Floodgate 2017). However, whilst poverty and deprivation have structural dimensions (Flint, 2009; Fletcher et al., 2016), and the Drug Court is in a relatively deprived area (see section *1.3*), poverty was arguably framed in terms of personal responsibility as it was argued that "budgeting" was often not "a strong point" for participants. Whilst this comment arguably reflects the extent to which dependence is an "achieved stigma", to which participants are perceived to have contributed (see Lloyd, 2013), the incorporation of services to reduce deprivation is a hallmark of this Drug Court, which contrasts with the traditional criminal justice system wherein offenders are typically punished for their poverty (see Wacquant, 2009; Squires and Lea, 2013). Moreover, income and employment, given their impact beyond the course of the Order, is a site at which the boundaries between personal and professional responsibility were delineated:

I: *Hmmm, I've heard about a few participants who, when they've been successful, have gone on to go to college and have careers.*

AW2: *Aye, aye… And I've worked with a lot of people who've had addictions and they've got great jobs and stuff and it can happen for people and people on this Order are quite lucky because they have a lot of support here and we can't do things for people, but we can help them a lot with it.*

This addiction worker related that some of the clients she had worked with had gone on to have "great jobs and stuff", which reflects research that has found physical recovery 'capital', such as employment, is a key indicator of successful recovery (see Laudet and White, 2008; Laudet, 2012) and the extent to which paid employment and economic activity constitutes a defining element of legitimised identities (see Flint, 2019). Central to this discussion, though, was a sense that whilst participants might have "a lot of support", ultimately professionals "can't do things for [them]". This gives the sense that whilst participants may be subjected to a complex framework of both 'care' and 'control', recovery ultimately cannot be forced, coerced, or mandated. This also reinforces the notion that the provision of resources and support in the Drug Court is conditional on compliance with the, often middle-class, norms and values of personal responsibility (see section *6.3.3*; Flint, 2009; Flint, 2019).

7.5.5 Social Support and Personal Responsibility

Throughout this chapter, a tension emerged between the provision of social support the perceived need to empower participants to take responsibility for their own social, welfare, and recovery needs (see Brown, 2014; Du Rose, 2015; Floodgate, 2017). This was explored by several professionals:

AW2: *Yeah, it's holistic, it's… there's a wee bit as well… and I hate the word… but you've got to try and kind of encourage people to do things for themselves because it's adults we work with and there's that temptation to help people and do everything for them, but I'm getting quite good at it… it's taken me a long time, but you know, being able to take a wee step back and for example, there was a case I had like this last week, where there was a wee problem with one of the agencies and I said 'well what you need to do is phone that agency… you can phone from here… and just let them know, you know, why you're not getting on with this worker and why you need a different worker' so it's encouraging them to do things for themselves, you know, as well.*

This quotation directly addressed the tension between personal responsibility and the social resources required to engage with the Drug Court. Whilst the Drug Court offers multidisciplinary support, the concurrent emphasis on personal responsibility created the sense that where participants were considered responsible for their own predicament, they might be considered "undeserving" of these resources (Brown, 2014; Kulesza et al. 2016, Livingston et al. 2012). As such, Drug Court professionals tended to articulate the need to get participants to "do things for themselves". However, whilst participants were responsibilised to do things for themselves, they were also often perceived as unable or unwilling to do so because of a lack of support and resources (see also: Roy and Buchanan, 2016, Floodgate, 2017, Brown, 2021). To quote Grace (2017), "an overfocus on personal responsibility for recovery evident in some treatment paradigms risks [recipients] being blamed for their "failure" when they face significant structural barriers" (p. 668). It therefore seems that, whilst support and resources are available, but participants are expected, under threat of sanction, to make use of these for themselves:

SW4: *Yeah definitely, we're very structured, and we're structured because we have to be, you know… it's a statutory Order, you know, but* Tomorrow's Women *it's a voluntary basis that women go there, we can't make women go there, like with the Drug Court yes people have to agree to be on an Order but once they're on the Order they have to show up to all of the appointments, they have to do all the work, they have to blah blah blah, you know… they have to look at their relationships and all that, that's part of being on the Order, that's part of our criteria and part of our ethos, but* Tomorrow's Women *is a voluntary basis… if they don't show up they might tell social work but it's not like the Drug Court where it's reported to the Court in Court reports, you know it's identified how often a person has missed appointments, there's a lot more accountability with us, a lot more accountability…*

Ultimately, 'care' and support in the Drug Court was conditional upon participants' compliance with supervisory and control measures, and their ability to construct themselves as "deserving" participants (see Brown, 2014, p. 14). Whilst a participant would not necessarily receive any consequence for not attending appointments with services in the community, "there is a lot more accountability" in the

Drug Court as attendance and engagement is enforced by legal sanction (see section *6.3.1*). This reflects the complex enmeshing of welfare support and criminal justice sanctions that has come to characterise the response to a range of social problems in the UK that has been termed 'coercive welfare' (Phoenix, 2008) or 'authoritarian therapeutism' (Squires and Lea, 2013; Wacquant, 2013).

7.6. Discussion

This chapter explored how Drug Court professionals interpreted their role and the Drug Court's purpose. Throughout the interviews, themes of supervision, control, and therapeutic relationships (see section *7.2*), recovery and harm reduction (see section *7.3*), desistance and reoffending (see section *7.4*) emerged. Furthermore, the Court's approach to social and welfare needs (see section *7.5*), including mental and physical health (see section *7.5.1*), housing (see section *7.5.2*), family and relationships (see section *7.5.3*), and income and employment (see section *7.5.4*) were discussed, with an emphasis on responsibility (see section *7.5.5*). This analysis develops the themes that were presented in the observational findings chapter (see chapter *6*), enmeshing these within professionals' conceptualisation of the Drug Court.

A significant theme that emerged during interview was that of Supervision, Control, and Therapeutic Relationships (see section *7.2*). During interview, professionals positioned participants as subject to a range of supervisory and control measures, such as urinalysis drug testing, multi-agency reports, and review hearings (see section *7.2.1*). Moreover, the regular review hearings were preceded by private DCSTT meetings which the participant could not attend (ibid). The supervisory purpose of Drug Court Orders was apparent throughout this chapter and was underscored by S1, who emphasised that participants will "be rehabilitated and they will be monitored" (see section *7.2.1*). In this way, the Drug Court's approach arguably intensified existing judicial functions, such as offender supervision and the administration of Court Orders (see Rosenthal, 2002), and a closer level of judicial oversight perhaps extended existing judicial and legal functions of community supervision (see Nolan, 2009). However, the emphasis on supervisory relationships between professionals and participants was juxtaposed with professionals' emphasis on building therapeutic relationships (see sections *7.2.2* and

7.2.3). This reflects literature findings on the enhanced judicial role in Drug Courts, which can arguably allow participants to feel more connected to the bench (see Lyons, 2013; Stimler, 2013), and how more highly intrusive and sometimes value-laden forms of control and supervision could be justified or perceived as therapeutic (Drug Policy Alliance, 2011; McIvor, 2010; Scott and Gosling, 2016). In this way, the lines between 'care' and 'control' were often muddied, as 'control' was justified as a form of 'care' in participants own best interests (see Brown, 2016).

Recovery and Harm Reduction also emerged as a key theme in professional interviews (see section *7.3*). Recovery was an amorphous concept, with 'grand' conceptualisations of recovery standing in contrast with more pragmatic discussions about harm reduction (see section *7.3.1*). Professionals tended to construct their roles as primarily "therapeutic", to "help" participants to make meaningful changes (see section *7.3.1*), and recovery was sometimes presented as a positive process that might not acknowledge the hardships involved (see section *8.3.1*). However, this was balanced by a pragmatic emphasis on harm reduction, in which professionals reflected that whilst complete recovery might not be possible for some participants, "at least they're coming in" (see section *7.3.1*). This highlighted the Drug Courts' recognition that abstinence might be unrealistic for some participants (see Laudet, 2007; Nolan, 2009) and is emblematic of the Scottish approach to drug policy (see section *3.3*, Scottish Government, 2018). However, whilst abstinence was not enforced, there was a prevailing emphasis on personal responsibility (see sections *7.3.2* and *6.3.3*) and participants were considered responsible for their engagement with Drug Court interventions and resources (see sections *2.3.3* and *6.3.3*; Burns and Peyrot, 2003; Floodgate, 2017; Palm, 2004). Moreover, there was a concurrent emphasis on the social dimensions of recovery, as group counselling, peer mentoring, and "recovery groups" were incorporated into the programme and understood as important to participants (see Granfield and Cloud, 1999, 2008; section *7.3.2*). Belenko (2019) found that Drug Courts involve an amalgamation of therapy and accountability, which is predicated upon their aim address both individual and social factors associated with dependence (p. 3). Nevertheless, the conditional nature of recovery-oriented interventions was highlighted throughout the interviews (see section *7.3.3*) and the provision of therapy seemed dependent upon the demonstration of

accountability (Belenko, 2019). The emphasis on personal responsibility ostensibly illustrated the Drug Court's moral behaviourist approach (see Wacquant, 2013) and risked participants being personally blamed for structural dimensions of their dependence, over which they might have limited control (see Brown, 2016; Grace, 2017).

Furthermore, there was also an underlying debate in the interviews as to what extent the Court's therapeutic purposes might compete with 'control' orientations. Whilst some professional roles were constructed in therapeutic terms, primarily to "help" participants (see section *7.3.1*), other professionals interpreted their role in primarily 'crime control' terms: to protect the public and "stop… offending" (see section *7.4.1*). This reflected literature findings, particularly research into Drug Court desistance outcomes, that suggests that Drug Courts primarily exist to reduce offending (see section *4.3.1.1*; Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa 2005). In this way, sanctions, including short custodial sentences, were used to enforce accountability for offending, despite Drug Courts' position as an alternative to custody (see sections *3.2* and *3.3*; Nolan, 2009; Scott, 2008; Scott and Gosling, 2016). Whilst the 'crime control' emphasis was somewhat diluted by a harm reduction approach which, rather than being "tough on crime" (see section *2.3.3*: Loveday, 1999 p.7) interpreted offending as a risk factor, sanctions such as short-term imprisonment were also justified as a therapeutic intervention to reduce the harms associated with substance misuse and in participants' best interests (see section *7.4.2*; Brown, 2016). Whilst this reflects literature findings that Drug Courts may involve more frequent or intensive sanctions than traditional Courts (see Miethe et al., 2000; Lindquist et al., 2006) and participants sometimes framed these as therapeutically beneficial (see Fulkerson, Keena, and O'Brien, 2012), these justifications sometimes ignored the long-term negative effects of short sentences (see Dominey and Gelsthorpe, 2020) and ongoing criminal justice involvement (Scott, 2008; Scott and Gosling, 2016). Therefore, whilst Drug Courts are justified as an alternative to traditional criminal justice approaches (see Nolan, 2009; Scott and Gosling, 2016), they could entail more intensive 'control' and punishment of participants (see section *7.4.3*).

Finally, professionals also emphasised social and welfare support, which ranged from support with mental and physical health to income and employment (see section *7.5*). To address personal 'capital' such as health (Granfield and Cloud, 1999; 2008), the Drug Court had a dedicated medical team, but the provision of this support was conditional upon participants engagement and compliance with moral values such as personal responsibility (see sections *7.1* and *7.3.3*; Wacquant, 2013) and these resources were inherently dependent on criminal justice involvement (see section *7.5.1*). To address physical 'capital', professionals discussed a range of interventions from housing interventions (see section *7.5.2*) to income and employment-related support (see section *7.5.4*). Whilst there was an emphasis on securing housing for participants, and the Drug Court had links with pioneering housing services, professionals discussed structural limitations on housing access (see section *7.5.2*) which, combined with the emphasis on personal responsibility, could risk participants being blamed for structural failures beyond their immediate control (Brown, 2016; Grace, 2017). Similar themes emerged in discussions about income and employment (see section *7.5.4*). Moreover, to reinforce participants' social recovery 'capital' (Granfield and Cloud, 1999; 2008; Best et al., 2015), professionals described supporting participants with their relationships (see section *7.5.3*). However, there were concerns that female participants especially may be pathologized, or blamed, for their involvement in personal relationships that negatively affect their engagement or recovery (see section *7.5.3*). Ultimately, professionals' discussions about social and welfare support were punctuated by an emphasis on personal responsibility, in which participants were considered responsible for their engagement with resources, despite structural limitations beyond participants' control (see Brown, 2016; Grace, 2017) and a failure to do so justified moralised and value-laden intrusions in participants' personal lives to control drug-related crime (see Wacquant, 2013). The following chapter will explore how these themes emerged in the stories told by professionals during the interviews.

Chapter 8

Participants: 'Care' and 'Control' in Stories told by Drug Court Professionals

8.1. Introduction

The semi-structured narrative interviews with professionals sought to elicit storied insights about the Drug Court (see section *5.3.2*). Whilst these stories were told by professionals, rather than being autobiographical due to limitations on the fieldwork process(ibid), second-hand stories can be a valuable source of data (see section *5.3.2.5.2*; Habermas 2018, p. 73). The following stories enhance the depth of the data presented so far in this thesis, by bringing the themes from the observations and semi-structured interviews to life and showing how they are intertwined within participants' complex lives. The following stories are organised around the key themes developed throughout the findings (see Chapters *7* and *8*), but care has been taken to preserve their integrity and the spirit, hence some of the quotations in this section are quite lengthy (Barthes and Duisit, 1975; Frank, 2012). These narratives are analysed thematically, in keeping with previous chapters, and structurally, as this analysis also considers the structural context of the Drug Court and its' processes (see section *6.5*). The findings presented in this chapter, therefore, represent original empirical insights as well as adding depth to the findings presented in previous chapters.

8.2. Supervision, Control, and Therapeutic Relationships

8.2.1 Supervision and Offender Management

A prominent theme that emerged in the narrative portion of the interviews concerned supervision and offender management (see section *7.3.2*). Given the legislative foundations of the DTTO, there is an emphasis on supervision in the Drug Court (Criminal Procedure (Scotland) Act 1995 s.234B-234K, ibid). As such, professionals told stories which reflected their responsibility to supervise and manage participants. These stories reflected the themes around supervision and offender management that

emerged in the observational and interview findings chapters (see sections *6.3.1*, *6.3.2*, and *7.2*) and often narratives concerned professionals' perceived responsibilities for day-to-day supervision:

S4: *There is one man I remember… I thought he was at it from the start… he could produce a few clean samples but never two in a row… and then he ended up in hospital with two broken legs because men were coming to exert violence upon him… because he was involved in the supply of drugs as well, not just the taking of drugs…*

I: *Was he involved in the gang culture around drugs and all that?*

S4: *He was, and he was quite deep into it… I told him it wasn't for him, and I put him off the Order… there was no sustained change and no real sincerity about trying to change… I love being wrong and I like it when people can change my mind and prove me wrong but where there are bad reports, you have to provide me with some tangible evidence that you are trying to change…*

I: *Hmm to try and prove those reports wrong?*

S4: *Indeed… some of them are quite good at that and some of them know more about drugs and addiction than me… like I say I'm not an expert in addiction so I defer to those who are… but some of them will say that they need residential treatment to get clean enough to be able to engage with an Order…*

As was highlighted in the observational (see section *6.3.1* and *6.3.2*) and interview findings chapters (see section *7.2*), Drug Court participants were subjected to a range of supervision methods including urinalysis testing. Drug testing, whilst often framed as being in the best interests of chaotic drug users (see section *7.2*), can represent an intrusive form of supervision which could undermine therapeutic relationships (see Abraham and Luty, 2018). Here, drug testing was presented as a measure of engagement, as this participant produced "a few clean samples" but not consistently enough to demonstrate change, and a means of monitoring participants in the community. Another supervisory tool mentioned in this extract was report-writing. The Drug Court process and the decisions made by Sheriffs was guided by social work reports, as participants were subjected to an initial assessment and ongoing Criminal Justice Social Work Reports and Mental Health Reports (see appendix *7*).

Conducting assessments is a central component of social and probation work practice (see Milner, Myers, and O'Byrne, 2015), which share many of the same ideologies (see section *2.4.1*; Hardiker, 1977), and report-writing was used here to share information between different multi-agency professionals (see Peel and Rowley, 2010). It was also a means for Sheriffs, who would typically make decisions based on the information presented by the prosecution and defence (see Ashworth and Horder, 2013), to "defer to the experts". As such, report-writing was both a key element of supervision and monitoring within the Drug Court, but it also facilitated multi-agency working and the incorporation of "expert" therapeutic approaches (see section *2.4.4*; Wexler and Winick, 1991; Wilson, 2021). Nevertheless, the combination of drug testing and report-writing increased the sense of supervision and control to which Drug Court participants were subjected.

A range of professionals in the Drug Court Supervision and Treatment Team (DCSTT) were responsible for the supervision and management of participants (see appendix *7*). Whilst some roles were described as more explicitly focused on supervision, such as the judicial role (see also chapter *8*; Criminal Procedure (Scotland) Act 1995 s.234B-234K); some of the more 'therapeutic' professionals in the Drug Court also interpreted their role as comprising supervisory responsibilities (see section *7.3.1*):

AW2: *Aye, they can be telling you anything, but you don't know really what they're doing. Some of them… there's a guy I phoned today who lives up in* [a town]*, he's a chatty man, he'll chat about anything, politics, covid, anything… and I was thinking after, you know, this is work but I quite enjoyed that! He's an interesting guy, he likes to chat, he's stable as well and he's not using drugs as well, so a wee chat can break up his day, you know?*

This extract crystallised the challenges involved in supervising Drug Court participants, as "they can tell you anything, but you don't really know what they're doing". This reflects the presentation of drug testing in the previous extract as a supervisory tool, as professionals were managing participants with a dishonest and 'spoiled' identity (see Lloyd, 2013). However, whilst drug testing, regular multi-agency meetings, and reports represented hurdles that participants must overcome to demonstrate honesty and responsibility (see sections *6.3.2* and *6.3.3*), they were presented as tools for therapy as

well as supervision. As this addiction worker noted, whilst regular phone calls and meetings can serve a supervisory function, they also seemed to suggest that regular contact could provide routine and support to participants. In this way, supervision in the Drug Court was justified in both 'crime control' (see sections *7.4* and *8.4*) and therapeutic terms.

However, supervision and offender management were not contained solely to the duration of Orders. There was also a sense that supervision of participants could commence prior to Orders and endure beyond them and that this had perceived therapeutically benefits:

S4: *There was one girl, a younger girl, who I thought you are just bang at it… she appeared on petition sentenced to 15 months and showed up in Court with summary cases… and usually what would happen is they would be sentenced to the summary sentences as well so that she can start over afresh and her involvement with criminal justice services would be all tied up after… but she wanted an Order after prison… she wanted to get clean in prison and then after go on an Order… which I mean… whilst there are drugs in prison some people can get clean in prison, there is some support and sometimes it helps to be out of the community for a while… and I spoke to [the DCM] and the Drug Court Supervision and Treatment Team… and the conclusion we came to is that people need a chance… jail is always there it's not going away and it's often an outcome for those who breach an Order… so I deferred her sentence for 9 months and she served half of her sentence and came back and still wanted to do an Order… she came back on an Order and she just soared…*

This narrative zoomed out to explore a participant's ongoing criminal justice involvement, as this Sheriff described knowing this participant prior to their Order. Whilst this could reflect the close-knit community of legal professionals in local Courts and informal methods of information sharing, it also reflects Drug Court Sheriffs' previous roles as sentencers (see appendix *7*). Crucially, this Sheriff highlighted that if this participant had not entered the Drug Court, her criminal justice involvement would be "all-tied up" and she would have been free to go, with (potentially) no further intrusion in her life. As the Drug Court typically involves an intensive 18-month long Order of drug treatment (the DTTO), which could potentially even be preceded by a lesser Order (an SDS, see appendix *7*), this Sheriff seemed to argue in favour of perceived benefits to prolonged criminal justice involvement

through the Drug Court, particularly in terms of the ongoing development of therapeutic relationships (see Winick and Wexler 2015). Ongoing involvement could have facilitated a closer relationship between the Sheriff and participant compared to those in traditional courts and allowed for an understanding of the participant's familial relationships and personal development. However, this extract also highlighted that the Drug Court ostensibly represents an example of criminal justice 'net-deepening' (see section *2.3.2*; Cohen, 1985; Scott and Gosling, 2016), wherein participants are enveloped into a complex programme of mandatory drug treatment, drug treatment within prison, drug testing, and punitive approaches in treatment settings (see Seddon, 2008; Du Rose, 2015). Moreover, given the lasting impacts of the punitive-rationale and criminal justice sanctions, it is not clear that the development of therapeutic relationships within a criminal justice add-on can overcome the fundamental issues with criminal justice censure (see Scott, 2008; Scott and Gosling, 2016).

8.2.2 Therapeutic Relationships

Therapeutic relationships in the Drug Court emerged in several of the narratives told during interview. Whilst these were developed within a criminal justice environment and with professionals who also described having supervisory responsibilities (see section *8.2.1*; Hatchel, Vogel, and Huber 2019), there was nevertheless the sense that therapy and support were central to relationships. Sometimes, this manifested in stories about types of support which might be considered atypical of criminal justice services:

AW2: *Yeah, I mean the guy I've got in this afternoon, the one who likes doing the worksheets and whatever, he likes doing the jigsaws, so I started getting him some… and I think I got a bit carried away it started off with one and I think I've ended up with about sixteen of them* [laughs].

I: [Laughs].

AW2: *I was thinking, he'll be sorry he said he likes jigsaws [laughs]… but some folk wouldn't ever think it, you know, someone whose got an addiction, sitting down and doing a jigsaw... but it's normality you know, why wouldn't someone with an addiction want to do a jigsaw? It's a way to pass the time, you know?*

In this narrative, the Drug Court was interpreted in 'caring terms', and the level of support described with day-to-day living seemed atypical of criminal justice services. Whilst some criminal justice and probation services may subscribe to the "treatment model", 'caring' approaches have historically been balanced with 'control' (see section *2.4.2*, Hardiker, 1977 p. 131) and the underlying punitive rationale (Scott and Gosling, 2016). However, Drug Courts feature an integration of therapeutic values (see section *2.4.4*; Wexler and Winnick, 1991) and the time that is taken to get to know participants, understand their needs, and source items such as jigsaws to support their wellbeing and facilitate them filling their time in a positive way, reflects a relationship that might be considered more 'caring' than solely punitive or 'controlling'.

However, therapeutic relationships in the Drug Court were not always described positively. The following extract emerged during an interview with a Sheriff, whose role includes legal responsibility for participant supervision (see Criminal Procedure (Scotland) Act 1995 s.234B-234K) and who have been described as "primarily concerned with stopping crime" (see sections *6.2.2* and *7.4*). Given the perceived therapeutic elements of their role (see sections *6.2.1* and *7.2.2*), stories told by Sheriffs sometimes featured difficult attempts to develop therapeutic relationships in the criminal justice context:

S1: *Well this guy was kicking off, it was all verbal, but it was the most I've seen someone kick off in the Court… but it was all verbal, he wasn't trying to fight anyone, but obviously the police and the Court officers were trying to get him to calm down and it's just… you would hear it in York, he was shouting and bawling "I've fucking had enough of this" and all that… and I'm just sitting there he says to me "your honour, your honour, they're fucking spitting in your face that's what they're doing, they're fucking spitting in your face" and I wasnae sure who he meant who was spitting in my face, so I said "who's that then the lawyers or is he talking about you, or is he talking about me" and erm, it was… and then he started off again because* [his DA] *said something else that annoyed him and my way of dealing with that is to just go quiet and if you go quiet then the person shouting just runs out of steam… but that's what he thought that they were all lying, that* [SW2] *is a liar, and that's what was going on with his head, but he'll be back next week and hopefully he'll be able to… but I remanded*

him, so hopefully he'll be in a better state next week when I get to see him… but he's not suitable for a Drug Court Order…

Professionals described having a range of responsibilities and professionals from each discipline discussed their perceived therapeutic responsibilities (see chapter *7*). However, participants may not have always had good relationships with criminal justice or social services and there was a sense that some participants were dubious or distrustful of professionals' motives (see Ferguson et al. 2020). Furthermore, participants may have been sentenced by the same Sheriff attempting to build a therapeutic relationship with them in the Drug Court, which could be difficult to navigate for participants (see section *8.2.1*). As such, despite the transformative potential of therapeutic alternatives, the effective integration of therapeutic values into the criminal justice system could be limited by participants preconceived, and deeply embedded, notions about that system and negative past experiences (see Gallagher, 2013; Scott and Gosling, 2016). For some participants, the Drug Court could represent something that they have to 'fight' in their legal imagination, like the typical adversarial criminal justice process (see Casper, 1978; Bottoms and McLean, 2013).

Whilst the previous extract explored the difficulties encountered by a Sheriff, even addiction workers, who were often described by professionals as the "most therapeutic" discipline in the Drug Court (see *7.2* and appendix *9*), encountered challenges whilst attempting to build therapeutic relationships with participants:

AW2: *Yeah definitely, there was one guy I worked with and he was a bit of a Mr Man About Town and he was like 'well I've had a job'… he was just a social, recreational drug user on the weekends when the football was on… he had a lovely looking house and wee daughter, he was quite a handsome guy, I suppose you could say, as well… but when he was on drugs he looked totally different. But anyway, he finished an Order, and he was somebody who, I got on fine with him, but he paid lip service to the workers… he would say what he had to say to get out, but he didn't want to engage in any structured work or any… he just didn't see himself as that bad. When his Order finished, I don't know what happened to him after, but he just hit rock bottom, he went right down… and I think maybe he had to? In order to him to realise, you know, maybe I have got a problem and maybe I am no*

different to all these other folks who are using drugs or whatever… but he's back on an Order, and I tend to not ask how he's doing because I'm hoping when he's finished it'll have gone better this time and he'll have done well… and he's got different workers this time but erm… but he was one of these guys who was really hard to get any kind of… you could have normal chats with him about football or his work but you couldn't really get any more… he was kind of a deep guy as well, and kind of wary of social work too, I think that can be a problem when they're wary of social services and anything, where that information goes… there's barriers for some people. And that's why I say to people you know, there's the Mungo Foundation,[viii] *there's We Are With You,*[ix] *there's Tomorrow's Women,*[x] *and most of these are charities… they're the voluntary sector, you know, so not social work but the same as us as they'll pass on concerns of whatever, but that can help too having people work with charities and social work… because they can be quite wary of social work and you can't blame them either because of the things they've been through.*

This addiction worker described encountering difficulties whilst attempting to build a therapeutic relationship with this participant, as it was challenging to get him to 'open up' and meaningfully engage. Like the previous extract, this addiction worker perceived this participant as "quite wary of social work", which reflects findings that dependent persons may have difficulty trusting social work professionals or could have previously had hostile relationships with them, especially where children have been involved (Ferguson et al., 2021; Sudland, 2020). For this participant, having an uncharacteristically "nice house" and relationship with his daughter could have precipitated a reluctance to engage with punitive welfarist interventions (Garland, 2001). However, it also emerged that participant "just didn't see himself as that bad". This is perhaps one of the central issues with non-voluntary or coerced drug treatment: that drug using populations may not want to, or feel that they need to, engage with services, even where they are offered as an alternative to custody (see Granfield and Cloud, 1999; Lawson and Griffiths, 2021). Therefore, whilst professionals might explicitly attempt to incorporate therapeutic approaches, these may be limited by the criminal justice context or participants' perceptions of that context (see Du Rose, 2015; Gallagher, 2013; Gallagher and Nordberg, 2015).

8.2.3 Balancing 'Care' and 'Control'

Professionals also described their attempts to balance supervisory elements of the Drug Court programme with therapeutic motivations. These competing aims, and a sense of having to balance 'care' and 'control', is prominent in the literature on a range of criminal justice professions (see section *2.4*), including social work (see Hardy, 2015; Dickens, 2011), probation work (see Willis, 1983), and prison officer work (see Halsey and Deegan, 2016). The interweaving of 'care' and 'control' in Drug Court relationships was discussed in several of the stories told by professionals:

S4: *We… had a young boy sent to the Court… he was only 21 or 22… which is unusual, our clients normally have a long history of offending and convictions and tend to be older… he was very cocky and confident, very much a young man of his age, but he had ingrained addictions and terrible things had happened to him… one time disrupted the Court by coming in late… shuffling along the back row wearing shorts and a t shirt and carrying a can of soft drink… before I looked I thought "that's him" and it was… the police man who was there was telling him off… he took his can off him saying "you can't have that"… anyway he came up to dock and every time he was like "aye yeah I'll do it… yeah aye no bother"… when walking up he was like drums were playing and he had his own theme tune… and I put him on an Order through gritted teeth… his Order wasn't good but it also was not bad and the social were arguing for him to be carrying on… as things went on he calmed down a bit… he was very cocky at first but then he got a really good report… so I gave him some praise and went really bright red and quiet and was like "oh thanks very much"… and in that moment you could see that he was just a little boy… as things went on he got cockier a little bit… he hadn't been to Build a Bike and he was like "aye I'll go, I'll go"… but then we got the sad news that he had been fished out of the river Clyde… we don't know if he was pushed or fell… he had drugs in his system but not that high of an amount that he could have overdosed, so we don't know what happened… he was only 22… it was very, very sad and it does weigh heavily… sometimes I think it would have been better to lock him up…*

This participant had a lengthy criminal history for his age, which was described as "unusual" for the Drug Court, and the narrative began with him being "told off" by a police officer: a contextual

reminder that these narratives, and the Drug Court, are socially situated within a criminal justice setting. Moreover, whilst S4 described initially making an Order "through gritted teeth", a turning point in the narrative in terms of this participants engagement was constructed as coinciding with the development of the therapeutic relationship, reflecting findings about importance of judge-participant relationships in Drug Courts (Lyons, 2013; Stimler, 2013; Jones and Kemp, 2014). As the Sheriff revealed that this participant had died, they considered if it "would have been better to lock him up", which was used to argue in favour of the Drug Courts' brand of 'coercive welfare (Phoenix, 2008) or authoritarian therapeutism (Wacquant, 2013) in which custodial sentencing and the 'pains' of imprisonment (Sykes, 1957) might be interpreted as a therapeutic intervention that could save participants' lives (see sections *7.2.3* and *7.4.3*). As such, whilst professionals described negotiating a complex balance between 'care' and 'control', this sometimes blurred the boundaries between punishment and therapy.

Like the story above, professionals' narratives often discussed whether interventions were justified in participants' best interests, and where the line between 'care' and 'control' should be drawn. This sense of balancing 'care' and 'control' was especially prominent where participants presented with multiple risk factors:

SW4: *There was one woman I can recall who came to us who was pregnant, and we eventually decided that she wasn't suitable for an Order but you know, the level of risk involved there was quite high because there was also an unborn baby in all of this and you know, we had to take that into consideration, there was a child at risk because the mother was injecting drugs and not receiving any kind of antenatal care, but we took a risk and the baby was actually born without any damage, she didn't have any effects from her mother's drug use, but unfortunately she had to be accommodated by the granny because the mother just wasn't in any state to be able to control her drug use… but I felt like there was a lot of good work there nonetheless with her, especially with the health team who'd managed to kickstart this woman receiving antenatal care, she'd come to us in November for her first appointment and that was just around the chaos that she was in and the risks involved to do with her having her unborn child inside her… but she got put on an Order and when she started we managed*

to get her going to antenatal care and she also went to live with granny for a short period of time, it didn't work out… but the baby's now in a safe place, there was child protection stuff going on… and that was very challenging, you find that as a worker sometimes you're at a different stage to what the individual is at, you want them to engage and to get on with it and be ready for the Order, you want them to change their life but they're not ready for that change yet, and sometimes you have to take a backseat and just say you're not ready for this Order yet.

I: *Yeah, and not try to force them?*

SW4: *Yeah, I mean, they have to come to the realisation themselves…*

This extract highlighted the diverse range of risk factors that Drug Court participants might present with, including pregnancy and child protection issues (see O'Connor, 2019). However, it seemed that this participant was initially assessed as unsuitable for the Drug Court. On one hand, this could seem unusual as this participant presented with significant and complex needs and the Drug Court, as an alternative to custody (Eley et al., 2002b; McIvor et al., 2006), could perhaps address these to a greater extent than punitive prison environments (see Scott and Gosling, 2016). Ultimately, this participant was made the subject to an Order and, despite there not being a sustained recovery from drugs, this narrative was ultimately presented as somewhat of a success story as significant child protection interventions and pre-natal support were initiated. This reflects Du Rose's (2015) findings that female drug users are often constructed by professionals as 'bad', 'unfit', 'irresponsible' mothers who need education and training (p. 271). It also reflects a gendered approach to Drug Court treatment, which is explored further below (see sections *8.3* and *7.2.1*), as interventions might be more likely to be justified in terms of harm reduction where female participants present with a certain perceived level of risk (see sections *6.2.3.2*, *7.3.1*, and *7.5.2*). It is unclear whether 'care' and 'control' of male participants, who might be interpreted as presenting with less 'risk', would be managed in the same way.

8.3. Recovery and Harm Reduction

8.3.1 Narratives of Recovery

Following the observational and semi-structured interview findings, several of the stories told in interview concerned recovery and its meaning (see sections *6.2.1* and *7.3*). However, as has been illustrated throughout this thesis, the presentation of recovery narratives in the Drug Court varied between constructions of recovery as a 'grand' narrative (Mancini, 2007) and the successful implementation of harm reduction measures. Perhaps one of the most significant recovery narratives was told by numerous professionals:

S1: *He… articulates so well and he… he came into the Court and he would tell us that he was feared in his younger days for violence and then he got into the drugs or whatever… he just got really into the approach that I was doing and he was just a joy… when I gave him his voice, his voice was so powerful… and I knew that everyone was listening because they all knew of him and his reputation… and he completed his Order, he actually completed it in December because we had to prolong it because of covid… and we had a graduation, and actually I wish it had been filmed, because what he was saying was so powerful, and it was real what he was saying… and he had issues also to do with his son who is quite a serious drug addict and his daughter who had a pregnancy that went wrong and then eventually he got a granddaughter… and it was good and since then he has been doing open air counselling in* [the City] *Green which is a big park and he's having recovery sessions there and everyone sits round and talks and people are being inspired by that, by his approach, and they're going to him because he's kind of like a guru… he's someone who was a bad guy and now he's doing really well, or did really well, on his Order… and recently he's also been getting involved in doing some mentoring and he will be given a paid position in the prisons to speak to people with drug additions who are coming out, and he will speak to them before they come out and try and convince them to work with services and go into accommodation when they come out… and hopefully he'll be able to work with them once they've been released, that's what's hoped for, and if the funding is available then it will happen… so, in many ways he was easy, but he could have been difficult with the*

power he had being so well known and being in the prisons for so long, he could have been quite difficult… but he's a real success story and that's one of the good ones…

This narrative was labelled "a success story… one of the good ones". Whilst this could reflect the study's methodology, as professionals were asked a binary question about their 'successful' and 'challenging' cases (see section *6.3.2*), this story also reflects the observed hearings (see section *7.2.1*) in which involvement was presented as powerful and potentially life changing (see Flint, 2009; Holt, 2008; Pawson et al., 2009). This participant was firstly described as a "gangster" who was "feared by everybody" but was then constructed as successfully recovering and rebuilding relationships (see section *7.2.3.2*). Central to this narrative, though, was the perception of this participants' influence on others' recovery, which highlighted the incorporation of peer-recovery in the Drug Courts' structure (see appendix *7*, Belenko et al. 2021). This recovery story was presented as being so powerful that, once the Sheriff "gave him his voice" through direct dialogue (McIvor et al. 2006, 2009), he had begun to hold court himself on the City Green. He was also presented as having evolved from a recipient of drug treatment to a provider and transitioning into formal employment and away from criminal enterprise (see sections *7.2.7* and *8.5.4*), following the acquisition of several forms of recovery 'capital' (Granfield and Cloud, 1999, 2008). So powerful was this narrative, it was also told by another professional:

SW6: …I had a really nice experience the other day actually, I went up to interview a guy in prison in [prison name] and it was quite a complicated situation where the man had a learning difficulty, he had a history of brain damage and he was having issues with alcohol, and he was in prison, well because that was all he'd known all his life from a very early age… and he had issues with alcohol, his use of alcohol stemmed from his learning difficulty and that had caused his alcohol-related brain damage, it was a really difficult assessment to do because the man's cognitive function was impaired… and I'd come out to go to [city] green for a while and on the green there was this big meeting going on, it was a lovely sunny day, and I thought I recognised some of the guys… there was one guy who he'd been on a DTTO and done really well and become quite involved in the recovery community, and he was doing training to be a peer educator, which is fantastic… so I saw him and I

approached him and said "what's this?" and it was the beginning of the recovery meetings for Humans of [City] and everybody was sat out there on the green, socially distanced, and they were listening to talks from people, and the police were there just to make sure that everything went well and there was nothing going on, but it was actually lovely… and I spoke to a few people who've been in recovery just kind of about how they felt, because it's been one of the hardest years I think for everyone where everything has just been taken away from us…

Structurally, this narrative was more fragmented, which is typical of dialogical narratives and reflects Frank's (2012) view that "stories are composed from fragments of previous stories, artfully rearranged but never original" (p. 35). A key theme throughout this story was the perception of recovery as a "turning point", wherein participants' "talk of reaching a point where they need to turn things around" (see Mancini, 2007). Whilst the narrative began somewhat pessimistically, as this social worker described conducting a "difficult" assessment with a potential Drug Court participant in custody, the narrative tone changed when she described encountering the successful former participant giving a talk about recovery. The change in tone was reinforced by pathetic fallacy, as the narrator described the sun coming out for this event. This narrative reflects the emphasis on the social nature of recovery in the Drug Court (see section *2.2.3*) and the influence one participant's success can have on others including participants and professionals, but it seemed from this narrative that such profound recoveries might not be the norm for many participants.

8.3.2 Relapse, Entrenched Dependence and Death

Not all the stories told during interview were such 'grand' narratives of recovery. As mentioned above, professionals were asked during interview about their successful and challenging cases (see section *6.3.2*), and some of the stories about less successful participants delved into the lives of those with some of the most entrenched instances of dependence, and featured relapses and deaths. Stories of death were common in the dataset (see section *8.2.3*) and were often discussed in relation to participants' relationships:

AW1: *This man… was in a relationship…there was a lot of unhappiness on both sides, however… when he stayed at her address, his drug use seemed to be more stable than when he didn't, despite the*

sort of unhappiness, maybe there was some sort of control, it's really difficult to tell… however, he was always quite ambivalent about the illicit diazepam use, I don't think he particularly appreciated the dangers of the illicit diazepam use, despite the sort of various warnings he would receive… and what would happen is when the relationship would break down he would move into emergency accommodation and that's the point where his drug screening would maybe show up with other medications than the one he was on, as well as sometimes heroin, cocaine… his alcohol use also seemed to increase in these sorts of situations and he had frequent admissions to hospital, I can't remember how many… but one of them he'd been found, he'd fallen into a kind of body of water, maybe a canal or something… and he had a bit of hypothermia but also he had a significant level of intoxication, and I think he attributed that actually, he felt these things were more likely to happen if he took gabapentin medication- he wasn't prescribed it- along with his other drugs, he felt that that was the one that seemed to lead to him being the most highly intoxicated in situations… he changed his opiate replacement medication and I don't know if it was the best outcome for him… but it's what he wanted and I don't make these decisions but… he was asked to leave a number of emergency accommodations due to behaviour and during lockdown he acquired a couple of new offences, which as I say it's the things like losing the mobile phones and he was away for a period of that year but as I say he was quite happy to be in contact… but he never quite managed to reduce the illicit diazepam and he had a lot of distorted thinking… he started to talk a wee bit about trauma and as I say there were concerns about disclosure about what he was taking and there was always a view to plan for a mental health assessment, but because there was never that stability, his key nurse was never able to undertake that to see if that was something that he could benefit from, be it contact with OTs [Occupational Therapists]*, psychiatrists, psychologists… and again because of the extent of his drug use it was difficult for any medications that might have been able to help him, to see what was most effective as well… and the number of accommodations, times not attending appointments so well, so again his medication became daily dispensed purely for a safety point of view… and as I say it was just before Christmas that he came in, he came in on the Wednesday, his appointment was on the Thursday but he came in on the Wednesday that week, and he came in to see his nurse, who said that*

she had concerns about his presentation that day… and then we found out he'd died the next day… it's just sad. It just happens so quickly, and we don't know the cause of death yet…

Stories such as this starkly contrasted with the 'grand' narratives of recovery that were also presented during interview (see section *8.3.1*). This participant was described as struggling to manage several risk factors related to his drug use (see section *7.3*; Lloyd 1998), a prominent factor being his personal relationship, which was described as quite complex (see section *8.5.2*). This professional also discussed how several attempted interventions, such as replacing this participants' opiate-replacement medication, had been unsuccessful. This narrative gives insight into the purpose of initial Drug Court assessments: to direct resources towards participants who are perceived to respond successfully (see appendix *7*) and seen as more 'deserving' of supportive interventions (see Brown, 2014; 2016). Moreover, this narrative also reflects the harm reduction approach in the Drug Court (see sections *7.3.1*, *8.3.3*; Bean 2002a; 2002b; Nolan, 2009) as this professional suggested that ultimately there may have been some improvement in this participants' health and wellbeing during their Order, despite them ultimately having passed away. Whilst this could suggest that therapeutic add-ons to the criminal justice system are not sufficient to overcome entrenched dependence and marginalisation (see Flint, 2009), it also indicates an awareness of the limits of Drug Court interventions.

Whilst the above narrative emphasised the value in reducing harm, even in cases which resulted in death, some narratives explored entrenched dependence and death in relation to its' impact on others in the Drug Court. Whilst this Drug Court incorporates a structural emphasis on the social nature of recovery (see sections *6.2.3*; *7.3.2*; *7.5.5*) this also emerged in stories about entrenched dependence and death:

S4: *We also had one man die… a man died during the course of his Order… and there was a loud gasp across the Court when his name was called from the roll and when he'd not showed up… he was a big guy, quite large, and quite well known to the other participants… it became clear that he'd died and everybody was really upset as they were used to seeing him…*

I: *And I suppose it reminds them of their own mortality?*

S4: *Exactly… it can be motivational… if someone dies or if someone is getting sentenced… it's not an AA meeting there are big consequences to not engaging like you will lose your liberty or you could lose your life… there is a sense of community in the Drug Court… it is a community and people get to see what's happening to people… you don't get to see that in other Courts…*

Whilst this story was brief, this narrative explored how a participants' death was perceived to have impacted others in the Drug Court. This professional described an emotional response from other participants, as a "loud gasp" spread across the courtroom as news of the death emerged. However, whilst the tone of this narrative was sombre, this death was framed as having "motivational" potential for others' recovery (see section *8.5.2*) and this story reinforced a sense that the Drug Court is perceived as a "community" (see Granfield and Cloud 1999, 2008; Best et al., 2015; Scott and Gosling, 2016). However, whilst the death of peers could be beneficial to others' recovery, observing this could also reinforce the underlying sense of coercion within the constrained choice (see Holsapple and Jensen, 2013) presented by, and reinforced throughout, the Drug Court: "you will lose your liberty, or you could lose your life".

8.3.3 Harm Reduction

Whilst 'grand' narratives of recovery emerged during interview (see section *8.3.1*), many stories had an underlying emphasis on harm reduction as the key focus of Drug Court interventions (see section *8.3.2*; Garcia and Lucas, 2021). Whilst these narratives were not necessarily as powerful as some of the 'grand' narratives of recovery, they perhaps offered a more realistic insight into recovery work in the Drug Court:

AW3: *the other one, he was someone who kept getting told that he was stupid, because he had been accommodated from a young age and when he went to school, they kept saying that he was slow, or he was stupid, or he didn't know anything…*

I: *And he had identified with that?*

AW3: *Yes, and it was actually the opposite… he might take a little bit longer to grasp onto things, but he was as intelligent as anyone else in that class or in that college room so building that confidence*

and self-esteem up for him was a huge reward because he then ended his Order and then moved on with his life… but they're the two that were the most demanding because of their mental health and their trauma.

I: *Were there a lot of ups and downs during their Orders?*

AW3: *Oh yeah, and you would just have to deal with each crisis as it arose, and say you know look, that was a blip, we can deal with it, we can move past it, and we can see what we can put in place to make sure that doesn't happen again and if it does… we can deal with it…*

Whilst this professional's narrative featured numerous obstacles to recovery, they described workers as attempting to "deal with each crisis as they arose", reflecting a harm reduction and crisis management approach to recovery (see *6.2.1* and *7.3.1*), which recognised that abstinence was unrealistic for some participants. Nevertheless, whilst some conceptualisations of harm reduction placed primacy on participants' responsibility to engage, this conceptualisation of harm reduction emphasised professionals' role in supporting participants to reduce harms (see Garcia and Lucas, 2021). This was surprising, given the Drug Court's underlying moral behaviourist approach to personal responsibility (see Wacquant, 2013).

However, whilst some stories about harm reduction and recovery in the Drug Court interpreted professionals' role as supporting participants to reduce harms and manage risks, other stories emphasised that participants were expected to exercise control over, and responsibility for, this themselves:

S2: *We had a guy who was on a £700 a day habit and he was a real heavy this guy, he was one of the enforcers for one of the gangs in the north of the city, he was involved in real violent stuff… and one day he just decided that he wanted to change… and when he was working as one of the enforcers he'd hooked up with this lassie who'd had a couple of children and of course, him with his background, social work were all over him… and then she got pregnant, she had a difficult pregnancy but she had the baby and he was still there, of course he was in and out of prison and all that stuff, and then eventually he came to our attention and we were thinking maybe he'd benefit from a Drug Court*

Order, maybe even more for her benefit than his, as he could have been given a long sentence… and anyway so when he started we said to him that we'll give him support and we'll give him stuff to help to get him off this and he just decided that he wanted to go completely cold turkey on it… and of course that didn't work and he was really difficult, he'd come into Court just off his face and just wouldn't take the advice of the workers… and he was maybe not one of the successes but there are other cases where people do take the advice and the support and it does work… and even where the Order might not be the success for people that it could be, basically when they're with us we're working to keep them alive… because if they don't have the routine of coming down to see the Drug Court people and they're not getting the support and the praise for doing that then the alternative is much worse…

In contrast to 'grand' recovery narratives (see section *8.3.1*), this story was labelled as "not one of the successes". This participant was described as a "heavy", or a 'gangster', and it seemed that the risk of his offending (see section *8.4*) as well as risk and protective factors concerning his personal relationship (see section *8.5.2*), were significant in determining the Drug Courts' approach to 'care' and 'control' (see section *8.5.2*). Moreover, this narrative highlighted that some discrepancy between the recovery approaches favoured by professionals and those preferred by participants may arise. Whilst this participant sought an abstinence-based recovery, the Sheriff interpreted this as unrealistic (see sections *6.2.1*, *7.3*; Garcia and Lucas 2021), highlighting differences in the norms and values of professionals and participants (see Flint, 2009; 2019). However, this participant was nevertheless empowered to attempt an abstinence-based approach, despite it ultimately not being successful and there was a perceived prevailing focus on harm reduction, as whilst an Order might not be the successful professionals described themselves as "working to keep [participants] alive". As such, the prevailing focus of harm reduction in the Scottish approach (see Bean, 2002a, 2002b; Nolan, 2009) positions the Drug Court as a genuine alternative to punitive carceral regimes (Scott, 2008; Scott and Gosling, 2016) which empowers participants to take control over how they reduce the harms associated with their dependence. However, it is not clear whether this level of agency was extended to all participants, particularly where other concerns, such as crime control, were more prominent.

8.4. Desistance and 'Crime Control'

8.4.1 Desistance Narratives

Like the 'grand' narratives of recovery that emerged during interviews (see section *8.3.1*), 'grand' narratives of desistance also emerged. These narratives were inextricably linked, as grand narratives of recovery often featured desistance, however, some participants' criminal histories were more significant than others. Some of the stories told by professionals described significant levels of change in offending:

SW4: *we had another guy, S, who my team leader knew as a child and he worked with him as a child… in the Children and Families system and he came on an Order with us, he graduated, he was due to graduate in December, because of covid and lockdown he didn't graduate until about two weeks ago… but he had a pending charge that was from three years ago, before he came to us and before he came on an Order, and in his report I was very clear, you know about the work he's done… he was at Court on Monday and he was worried about getting a custodial because it's quite a significant crime, it was a theft by housebreaking and it's quite a serious charge because you're going into someone's home and the fear and alarm and all that, so he thought he was going to get a custodial which would be a shame you know, because he's really involved, and he went to Court on Monday and he got a tag which was wonderful, you know, he took his bag and all that expecting to get a custodial and the Sheriff gave him a tag… he said I've looked at what the social worker has written about you and the changes you've made, and notwithstanding you know the crime and the seriousness of the crime, but it was three years ago, it was from 2017/ 2018, you've not committed any further offences, you've been through a whole process of change and you're gonna be giving help to others…*

This narrative was a profound story of personal change in terms of recovery, but also desistance (see Maruna, 2001; Stone, 2015), and reflected the substantial criminal histories that Drug Court participants often present with (Belenko 1998). This participants' engagement with 'caring' interventions was presented as a precursor to his recovery and desistance from crime, and the Drug Courts' recognition of this seemed to limit the impact of criminal sanction. The relationship between

punishment and therapy in the Drug Court was often presented in complex terms, as whilst involvement was often justified as an alternative to custody, custody was also interpreted as a therapeutic tool (see sections *8.2* and *9.2*). This raises questions about the exercise of judicial discretion and how custodial sentences are used or avoided as a punishment or reward or framed as a benefit or detriment to participants. It also gives the impression that some participants' engagement with recovery and harm reduction services might be prioritised to the extent that that the crimes that precipitated their involvement may be forgiven in the Drug Court, whereas in other cases there was more focus on punishing offending (see sections *7.4.1* and *8.4.2*).

'Grand' narratives of recovery and desistance were quite common during the interviews with Drug Court professionals. However, whilst some of these focused on offenders' criminal histories and the role of professionals in determining their future, others centred upon the expectation that participants would exercise agency to change their own futures (see Flint, 2009):

S2: *There was one guy…* [he] *was one of three brothers and the three of them were complete space cadets… and we had the three of them in, one of them sort of dropped off and I don't know what happened to him but we managed to sort the two of them out… but* [he], [he] *was the star… and at the Drug Court conference thing we do, erm, we've got two or three of the people who've been through the Drug Court and we get them to talk as they're going through it, on camera, about their experiences and so on… and he would just break into anything, if it had four wheels or a lock on the front door it was a legitimate target for him* [laughs]… *and erm, so he got in and the Drug Court people didn't want to take him but I forced them to take him… and he had a difficult start at first but eventually over time he started to buy into it more, and when he was doing better they started sending him on courses and one of the courses they sent him on was making puppets, making hand puppets… and he ended up, he got completely clean and erm, the last I heard of* [him], *he was doing community education, going round showing folks like young kids and older people, how to make puppets…*

This participant was described as having a significant offending history, as he was labelled as someone who "would just break into anything". However, what stood out in this narrative was this participant's apparent sustained desistance from crime. By the end of his Order, he was described as

evolving from a seemingly highly recidivist thief to a prominent member of the local community, "going round showing folks… how to make puppets". This framed the employment-related support available through the Drug Court as a crucial element of the therapeutic approach (see sections *6.2.3.5*, *7.4*, and *8.5.4*), and central to promoting recovery (see Laudet, 2010). However, this participant's story was juxtaposed with that of his brothers, who "didn't do so well", which emphasised expectations of personal responsibility in desistance narratives, as this participant exercised agency to make significant changes to his identity, whilst his sibling did not (see Maruna, 2001; Stone, 2015). In this way, the emphasis on 'crime control' in the Drug Court was guided by an emphasis on personal responsibility for engagement and desistance.

8.4.2 Reoffending Narratives

However, the stories told by professionals were not all 'grand' desistance narratives. As the interviews involved a binary question about 'successful' or 'challenging' cases (see section *5.3.2*), many narratives involved 'challenging' participants and stories of relapse, entrenched dependence, and death (see section *9.3.2*). Many of the stories told also featured continued offending and there was significant overlap between themes of reoffending and entrenched dependence. Perhaps one of the most significant of these stories featured a participant the interviewee chose to call 'Anne':

SW3: *Anne came to our attention… I could not even tell you the amount of times that Anne has come to our attention… I'm not entirely happy with how the Sheriffs have dealt with this, the Sheriffs in our Court… I think sometimes the Sheriffs have a tendency to be quite paternalistic with female offenders, they tend to pathologise their behaviours, and that's quite concerning… so what they… they highlight the case in terms of saving, in inverted commas, the individuals life… they never talk about men in that way but they talk about women in that way…you know, what can we do to save these poor souls, what will happen to them if we don't help them sort of thing…*

…

SW2: *But yeah, so he did it, he imposed an Order, so… you can bet your boots, she did not turn up for the first appointment… she was due in Court on the 11th of this month, and she rang the office and*

said "oh [SW3] *I'm so sorry! I want to engage!" and I was like look, this is not for nothing, and you're phoning my office right now whilst you should be in Court… and its very manipulative behaviour, she's ringing up thinking we'll say, "oh she rang up this morning, that's fine". So she was supposed to be in Court on the 11th but Court didn't go ahead on the 11th, it was deferred, and then in the meantime one would think… if she was making all of the… she also phoned Tomorrow's Women that day and said "I want to re-engage with you" and she rang up the Homeless Addiction Team and said "I want to re-engage with you" and she showed up for those… she turned up for them, she did actually go to the homeless addiction team, and I've just received notification from them to say that she has never come back… and I've just received notification from Tomorrow's Women to say that she had never come back… and she's never presented here. So, this is exactly the same old story, we've got the same pattern of behaviour and I would love to break that pattern of behaviour, but as I say to the Sheriffs, if people don't show up then there's not a lot you can do. And also, I have to think, in terms of the resource here, as I'm a gatekeeper for scarce resources… am I wasting resources here on someone that's not going to use it? So that's why I took that case off* [SW6] *and I got it, so that I can keep an eye on what's going on and finally report to Court… So, if it's not successful, and there's a chance that she won't be… and Anne is a young woman who, her risk of overdose is incredibly high. And when someone presents as not wanting to change it's difficult, it's always difficult… you think of course you want to change, you don't want a life like that… but she doesn't, it's not that she lacks capacity, it's that she doesn't want to take that step to do something about it right now… so it might be the right Order but it's the wrong time…*

Anne's story seemed to be one of entrenched dependence and relapse (see section *8.3.2*, also McIntosh 2002). The likelihood of Anne's recovery seemed uncertain but, as a recidivist offender, she had been repeatedly referred to the Drug Court. This reflects findings that offenders with significant criminal histories are more likely to encounter Drug Courts than those with lesser histories, who might be considered more suitable (Belenko, 1998). For Anne, an Order was imposed despite her perceived unsuitability, which was framed as "paternalistic", suggesting that women in Drug Courts may be perceived as more vulnerable or in need of protection than men (see section *4.3.1.2.2;* Fischer

and Geiger, 2011). Whilst using the Drug Courts' time and resources was ostensibly difficult to justify for Anne, who seemed unlikely to complete the programme, the Courts' position as an alternative to custody could offer an alternative to the revolving door of repeated prison stays for recidivist female offenders (see Hedderman and Joliffe, 2015; Dominey and Gelsthorpe, 2020). However, stories such as this highlight that many people end up in prison and criminal justice programmes not because their offending is especially serious, or because it poses a risk of serious harm, but because there does not appear to be anywhere else that can address their complex physical, mental health, addiction, homelessness, and other personal needs (Tata, 2016 p. 24). Whilst community-based resources and voluntary programmes have been found to be more appropriate for female offenders (Dominey and Gelsthorpe, 2020; Gelsthorpe, 2020), 'unsuitable' participants may continue to be referred to the Drug Court due to a dearth of community resources.

Whilst recidivist offending featured in stories about 'unsuitable' participants, it also emerged that participants sometimes continued to offend during Orders. This reflects that, just as how abstinence was not enforced (see section *8.3.3*), some offending may be tolerated. However, Drug Court Sheriffs had broad discretion to impose sanctions for previous offences (see section *8.4.1*) and offending during the Order (see appendix *7*). This discretion was informed by the range of multidisciplinary parties involved in the process, including the social worker responsible for producing reports and assessments on each participant (appendix *9* and section *8.2*):

SW2: So, at the moment, I have two guys in breach of their Order due to non-compliance and reoffending, and antisocial behaviour, and continued drug use…. Where the context is the person who really pulled out all the stops… in both cases these guys are in really good tenancies because they're on the Order, and you find that these tenancies which were meant to solve the issues that they were previously experiencing with being perhaps victimised where they were or being in a community which was supporting their drug use rather than helping them eliminate it. So, they've got a good tenancy that they're happy with, they're nearer family, away from their old peer group, they're managing their own front door, but in both cases now at the moment there are problems in the new area, they've taken their problems with them to the area and they're beginning to cause problems for

other people. The behaviour has gone with them rather than them turn their back on that kind of lifestyle… so I've got two people in breach at the moment but they're both at that first stage where I've sort of challenged them through non-compliance, but I've called internal reviews in both cases. We've got Court reviews in both cases, where I'll ask for the breach to be continued for internal review, and we'll try and see what's going on. But in both cases, there's also what we refer to as lack of transparency, there are these things going on under the surface that they can't disclose or won't disclose, partly because they're probably still offending and disclosure could lead to that becoming apparent but they could also still be being victimised in some way, and they don't want to grass, which is also important as there's a delicate untangling process…

This narrative began with the social worker explaining that he had "called internal reviews" for breach, despite both participants being described as having "really good tenancies" and a high level of support through the Drug Court. However, whilst these participants were in breach of their Orders, there was a sense that, rather than taking a strictly punitive approach to continued offending and instances of non-compliance (see section *2.3*, appendix *7*), professionals embarked upon a "delicate untangling process" to address offending (see Burns and Peyrot, 2003). Whilst tolerating offending could undermine the 'crime control' purposes of the Court and the criminal justice system (see sections *6.2.2* and *7.4*); therapeutic approaches can also be perceived to control crime (see section *2.3.1*; Allen, 1978; Bailey, 2019). By tolerating some low-level offending rather than returning participants to the criminal justice system (see appendix *7*), the opportunities to integrate harm reduction measures, which could also reduce crime, may be greater (see section *8.3.3*; Best et al. 2017). As such, whilst Drug Courts may represent criminal justice 'net widening' (Burns and Peyrot, 2003; Drug Policy Alliance, 2011; Lilley, Stewart, and Tucker-Gail, 2020), a therapeutic criminal justice approach to offending could reduce future criminal justice involvement, or alleviate some of its' effects (see Scott, 2008; Scott and Gosling, 2016), even where sustained recovery and desistance is not possible.

8.4.3 Crime Reduction and Diversion

Just as the Drug Court sought to reduce individuals' "propensity to misuse drugs" (Criminal Procedure (Scotland) Act 1995 s.234B-234K) through harm reduction measures (see section *8.3.3*), it also seemed to adopt a harm reduction approach to offending (see Best et al. 2017). As such, the Drug Court seemed more focused on crime-reduction than complete desistance, which mirrored the aim to reduce drug use rather than enforce abstinence (see section *3.3*). The following narrative is an extract from the previous narrative (see section *8.4.2*), which provides further information which, considering this participants' ongoing offending, suggested that professionals interpreted this case as somewhat successful:

SW2: *So things kind of unfolded like that and it's not by any means the end of the case, I wonder whether an interim sanction could help because he is a very heavy Valium user… erm, I just wonder if an interim sanction could help with detox… the reality of the situation is it probably would but it probably wouldn't sustain the detox… what he's not doing now is he's not using heroin cocaine or amphetamine, and what he's broadly not doing is getting himself into any more trouble, although there are new offences pending and it looks like he might have been dealing in the city centre… and also it looks as though he may be involved in antisocial behaviour in his local area, which I've alluded to… but the thing is they are both fairly early on their Orders so I'm not saying that there isn't a chance for improvement at a later stage but we're trying to get to the bottom of the problems that do currently exist…*

This social worker suggested that, despite this participants' repeated offending, termination was unlikely as he could instead receive an "interim sanction" (see appendix *7*). However, the perceived therapeutic benefits of these sanctions to facilitate detoxification illustrates how punitive carceral regimes were jarringly interpreted as a therapeutic tool by professionals (see sections *6.2.2* and *7.4*), although it was recognised that the benefits of custodial sanctions would likely be short-lived. Moreover, the suggestion that that this participant would likely not be terminated as he was "broadly not getting himself into any more trouble" seemed to conflict with the revelation that he was continuing to deal drugs and engage in anti-social behaviour and this could suggest that desistance in

the Drug Court is defined as a reduction in offending rather than a complete abstinence from crime (see McNeill et al., 2012). As such, whilst therapeutic approaches may be used to justify more frequent or ongoing sanctions in Drug Courts (see sections *6.2.2*, *7.4*, and *8.4*; Lindquist et al.), they could also justify a reduction in such measures.

The notion that Drug Court involvement could reduce participants' criminal justice involvement, despite its' location within the criminal justice system, featured in several narratives told during interview. Whilst Drug Courts arguably represent an example of criminal justice net-widening (Burns and Peyrot, 2003; Drug Policy Alliance, 2011; Lilley, Stewart, and Tucker-Gail, 2020), the integration of therapeutic approaches could lessen the impact of punitive sanctions (see sections *8.2.1* and *8.5*). Whilst the aim to divert participants from the criminal justice system by inducting them into an 18-month long criminal Court Order within the criminal justice system might seem contradictory, Drug Courts could be perceived as principally serving diversionary purposes for highly recidivist offenders (see appendix *7*; Belenko, 1998):

AW3: *Well, I've got one that I'm working with at the moment and again, with this guy I did the assessment in prison and it was a risk getting him on an Order and he's still on a Structured Deferred Sentence at the moment, and when he was in prison… because he's in his 40s, he basically said "I've never worked with services before, I'm in prison more than I'm in the community"… and he's been linked in with housing services and he was never in the community long enough to even get off the starting block… but he has engaged with us and I think we're into our third month of a Structured Deferred Sentence and he has attended every single appointment that has been given to him and we're looking at reducing his alcohol… he probably will need some kind of detox or inpatient treatment but we're looking at reducing his alcohol use, he's not reoffended, and he's now got his own flat so he's got everything he signed up for and he's doing it… so he's one that had a lot of risk in terms of whether he would engage, I didn't know if it was a get out of jail card but it hasn't been, he's really done very, very well and all credit to him, we're looking to convert him to a DTTO next month.*

What stood out about this narrative was that this participant had "never worked with services before" as he was "in prison more than… the community", which reflects findings that Drug Courts tend to target participants with significant offending histories and ongoing criminal justice involvement (Belenko, 1998; Mitchell et al., 2012). This was confirmed by S2 in the previous chapter, who highlighted that to be eligible, participants must have committed "a whole load of crimes" (see section *7.4.3*). Whilst this could reflect a tension in the Drug Courts' aims to deliver a programme of drug treatment (Criminal Procedure (Scotland) Act 1995 s.234B-234K), as criminal justice involvement does not necessarily reflect readiness for drug treatment (Shaul, 2019; Prendergast et al., 2009), targeting individuals who have been subject to carceral regimes too often to make a sustained recovery in the community (see Cracknell, 2021) arguably reflects the need to close the revolving door of prisons for highly recidivist offenders (see Padfield and Maruna, 2006). As such, where participants have significant criminal histories, the delivery of drug treatment in the criminal justice system, combined with the Courts' toleration of continued offending (see section *8.4.2*), could be an effective means of targeting drug using offenders. Nevertheless, the perceived necessity of criminal justice-based drug treatment raises questions about whether this is truly unavoidable, or whether this reflects underlying assumptions about the use of 'coercive welfare' (Phoenix, 2008) or 'authoritarian therapeutism' (Wacquant, 2013) to control certain marginalised groups and whether this is truly necessary where community alternatives could be used.

8.5. Social and Welfare Support

8.5.1 Mental and Physical Health

Following the observational (see section *6.2.3.1*) and interview findings chapters (see section *7.5.1*), health emerged in the narratives as a key site for support with physical recovery 'capital' (see Granfield and Cloud 1999, 2008) and a key site for interventions of 'care' and 'control' (see sections *6.2.3.1* and *7.5.1*). Many of the stories told during interview featured participants overcoming underlying health problems to sustain their recovery from dependence:

S1: *This guy sent me a letter… and I get letters, I get letters quite a lot… sometimes during the Order and sometimes after the Order has ended… and this was… it read "to S1…" and this is from a guy*

who was on an Order… "the reason for the letter is because there are things I want to say to you that I don't want the whole Court to hear. The truth is that I have fallen flat on my face but I know that I can learn from my mistakes and I went out with my dog tonight in the [local] *park at 10 o'clock and I've had a good think about my life and why I have lost control and now… it's only now that my little dog that I care for and I can't bear to put him through the kennels again if I go to prison…*"

I: *Aww…*

S1: *I know it's one of these situations... "Things started to go wrong when I told a girl I met called Lorraine that we were falling in love. But I told her that I have the virus and I haven't seen her since. I tried to front it out and not talk about it, but I let it build up inside me and now that I've talked about it it's obvious to me now that I've messed up big time and I'm asking you please to give me a chance to show that I can do the Order and that I can get back on track. I have to talk to people and be honest when I'm struggling. I know I can get back on track and I ask you to give me one last chance"… and he was doing badly and I gave him another chance and he completed the Order successfully… and as far as I know he never lost his dog but he never got back with Lorraine… and that was him, if you like, being too honest, he's come out with that and she's run a mile when she's heard he's got the disease, which is you know, HIV, which you know attitudes are changing towards and it can be treated… but there's things like that…*

The focal point of this narrative was this participants' HIV diagnosis. The comorbid relationship between HIV and injecting drug use has been understood for some time and there can be disinterest or difficulty accessing treatment amongst such populations which can significantly impact individuals' quality of life (see section *2.2.2*; UNAIDS, 2018). Whilst it was noted that "attitudes are changing", HIV and AIDS are still highly stigmatised health conditions (UNAIDS 2018, ibid) and as drug dependence is a highly stigmatised identity, also having a diagnosis of HIV or AIDS can represent a "dual stigma" which could intensify social exclusion (see Herek and Glunt, 1988). Nevertheless, there was a turning-point in this narrative surrounding the impact of the diagnosis on this participants' personal relationship and his establishment of a new relationship, this time with a "little dog", which was framed a key motivator for this participant try to stay out of prison. Ultimately, therefore, whilst

health conditions may complicate or frustrate recovery and engagement, they were also constructed as critical junctures at which crime reduction interventions, and supportive interventions, might have greater effect.

Moreover, the stories told by Drug Court professionals also concerned access to healthcare services, and the use of new developments in healthcare. This reflected the therapeutic orientations of the Drug Court, which were facilitated by a multi-disciplinary approach which incorporated different domains of expertise:

AW1: *Yeah, yeah, and I think that's what makes it so sustainable is all the ways that he has changed, he made a decision and he stuck to it… the last group that we had, he actually came in as a peer supporter, so there was someone from the group but also [him] because he'd been here before, and he was able to offer his wisdom and his encouragement… I think maybe a part of him would like to work in social care but he's not too sure, but he wanted to give something back in that situation… and he now gets… have you heard of that injection Buvidal?*

I: *No?*

AW1: *Basically, it's a new treatment option where instead of the buprenorphine, it's kind of a slow-release buprenorphine injection, so rather than going to the chemist to collect your medication every day, the medication is kind of administered through the injection kind of weekly or kind of monthly, as it's slow release, so that takes away the need to go to the chemist… which can also be a physical issue more than anything, it's a kind detox as well, so I think the injections can go in your stomach or your legs or your arm, so… the important thing is that he doesn't have a chemist in his life all the time now, he's one of the ones that's getting this injection and that kind of works, you know not having to present at the chemist all the time, it can take a lot of time… so yeah, as I say it's really good to see, to see him and how he's getting on… yeah I just hope he continues.*

This narrative gave a sense of the range of personal, social, and welfare issues that can emerge in the Drug Court (Granfield and Cloud, 1999, 2008). Whilst the narrator initially framed recovery in terms of engagement with services, such as the "recovery group", this was expanded to encompass 'capital'

(ibid) such as employability (see sections *6.2.3.5*, *7.5.4*, and *8.5.4*), housing (see sections *6.2.3.3*, *7.5.2*, and *8.5.3*), familial relationships (see sections *6.2.3.2*, *7.5.3*, *8.5.2*) and health (see sections *6.2.3.1*, *7.5.1*, and *8.5.1*). The emphasis on health and wellbeing in this narrative was underscored by the discussion about Buvidal ®, an innovative slow-release injection that can reduce delays in substitution-related outpatient appointments (see Roy et al., 2022), which was framed as benefitting this participants' quality of life by freeing up time for education and employment. However, when discussing future employment, question emerged regarding the feasibility of this participants' chosen career, given his criminal record. This suggests that, despite the increased opportunity for medical and welfare-related interventions in the Court, these may be insufficient to overcome the prevailing stigmatising effect of criminal justice involvement (see Phillips, 2004; Scott and Gosling, 2016).

8.5.2 Family and Relationships

Another theme that emerged in the stories told by professionals was family and relationships, in terms of pathways into dependence and pathways toward recovery. The recovery process was often interpreted as socially situated and involving a range of parties (see section *8.3*; Mezzina et al., 2006; Best et al., 2015), and several stories explored the Drug Court's approach to personal relationships, including family, romantic relationships, professional relationships, and informal social networks. The complex network of relationships in participants' lives was often highlighted in stories about participants' dependence and their initial recovery:

AW2: *He's another guy who… his mother died about two years ago and I think things just went downhill for the guy and I think he was quite lost… and there's a lot more to him as well but I think people just see this loud guy and he talks that gangster talk but he isn't a gangster, I think he's just the fall guy and they use him really… but you get to learn a lot about people and you get to know people, and there's a lot of sad stories as well.*

I: *I can imagine, do you find that people in the Drug Court… do you tend to find that a lot of their issues come from trauma?*

AW2: *Yeah definitely, I think he dabbled in drugs beforehand but after his mother died it turned a corner… he's having some issues at the moment as well with his brother because his brother's an alcoholic and actually the last time I spoke to him and his brother's in hospital, I need to actually ring him again today, but I think he's just waiting for his brother to die, and that's really affected him, he's taken this sense of responsibility really seriously and I'm saying you know, you can't forget about you as well, because you'll be no use to your brother or anybody else…*

As was highlighted in the observational (see section *6.2.3.1*) and interview findings chapters (see section *7.5.1*), participants relationships were often complex and characterised by trauma, which affected both their pathways toward dependence and recovery (see Pettersen et al., 2019). This participants' mothers' death seemed to precipitate his dependence on drugs, which reflects findings about the relationship between parental bereavement and substance misuse (see Pitman et al., 2020; Caparros and Masferrer, 2021). This may have exacerbated his vulnerability to criminogenic and drug-using networks, by whom he was reportedly used as a "fall guy". Moreover, it is likely that this participants' recovery will be affected by the passing of his brother, reflecting the recurring spectre of death in recovery narratives (see section *8.3.2*; Irving, 2011). Nevertheless, whilst the description of this participant suggested that he had underlying disabilities which may have affected his relationships (see Landman, 2014; Grundy, 2011), there was a sense that a therapeutic relationship was forming between him and the narrator. In this way, the emphasis on relationship-based interventions, and therapeutic relationships, in the Drug Court could reinforce participants' social recovery 'capital' (Granfield and Cloud, 1999; 2008).

Nevertheless, some therapeutic relationships in the Drug Court could be perceived as overstepping professional boundaries. Whilst the following narrative is quite lengthy, it charted the ongoing therapeutic relationship formed between one social worker and a client, against a backdrop of similarly difficult relationships in a participants' life:

SW3: *And another one I'll tell you about, this was one of* [S4]*'s cases… I'd known this guy for a while from when I used to work in the Department of Children and Families around 25… or 20 years ago… I worked in children and families and he was a child in care, he had lived with his grandmother*

and he was the absolute bane of her life, absolute bane of her life, he drove her crazy… she was forever buying him trainers because he was 16 at the time and he wouldn't wear used trainers and she was quite elderly and she didn't have much money… and she as always worrying about how he was gonna manage without her, as I say he was about 16 and she was quite old I think she was in her 80s… and he'd started on the alcohol and then moved onto drugs too, he'd started with alcohol and then got into the wrong crowd and started with drugs too, and he was on a Supervision Order, I'd moved on from Children and Families at that point, but he was on a Supervision Order at 16 so a social worker was required to be involved and sort of case manage… so I was working in the Drug Court and his name came up one day for a Criminal Justice Social Work Report… we'll call him Robert… so Robert's name turned up and I knew exactly who he was because he was quite memorable… so I discovered that his grandmother was incredibly ill and she subsequently died, so myself and the Children and Families Social Worker decided to go to the funeral, as I'd known her for some time so I'd gotten to know her quite well through the course of the Children and Families stuff, and it was I and the Children and Families Social Worker… the new social worker who was working with him and we decided to go along to the funeral… and at that funeral, he caused an absolute stink… he turned up, to a kind of reasonably full crematorium, absolutely out of his mind, and he ran up to the coffin and started wailing "I did this, I did this to my gran" you know, the whole bit, and we managed to get him away from all that, get him out, everybody kind of ignored him, we had a chat with him and he wouldn't calm down, so the Children and Families social worker took him into the town and got him away… so that happened and I was working as a Criminal Justice social worker and his name came up that he was receiving services from both Children and Families and Probation… so we got him on a Probation Order and he didn't… he didn't actually merit it that much but he was now in the adult criminal justice system and he was a recidivist offender and it would just go on and on… so I got him on a Probation Order and it was a complete failure, it completely failed so that was one of the ones… they're not all good stories… and he was one who he didn't have any idea where he was going with it, I was trying all sort of things, going all over the place… it was a mixture of, I was kind of losing sight of who I was in all of this at one point, I was kind of like a surrogate uncle, and I had this kind of parental annoyance at him not doing what he was told… so he

failed his Order, and then there was a pattern of drug use, his pattern of behaviour was using drugs, he was out in the community for a while, and then the nick, etcetera etcetera… and then… and this one that actually… I met him in the street one day! So, it's like he's kind of always been in my life…

Robert's story showcased the "enduring and evolving" nature of therapeutic relationships in the Drug Court. This social worker described first encountering Robert whilst working with Children and Families, which demonstrated how professional/participant relationships may transcend Drug Court Orders (see section *8.2*). Whilst this could frustrate the development of therapeutic relationships, such as where Sheriffs have previously sentenced participants (see section *8.2.2*), it could also intensify them. The narrative then flashed forward to the social workers' encounters with Robert in the criminal justice system, from a Probation Order to a Drug Court assessment. These multiple interventions, and Robert and the social workers' ongoing relationship, created a sense of a therapeutic, but highly paternalistic (Slobogin, 1995; Stobbs, 2015), relationship which seemed almost familial, underscored by the social workers' description of himself as "a surrogate uncle" with "this kind of parental annoyance at [Robert] not doing what he was told". Therapeutic relationships between professionals and participants were a critical site for both the 'care' and 'control' of participants, which could both bolster their social capital and provide an opportunity for 'control' and offender management across the life-course.

8.5.3 Housing

In conjunction with the observational themes (see section *6.2.3.3*) and interview findings (see *7.5.3*), housing also emerged as a key theme in the stories told by professionals. The importance of stable accommodation and its' influence on Drug Court outcomes (see Cooper, 2009), and the Drug Courts' approach to physical recovery 'capital', was central to some narratives (see Granfield and Cloud, 1999, 2008). Housing was also narratively constructed as a central intervention for 'care' and 'control' of participants:

SW3: *So there's a guy… we'll call him Joe just for the sake of differentiation, but Joe, I really liked him… he was one of our older guys, he was in his mid to late fifties, which is quite unusual of a demographic… and he'd come through the alcohol route, he'd been drinking, become homeless, and*

whilst he was homeless he'd been introduced to illicit drugs whilst in homeless accommodation, which, you know, it happens… but anyway, before he had entered the homeless scene, he'd had children who had children… and he, well they, when he became homeless, they never maintained contact… because he, Joe… he was mortally ashamed of his situation, he didn't want contact with them because he didn't want them to see the state that he was in, because he sort of moved between alcohol and illicit drugs… and he was one of those who… he always came to his appointments, he always showed up, he was always polite, and he was one of those where we were really like right, what can we do to help this guy? He had a really strong alcohol and drink habit and he seemed to have no great aspirations of becoming abstinent at all… so it was about managing the risk, you know, looking at what he was doing and making sure he was safe, to reduce his levels to a safer level that it was, it wasn't about moving towards abstinence, we thought that was unrealistic… and he actually had seen his children, his grandchildren, as he resided in homeless accommodation that was not too far away from them, and six months ago he had been evicted from his hostel accommodation… and he lived in a skip!

I: *He lived in a skip?*

SW3: *Yes, he lived in a skip!*

I: *Ah, that's really sad…*

SW3: *We did offer him accommodation and he wouldn't take it, but he had actually turned it into actually like a home… and well I say home in the loosest of terms, but he lived in that rain, hail or snow, and he could see his grandchildren going to school from the skip! But he wouldn't introduce himself, he didn't want them to know that he was living like that… and as we proceeded with him, we looked into getting him some accommodation, obviously accommodation was a priority, so we got him a new place… and we were also trying to find services that would work with him because of his age… usually we have services that are targeted at a younger age, but we were looking at trying to find something that could work with someone who was using, who is 50 and above… and he started slowly to turn it around, his changes were ever so small at the beginning, he started with things like*

maybe not drinking one day at the start of the week, and he really struggled with that at first because he felt really ill, but eventually he got to a point where he was only drinking on the weekends, and using drugs… he had gone from illicit diazepam which we thought would kill him, and he had used heroin once before, but he ruled heroin out because he just couldn't afford it and he was so well known to the police in the city centre that his attempts at thefts were just pointless… he could be spotted five miles away, so that didn't happen for him, he wasn't very good at the stealing side so he wasn't very good at maintaining a habit…

I: *Ah bless him…*

SW3: A*nd that was quite an interesting motivation to change for him, I remember him telling me that he was just so dreadful at stealing that he can't maintain a habit so he might as well just give it up*

[laughs]

I: [laughs]

SW3: *And of course it was his grandchildren too, he wanted to have a relationship with them… so when we got to about 8 or 9 months, we looked at getting an extension to the Order… he'd been given a 16-month Order but we thought, you know, he needs a bit longer if he's gonna have a good go at it… so we did, we extended the Order and as we proceeded further, he moved out the skip obviously and we got him some accommodation, and then when he came in he started to be incredibly smartly dressed, and then finally… he re-engaged with his children and grandchildren!*

This story embodied some of the themes explored within 'grand narratives' of recovery, as Joe was described as having "completely turned it around" by the end of his Order (see section *8.3.1*). It also comprised some themes of family and relationships, as re-establishing familial contact was a significant narrative turning point (see section *8.5.2*). However, housing was the key theme of this narrative, as it emerged that Joe spent much of his Order living in a skip. Whilst accommodation had been ostensibly sourced for Joe, reflecting tangible support for participants' physical recovery 'capital' (see sections *7.5.2, 6.2.3.3*; Granfield and Cloud, 1999, 2008), he reportedly chose to continue living in the skip to be close to his family. Structural limitations on housing access emerged

in the observational findings, as shortages of housing availability exacerbated delays in accessing accommodation and seemed to have significant impacts on participant engagement (see section *7.2.3.3*). However, it could be argued that it was Joe's personal decision to continue living in the skip, which could reflect some participants' inability to make prudent choices to maximise their wellbeing (see section *2.3.3*; Du Rose, 2015). Whilst this narrative was ultimately a success story, it is difficult to imagine what an undertaking that Drug Court engagement must have been for Joe whilst living in a skip. Therefore, whilst it could be argued that there is some interaction between personal responsibility and structural limitations in terms of housing access, this narrative ultimately highlights that community resources and support for individuals like Joe are lacking and often intertwined with punitive measures (see Flint, 2009; Phoenix, 2008; Wacquant, 2013). It is perhaps for this reason, to access services, that unsuitable participants, or participants living in unsuitable circumstances, are admitted into the Drug Court, and expected to meet the expectations and demands of the programme.

8.5.4 Income and Employment

Income and employment also emerged as a prominent theme in the narratives told during interview. This theme also emerged in the observational data (see section *6.2.3.3*), where discussions predominantly focused on participants needing income at the onset of Orders. The narratives however, tended to focus on employment support for 'successful' participants. The following extract is from the narrative presented by an addiction worker in the section on Mental and Physical Health (see *8.5.1*):

AW1: *There was a man we started working with about two years ago and he came on the Order for a domestic charge… and that's not a common charge that we have clients on an Order for, and he was younger but… once he started on the right kind of treatment he stuck to it, and from that point of view there was no issues… I think sometimes it's the mindset of the client, the mindset plus the structure… very early on he started in a recovery group and you don't always… you sometimes have ideas about how an Order will go at the start of it but… from that he started going to the group once a week and he really wanted more so we referred him to the Mungo Foundation which is one of the recovery hubs and he participated in that really well, through that he got linked into a kind of employability programme with jobs in businesses in* [the City] *and we supported him to apply for college… his*

Order came to an end about August last year but he's now at college… he's attending from home via his laptop, but he's doing sports development, some kind of sports development and coaching… he's a wee bit concerned about whether his criminal record will kind of limit him from being able to do this, but also from that situation he's started looking at other options like building, he's worked as a roofer scaffolder previously… and again it was just really great seeing the kind of positive things that kind of came out of all this for him, you know he's staying with his mum and that seems to work for him… he was at housing associations wanting a move closer to the area that they felt more comfortable with, they had the move which was a stressful situation and he coped with it really well… he also had to have surgery to get his gallbladder removed and he coped with that really well… he was at a pharmacy, he came in contact with old associates, spoke to his nurse and changed the pharmacy… all those kind of things that you know that the drug use has gone from being a kind of all-encompassing thing to now there's no offending, he's been linked in with other social groups during the Order, he's stopped smoking, stopped drinking fizzy drinks, he's started eating more healthily… he's started going out running, got into a kind of attitude where he just starting going to the gym a lot…

This participant seemed to have made profound changes in his life, from his health (see section *8.5.1*) to relationships (see section *8.5.2*), and housing (see section *8.5.3*), but there was a distinct emphasis on employability. This participant, having begun attending college and looking toward a career in sports, seemed to have taken significant steps toward recovery and what is considered a 'normal life' (see Spencer et al. 2008; Laudet, 2012). However, the lasting effects criminal justice involvement for Drug Court participants were demonstrated by the limitations that a criminal record posed to participants' career (see Metcalfe, Anderson, and Rolfe 2001). Whilst this participant, like many others, may experience ongoing stigma from their former (or reduced) criminal status (see sections 8.3), Drug Court involvement, which precipitates prolonged criminal justice participation, could potentially compound this (see section *8.2.1*; Scott and Gosling, 2016). Therefore, whilst the provision of drug treatment in the criminal justice system is often justified on a therapeutic basis, and the therapeutic approach attempts to mitigate some of the stigmatising effects of criminal justice

involvement (see Allan, 2003), this can have long-term impacts on participants' ability to participate in society in the future.

However, whilst counter measures may be taken to destigmatise recovering participants' highly stigmatised identities (see Lloyd, 2013), to prepare for (re)entry to the labour market, Drug Court participants often seemed to find employment within addiction or criminal justice services (see section *8.3.1*; Eddie et al. 2019). This gave the sense that participants who had successfully navigated 'care' and 'control' in the Drug Court would come 'full circle', from receiving to delivering programmes of 'care' and 'control' for dependent offenders:

S2: *I had a woman, she's a speaker or she was a speaker at the Drug Court conference so if you're ever around, get in touch with [the DCM] to see if he's organising it this year… I don't think he's organised one for this year but definitely next year, if you can get up to that it's really quite interesting… and this woman, she was a speaker at this, and she came up to me and she said, "do you remember me?" and I said, "well, I see a lot of people in my life" and she said, "well, you used to jail me when I was younger" and I said, "oh, I'm terribly sorry about that"… and she says "no, no", she says, "the last time you jailed me, I'll always remember your words, I was going into the Court and you said "aren't you fed up with this?" and I sat up and said, "yeah, I'm fed up with it"… so she came out of there and she started volunteering at one of the local women's organisations and from there she got into college and got a social work degree, so she's got her social work degree and she's working in one of the drug rehabilitation services and she's been doing lectures… but that's what it is, it's the mindset thing…*

This extract featured another enduring relationship between a Drug Court professional and a participant, as this narrative featured a participant who had been "jailed" by S2 when she "was younger", reflecting many participants' long-term criminal justice involvement (see sections *8.2.1*, and *8.2.2*; Belenko, 1998). Moreover, this narrative highlighted the therapeutic interpretation of sanctions and control measures in the Drug Court (see sections *7.2.2*, *7.4.3*, and *8.3.2*), as it was following sentencing that this participant had seemingly decided she was "fed up" with her life. The profound nature of change undertaken by this participant was symbolised by her career, as it emerged

that this former participant had spoken at a Drug Court conference (see appendix *7*), having obtained a degree in social work, and begun a career in addiction services. Employment is a key indicator of improvement in recovery from dependence (see Laudet, 2012), and a key norm and value of the Drug Courts' moral behaviourist approach (Wacquant, 2013), and this narrative (see also *8.3.1*) featured a participant not only gaining employment but coming 'full circle' from a recipient to a provider of recovery services (see section *2.2.4*; Belenko et al. 2021; DeMatteo et al. 2019). However, whilst this participant was working in criminal justice services and not receiving them, there is nevertheless a sense of the enduring effects of criminal justice involvement, as former Drug Court participants may struggle to find work in other sectors. As such, whilst stories about participants' employment were often presented by professionals as a success, there is still a sense that the criminal justice 'net' can be difficult to escape (Cohen, 1985).

8.6 Discussion

The narratives presented in this chapter provide an insight into how themes from the observations (see chapter *6*) and interviews (see chapter *7*) intertwined within the complex lives of participants, and the "delicate untangling process" (see section *8.4.2*) undertaken by Drug Court professionals to reduce drug misuse and drug related crime (Criminal Procedure (Scotland) Act 1995 s.234B-234K; Eley et al., 2002b, p. 3). Following the previous chapter, this chapter first explored stories of supervision and control and how professionals balanced these responsibilities with therapeutic approaches (see section *8.2*). Several of the stories told during interview illustrated that supervisory responsibilities were ingrained into professional roles, with participants being subjected to supervision and 'control' that sometimes extended beyond the duration of Drug Court Orders (see section *8.2.1*), reinforcing findings that Drug Courts might involve more intensive supervision than traditional Courts (see Lindquist et al., 2006; Fulkerson, Keena, and O'Brien, 2012) and a 'deepening' of the criminal justice net (see Cohen 1985). However, stories of supervision and 'control' unfolded within relationships that were identified by professionals as 'therapeutic' (see section *7.2.2*) and whilst these approaches were sometimes represented as counterintuitive, the close supervision of participants was often constructed as therapeutically beneficial (see section *8.2.2*). Stories about supervisory and therapeutic approaches

often therefore featured a sense that professionals were attempting to strike a balance between 'care' and 'control', and between potentially antagonistic surveillance measures and welfarist approaches (see sections *2.3.3* and *8.2.3*; Garland, 2001). In this way, professionals' narratives often emphasised the potential therapeutic benefits of supervision, despite this representing ongoing criminal justice involvement (see Burns and Peyrot, 2003; Padfield and Maruna, 2006) and a widening of the criminal justice net (see Cohen, 1985; Scott and Gosling, 2016), and minimised the limitations on agency and responsibility that this could present (see Flint, 2009).

Professionals' stories also featured themes of recovery and harm reduction. Some of these were 'grand' narratives of recovery, which described the process as profoundly transformative (see Flint, 2009; Holt, 2008; Pawson et al., 2009) and sometimes featured participants coming 'full circle' from a recipient to a provider of drug treatment (see section *8.3.1*). However, the Drug Courts' transformative potential was undercut by stories which featured relapse, entrenched dependence, and even death (see section *8.3.2*). This reinforced the harm reduction understanding of Drug Court interventions that emerged in chapter seven, wherein resources were directed towards minimising risks associated with dependence (see section *7.3*), as well as the integration of social recovery perspectives, as participants were affected by other participants' experiences in recovery in the Drug Court (see section *8.3.2*; Best et al., 2015b; Belenko et al., 2021). Fundamentally though, these stories reinforced the sense that 'care' and 'control' in the Drug Court essentially served to reinforce an underlying threat that could constrain participants' choices to engage with drug treatment, as beyond the threat of legal sanction, they could lose their lives (see section *8.3.2*). Whilst both the 'grand' narratives of recovery and stories of relapse, entrenched dependence, and death were united by a prevailing emphasis on harm reduction (see section *8.3.3*) which reinforced the findings from the previous chapter (see section *7.3*), and the Drug Court sought to redirect participants' with entrenched dependence choices towards harm reduction (see Bean, 2002a, 2002b; Nolan, 2009), there was a sense that resources were allocated towards those who were perceived as 'deserving' of support by recovering in the 'right' way (see Brown, 2014; 2016). Nevertheless, enhanced access to recovery-

oriented resources arguably positioned the Drug Court as an alternative to punitive carceral regimes for drug dependent offenders (see Scott, 2008; Scott and Gosling, 2016).

Moreover, the stories told by professionals also featured themes of desistance, reoffending, and 'crime control' (see section *8.4*). Like the 'grand' recovery narratives told by professionals, stories about desistance from crime often constructed the Drug Court as a 'crime control'- intervention (see sections *8.2*, *8.3*, and *8.4*), reflecting literature findings that Drug Courts are geared toward desistance outcomes (see Mitchell et al., 2012; Shaffer, 2011; Latimer at al. 2006; Wilson et al. 2006; Lowenkamp, Holsigner, and Latessa 2005). Some professionals expressed that their role was to prevent reoffending (see section *6.2.2*) and many of the stories they told featured participants who had evolved from being recidivist offenders and 'gangsters', having taken responsibility for their offending (see section *8.4.1*; Garland, 2001; Du Rose, 2015). This could be considered a methodological weakness, given the use of a professional sample, however, these stories were counteracted by narratives which featured reoffending that was sometimes ongoing throughout Orders and not always punished (see section *8.4.2*). Whilst Drug Courts have been found to comprise frequent and intensive sanctioning (see Lindquist et al., 2006; McIvor et al., 2006), this suggested that the Drug Courts' 'crime control' functions were sometimes curtailed by a prevailing focus on harm-reduction and diversion (see section *8.4.2*). As such, rather than being explicitly 'crime control'-oriented, offending was often interpreted as a risk factor associated with dependence, which might be reduced by therapeutic approaches. Nevertheless, there was a sense that coercion and punishment might be perceived as a prerequisite for offenders to be perceived as 'deserving' of support (see Brown, 2016; Flint, 2009), even where ongoing exposure to the criminal justice system might have limited their opportunity to engage with community resources in the first place (see Dominey and Gelsthorpe, 2020).

Professionals' narratives also reflected the Drug Court's provision of social and welfare support, which sought to reinforce recovery 'capital' (see section *8.5*; Granfield and Cloud, 1999, 2008). Whilst the stories in this chapter featured a combination of themes, in terms of personal 'capital' (see Granfield and Cloud 1999, 2008), many stories presented health as a key site for 'care' and 'control'.

Significant diagnoses were constructed as a critical opportunity for interventions, which were often constructed as eclipsing the support that was available in the community but were underscored by a moral behaviourist emphasis on personal responsibility (see section *8.5.1*; Wacquant, 2013). Moreover, in terms of social 'capital', many narratives positioned participants' family and relationships as another opportunity for interventions (see section *8.5.*1; Granfield and Cloud, 1999, 2008; Best et al., 2015b) and whilst therapeutic relationships between professionals and participants were constructed as a mechanism for the modelling of healthy relationships, there was a sense that these relationships, and professional involvement in participants' relationships, could become paternalistic and intensify 'control' over their lives (see section *8.5.1*; Slobogin, 1995; Stobbs, 2015). Furthermore, many stories also featured interventions to reinforce participants' physical 'capital', such as housing and employment (see sections *8.5.3* and *8.5.4*; Granfield and Cloud, 1991, 2008). Whilst housing represented a significant area of intervention in participants' physical 'capital' (see sections *6.2.3.3* and *7.5.3*), this section highlighted the interaction between participants' personal responsibility for housing and structural constraints on housing supply, which could limit participants' ability to meet the demands of the Drug Court and risk them being personally blamed (see section *8.5.3*; Grace, 2017). Moreover, in terms of employability, stories about participants' attempts to gain employment after Drug Court involvement illustrated that the stigmatising effects of punitive carceral regimes can be enduring and difficult to overcome (see section *8.5.4*; Scott and Gosling, 2016). As such, whilst the stories told by professionals featured a range of interventions, from supervision to social support, to encourage recovery and desistance, these narratives reinforced the sense that the Drug Courts' balance between 'care' and 'control' was punctuated by a focus on personal responsibility.

Chapter 9

Discussion and Concluding Comments

9.1 Introduction

The purpose of this chapter is to develop this thesis by interpreting and contextualising the research findings within academic literature, policy, and developing knowledge on Drug Courts. This is firstly achieved through a synthesis and summarisation of the findings outlined in the previous three chapters, to demonstrate the empirical contribution of this research. This is followed by a detailed examination of the methodological contribution made by this thesis, particularly to the use of remote methods in narrative research. This section also reflects on the quality of the research design and credibility of this study, addressing the limitations arising from the constrained research environment. Furthermore, an analysis of how this thesis contributes to developing knowledge, policy, and practice on Drug Courts is presented, to contextualise and identify implications from this study's' findings within the UK drug policy landscape and current knowledge on Drug Courts, before considering the wider implications of Drug Courts in Britain. Finally, areas for future research on Drug Courts in the United Kingdom will be suggested, to enhance this area of study, alongside concluding comments on the future of Drug Courts in the UK.

9.2 Contribution of this Thesis

This study sought to address the following primary research question:

To what extent is the Drug Court characterised by 'care' or 'control' and how do 'care' and 'control relate and interact?

This thesis also sought to address the following sub-research questions:

1. To what extent is reducing substance misuse constructed as the primary aim of the Drug Court and to what extent is its' purpose constructed as control of drug-related crime?

2. To what extent is the Drug Court constructed as a therapeutic intervention, and to what extent does it operate on the principles of therapeutic jurisprudence compared to traditional criminal jurisprudence?

3. To what extent are Drug Court participants constructed as vulnerable adults and to what extent are they characterised as 'deviant' offenders?

4. To what extent are therapeutic, 'caring', and crime 'control' approaches integrated in the Drug Court? To what extent are therapeutic approaches constructed as beneficial to 'crime control' and to what extent are 'crime control' approaches constructed as beneficial to reducing substance misuse?

This thesis contributes to the ongoing development of knowledge and research on British Drug Courts. A detailed literature review presented in chapter four found that whilst Drug Courts remain one of the most intensively studied areas of criminal justice policy, much of this explores the US experience where Drug Courts are well-established (Marlowe, Hardin, and Fox, 2016). The review also found that much of this research base is quantitative, as the literature overwhelmingly focused on recidivism outcomes to measure success, which positioned the Drug Court primarily as a 'crime control' intervention (see section *4.3.1.1*). There was a comparative dearth of quantitative literature on therapeutic Drug Court outcomes, with little attention paid to how therapy and crime control interact. Moreover, whilst the interaction between therapy and crime control emerged to an extent in the qualitative research base on US Drug Courts, these studies reflect a fundamentally American approach to criminal justice and drug policy (see Nolan, 2009).

Whilst the gap in research on British Drug Courts perhaps reflects their disappearance from the criminal justice landscape, barring "remnants" that remain in Scotland (Collins, 2019 p. 99), a recent Sentencing White Paper announced the government's commitment to trial several new problem-solving Courts in England and Wales, including Adult Drug Courts (see Ministry of Justice, 2020). The proposed enlivening of the Drug Court project enhances the need for empirical research, particularly qualitative research, that explores how principles of 'care' and 'control', and therapy and punishment, are interpreted and utilised in the British context. By exploring the concepts of 'care' and

‘control’, and the relationship between therapy and punishment, in an applied Drug Court setting using multiple complementary qualitative approaches, this thesis represents a significant contribution to an area where research is lacking but much needed to inform the development of policy and practice (see section *9.5*).

To address these research questions and address the gap in the research base on British Drug Courts, this thesis used qualitative approaches to explore the balance between ‘care’ and ‘control’ within a Scottish Drug Courts’ approach to supervision, recovery, desistance, and social and welfare support. Chapter five outlined and justified the methodology and methods used in this study, a combination of observations and semi-structured narrative interviews with Drug Court professionals, which allowed rich qualitative insights on ‘care’ and ‘control’ from multiple methodological perspectives to be gathered in a constrained research environment (see sections *5.2, 5.3, 5.3.2.2*). These findings generated from these approaches were presented across three chapters: ‘Place: ‘Care’ and ‘Control’ in Drug Court Hearings’ (see chapter *6*), ‘Professionals: Semi-Structured Narrative Interview Findings on ‘Care’ and ‘Control’ (see chapter *7*), and ‘Participants: ‘Care’ and ‘Control’ in Stories told by Drug Court Professionals’ (see chapter *8*), a summary of which is presented below (see section *9.3*). This is the first qualitative study on ‘care’ and ‘control’ in a Scottish Drug Court, demonstrating the original contribution of this research.

9.3 Interpretation of the Findings

The findings of this study were presented in three chapters in this thesis: Place: ‘Care’ and ‘Control’ in Drug Court Hearings (see chapter *6*), Professionals: Semi-Structured Narrative Interview Findings on ‘Care’ and ‘Control’ (see chapter *7*), and Participants: ‘Care’ and ‘Control’ in Stories told by Drug Court Professionals (see chapter *8*). Across all three of these chapters, several key themes were highlighted, which included: supervision and offender management, recovery and harm reduction, desistance, and crime reduction; and social and welfare issues.

9.3.1 Supervision and Offender Management

Supervision and offender management emerged as a key theme across the findings chapters. The principal Order in the Drug Court is legislatively defined as a "judicially supervised" programme of drug treatment" (Criminal Procedure (Scotland) Act 1995 s.234B-234K; Eley et al., 2002b, p.3) and, during the interviews with professionals, many described the Drug Court as comprising a "highly supervised" and "intensive" programme (see chapters *7* and *8*). From the perspective of 'place' (see chapter *6*), the observational findings highlighted public hearings as a key forum for supervision and offender management wherein Sheriffs took an active role, reminding participants that they were being supervised. This reflected both the central role of the judge in Drug Courts (see Bean, 2002a, 2002b; Lyons, 2013; Stimler 2013) and the supervisory and 'control' aspects of frequent judicial contact (see Gallagher, Nordberg, and Kennard, 2015). However, the 'professional' perspective highlighted that whilst Sheriffs were legally responsible for supervision, social workers and addiction workers were also responsible for day-to-day supervision (see sections *7.3* and *7.4*). Nevertheless, professionals' supervisory responsibilities were embedded within relationships with clients that were generally described as "therapeutic" in nature (see sections *7.2* and *8.2*; Fulkerson, Keena, and O'Brien, 2012; Gallagher, Nordberg, and Kennard, 2015). Yet, supervisory requirements such as drug testing and regular reports and meetings (see section *8.2*) sometimes seemed counterintuitive to professionals' attempts to develop therapeutic relationships with participants (see section *6.3.2*). A complex relationship therefore emerged between 'care' and 'control' in the approach to supervision in the Drug Court.

It also emerged that participants were often subjected to a range of supervisory measures that represented an intensification and sometimes an extension of criminal justice control (see sections *7.2.1* and *8.2.1*; Lindquist et al., 2006). Multi-disciplinary reports, regular meetings, and drug testing enabled ongoing surveillance of participants (see Kaye, 2019 pp. 79, 171, 199-200) and professionals also had the discretionary power to implement a range of controls and restrictions, such as Restriction of Liberty Orders (RLOs) (see appendix *7*). However, the interview Findings chapters also highlighted that surveillance and 'control' measures were interpreted by professionals as

therapeutically beneficial to recovery and desistance, by providing structure to participants' chaotic lives. Several professionals told stories which framed surveillance interventions as a "helpful check-in" for participants (see sections *8.2*, *9.2*), which reinforced literature findings wherein participants have interpreted supervisory and social control elements of the Drug Court programmes as therapeutically beneficial (Fischer and Geiger, 2011; Gallagher, Nordberg, and Kennard, 2015; Gallagher, Nordberg, and Lefebvre 2016). Perhaps one of the most surprising interpretations that emerged during interviews was that urinalysis drug testing, which has been linked to punitive responses to drug use by the Scottish Government (2008; Singleton, 2008), was perceived as enabling participants to take responsibility for their drug use (see sections *6.3.2*, *6.3.3*). Moreover, regular meetings were framed as beneficial to the delivery of multidisciplinary support services, as these were a mechanism to access services and the deliver interventions (see section *6.2.3.4*). As such, the therapeutic aspects of supervision and control were emphasised by professionals.

However, there was a sense that for some participants, rather than being framed as helpful, the intensive programme of meetings and drug tests could be overwhelming and difficult to manage, which was exemplified by the unanticipated absence of several participants from hearings (see section *6.3.1*). Whilst such interpretations often seemed to emerge in relation to newly initiated, or highly recidivist, participants, frequent absences reinforced findings from the literature that Drug Court participants can struggle to manage demands on their time (see Gallagher and Nordberg, 2016). Whilst an intensive programme, and the incorporation of multi-agency approaches, are often cited as politically appealing or beneficial aspects of the Drug Court movement (see Kaye, 2019; NADCP 1997; Nolan, 2001), this might not be suitable for all participants. Moreover, there was also a sense that the supervision and management of participants in the Drug Court did not always complement the promotion of personal responsibility. Whilst drug using participants were encouraged to exercise agency and make prudent choices whilst living in the community (see section *2.2.3*; Garland, 2001; Du Rose, 2015), they were subjected to value-laden moral behaviourist interventions (see Wacquant, 2013) and shaming in hearings (see Miethe, Lu, and Reese, 2000), which arguably diminished the extent to which participants' choices were 'free' (see Brown, 2016). Therefore, whilst supervision

was often interpreted as having therapeutic effects by professionals, it was often used to morally justify punitive sanctions where participants were unable or unwilling to conform to the values and norms of the Drug Court.

9.3.2 Recovery and Harm Reduction

Recovery and harm reduction also emerged as a key theme across the Findings chapters, reflecting the Drug Court's purpose as a programme of drug treatment (Criminal Procedure (Scotland) Act 1995 s.234B-234K; Eley et al., 2002b, p. 3). During the observed hearings, participants were reminded that the purpose of the Court was to "help them" but this was juxtaposed with an emphasis on personal responsibility for recovery (see section *6.3*). As such, 'care' was juxtaposed not just with control but responsibilisation, as participants were made responsible for charting their personal recovery journey and "completely turning it around" (see section *8.3*). This reflects the 'recovery' model in British drug policy, which can disregard the need for social support and resources in drug treatment in favour of a highly individualised and responsibilised conceptualisation of recovery (see Floodgate, 2017; Klein and Dixon, 2020; Roy and Buchanan, 2016). However, there was a recognition that "recovery means different things to different people", as whilst it was occasionally presented as a 'grand narrative' of profound change, professionals often characterised recovery as a long and difficult process featuring multiple instances of relapse (Scottish Government, 2018). As such, unlike its' American predecessors, this Drug Court did not explicitly enforce abstinence, despite participants being regularly drug tested, and instead enforced control over drug use (see Nolan, 2002 pp. 89-113; Nolan, 2009 p. 118; Kaye, 2019). In this way, the notion that participants were ultimately personally responsible for controlling their drug use was often used to justify punishments and the withdrawal of recovery-oriented support, in what could be likened to the Drug Court's own brand of "authoritarian therapeutism" (see Wacquant, 2013).

Nevertheless, the Drug Court's approach to recovery was often characterised by harm reduction (see Bean, 2002a, 2002b; Nolan, 2009). Whilst 'grand' narratives were presented in interviews and emerged in the hearings (see sections *6.2.1* and *8.3.1*), these were undercut by more pragmatic stories of recovery, in which participants were less successful or engaged, and stories about participants that

passed away (see section *8.3*). In these stories, professionals tended to describe their day-to-day experiences and interactions with participants in terms of reducing harm and risk (see sections *7.3* and *8.3*). Just as it was often considered unrealistic to enforce abstinence, there was a sense that whilst Drug Court involvement might not precipitate a profound recovery in every case, "at least [participants] are coming in" and accessing services and resources to reduce the risks associated with their dependence (see chapter *7.3*). The focus on harm reduction represented a diversion from the traditions of its American predecessors (see Nolan, 2009, p. 118), to incorporate the harm reduction focus of Scottish drug policy (Scottish Government, 2018; Malloch and Yates, 2010). As such, rather than being required to architect a 'grand' and life-changing recovery journey, participants in this Drug Court instead seemed to be personally responsible for their engagement with harm reduction and considered accountable for the risks associated with their dependence. Therefore, whilst the incorporation of harm reduction principles might be perceived as strengthening the Drug Court's therapeutic approach, as participants were not directly punished for continued drug misuse or relapse, participants with a greater level of risk such as women were often considered highly responsible for their predicament despite the structural dimensions of their dependence and offending (see Du Rose, 2015; Grace, 2017).

Moreover, the emphasis on personal responsibility sometimes seemed to conflict with professionals' recognition of the social resources needed to recover (see Granfield and Cloud 1999, 2008) and the incorporation of a social model of recovery (see Best et al., 2015). The Drug Court seemed structurally inclined towards social recovery models, as participants attended each other's hearings and were required to attend recovery groups (see chapters *5*, *6*, and *7*) and from some perspectives, the Drug Court was described as a process which promoted and reinforced recovery through therapeutic relationships (see Best et al., 2015) and encouraged social citizenship (ibid; Collinson and Best, 2019). Moreover, the Drug Court programme incorporated access to a range of services and resources which were designed to bolster participants' recovery 'capital' (Granfield and Cloud 1999, 2001), and were often described as exceeding the resources associated with drug treatment in the community (see Tata, 2016; Dominey and Gelsthorpe, 2020). Nevertheless, access to these resources

was sometimes used in a 'carrot-and-stick' fashion (see Wincup, 2017) and was ultimately dependent on participants' conformity to the Drug Court's value-laden principles about what constitutes personal responsibility and social citizenship in recovery (see Flint, 2009; 2019). Punishment for participants who could not conform to these values in recovery, therefore, was often justified in terms of reducing the risks associated with their dependence on both themselves and the community. This arguably represented a 'punitive welfarist' (Garland, 2001; Phoenix, 2008) approach to the delivery of drug treatment services, wherein recovering participants' deservingness for treatment or punishment rested upon moralised conceptualisations of responsibility.

9.3.3 Desistance and Crime Control

Another theme raised throughout the Findings chapters was desistance and 'crime control'. 'Crime control' has long been articulated as a key function of Drug Courts (see Nolan et al., 2002; Collins, Agnew-Pauley, and Solderholm, 2019) and a key purpose of this Drug Court is to reduce drug-related crime (Eley et al., 2002b; McIvor et al., 2006). The 'crime control' focus of Drug Courts was evident from the literature review findings, as an overwhelming number of qualitative studies measured their success in terms of desistance outcomes (see section *4.3.1.1*). Similarly, whilst Drug Courts are often cited as an example of therapeutic jurisprudence (TJ) in action (see section *2.4.4*; Winick, 2013 p. 465; Winick and Wexler 2015), 'crime control' was often articulated as a priority by professionals in interviews (see sections *7.4.1*) and 'crime control' motives featured strongly in the narratives about participants (see section *8.4.1*). This was reinforced by an extensive programme of sanctions (see appendix *7*, McIvor et al. 2006, McIvor 2010), which included 'interim sanctions' such as short sentences alongside Sheriffs' traditional sentencing powers (see appendix *7*), which reinforced findings that Drug Courts can be more punitive than traditional Courts (see Lindquist et al., 2006). The incorporation of additional sanctions enhanced the punitive element of the Drug Courts' blend of 'punitive welfarist' approaches (Garland, 2001; Phoenix, 2008) and gave the sense that the Drug Court primarily existed to punish drug-related offending, albeit in more complex ways than the traditional criminal justice process, which could undermine Drug Courts' therapeutic purposes.

Nevertheless, like abstinence, the Drug Courts' approach to continued offending was not zero-tolerance, despite participants being on a Court Order. Some professionals described taking a lenient approach to ongoing offending, in narratives which downplayed punitive sanctions and 'crime control' (see sections *7.4.2* and *7.4.3*) and there were several observed hearings in which participants appeared in the Drug Court with new charges and Sheriffs handed down reduced sentences or no sentence (see section *8.4*). This challenged findings that Drug Courts comprise more frequent or intensive sanctions, as there was a sense that professionals were genuinely trying to avoid punishments where this would frustrate the therapeutic process (see Lindquist et al, 2006). In some cases, this was preceded by participants negotiating in direct dialogue with the Sheriff (see section *6.4*; Burns and Peyrot, 2003; McIvor 2009), which suggested that whilst hearings often involved a value-laden approach to supervision, they were also an opportunity for participants to exercise their agency and influence the dynamic of 'authoritarian therapeutism' in the Drug Court (Wacquant, 2013). Therefore, whilst 'crime control' was ostensibly a key function of this Drug Court, the emphasis on personal responsibility combined with therapeutic motivations sometimes minimised the impact of sanctions. Nevertheless, it was not clear that this approach was applied uniformly enough to overcome the stigmatising effects of repeated sanctions which prolonged criminal justice involvement and sometimes disrupted participants lives (see Scott and Gosling, 2016).

However, 'crime control' interventions and punishment, including custodial sentences, were often framed as therapeutically beneficial, which seemed to be used to justify an increase in their use. For example, short sentences were explained in terms of the opportunity for detoxification (see Lloyd et al., 2008) and the disruption of drug-oriented social networks (see Buchanan and Latkin, 2008; Lovell, 2002). A powerful case for the therapeutic uses of 'crime control' interventions was made by a Sheriff who lamented that a participants' death may have been avoided if they had been in custody (see section *8.3*). However, these explanations often did not account for the detrimental impact on participants' recovery 'capital' (see Granfield and Cloud, 1999, 2008) or the long-term, stigmatising effects of imprisonment for those in recovery (see Feingold, 2021). Moreover, whilst Drug Courts are often justified as an alternative to imprisonment (see Nolan, 2002; Nolan, 2009), justifying an

increased use of short custodial sentences as therapeutically beneficial could contribute to the "revolving door" effect on imprisonment and the entrenchment of marginalised groups within carceral regimes (see Padfield and Maruna, 2006; Scott, 2008; Scott and Gosling, 2016). As such, the emphasis on punishment and perceptions that the Drug Court primarily existed for 'crime control' and public protection purposes often positioned the provision of drug treatment as an ancillary function, which limited the extent to which Drug Courts may be justified as an alternative to traditional criminal justice approaches (see Scott and Gosling, 2016).

9.3.4 Social, Welfare, and Recovery 'Capital'

The Drug Courts' approach to participants' social, physical, and personal needs also emerged as a key theme across the Findings chapters (see sections *6.2.3*, *7.5*, and *8.5*). Not only did this Drug Court incorporate social workers, addiction workers, and medical staff into the programme, it also had connections with a range of organisations that provided social, personal, and physical support to participants (see sections *6.2.3*, *7.5*, and *8.5*), from access to cutting-edge medical treatments (see section *6.4*) to family counselling (see section *6.5*). Often, the level of support provided in the Drug Court, and the access to different services and resources, was described as eclipsing that which was available in the community or voluntarily (see sections *7.5* and *8.5*). Furthermore, during interviews, professionals described providing items such as clothing and food to participants, interventions which were atypical of the resources normally provided to participants of criminal justice programmes (see section *7.4*). This approach reflected the wealth of research on recovery 'capital' and the social, physical, personal, and cultural resources required to initiate and sustain recovery from dependence (see Granfield and Cloud 1999, 2008; Scottish Government, 2018) and the integration of welfare support could represent a significant development to mitigate the 'pains' of the criminal justice system on those with dependence (see Haggerty and Buccerius, 2020; Liebling and Maruna, 2005). As such, the emphasis on 'caring' and supporting interventions seemed to position the Drug Court as a credible alternative to the traditionally punitive criminal justice system (see Scott and Gosling, 2016).

Whilst the incorporation of recovery-oriented support and resources was a key element of the therapeutic approach in this Drug Court, participants were often considered personally responsible for their engagement with these, despite the structural context of deprivation and poverty that often constrained participants' lives and choices (see Du Rose, 2015; Grace, 2017). As was highlighted in the analysis of the observations (see sections *6.2.3* and *6.3.2*) and the interviews with professionals, access to support services was often offered to participants who were perceived to have engaged with, or had been honest with, the programme and staff (see sections *7.5* and *8.5*). Additionally, the continued receipt of resources, was dependent upon participants making use of these resources and engaging in services in what was perceived as to be 'right' way. This was particularly acute for female participants, who were often perceived as having relationships with, or living with, the 'wrong' people (see Du Rose, 2015). In this way, rather than purely bolstering the recovery 'capital' of Drug Court participants (see Granfield and Cloud 1999, 2008), access to necessary resources and support services was used to condition a sense of personal responsibility in participants (Garland, 2001; Du Rose, 2015) and reinforce the values underlying the Drug Court's moral behaviourist approach to which participants were expected to conform (Wacquant, 2013). This seemed to risk participants being personally blamed, and potentially even punished, for deficiencies in income or limited employment opportunities, despite the structural constraints of poverty and deprivation (see Brown, 2016; Grace, 2017) and could intensify the web of 'coercive welfare' interventions that seeks to control drug-dependent offenders (see Phoenix, 2008). This could suggest that welfarist approaches in the Drug Court are integrated with criminal justice control, rather than representing an alternative to it.

Therefore, whilst access to support services was a mechanism for the incorporation of therapeutic approaches in this Drug Court (see Winick and Wexler, 2015; Tiger, 2013, p. 36) access to resources was conditional upon compliance with (Flint, 2009; Fletcher et al., 2016; Flint, 2019), and could not fully erase the negative effects of, the punitive and stigmatising criminal justice system (see Ashworth and Horder, 2013, p. 74). Moreover, a failure to comply with the resources offered in the Drug Court, and the values underlying them (Wacquant, 2013), was often used to justify the use of punishment

and sanctions, even where non-engagement might be considered a symptom of the structural context of deprivation and poverty that was often experienced by participants (see Brown, 2016; Grace, 2017). Whilst the incorporation of social and welfare-oriented resources represent a significant step toward the incorporation of public health approaches to drug use and an attempt to evolve beyond the "revolving door at the prison gate" for drug dependent offenders (Padfield and Maruna, 2006), the explicit integration of welfare services within a framework of criminal justice control raised questions about the extent to which coercion is an assumed prerequisite for personal change and access to resources for marginalised groups (see Flint, 2009; 2019). Therefore, whilst Drug Courts represent a shift towards therapeutic responses to drug-related crime, the conditional nature of access to welfare support positioned therapy as ancillary to punishment and was emblematic of the complex interweaving of 'care' and 'control' that characterised the Drug Court's approach to 'coercive welfare' (Phoenix, 2008).

9.4 Implications for Policy and Practice

The focus of this section is to propose ways that this research could inform the development of policy on Drug Courts in Britain, alongside the implications this study may have for future research projects. This research will be evaluated against its' contribution to the understanding of policy and research on Drug Courts, current drug policy and the recovery movement, and community sentencing within criminal justice policy, to demonstrate the implications of this research for current and future policy and practice.

9.4.1 Re-Enlivening the Drug Court Project

This thesis has implications for the re-emergence of the problem-solving and Drug Court project in the UK. The Ministry of Justice (2020) announced that a range of problem-solving courts, including Adult Drug Courts, will be trialled in England and Wales which would expand on the "remnants" of Drug Courts that remain in Scotland (see section *9.2*; Collins, 2019, p. 99). This thesis found a complex relationship between 'care' and 'control' in the Scottish Drug Court, wherein therapeutic approaches were constructed as beneficial to crime 'control' and punishment was interpreted as therapeutically beneficial to recovery, desistance, and social support (see sections *9.3.1* and *9.3.2*).

This study also found that this approach to 'care' and 'control' reflected the 'recovery' turn in UK drug policy (Duke, 2013; Floodgate, 2017), as participants were considered personally responsible for the implementing harm reduction but were conditionally supported with resources to bolster their recovery 'capital' (see sections *9.3.2*, *9.3.3*, and *9.3.4*). These findings have the potential to contribute to the development of policy and practice regarding British Drug Courts.

This research explored the policies and practices of the Scottish Drug Court approach, compared to the prevailing US model (see section *3.2*; NADCP 1997). Whilst this Drug Court incorporated elements of the traditional US approach, such as a focus on 'crime control' (see sections *6.2.2.1*, *7.4.1*, and *8.4.1*), a potentially intensified programme of sanctions (see Lindquist et al., 2006), and the structural incorporation of therapeutic approaches through a multi-disciplinary Drug Court team (see section *3.2*; NADCP 1997); the Scottish approach to Drug Courts diverged in terms of its emphasis on harm reduction (see sections *6.3.1.3*, *7.3.1*, and *8.3.3*; Bean, 2002a, 2002b; Nolan, 2009). This Drug Court did not enforce abstinence, despite regularly drug testing participants (ibid), and incorporated a recognition of the diversity of recovery experiences which enhanced the therapeutic approach (see sections *6.2.1*, *7.3*, and *8.3*). Moreover, the emphasis on harm reduction seemed to influence the approach to 'crime control', as some continued offending by participants was tolerated in the Drug Court, despite participants being on a Court Order. This also enhanced the therapeutic approach and distinguished this Court from US models, which often feature an intensification or increase in punishments (see Lindquist et al., 2006). Whilst harm reduction approaches are central to the Scottish approach to drug policy, to a greater extent than Westminster policies which tend to emphasise the need to control offending (see Duke, 2013), it will be interesting to see whether the UK Drug Court project, and other problem-solving courts, will involve the same emphasis on harm reduction or whether they will be even more sharply oriented towards 'control' and public protection (see section *2.4.2*).

9.4.2 Recovery, Resources, and Responsibility in Drug Policy

The findings of this study have implications for how Drug Courts fit within the recovery agenda in UK Drug Policy. The emergence of the 'recovery' agenda comprised a paradigmatic shift in British

drug policy (see Duke, 2013; Floodgate, 2017), which has been underpinned by the governance of responsibilisation (see Garland, 2001; Du Rose, 2015) and the expectation dependent persons should take personal responsibility for their recovery (Klein and Dixon, 2020; Roy and Buchanan, 2016). This study found that this Scottish Drug Court adopted a harm reduction approach to recovery (see section *2.2.2*; Scottish Government, 2018, Malloch and Yates, 2010), that emphasised participants' responsibility to implement harm reduction interventions and engage with services to minimise the risks associated with their dependence (see section *9.3.2*). In this way, whilst personal responsibility was still emphasised in the Drug Court, the recovery process was also understood as requiring a range of personal, social, physical, and cultural resources (see sections *6.2.3*, *7.5*, and *8.5*). These findings have important implications for responsibilisation within the 'recovery' orientation of British drug policy and how this is translated into professional practice that conditionalizes resource-based support for individuals with dependence.

Whilst both Westminster and Scottish drug strategies endorse a 'recovery' approach, which intends to recognise the 'capital' and resources required to initiate and sustain recovery from dependence (see section *2.2*; Home Office, 1998, 2010, 2018; Scottish Government, 2008, 2018), Scottish policy has been characterised by an emphasis on harm reduction (see Bean, 2002a, 2002b; Nolan, 2009), whereas Westminster strategies have long emphasised 'crime control' (see Duke, 2013). Moreover, the emergence of the 'recovery' agenda in British drug policy, and a recognition of the social resources required to recover (see Granfield and Cloud, 1999, 2008) has arguably been diluted by the advent of austerity politics, which is arguably a more extreme form of neo-liberal approaches to state intervention, in which significant cuts to public services have been enacted in attempts to reduce government debt (see Floodgate, 2017). It has been noted that personal responsibility has become more deeply embedded in the policy approach to drug dependence during this time (ibid; Roy and Buchanan, 2016). However, this research found that Scottish Drug Court participants were supported to reduce the harms associated with their dependence using significant "time and resources" (see section *6.2.1.1*) that reinforced their recovery 'capital', albeit with conditions attached (see Garcia and Lucas, 2021). This research highlighted the sizeable public sector funding and resources needed for

drug-related offenders to make significant changes in their lives, resources which are not necessarily reflected in drug strategies informed by austerity politics (see Duke, 2013; Floodgate, 2017). It will be interesting to see whether problem-solving Courts in England and Wales incorporate the same level of resources.

9.4.3 Community Sentencing and Criminal Justice Policy

The findings of this study also have implications for the development of community sentencing policy. Whilst not all problem-solving Courts are located within the criminal justice system (see section *1.1*.), this Scottish Drug Court, and the Dedicated Drug Court project in England and Wales, were responsible for administering programmes of drug treatment that were formally incorporated into Court Orders termed Drug Treatment and Testing Orders (DTTOs) (see section *3.3*). Whilst DTTOs have been renamed to Drug Rehabilitation Requirements (DRRs), drug treatment under Court Order is common practice in England and Wales. This study therefore has implications for the understanding and operation of drug treatment within community sentencing. A key finding related to this, was that 'control' measures and supervisory practices in the Drug Court, such as regular drug testing and frequent contact with professionals, were interpreted by professionals as therapeutically beneficial to the recovery process (see sections *7.2, 8.2*; Fulkerson, Keena, and O'Brien, 2012; Gallagher, Nordberg, and Lefebvre, 2017). Whilst DRRs are not associated with the principles of therapeutic jurisprudence (TJ) to the same extent as Drug Courts (see section *2.4.4*; Winick, 2013 p. 465; Winick and Wexler 2015), they feature many of the same practices, the therapeutic elements of which could be enhanced.

This study highlighted that supervisory and 'control' measures in the Drug Court were interpreted as fulfilling therapeutic and 'caring' functions and highlighted the benefits of a therapeutic approach on the recovery 'capital' of drug dependent offenders (see sections *9.3.2* and *9.3.3*). Whilst previous studies on this Drug Court found an imbalance in rewards and sanctions and highlighted a need to develop more rewards to complement the programme of sanctions (see McIvor et al., 2006; McIvor, 2010) there nevertheless was still an emphasis on praise and rewarding participants who took responsibility (see sections *8.4.2* and *8.4.3*). This could suggest that not only Drug Courts, but other

forms of Court-Ordered drug treatment in the criminal justice system, would benefit from more systems for positive reinforcement to balance the emphasis on public protection and 'crime control' in community sentencing policy (see section *2.4.2*). Moreover, whilst the Drug Court incorporated a range of resources to support participants with their personal, physical, social, and cultural 'capital' (see Granfield and Cloud, 1999, 2008), access to support through the Drug Court was limited to 18-month Orders and conditional upon participant compliance (see appendix *7*). This reflects the time-limited nature of Court Orders, and it was suggested that more community resources are needed to support participants beyond the criminal justice system (see section *7.6*) and more structured exit strategies are required for participants leaving the criminal justice system. Moreover, the emphasis on therapeutic approaches in the Drug Court, combined with its successful outcomes in terms of reducing offending and drug misuse (see Eley et al., 2002b; McIvor et al., 2006), could indicate a return to the 'rehabilitative ideal' in British criminal justice policy (see section *2.3.1*) which could allow a more effective response to the issues caused by dependence than the emphasis on 'crime control' and public protection (see section *2.4.2*). This has important implications for the future of criminal justice policy.

9.5 Wider Implications of Drug Courts in Britain

The findings also had wider implications in terms of the political, economic, and social policy context in Britain and the evolving relationship between welfare support and criminal justice mechanisms (see Garland, 2001; Phoenix, 2008; Wacquant, 2013). As was highlighted throughout this thesis, the level of recovery and welfare-oriented resources available through the Drug Court was often described by professionals as eclipsing that which was available in the community or could be accessed voluntarily (see sections *6.2.3*, *7.5*, and *8.5*). These exchanges reflected the shrinking of public sector resources in 'austerity Britain', in which extensive cuts to public service budgets has impacted not only the provision of community recovery services (see Floodgate, 2017), but services across the welfare state from housing (see Flint, 2009) to employment-related support (see Fletcher et al., 2016). Moreover, that access to the Drug Court's enhanced welfare-related resources was entirely conditional upon participants' compliance with, and sense of personal responsibility for, an intensive programme of rules, supervision, and moral expectations (see Wacquant, 2013), highlighted the rising sense of

conditionality that has begun to dominate current welfarist policy approaches (see Fletcher et al., 2016; Flint, 2009, 2019). Whilst Scotland and England have notable differences in welfare policy (see Sinclair and McKendrick, 2012), conditionality in Drug Courts represents an extension, and entrenchment, of welfare conditionality across the penal welfare state (see Garland, 2001) that could heighten the precarity and uncertainty that often seemed to characterise the lives of the marginalised participant group.

Furthermore, the Drug Court's enhanced provision of welfare-related support, which was exclusively accessed through the criminal justice system, raised questions about the extent to which welfare and criminal justice approaches have become intertwined (see Garland, 2001; Phoenix, 2008; Wacquant, 2013). It was noted by professionals that participants must have committed not just one crime, but "a whole load of crimes" to access the Drug Court's enhanced welfare resources, which was often framed as participants' only opportunity to access such resources (see section *7.4.3*). It was perhaps for this reason that the Drug Court often played a significant role in governing the lives of participants who are traditionally perceived as being less suitable, such as women with complex needs (see Birkett, 2021; Dominey and Gelsthorpe, 2020). Whilst the provision of enhanced welfare support in the criminal justice system could be perceived as an inversion of traditional conceptions about the welfare-related 'deservingness' of offenders (see Brown, 2014, 2016), it is suggestive of the extent to which coercion, supervision, and punishment are assumed prerequisites for certain marginalised groups to access resources (see Flint, 2009). This is emblematic of the increasingly blurred boundary between criminal justice and welfare services, in which supportive, inclusionary interventions are bound up with punitive and exclusionary legal approaches (Measham and Moore, 2008). This results not only in vulnerable and marginalised groups increasingly being exposed to and caught within, the criminal justice 'net' (see Cohen, 1985) but a punitive political discourse that may obscure the positive outcomes that may be achieved in Drug Courts (see section *4.3.1*), which in turn can weaken the political case for providing the resources required to facilitate beneficial changes for some marginalised individuals.

9.6 Future Research

This thesis has highlighted important areas for future research on the study of Drug Courts. The literature review highlighted a need for more qualitative and quantitative studies on Drug Courts in the UK and other jurisdictions beyond the United States (see chapter *4*). Further qualitative research is needed to understand the paradigms of 'care' and 'control' and how these emerge in the different Drug Court models that exist around the world (ibid; Mitchell et al., 2012). For example, future qualitative studies could seek to replicate this approach in different jurisdictions. This would shed greater light on the relationship between 'care' and 'control' that emerged in this research and could provide further empirical evidence about how typically 'caring' interventions are used to control participants and interventions to 'control' offenders are framed in therapeutic terms. Furthermore, qualitative research exploring Drug Court participants' interpretations of 'caring' and 'controlling' interventions would contribute to this research, as this study comprised only professional perspectives. Further empirical evidence about how interventions of 'care' and 'control' are interpreted and navigated by those subjected to them could be a significant line of inquiry. Quantitative studies on 'care' and 'control' in Drug Courts could also provide empirical evidence on this relationship from a different perspective. For example, surveys could measure participant perceptions of different aspects of Drug Court model in terms of whether they are 'caring' or 'controlling' and perhaps compare these with participant outcomes. Further qualitative and quantitative research on the relationship between 'care' and 'control' in Drug Courts would enhance our understanding of Drug Courts and how they fit into wider policy frameworks such as the 'recovery' and 'crime control' agendas.

Moreover, there is also need for more research on Drug Courts in terms of the legal and policy landscape criminal justice in the UK. The potential re-enlivening of the Drug Court project in England and Wales presents a plethora of research opportunities but also enhances the need for research on Drug Courts in the UK context (see section *9.5.1*). For example, there is a need to understand why Drug Court pilots in England and Wales were deemed to have failed whilst Scottish Drug Courts have endured (see Collins, 2019), as well as exploring successful examples of the Drug Court policy

transfer to other jurisdictions (see Nolan, 2002, 2017). Further research is also needed to understand how Drug Courts would fit within current drug strategies, and within existing policing, judicial, and Probation Service approaches to drug-related crime. It would be interesting to explore whether the relationships between 'care' and 'control' that were found in this Scottish Drug Court are replicated in Drug Courts in England and Wales, and whether participants will be responsibilised to implement harm reduction measures and supported through welfarist approaches to recovery 'capital' in the same way (see section 9.3). Whilst the research base on British Drug Courts requires development, this thesis makes a substantial qualitative contribution.

9.7 Concluding Comments

The purpose of this thesis was to address the following primary research question:

To what extent is the Drug Court characterised by 'care' or 'control' and how do 'care' and 'control relate and interact?

This thesis has addressed this question by providing a detailed insight into the approaches to 'care' and 'control' in a Scottish Drug Court. It has addressed the approaches to supervision and offender management, recovery and harm reduction, desistance and 'crime control', and the provision of social support through holistic approaches to recovery 'capital'. This has illustrated the ways in which different interventions and ideas within this Drug Court are understood and interpreted by those involved in delivering them. Through this, it was found that Drug Court interventions were characterised by complex and sometimes contradictory approaches in which 'control' was justified in terms of 'care' and vice versa. To promote participants' personal responsibility for implementing harm reduction in their relationships with drugs, significant therapeutic resources were directed towards them. However, the orientation toward 'control' was heightened, as these resources were ultimately conditional with compliance with moral regulation (see Wacquant, 2013) and a 'culture of control' (see Garland, 2001).

This is a significant contribution of original research to the study of Drug Courts in the UK, a claim which lies in the breadth and depth of the study. This research began with a literature review, which

found a significant lack of research on UK Drug Courts, especially qualitative research (see chapter *4*). Methodologically, this thesis used an innovative combination of observational, narrative, and remote methodological tools to shed light on the UK approach to 'care' and 'control' in Drug Courts, and the approach to supervision and offender management, recovery and harm reduction, desistance and 'crime control', and recovery 'capital'.

The expansion of the Drug Court project around the world, and the rise and fall of Drug Courts in the UK, has been subject to significant academic inquiry and debate in different domains (see Bean, 2002; Nolan, 2009). Given the growing popularity of problem-solving courts and the potential re-enlivening of the Drug Court project in England and Wales, there is a great need for more empirical work on Drug Courts in the UK context, to contribute to ongoing debates and the development of future policy. The justification of 'control' as 'care', the responsibilisation of participants to implement harm reduction practices, and the conditional approach to social support and recovery 'capital' explored in this thesis offer new avenues through which the Drug Courts can be understood, which could have implications for the development of future drug policy and future avenues for research.

Appendices

Appendix 1: Search Terms for Literature Review

1. Drug Court
2. Drug Courts
3. Drug Court Community Sentence
4. Drug Court Judicial
5. Drug Court Judicial Supervision
6. Adult (Drug Court)
7. Female (Drug Court)
8. Male (Drug Court)
9. (NOT) Alcohol Court
10. (NOT) Juvenile (Drug Court)

Appendix 2: Demographic Information for Meta-Analyses and Reviews, and Quantitative Studies

Study Number	Authors	Study Location	Gender	Mean Age (years)	Race/ Ethnicity	Mean Marital Status	Level of Education	Employment status
1	Mitchell, Wilson, Eggers, and McKenzie (2012)	US	Drug Courts 84% mostly male, 70% approximately equal gender	Not reported	Not reported	Not reported	Not reported	Not reported
2	Wilson, Mitchell, and McKenzie (2006)	US	80% mostly male, 15% not reported, 40% equal gender, 2% all female	Not reported	Not reported	Not reporter	Not reported	Not reported
3	Shaffer (2011)	US	Not reported	Not reported	Not reported	Not reporter	Not reported	Not reported
4	Lowenkamp, Holsinger, and Latessa (2005)	US	Not reported	24% under 30, 46% over 30	Not reported	Not reporter	Not reported	Not reported
5	Latimer, Morton-Bourgon, and Chrétien (2006)	US, Canada, Australia	Mixed gender or unknown 48.5%, mostly male 47%, all male 1.5%, mostly female 1.5%, all female 1.5%	28.4 (average)	Not reported	Not reporter	Not reported	Not reported
6	Sevigny, Fuleihan, and Ferdik (2013)	US	Not reported	Not reported	Not reported	Not reporter	Not reported	Not reported
7	Logan and Link (2019)	US	Not reported	Not reported	Not reported	Not reporter	Not reported	Not reported

8	Miethe, Lu, and Reese (2000)	US	77.4% male, 22.6% female	45.3% younger than 30	31.1% non-white	Not reporter	Not reported	Not reported
9	Gutierrez and Bourgon, (2012)	US	Not reported	Not reported	Not reported	Not reporter	Not reported	Not reported
10	Matrix Knowledge Group (2008)	West London and Leeds, UK	74% male, 26% female	30.4 (average)	87% white	Not reporter	48% no education	79% unemployed
11	Eley, Gallop, McIvor, Morgan, and Yates (2002a)	Glasgow and Fife, Scotland	83% male, 17% female	27.5 (average)	Not reported	Not reporter	Not reported	Not reported
12	Eley, Malloch, McIvor, Yates, and Brown (2002b)	Glasgow, Scotland	83% male, 17% female	27 (average)	Not reported	Not reported	Not reported	Not reported
13	Malloch, Eley, McIvor, Beaton, and Yates (2003)	Fife, Scotland	81% male, 19% female	25 (average)	Not reported	Not reported	Not reported	Not reported
14	McIvor, Barnsdale, Malloch, Eley, and Yates (2006)	Glasgow and Fife, Scotland	85.5% male, 15.5% female	28.5 (average)	100% white Scottish (Fife)	29% married or cohabiting	Not reported	98% unemployed

Appendix 3: Demographic Information for Qualitative Studies

Study Number	Authors	Study Location	Gender	Age (years)	Race/ Ethnicity	Marital Status	Level of Education	Employment Status
1	Lindquist, Krebs, and Lattimore (2006)	Florida, US	Not reporter	Not reported	Not reported	Not reported	Not reported	100% employed (professional sample)
2	Burns and Peyrot (2003)	California, US	Not reporter	Not reported	Not reported	Not reported	Not reported	Not reported
3	Bouffard and Taxman (2004)	California, Louisiana, Oklahoma, and Midwest, US	65% male, 35% female	13% 19 or younger, 33% 20-29, 35% 30-39, 19% 40+	51% white, 49% non-white	14% married, 86% not married	9% less than high school, 51% some high school, 28% high school or equivalent, 12% post-high school education	37% employed, 63% unemployed
4	Anspach and Ferguson (2003)	California, Louisiana, Oklahoma, and Midwest, US	65% male, 35% female	13% 19 or younger, 33% 20-29, 35% 30-39, 19% 40+	51% white, 49% non-white	14% married, 86% not married	9% less than high school, 51% some high school, 28% high school or equivalent, 12% post-high school education	37% employed, 63% unemployed

5	Wolfer (2006)	Pennsylvania, US	76% male, 24% female	30.3 (average)	98.18% white, 1.82% African American	61% single, 39% married	83% high school or equivalent, 46% college education	49% employed, 51% unemployed
6	Wolfer and Roberts (2008)	Pennsylvania, US	61.5% male, 38.5% female	35.11 (average)	97.14% white	28% married, 72% single	52% college education	56% employed, 44% unemployed
7	Gallagher, Nordberg, and Kennard (2015)	Indiana, USA	70.73 % male, 29.27 % female	28 (average)	53.66% white, 39.02% African American	Not reported	Not reported	Not reported
8	Fischer and Geiger (2011)	California, US	100% female	34.1 (average)	Not reported	Not reported	Not reported	Not reported
9	Fischer, Geiger, and Hughes (2007)	California, US	100% female	34.1 (average)	Not reported	Not reported	Not reported	Not reported
10	Roberts and Wolfer (2011)	Pennsylvania, US	100% female	32 years (median)	Not reported	100% high school education, 60% college educated	40% had been married	Not reported
11	Gallagher (2013)	Texas, US	Not reporter	Not reported	100% African American	Not reported	Not reported	Not reported
12	Gallagher and Nordberg (2016)	Midwest, US	72.73 % male, 27.27 % female	27 (average)	57.89% white, 42.11% African American	Not reported	Not reported	Not reported
13	Fulkerson, Keena, and	Arkansas, US	Not reporter	33.5 (average)	Not reported	Not reported	50% college educated, 78% high	Not reported

	O'Brien (2012)						school education	
14	Gallagher, Nordberg, and Lefebvre (2017)	Midwest, US	69% male, 31% female	31 (average)	69% white, 22% African American, 7% Hispanic, 1.2% multiracial	Not reported	Not reported	Not reported
15	McIvor (2009)	Glasgow and Fife, Scotland	87.5% male, 12.5% female	Not reported	Not reported	Not reported	Not reported	Not reported
16	Nolan (2009)	Scotland, England, and USA	Not reporter	Not reported	Not reported	Not reported	Not reported	Not reported
17	Eley, Beaton, and McIvor (2005)	Scotland	93.1% male, 7.9% female	18 to 45	100% white	Not reported	Not reported	Not reported

Appendix 4: Design Information for Meta-Analyses, Reviews, and Quantitative Studies

Study Number	Authors	Sample Size	Sample Origin	Research Design	Instrument of Assessment
1	Mitchell, Wilson, Eggers, and McKenzie (2012)	92 studies	Research databases	Systematic review	Independent Drug Court Evaluations
2	Wilson, Mitchell, and McKenzie (2006)	55 studies	Research databases	Meta-analytic review	Experimental and quasi-experimental Drug Court Evaluations
3	Shaffer (2011)	60 studies	Research databases	Meta-analytic review	Experimental and quasi-experimental Drug Court evaluations
4	Lowenkamp, Holsinger, and Latessa (2005)	22 studies	Research databases	Meta-analytic review	Drug Court outcome evaluations
5	Latimer, Morton-Bourgon, and Chrétien (2006)	54 studies	Research databases	Meta-analytic review	Drug Court outcome evaluations
6	Sevigny, Fuleihan, and Ferdik (2013)	19 studies	Research databases	Meta-analytic review	Drug Court outcome evaluations
7	Logan and Link (2019)	Not reported	Research databases	Meta-analytic review	Meta-analyses and systematic reviews
8	Miethe, Lu, and Reese (2000)	2309 participants	Clark County Justice System, Las Vegas Nevada	Quantitative, logistic regression analysis	Comprehensive Justice Information System for Clark County (Las Vegas, Nevada)
9	Gutierrez and Bourgon (2012)	103 studies	Research databases	Meta-analytic review	Meta-analytic reviews and evaluations
10	Matrix Knowledge Group (2008)	201 participants	Leeds and West London Dedicated Drug Court Pilots	Process evaluation	Official data, interviews, observations
11	Eley, Gallop, McIvor,	96 participants	Glasgow and Fife, Scotland	Pilot evaluation	Analysis of DTTO records,

	Morgan, and Yates (2002a)				staff questionnaires, participant interviews
12	Eley, Malloch, McIvor, Yates, and Brown, (2002b)	87 participants	Glasgow, Scotland	Formative and process evaluation	Interviews with professionals and clients, observation of court processes, information from court records
13	Malloch, Eley, McIvor, Beaton, and Yates (2003)	106 participants	Fife, Scotland	Formative and process evaluation	Interviews with professionals and clients, observation of court processes, information from court records, professional questionnaires
14	McIvor, Barnsdale, Malloch, Eley, and Yates (2006)	1027 participants	Glasgow and Fife, Scotland	Formative and process evaluation and an outcome evaluation	Interviews with professionals and clients, observation of court processes, information from court records, professional questionnaires

Appendix 5: Design Information for Qualitative Studies

Study Number	Authors	Sample Size	Sample Origin	Research Design	Instrument of Assessment
1	Lindquist, Krebs, and Lattimore (2006)	86	Brevard Drug Court (Melbourne) Broward (Ft. Lauderdale), Duval (Jacksonville), Escambia/ Okaloosa2 (Pensacola), and Hillsborough (Tampa).	Process evaluation (multi-component)	Open ended interviews with stakeholders, observation of court proceedings, documents describing structure and organisation of programmes, and Florida Office of the State Courts Administrator Treatment-based Drug Court Survey
2	Burns and Peyrot (2003)	Not reported	Three Californian Drug Courts, one rural, one in the city, and one in an affluent area	Cross-sectional	Direct observation on Drug Court hearings, informal interviews with judges, prosecutors, and defence attorneys, televised interviews with Drug Court professionals
3	Bouffard and Taxman (2004)	2357	A Californian Drug Court, A Louisianan Drug Court, an Oklahoman Drug Court, and a Midwestern Drug Court	Retrospective	Administrator survey and interviews, direct treatment observations
4	Anspach and Ferguson (2003)	2357	St. Mary's Parish Drug Court, Bakersfield	Cross-sectional	Interviews with stakeholders and treatment

			Drug Court, Jackson County Drug Court		providers, surveys created by authors, observation of treatment sessions, retrospective analysis of officially recorded data
5	Wolfer (2006)	55	Pennsylvanian Drug Court	Snapshot	Drug Court graduates' exit interviews
6	Wolfer and Roberts (2008)	26	Pennsylvanian Drug Court	Snapshot	Qualitative post-graduation interviews
7	Gallagher, Nordberg, and Kennard (2015)	41	Indianan Drug Court	Cross-sectional	Qualitative interviews with Drug Court participants
8	Fischer and Geiger (2011)	11	Californian Drug Court	Cross-sectional	Qualitative interviews, participant observation, and analysis of video-taped interactions
9	Fischer, Geiger, and Hughes (2007)	11	Californian Drug Court	Cross-Sectional	Qualitative interviews, participant observation, and analysis of video-taped interactions
10	Roberts and Wolfer (2011)	10	Northeast Pennsylvanian Drug Court	Cross-sectional	Qualitative interviews with Drug Court Graduates
11	Gallagher (2013)	14	D.I.R.E.C.T. Programme, Texan Drug Court	Cross-sectional	Qualitative interviews with Drug Court participants
12	Gallagher and Nordberg (2016)	38	Midwestern Drug Court	Cross-sectional	Qualitative interviews with Drug Court participants

13	Fulkerson, Keena, and O'Brien (2012)	15	Greene County Drug Court	Cross-sectional	Qualitative interviews with graduated and terminated Drug Court participants
14	Gallagher, Nordberg, and Lefebvre (2017)	42	Midwestern Drug Court	Cross-sectional	Participant satisfaction survey and two open-ended questions
15	McIvor (2009)	270	Glasgow and Fife Drug Courts, Scotland	Cross-sectional	Qualitative interviews with Drug Court professionals and participants, observation of court processes
16	Nolan (2009)	Not reported	US and Scottish Drug Courts, English Courts	Cross-sectional	Interviews with Drug Court professionals and observations of court processes
17	Eley, Beaton, and McIvor (2005)	27	Scottish Local Authority	Cross-sectional	Group interviews

Appendix 6: Detailed Statistics from Meta-Analyses, Reviews, and Quantitative Studies

Study Number	Authors	Detailed Statistics
1	Mitchell, Wilson, Eggers, and McKenzie (2012)	92 of the 154 evaluations (60%) assessed adult drug courts. Another 34 (22%) evaluations examined juvenile drug courts and the remaining 28 (18%) evaluations probed DWI (driving while intoxicated) courts. Approximately 25% of samples used in adult drug courts had minor criminal history; whereas less than 10% of the samples in juvenile and DWI drug courts had minor criminal history, that is, they were mostly first-time offenders. The forest-plots show a clear pattern of evidence favouring drug courts, with most studies observing effects favouring the drug court (88%, 70%, and 85%, for adult, juvenile, and DWI, respectively). The overall mean odds-ratio for the general recidivism measure is small to moderate in size and statistically significant for all three court types (mean odds-ratio of 1.66, 1.37, and 1.65, for adult, juvenile, and DWI, respectively). Relative to a 50% recidivism rate in the comparison group (a typical value), these odds-ratios translate into recidivism rates for the respective drug court groups of 37.6%, 42.2%, and 37.7%. Thus, on average participants in adult and DWI drug courts have recidivism rates approximately 12 percentage points lower than non-participants, while on average participants in juvenile drug courts have recidivism rates approximately 8% lower than non-participants. The effects of these courts on drug related recidivism (i.e., drug related crimes) are very similar for adult and DWI drug courts with random effects odds-ratios of 1.70 and 1.65, respectively. However, for juvenile drug courts, the results on drug related recidivism outcomes were less encouraging. The mean odds-ratio was 1.06. It was found that most drug court participants do not successfully complete the program. The median graduation rate for adult, juvenile, and DWI drug courts are 39%, 47%, and 62%, respectively. Interestingly, for all three types of drug courts, we find a strong, non-linear relationship between graduation rate and both general and drug related recidivism. Courts with graduation rates between 26% and 50% had substantively smaller effects on general and drug related recidivism than courts with either higher or lower graduation rates.
2	Wilson, Mitchell, and McKenzie (2006)	Coded 402 odds ratios for the 55 independent drug court-comparison samples showed that the vast majority favoured the drug court over the comparison condition (314 or 78%). A single odds ratio based on a dichotomous measure for all offenses for 49 of the 55 drug court-comparison contrasts was produced. For the remaining six, an average odds ratio was computed across the separate indicators of recidivism. For non-drug offenses, an average odds ratio was computed for seven of the 55 drug court comparison contrasts, and, for drug offenses, an average

		odds ratio was computed for two of the 55 drug court comparison contrasts. This distribution included an outlier that, when removed, reduced the overall mean odds ratio to 1.62. This mean is statistically significant, with a 95% confidence interval of 1.42 to 1.85. An odds ratio of 1.62 is equivalent to a reduction in recidivism from 50% for a given sample to 38%. The mean odds ratio for all offense types for the three randomized studies with low attrition was positive (1.35) but not statistically significant (95% confidence interval of 0.70 to 2.61). The mean odds ratio for drug offenses was of similar magnitude (1.29). The mean translates into a small reduction in recidivism of 14% (from 50% to 43%). For the any-arrest measure, the difference between the odds ratio for any arrest at 12 months (1.7) and 36 months (1.9) was slight but positive. There was no consistent positive bias for published studies relative to unpublished studies (1.57 versus 1.70 for all offenses, 1.42 versus 1.76 for drug offenses, and 1.77 versus 1.27 for the non-drug offenses, respectively). The distribution of odds ratios for all offenses was filled with ten effect sizes, reducing the overall mean odds ratio from 1.66 to 1.43. The latter remained statistically significant (z = 5.13, P e 0.05).
3	Shaffer (2011)	A total of 82 effect sizes were calculated across the studies. Specifically, drug courts have a mean effect size of 0.09 with a confidence interval (CI) of 0.08–0.10. While the effect sizes ranged from −0.33 to 0.35, the majority of studies revealed that drug courts reduced recidivism (78.0%). The mean effect size reveals the drug court group would have a 45.5% recidivism rate while the comparison group would have a 54.5% recidivism rate. Using the MQI, 45 effect sizes came from studies deemed to be of above average quality and had a mean effect size of 0.07 with a CI = 0.06–0.10. The calculations for the mean effect size of the lower-quality studies resulted in a finding of 0.12 with a CI = 0.10–0.14. Histories of non-compliance and prior violence both were negatively related to effect size within target population ($R^2 = 0.19$). Pre-adjudication drug courts are more effective than post-adjudication drug courts ($R^2 = 0.17$) and staff attendance at national conferences and weekly team meetings was predictive of increased effectiveness ($R^2 = 0.17$). Programme intensity was positively associated with effectiveness ($R^2 = 0.14$) but the treatment dimension only explained a moderate level of variance ($R^2 = 0.11$). Within philosophy ($R^2 = 0.11$), the significant predictors were the response to an initial positive drug test and whether program failures were re-admitted. Relying on federal funds increased effectiveness whereas programs that identified their funding as more adequate than others had lower effect sizes ($R^2 = 0.11$). Drug courts that utilized multiple providers were more effective than those that utilized single providers, while drug courts with internal providers were more effective than those with external providers ($R^2 = 0.09$). Predictability ($R^2 = 0.06$), assessment ($R^2 = 0.05$), both

		process dimensions, and quality assurance ($R^2 = 0.03$), a structural dimension, were all minor predictors of effectiveness.
4	Lowenkamp, Holsinger, and Latessa (2005)	The mean weighted effect size (logged odds ratio) is 0.29, which would correspond to a 7.5% reduction in recidivism. In studies where there were no differences between the comparison and treatment groups, small reductions in recidivism were noted (2%). The length of follow-up period also affected recidivism. Studies with follow-up periods of 1 year were associated with lower levels of recidivism (4%), whereas 2-year follow-up periods saw reductions in offending of 8%, and 3-years had 18%. Studies where less than 50% had a prior record produced an average reduction in recidivism of 5%, compared to a reduction of 10% where 50% or more of participants had a prior record. Overall, a 7.3% reduction in recidivism was associated with participation across heterogenous effect sizes ranging from a 15% increase to a 35% reduction in recidivism. Two studies that met the criteria reduced recidivism on average by 25%, those that met one or other criterion reduced recidivism by an average of 9%, and those that met none of the criteria increased recidivism by 8%.
5	Latimer, Morton-Bourgon, and Chrétien (2006)	The attrition rates within the studies in this meta-analysis ranged from 9.0% up to 84.4% with a mean of 45.2% (SD=19.0), which indicates that almost half of DTC participants do not complete the program. The follow-up length used to measure recidivism within the included studies ranged from 3 months up to 48 months with a mean of 18.7 months (SD=11.5). Very few DTCs restricted participation based upon drug type. Some programs (4.6%) restricted access to only hard drug users (e.g., cocaine, heroin, crystal methamphetamine), and other programs (7.6%) to only soft-drug users (e.g., marijuana, hashish, alcohol). Approximately one-third of programs (31.8%) dealt primarily with repeat offenders (19.7% mostly repeat offenders and 12.1% all repeat offenders) and 19.7% dealt primarily with first-time offenders (18.2% mostly first-time offenders and 1.5% all first-time offenders). Finally, almost all DTC programs (93.9%) accepted only offenders who had been charged with nonviolent offences. The program lengths of DTCs (i.e., the time an offender was monitored) within this meta-analysis varied from 6 months up to 26 months with a mean of 13.4 months (SD=4.0). In total, the studies examined 17,214 offenders who had successfully completed drug treatment court programs and 14,505 offenders in the control or comparison groups. The mean age of DTC participants recorded within the studies was 28.4 years – 7 studies provided data primarily on youth under 18 years of age. The 66 DTC programs within this meta-analysis directly measured the effectiveness of treatment on reducing future criminal behaviour. The mean overall ESE was + 0.14 with a 95% confidence interval of + 0.10 to + 0.17. Converting the ESE into a Binomial

		Effect Size Display showed that 57% of the participants in the drug treatment courts will not be charged with a new criminal offence during the follow-up period compared to 43% of offenders within the control/comparison groups. Drug treatment courts reduced recidivism rates by 14% compared to traditional criminal justice system responses. The weighted ESE was +0.13, which is like the unweighted ESE. Most of the DTC programs demonstrated a positive impact on recidivism (i.e., programs with an effect size above zero). Only 10 studies indicated a negative impact while 56 studies demonstrated a positive impact. A single-sample t-test indicated that the mean effect size estimate was significantly different from zero (t(df=65) =7.58, p< .001).
6	Sevigny, Fuleihan, and Ferdik (2013)	Across all three outcomes, the evidence reveals that the average drug court significantly reduces the use of incarceration when measured as a discrete sanctioning response. For jail use, the mean log odds ratio is -0.32 (OR = 0.73), with eleven effects (50.0%) significantly favouring drug court versus two effects (9.1%) for the comparison condition. This is a relatively small mean effect, reflecting a 42.2% jail incarceration rate relative to an assumed comparison group rate of 50%. Put differently, this suggests that approximately 78 jail incarcerations are avoided per 1,000 admissions to drug court. For prison incarceration, we observe a mean log odds ratio of -0.49 (OR = 0.61), with five effects (62.5%) significantly favoring drug court versus none for the comparison condition. This is a small to moderate mean effect, reflecting a 38.1% prison incarceration rate relative to a comparison group rate of 50% or, alternatively, 119 averted prison incarcerations per 1,000 drug court enrollees. The mean log odds ratio was -0.77 (OR = 0.46) for the overall measure of jail and prison incarceration, with twelve effects (66.7%) significantly favouring drug court versus none for the comparison condition. This is a moderate sized effect, with practically meaningful implications for correctional resources. Again, compared to a 50% incarceration rate for the comparison condition, this reflects a 31.6% overall incarceration. rate for drug courts, or 184 fewer incarcerations per 1,000 drug court participants.5 Notably, the size and direction of these effects are consonant with previous meta-analyses showing lower recidivism rates among drug court participants. Because of the imprecision surrounding these summary effects and the potential impact of effect size availability bias, we also computed the unweighted mean difference (in which all effect sizes contribute equally to the summary effect) as a simple face-validity check on these results. Thus, drawing on a much larger group of studies,6 we obtained results for pretrial (MD = -9.4, 95% CI = -40.0 to 21.1, k = 3), jail (MD = 1.8, 95% CI = -11.5 to 15.0, k = 23), prison (MD = -35.9, 95% CI = -78.2 to 6.4, k = 16), and overall (MD = -31.5, 95% CI = -123.6 to 60.7, k = 5) days incarcerated. When compared to the analogous

		outcomes in Fig. 2, the results are consistent with respect to significance (or lack thereof) and direction of effects. There was significant heterogeneity and high levels of between-study inconsistency for jail (Q = 114.61, p b 0.001, I 2 = 81.7%), prison (Q = 39.84, p b 0.001, I 2 = 82.4%), and overall (Q = 145.54, p b 0.001, I 2 = 88.3%) incarceration. Although insignificant, the larger effect for jail incarceration (β = -0.24, p = 0.33) suggests that post plea courts may reduce incarceration relative to pre-plea/combined courts when the punishment is more accessible and proximate. Conversely, excluding drug trafficking/sales offenders' results in a significantly lower likelihood of imprisonment (β = -1.02, p = 0.049), but not jail or overall incarceration. Consistent with expectations, the frequency of status hearings during the initial drug court phase is significantly related to less jail use (β = -0.18, p = 0.008). However, drug courts with a policy of demoting noncompliant offenders to an earlier treatment phase are more likely to use prison incarceration (β = 0.58, p = 0.024), with effects for jail and overall incarceration insignificant but in the same direction. Finally, courts that achieved a 50% or better retention/ graduation rate are significantly less likely to use jail (but not prison) incarceration (β = -0.47, p = 0.053).
7	Logan and Link (2019)	Mitchell et al. (2012) reviewed 92 independent evaluations of adult drug courts and reported an average drop in recidivism from 50% to 38%, based on a three-year follow-up period. Likewise, Wilson, Mitchell, and Mackenzie's (2006) analyses of 55 independent drug court-comparison samples, which included both experimental and quasi-experimental designs, yielded effect sizes corresponding with a 14–26% decrease in average rates of recidivism (see also Drake, Aos, & Miller, 2009; Lowenkamp et al., 2005; Shaffer, 2011). In a meta-analytic review conducted by the Canadian Department of Justice, which included valuations based on Canadian, Australian, and American data (n = 66), researchers found that DC participation was associated with a 14% reduction in crime and future drug use (Latimer et al., 2006). Belenko, Fagan, and Dumanovsky (1994) examined official arrest data to compare drug offenders adjudicated in New York City's fast-track drug courts to those processed through standard means (e.g., prison or probation) over a two-year period (1989–1991). Results from their logistic regression analyses indicated no difference in the likelihood of arrest between drug court participants and comparison group members. Sevigny, Fuleihan, and Ferdik (2013) found that while DCs significantly reduced the likelihood of incarceration – corresponding with an 8% reduction for confinement and a 12% reduction for incarceration, respectively – they did not reduce the actual amount of average time spent incarcerated. Miethe et al. (2000) found overall recidivism rates were about 10% higher for drug-court participants (26%) than the control sample (16%), and overall recidivism risks were about 1.8 times higher for drug court

		participants than non-drug court participants.
8	Miethe, Lu, and Reese (2000)	Overall recidivism rates were about 10% higher for Drug Court participants (26%) than the control sample (16%). Recidivism rates were also higher amongst Drug Court participants for both drug and non-drug charges. Overall recidivism risks were about 1.8 times higher for Drug Court participants than non-Drug Court participants, even when controls were introduced for their demographic characteristics and charge information.
9	Gutierrez and Bourgon (2012)	The majority of the studies are unpublished reports (77%) evaluating drug courts in the United States (95%) in the mid to late 1990s. Nonrandomized designs were most frequently used (88%), with only 12 evaluations using randomized designs. Most of these studies involved adult offenders (k = 74). For those studies reporting specific retention or graduation rates (k = 74), the average graduation rate was 39.9% (SD = 19.2). In order to evaluate overall study quality, the CODC Guidelines outcome ratings were examined. Of all the studies included in our sample, over three quarters (k = 78) were rated as "rejected," 23 studies were rated as "weak," and only 2 studies rated as "good." None of the studies was rated "strong." The studies rated as "weak" or "good" were combined into one group of "acceptable" studies (k = 25). CODC confidence items revealed that over half of the studies (k = 56) received a global confidence rating of "little confidence." Of particular note, a vast majority of studies (k = 72) were rated as "little confidence" on the item assessing the adequacy of search for differences and over half (k = 59) were rated as producing "little confidence" on the item assessing effectiveness of statistical controls. Examining the bias ratings of the items on the CODC Guidelines revealed that almost half of the studies (k = 46) received a global bias rating of "considerable bias." Although in the majority of studies the direction of bias was unclear, when the direction of bias was known (k = 42), it was primarily in the direction favoring treatment effectiveness (k = 39). There were a number of bias items for which "considerable bias" was frequently coded, including: program attrition, intent-to-treat, computation of least bias comparison, and subject selection. Finally, it was found that 53 programs were deemed "implementation failures" (i.e., attrition rates greater than 49%). The mean weighted odds ratios estimating the effectiveness of drug courts were calculated for studies included in each of the three meta-analyses. For those studies used by Latimer et al. (2006), the mean weighted odds ratio was .721 (95% CI = .684 to .759). For studies used by Lowenkamp et al. (2005), the mean weighted odds ratio was .671 (95% CI = .623 to .723). Finally, for studies used by Wilson et al. (2006), the mean weighted odds ratio was .669 (95% CI = .638 to .700). The overall mean weighted odds ratio when all studies were grouped together (k = 96) was calculated to be .671 (95%

		CI = .646 to .698). The odds ratios for each of the global study quality ratings were not significantly different ($\chi 2$ = 4.38; df = 2; p > .05), neither were the odds ratios for global bias ratings ($\chi 2$ = 5.44; df = 2; p > .05). On the other hand, the odds ratios were significantly different based on the ratings of global confidence ($\chi 2$ = 10.58; df = 2; p < .05) and global direction of bias ($\chi 2$ = 100.69; df = 3; p < .05). In the following analyses, only those studies that were "acceptable" (studies rated "weak" or "good") were examined. The overall weighted mean odds ratio from "acceptable" studies was found to be .711 (95% CI = .660 to .766). These 25 studies were further broken down by ratings on global confidence, global bias, and global direction of bias. No significant differences were found on global confidence ($\chi 2$ = 0.64; df = 1; p > .05) or global bias ($\chi 2$ = 2.70; df = 1; p >.05). The odds ratios for the global direction of bias, however, were significantly different ($\chi 2$ = 25.07; df = 3; p < .05). The recidivism differences that correspond to the findings from each of the three meta-analyses for all the studies grouped by CODC outcome rating (i.e., reject, weak, good) and "acceptable" studies (i.e., weak or good). Based on only the methodologically acceptable studies (k = 25), it was calculated that drug courts produce an 8.4% reduction in recidivism. Excluding studies that were rated weak and only including the best studies (i.e., good studies) showed an overall reduction in recidivism of 4%. Overall, of the 25 acceptable studies, 11 drug courts demonstrated "no adherence" to any of the three RNR principles, 13 courts showed "adherence to one principle," and only one showed "adhered to two principles." None of the drug courts showed "adherence to three principles." The odds ratios for the different levels of adherence to the principles of Risk, Need, and Responsivity were significantly different between the three levels of adherence ($\chi 2$ = 14.82; df = 2; p < .05). Courts that adhered to any of the three principles were compared to those that adhered to none. The odds ratios were significantly different ($\chi 2$ = 6.45; df = 1; p < .05). The linear trend of increasing adherence to principles of RNR was tested and found to be significant (t = 3.05, p < .01). In other words, as adherence to RNR increased, the strength of the effectiveness of drug courts respectively increased.
10	Matrix Knowledge Group (2008)	Overall, the average offender had at least one magistrate from his or her original panel present 28% of the time, two magistrates from that panel present 10% of the time and all three magistrates from that panel present just 1% of the time. Defining continuity as the three magistrates that saw the offender most frequently, the average offender had at least one magistrate from his or her panel present 58% of the time, two magistrates present 39% of the time and three magistrates present 10% of the time. Continuity was associated with a lowering of the likelihood of offenders missing a court appearance of 8-23% (on average participants missed 27% of court hearings);

		a lowering of the likelihood of offenders failing a heroin test of approximately 9-20% (on average participants failed 61% of heroin tests); an increase in the likelihood of offenders successfully completing their sentence by 11-29% (on average 26% of participants completed their sentences successfully); a lowering of the likelihood of reconvictions by between 0.1 and 0.5 (on average participants had 1.94 new convictions, so this equates to an overall reduction of 5-26% in the number of new convictions). Only 69% of cases achieved the frequency of drug tests prescribed by National Standards (based on National Standards monitoring data for April-September 2007). However, no information is available on the resource-use impact of non-compliance. To achieve a net economic benefit in terms of criminal justice costs, a 24 month DRR will need to deliver a reduction in drug misuse of 20% over a five-year post-sentence period. Taking a wider societal perspective, the required reduction in drug use is halved (only 11%).
11	Eley, Gallop, McIvor, Morgan, and Yates (2002a)	96 DTTOs were made (47 in Glasgow and 49 in Fife). The conversion rate of DTTO recommendations to orders was very high in both pilot sites (92% in Glasgow and 94% in Fife). Of the 19 reviews conducted in court during this period, 7 seven were observed (37%), across the range of reviews 1-3. Between July 2000 and mid-April 2001, 182 referrals for a DTTO assessment by the Fife DTTO team were made by the local courts. By mid-April 2001, 114 assessments had been completed, 29 were ongoing and 39 referrals had resulted in no further action by the DTTO team. Since the commencement of the pilot project in Fife, there has been a consistently high conversion rate (94%) from suitable assessments to orders made, with 49 orders being imposed from 52 positive assessments. The number of DTTOs made in Fife in a nine-month period slightly exceeded the mean number of orders (47) imposed in 12 months in the English pilots (Turnbull et al., 2000). One of the offenders assessed as suitable but not placed on a DTTO died before returning to court and two received custodial sentences (one of whom was subsequently re-assessed for a DTTO and had an order imposed). The highest number of referrals and orders emanated from Kirkcaldy Sheriff Court. The Glasgow scheme also had a very high conversion rate, with 92% of recommendations for a DTTO resulting in the imposition of an order. By the end of February 2001, 155 referrals had been received, with 112 (72%) emanating from the court, 42 (27%) from social work teams and one (1%) from another source. In fiftyone cases the offender was assessed as suitable for a DTTO at the first or second continuation and in 47 cases a DTTO was imposed. This is identical to the mean number of DTTOs made in 12 months across the English pilot DTTO schemes (Turnbull et al., 2000). Twenty-eight orders (60%) were made in respect of offenders referred by the courts, 18 in respect of those referred by social workers (38%) and one in respect of the offender who had been

		referred by another source. The conversion rate of referrals to orders was higher for social work referrals than for court-initiated referrals with 43% of the former but only 25% of the latter resulting in the making of a DTTO. Five offenders in Glasgow were also made subject to probation orders and two offenders in Fife had been given two DTTOs. In Glasgow, women appeared more likely than men to be given a probation order alongside a DTTO (3/99 women compared with 2/37 men). The proportion of women referred for DTTO assessments in England and Wales differed across the pilot sites (Turnbull et al., 2000). Forty-four (16%) of the 269 offenders assessed for a DTTO in the Scottish pilots were women. Women constituted 14% of offenders referred for an assessment in Glasgow (22/155) and 19% of those assessed in Fife (22/114). Overall, sixteen (17%) of the 96 offenders made subject to DTTOs were women, with women comprising 21% of offenders on DTTOs in Glasgow (10/47) and 12% of those on orders in Fife (6/49). Analysis of data relating to previous convictions of 55 offenders given DTTOs revealed that 62% had a previous conviction for a drug offence, 54% had a previous conviction for housebreaking, 78% had previously been convicted of theft, 54% had one or more previous convictions for theft by opening a lockfast place, and 62% had previous convictions for shoplifting. 67% of offenders on DTTOs (for whom the relevant information was available) had previously been convicted of one or more breaches of the peace, 49% had a previous conviction for assault and 67% had convictions for bail offences. Offenders in Fife were more likely than those in Glasgow to have previous convictions for housebreaking (90% compared with 34%). During the research fieldwork period (July 2000 to mid-April 2001 in Fife and between February 2000 and February 2001 in Glasgow) 96 DTTOs were made (47 in Glasgow and 49 in Fife). The conversion rate of DTTO recommendations to orders was very high in both pilot sites (92% in Glasgow and 94% in Fife). In Glasgow, most referrals and orders emanated from the Sheriff Court. Offenders who were assessed for a DTTO but who received an alternative disposal were most often imprisoned or given probation orders (with or without additional requirements). The majority of DTTOs imposed were for 12 or 18 months. In Glasgow, there was a tendency for women more often than men to be given a DTTO in addition to a probation order. 41% of the court review hearings (43/105 undertaken between 4/10/00 and 19/04/01) in Glasgow and 37% (7/19 undertaken between 28/11/001- 25/01/01) of the review hearings in Fife were observed by the researchers. Brief details of those present and the interactions that took place were recorded. Several more reviews were attended but the review failed, for various reasons, to proceed. Offenders appeared at 96% of the reviews and where they failed to do so a warrant was issued for their arrest. This contrasts with the position in England and Wales, where the court does

		not have the power to issue a warrant in the evening of an offender's non-appearance at a review. Other key participants in the reviews were offenders' DTTO social workers (94% of reviews), solicitors (72%) and family members (22%). In the Glasgow pilot, in 78% of the observed reviews the offender was in the dock. Reviews were generally brief. In Glasgow the average review time was five minutes (ranging from 1 to 24 minutes duration) and in Fife the average length of review was two minutes (ranging from 1 to 3 minutes). The questionnaires sought treatment providers' and DTTO workers' estimates, at the start of a DTTO, of how much being on a DTTO was likely to affect offenders' drug use, offending and other problems. Treatment providers believed that in 19 cases (42%) the offender's drug use would improve significantly, in 24 cases (53%) it would improve slightly and in two cases (4%) there would be no change. DTTO workers believed that in 24 cases (52%) drug use would improve. significantly, in 17 cases (37%) it would change slightly and in five cases (11%) there would be no change. Treatment providers and DTTO workers were also optimistic that being on a DTTO would help reduce offending. Twenty–two offenders (49%) were thought by treatment providers to be likely to show a significant improvement in their offending, a similar number were thought likely to show a slight improvement in this respect and only one (2%) was considered unlikely to change. DTTO workers thought that in 25 cases (56%) offending would improve significantly, in 14 cases (31%) it would improve slightly and in six cases (13%) it would remain unchanged. Treatment providers believed that other problems would improve significantly in 15 cases (33%) and slightly in 26 cases (58%) while in four cases (9%) they would remain unchanged. DTTO workers anticipated significant improvement in offenders' other problems in 16 cases (35%), a slight improvement in 20 cases (44%), no change in eight cases (17%) and a slight worsening of problems in two cases (4%). At the start of the order treatment providers believed that four offenders (9%) were very likely to resort to former patterns of drug use and 28 (65%) were likely to do so while in 11 cases (26%) this outcome was not likely at all. Similarly, DTTO workers believed that resorting to previous patterns of drug use was very likely in four cases (9%), likely in 27 cases (59%) and not likely in 15 cases (33%). At the start of their orders treatment providers believed that six offenders (15%) were very likely to resort to their former patterns of offending, 22 (54%) were likely to do so and in 13 cases (32%) this outcome was unlikely. DTTO workers believed that 4 offenders (9%) were very likely to return to their former pattern of offending and 21 (47%) were likely to do so while in 20 cases (44%) such a resumption of offending was unlikely. Of the 58 offenders assessed as unsuitable for DTTO and who were given an alternative disposal of custody (36) or probation with treatment (22), 62% were

		given custody and 38% probation with a condition of treatment.
12	Eley, Malloch, McIvor, Yates, R. and Brown (2002b)	During this period a total of 3,272 offenders were detained in police custody. 101 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. 24 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. 26 other accused were referred to a screening group by the procurator fiscal, having been identified during the marking of custody cases, 10 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% were identified by the police, 34% by the marking depute, 14% by a defence agent, 13% by a Sheriff and 3% by another source. 16 cases referred to the screening group (21%) were considered unsuitable for the Drug Court: most cases, therefore (61 accused or 79%), were considered suitable and were brought to the attention of the custody court. 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 6 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. Information held by the DCSTT 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% and 67% respectively. Initial treatment plans were analysed for 30 clients placed on Drug Court Orders by April 2002. 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.
13	Malloch, Eley, McIvor, Beaton, and Yates (2003)	Two-thirds (32) of clients had received a DTTO and one-third (16) an Enhanced Probation Order. Just over half the clients were given orders of 18 months (25 or 52%), while 15 (31%) were given orders for 24 months, seven (15%) were given 12-month orders and one (2%) was given an order for 9 months. In most (39 or 81%) the orders had been made by the Drug Court in Kirkcaldy, in 7 cases (15%) they had been made by the Drug Court in Dunfermline and in one each they had been imposed by the High Courts in Glasgow and Edinburgh. Both orders

		imposed by the High Courts were DTTOs and were reviewed by the sentencing court. In Dunfermline in just under one third of cases (2/9) the client was made subject to an Enhanced Probation Order, while just over one third of clients in Kirkcaldy (14/39) had been given an order of this type. On average, just under ten offenders per month were made subject to a Drug Court Order which, taking account of the existing DTTOs that were transferred into the Drug Court, suggests that the Team are well on target to meet the 150-180 case annual workload identified in the Drug Court Manual. In 46 cases, the database recorded details of the number of orders made per client. While most (36 or 75%) received a single order, 7 (15%) had received 2 orders and 3 had received 3 or more. In total, therefore, 64 orders had been made in respect of the 46 clients for whom this information was available. Most clients who received Drug Court Orders (39 or 81%) were male. Categorised information about previous criminal history indicated for clients for whom this information was available (25/37 or 68%) most had at least 10 previous convictions. According to the information recorded on the database, most offenders (30 or 65%) had been given a Drug Court Order for offences involving dishonesty. Ten individuals (22%) had been convicted of drug offences, 6 (13%) of motor vehicle offences (theft from motor vehicles), 4 (9%) of violence against the person and eight (17%) of other unspecified 32offences. Offenders who received Drug Court Orders varied in age from 17 to 36 years, with a mean age of 25 years. This is slightly higher than the mean age of referrals, suggesting that older offenders were more likely to have been assessed as suitable for a Drug Court Order. Women given Drug Court Orders were younger, on average, than men (22 years compared with 25.5 years, t-test, $p<.05$). Women were also given fewer orders than men (1.0 compared with 1.5, t-test, $p<.05$). Women were slightly more likely than were men to have been given an Enhanced Probation Order (4/9 compared with 12/39) but the difference was not statistically significant. DTTOs were, however, longer, on average, that Enhanced Probation Orders (20 months compared with 17 months, t-test, $p<.05$). In addition to the reviews of Drug Court Orders that were observed (that is, those orders that had been made since the Drug Court was established) 49 reviews of DTTOs imposed in the sheriff courts and transferred into the Drug Court were observed. Here some summary data are provided on the lengths of these reviews, 45 of which involved male clients (92%) and four of which involved women on orders (8%). The mean length of the review hearings was 4.2 minutes, with a range of one to 12 minutes. The client was present at most reviews (42 or 86%). Review hearings were longer, on average, when the client was present than when s/he did not attend the court (4.5 minutes compared to 2.1 minutes). The length of review hearing varied according to the stage of the order and the contents of the review. To examine the

		relationship between length of hearing and stage in the order, reviews were grouped according to whether they fell within the 4th – 9th reviews or whether they fell within the 10th - 19th reviews. Twenty-five review hearings fell in the first category and 22 fell in the second25. Earlier reviews were slightly shortly than reviews that were conducted later in an order (3.5 minutes compared with 4.7 minutes). The balance of 'positive' and 'negative' reviews changed over the course of the orders. There was a slightly higher proportion of 'negative' reviews among the earlier reviews (review number 4-9) than among the later reviews (reviews 10-19) (48% of earlier reviews compared with 27% of later reviews).
14	McIvor, Barnsdale, Malloch, Eley, and Yates (2006)	In September 2002, 73 existing DTTOs were transferred into the Fife Drug Court. A total of 872 additional referrals involving 382 individual offenders were made during the pilot period. 82% of referrals were male. In Glasgow, 271 cases had been referred for assessment by the middle of November 2004, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. Over 90% of individuals referred to the court were male. In Fife, 205 (24%) referrals resulted in Drug Court Orders being made. 78% were DTTOs, and their average length was 18.7 months. Over 80% of those on Orders were male; their average age, 26 years. In Glasgow, 150 (55%) referrals resulted in Drug Court Orders being made, most of which were DTTOs (73%) of an average length of 18 months. 91% on Orders were male and their average age was 31 years. Observations included 42% of 23 clients all those who were assessed for the Drug Court (44% of all men and 25% of all women). 88 observations of pre-court review meetings were conducted, involving 53 different clients on Drug Court Orders. Pre-court review meetings involving discussion of 53% of all male clients and 56% of all female clients were included. 12% of all pre-court review discussions in the first 2 years of the pilot were observed. 228 observations were made of review hearings involving 72 offenders. These observations covered 74% of all male clients and 56% of all female clients. Observation included those on Probation Orders and DTTOs from the 1st to the 22nd post-sentence review. 30% of all review hearings conducted during this time period were observed. Monitoring data showed that by November 2004, 271 cases had been referred for a Drug Court assessment, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. 8 individuals were referred more than once (all twice). During the pilot period, 358 (86% were referred in the first 2 years) accused were 'flagged up' in police reports as being potentially suitable. Of these, only 84 (23%) were referred for screening. Defence agents identified 78 individuals during the pilot (including 69 during the first 2 years), 39 of whom (50%) were referred for screening23. The Procurator Fiscal referred 128 accused (including 70 (55%) during the first 2 years)

		identified during the marking of custody cases. In total, 274 cases were referred to screening during the pilot period. Of these, 31% were identified by the police, 14% by a defence agent, 6% by a Sheriff and 3% by another source. Additionally, marking deputies referred 47% of cases over 3 years - a significant increase from 36% after 2 years. Most cases (73%) were identified as potentially suitable but 27% were considered unsuitable. In 98% of cases the custody court referred potential candidates to the Drug Court. In the first 2 years, 14 (8%) direct referrals were made, whereas in the third year, 55 (52%) were made. Of those referred, 23 were female (8%) and 248 (92%) were male. Referrals ranged in age from 20 to 54 years, with a mean of 30.7 years. Men averaged 32.8 years of age compared to women's' 30.5 years. 1% of referrals (3) involved individuals under 21 years of age. Most referred individuals were unemployed (85%) or not seeking employment (12%); only 3% were employed or self-employed. Most individuals (69%) were single, while 29% were married or cohabiting. Information on the criminal histories of 220 individuals was available. Overall, only 7 individuals (3%) had 5 or fewer previous convictions, 27% had between 6 and 20 previous convictions and 154 (70%) had 20 convictions or more. The average number of previous convictions was 30 (27 among females in the sample, 30 among males). The majority (208 or 95%) had served at least one previous custodial sentence, with 83 (38%) having served up to 10 and 125 (57%) 10 or more. The average number of previous custodial sentences was 15 (16 among males, 14 among females). In September 2002 all existing DTTOs (73) were transferred into the Drug Court. In addition, in the first 2 years of its operation, a total of 872 Drug Court referrals involving 382 offenders were made. 169 individuals (44%) were referred on one occasion while 213 (56%) had 2 or more referrals over this period. Most of these (144) were referred on 2 or 3 occasions, with the remainder being referred between 4 and 11 times. Most referrals to the DCSTT involved cases prosecuted summarily in the Sheriff Court (765 or 88%). The remainder of referrals involved Sheriff solemn cases (94 or 11%) or High Court cases (13 or 2%). Most referrals originated from Kirkcaldy (584 or 67%) and Dunfermline (178 or 20%) Sheriff Courts, with a further 68 (8%) from Cupar Sheriff Court. Referrals from courts outside Fife most commonly came from Edinburgh (15 referrals), Alloa (9 referrals) and Perth (6 referrals). In each case in which a referral was made, a report was requested. In the majority of cases (690, or 79%) this included a Drug Court Assessment either alone (312 referrals) or alongside other types of assessment such as community service and/or a Restriction of Liberty Order (RLO) (378 referrals). In some cases (182, or 21%) a Drug Court Assessment was not explicitly requested. Amongst first referrals, a Drug Court Assessment was requested in 92% of cases. Most referrals (715 or 82%) were men and white Scottish in terms of

		ethnicity (823 or 98%34). Referrals ranged in age from 16 to 60 years, with a mean of 25.3 years. Women were slightly but significantly younger, on average, than men (24.3 years compared to 25.5 years). 18% of referrals (157) involved individuals under 21 when the referral was made. Most referrals involved individuals who were unemployed (81%) or not seeking employment (12%); only 2% were employed or self-employed. Information from the Drug Court Co-ordinator's monitoring database showed that by mid November 2004, Drug Court Sheriffs had imposed Drug Court Orders in respect of 150 offenders (55% of referrals – a much larger proportion than in Fife). In relation to the 121 cases where an Order was not made, 101 offenders received a non-Drug Court disposal (the most prevalent disposals being imprisonment (41), a deferred sentence (31) and a probation order (20))41, warrants were outstanding in respect of 11 offenders and 9 further assessments were ongoing. The modal average length of an Order was 18 months. Only 4/72 of those who were considered unsuitable for a Drug Court Order were made subject to a Drug Court disposal, while the majority of those considered suitable for an Order (133/152) were given such a disposal by the court. The main offences for which Drug Court Orders were imposed included dishonesty (including shoplifting) (67%) and drug offences (16%). The average age of those given a Drug Court Order was slightly over 31 years while the average age of those given alternative disposals was just under 30 years. Most of both groups of individuals were male (91% compared with 92% of those given other disposals). There were no significant differences in employment or marital status between the 2 groups. During the Fife pilot a total of 184 individuals were made subject to a Drug Court Order, with 21 of them sentenced on 2 occasions. Only 205 (24%) of the 872 referrals to the court resulted in a Drug Court Order. The most common outcomes for referrals in which no Order was made included deferred sentences (254 or 29% of referrals), custodial sentences (119 or 14%) and probation (51 or 6%). The 205 referrals sentenced to a Drug Court Order attracted DTTOs in 160 (78%) cases and enhanced Probation Orders in 45 (22%) cases. Orders varied in length from 9 to 24 months, with a mean of 18.7 months. Most cases had been referred from Kirkcaldy (145 or 71%) or Dunfermline (48 or 23%) Sheriff Courts. There was no difference in the proportionate use of EPOs according to sex of the participant (21% of men and 28% of women received an EPO). However, offenders under 21 were more likely to receive an EPO than were those aged 21 years or older (43% of the former and 19% of the latter). The majority were male (173 or 84%) and white Scottish (204 or 100%). The age range was 17 to 43 years with a mean of 26.2 years. 13% (26/205) were under 21 years of age. Men were slightly (though not significantly) older than women (26.4 compared with 25.1 years). In 202 cases (98%) the individual was unemployed or not seeking work.

		Relevant information was available from the Fife Drug Court database for 67 of those in respect of whom an Order was made. 9 individuals (13%) had 5 or fewer previous convictions, 18 (27%) had between 6 and 20 previous convictions and 30 (45%) had 20 convictions or more. The majority (41 or 61%) had served at least one previous custodial sentence, with 13 (19%) having served 11 or more. Only 1 of the 9 women had 20 or more previous convictions while this was true of half (29/58) of the men. Similarly, only one woman (out of 9) had previously served a custodial sentence compared with 40/58 (69%) of the men. In September 2002, 73 existing DTTOs were transferred into the Fife Drug Court. A total of 872 additional referrals involving 382 individual offenders were made during the pilot period. Males accounted for 82% of referrals, the majority of which emanated from Kirkcaldy Sheriff Court. In Glasgow, 271 cases had been referred for assessment by the middle of November 2004, 202 (75%) via a screening group/interview and 69 (25%) via a direct referral from another Sheriff. Over 90% of individuals referred to the court were male. In Fife, 205 (24%) referrals resulted in Drug Court Orders being made. Most Orders imposed (78%) were DTTOs, and their average length was 18.7 months. 84% of offenders made subject to an Order were male; their average age, 26 years. Nearly all were unemployed or not seeking work. In Glasgow, 150 (55%) referrals resulted in Drug Court Orders being made, most of which were DTTOs (73%) of an average length of 18 months. Of offenders made subject to an Order, 91% were male and their average age was 31. Nearly all were unemployed or not seeking work. Women had their Orders breached or revoked more than men (82% compared with 67%). The revocation rate for those under 21 years of age was almost identical to that for those aged 21 or over (71% compared with 70%). Those who completed their Orders were exclusively male. Of those offenders aged 21-25 whose Orders had ended (n=22), 59% had their Orders terminated while the remainder completed their Orders. 94% of Glasgow interviewees stated that most of their offending had been drug-related and 72% stated that they had offended daily before their Order. 98% of clients who were stable on Orders reported that they had stopped or dramatically reduced levels of offending and 0% stated that they were engaged in prolific offending. 87% of respondents noted that most offending occurred at the start of an Order before stability was achieved and was associated with a relapse or alcohol use. 70% of relapsing Glasgow interviewees reported that they did not resort to offending during relapses; rather they borrowed money for drugs or were given drugs by friends. 19% of Glasgow interviewees considered future offending of any sort likely. 67% of interviewees who completed Orders indicated that they had not committed drug-related offences during its course, while 78% of terminated interviewees stated that they had committed further drug-

		related offences during their Order. 48% of Glasgow initial interviewees used heroin more frequently than 'every other day', though 87% noted that the amount had substantially decreased and/or the method of consumption had changed. As Orders progressed, 67% of 6 and 12-month Glasgow interviewees reported being stable and illicit drug free. 40% of six- and twelve-month Glasgow interviewees reported that their drug use was significantly reduced despite some relapses, though levels of cannabis use (which was not tested for in Glasgow or Fife) remained high. Around 50% of relevant Glasgow interviewees noted that when they 'relapsed' and took heroin they burned rather than injected and regarded this change to safer practices as progress. 74% of Glasgow interviewees stated that they aimed to stop using opiates as a result of being on an Order, while 23% stated that their aim was complete abstinence from all drugs. In Fife, 91% and 92% respectively perceived to be motivated to address their drug use remained uniformly high at both 6 and 12 months and 92% and 96% were considered to be motivated to address their offending. In Glasgow, 79% and 80% were thought to be motivated to address their drug use and offending at 6 months and 94% and 96% respectively at 12 months. At the 6-month stage 54% of clients in Fife and 52% of those in Glasgow were thought likely to resort to further drug use while 48% and 51% in Fife and Glasgow respectively were thought likely to re-offend. After 12 months on Orders, the perceived risk of further drug use was slightly higher in Fife (61%) and significantly lower in Glasgow (36%). Participants in Fife were thought likely to re-offend than at the 6 months stage (61%) while significantly fewer of those in Glasgow were (31%). At the start of their Orders, social workers in most cases expected positive changes to be effected in other aspects of clients' lives (92% of cases in Glasgow and 82% in Fife). After 12 months, clients' other problems were thought to have improved in 79% of cases in Glasgow and 64% in Fife. While over four-fifths of those who completed were said to have shown significant improvements in their drug use and offending (82% and 90%), this was the case for few of those whose orders were breached or otherwise revoked (7% and 10%). Similarly, only 8% and 4% respectively of the clients who had successfully completed their Orders were considered very likely to resort to further drug use or to re-offend, while this was considered very likely for 62% and 59% respectively of those whose Orders had been revoked. Moreover, completion rates (at around 30% and 44% across the 2 schemes) were commendable in view of the histories of offending and prior drug use among the Drug Court client group.

Appendix 7: The Drug Court and the Drug Court Process

1. Introduction

This appendix gives a factual overview of the Drug Court and the Drug Court Process. First, this chapter will cover the context underlying the conceptualisation of the Drug Court, given the unique characteristics of the Drug Court's locale, before moving on to discuss the origins and establishment of the Drug Court. This chapter will then include a description of the multi-agency partnership through which the Drug Court is run, as well as a description of the Drug Court Participants. The Drug Court Process will then be outlined, which includes a description of the process for referral; screening; Drug Court Orders; Drug Court Team Meetings; Pre-Court Review Meetings; Drug Court Hearings; Meetings with Social Workers; Urinalysis Testing; Addiction Counselling; the role of External Agencies; the procedure for Breach and Termination; and the Graduation process. Ultimately, this chapter seeks to give a clear understanding of the purpose of the Drug Court and the Drug Court process, to contextualise the findings discussed in the subsequent chapters.

2. The Context

The local area in which the Drug Court is located has the highest number of recorded drug deaths of any area in the country (National Records of Scotland, 2019). The country in which the Drug Court is located, Scotland, has some of the highest recorded drug deaths in Europe (National Records of Scotland, 2019). Interestingly, the most common drugs of choice in Scotland seem to be depressants, including alcohol, benzodiazepines, and heroin; and alcohol and heroin are two drugs which are closely associated with drug-related deaths. High levels of drug abuse and drug related deaths are not new in Scotland. Scotland is known for its relatively high prevalence of drug and alcohol dependence, with even the typical representation of Scottishness in traditional media often emphasises drugs and alcohol. From depictions of heroin abuse in the 1990s film *Trainspotting*, to the representation of the typical old Scottish drunk in the British television series *Rab C. Nesbitt*, and even the American interpretation of the alcoholic Scotsman 'Groundskeeper Willy' in *The Simpsons;* the Scottish drunk/ drug user is an established caricature. Whilst the prevalence of drug and alcohol abuse in Scotland is not new, there is mounting public outcry regarding Scotland's increasing levels of drug dependence and record number of drug-related deaths (Hunter, 2019; The Guardian, 2019). As such, the Scottish Government and the Scottish Judiciary are implementing innovative methods to reduce the prevalence of drug dependence, drug-related deaths, and drug-related crime. The most recent Scottish Drug Strategy emphasised the need for pioneering harm-reduction strategies to tackle the drugs crisis in Scotland (Scottish Executive, 2018). These innovative strategies currently include the much-publicised campaign for a Drug Consumption Room, prescribing medical heroin to those with established dependency, and the establishment of a multi-agency, specialist Drug Court.

3. The Establishment of the Drug Court

The Drug Court was first established in 2001, operating within summary proceedings at the Criminal Court. Its objectives at launch were to: reduce the level of drug-related offending behaviour; reduce 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 (Eley et al, 2003). The detailed pilot study of the Drug Court found that whilst it cannot provide "a panacea for the problem of drug-related crime", a significant proportion of clients who were made subject to a Drug Court order were able to achieve and sustain a reduction in drug use and associated offending (McIvor et al, 2006). A follow up study six months after the establishment of the Drug Court found that the establishment and early operation of the Drug Court was largely successful (Eley et al, 2003). It was found that the procedures established were "running smoothly" and both the professionals and clients involved were "optimistic" about the "positive impact" that the Drug Court could have on both drug dependence and drug-related crime in the area (Eley et al, 2003; p. 4). Given the success of these early findings on the Drug Court, the Drug Court was established as a permanent feature of the local Criminal Court.

4. The Drug Court Agencies

The Drug Court is a multi-agency partnership. Whilst Drug Court hearings take place in the Criminal Court and the Drug Court is staffed by three Sheriffs on a part-time basis, other professionals present at Drug Court hearings include a Drug Court co-ordinator, the Procurator Fiscal, the participant's Defence Agent, a police officer, and members of the Drug Court Supervision and Treatment Team. Participants have extensive contact with members of the Drug Court Supervision and Treatment team outside of Drug Court hearings, and this team includes a social work team leader, social workers, addiction workers, medical doctors, and mental health nurses; all of whom are located within social care premises which is adjacent to the Criminal Court in which hearings take place. Thus, the Drug Court is run in partnership by the Justice Department, the NHS, and Criminal Justice Social Workers. The Drug Court also liaises with external organisations and charities, such as the Mungo Foundation, Housing First, and the Galgael Project to aid with the provision of housing and employment-related skills to participants involved in the Drug Court programme (for more about the external agencies involved see below).

5. The Drug Court Participants

The Drug Court is suitable for offenders aged 18 and over, although 16- and 17-year-olds will be considered for admittance in exceptional circumstances (Glasgow Sheriff Court, 2013). The Drug Court is suitable for individuals of any gender, whom have an established pattern of offending which is predicated upon a dependence on drugs, but the nature of their drug misuse should not primarily consist of cannabis (Glasgow Sheriff Court, 2013). The Drug Court accepts referrals from both summary and solemn proceedings and no categories of offence are excluded, although the offences for which individuals are referred to the Drug Court tend to be drug related. Furthermore, given the Drug Court comprises an intensive programme of drug treatment and support, high tariff offences that would otherwise merit the imposition of a custodial sentence tend to pre-empt Drug Court referral.

Drug Court participants tend to live within the local authority area wherein the Drug Court is located, given the involvement of the local Criminal Justice Social Workers and the local authority. However, there is some evidence from the hearings observed to suggest that occasionally participants who are residing in other, nearby, local authority areas may be the subject of a Drug Court order where the Drug Court Supervision and Treatment Team are able to work with Criminal Justice Social Workers from other local authorities. Participants include individuals who are both housed in the local authority area or are homeless but still located within the local authority area. The Drug Court manual notes that whilst initial homelessness is not a bar to being placed on a Drug Court order, some stability in accommodation, such as the provision of hostel accommodation, is desirable in Drug Court participants.

6. The Drug Court Process

The Drug Court has a unique set of policies and procedures compared to the traditional criminal procedure in Scottish courts. Although the Drug Court is integrated within the criminal court structure in Scotland, the process for handling cases has a much stronger emphasis on multi-disciplinary working, progress review and offender management, and high levels of judicial involvement than the typical legal process regarding drug related crime. This section will give an outline of the process for referral to the Drug Court; the screening and assessment process; the different types of statutory Drug Court orders and disposals available within the Drug Court; the procedures for review in the Drug Court process; the treatment regime within the Drug Court; the procedure for drug testing; enforcement; and graduation.

6.1 Referral

Participants are principally referred to the Drug Court from other criminal courts in the Sheriff Court and participants can be referred from both solemn and summary proceedings. Here, offenders can only be referred to the Drug Court following conviction for an offence. Ideally, pleas are entered at an

early stage in the Scottish criminal process, such as at a pleading or intermediate diet, although the Drug Court will also consider referrals from later stages in criminal proceedings, such as post-trial. Referrals to the Drug Court are often suggested by professionals who are acquainted with the offender and aware of their history of offending, such as Defence Agents, Criminal Justice Social Workers, or the sentencing Sheriff in that, or another, court. Participants may also be referred to the Drug Court from police custody, prior to any hearings taking place in the criminal court. In cases where participants are referred from custody, a person might be identified as suitable for the Drug Court by the police, the Procurator Fiscal, or their Defence Agents prior to the case first being called in Custody Court.

6.2 Screening and Assessment

Before a Drug Court Order can be imposed, participants must be screened and assessed to determine their suitability for the Drug Court. Screening is carried out by Criminal Justice Social Workers from the Drug Treatment and Supervision Team and its purpose is to determine whether the participant meets the relevant Drug Court criteria and is suitable for a full Drug Court assessment, although Sheriffs have the discretion to request a full assessment in the absence of initial screening (Glasgow Sheriff Court, 2013). Initial screening involves checking if the offender has any previous contact with Criminal Justice social workers, social work, or addiction services, and to investigate the outcomes of any current or previous interventions. The offender is then interviewed, either in custody or in the Criminal Justice social work premises. In this interview the social worker determines the participant's suitability for assessment by looking at: current and past patterns of drug misuse; offending history; motivation to change; known health factors (mental and physical); home circumstances; and other relevant information (Glasgow Sheriff Court, 2013). This interview is also used as an opportunity to provide written information on the Drug Court to offenders, such as its policies, procedures and powers and check that the offender understands how the Drug Court works. The social worker will also seek the participant's permission, in this interview, to contact other agencies such as addiction or health staff, to seek relevant information regarding the offender's suitability for a Drug Court order. Where the participant is initially screened as suitable, they will then attend a medical appointment with healthcare staff in the Drug Court Supervision and Treatment Team to complete the medical component of the screening process.

Where offenders are screened as suitable, they will then be subject to a full Drug Court assessment. Drug Court assessments are multi-disciplinary reports prepared by the Drug Court Supervision and Treatment Team. To produce a full Drug Court assessment report, the social worker allocated to the case will: collate information from social work records; arrange for assessment contributions from relevant health and addiction services; arrange an initial office appointment with the offender; and liaise with other teams within the Drug Court Treatment and Supervision Team (such as health and addiction workers) (Glasgow Sheriff Court, 2013). The social worker will also, where necessary, produce a Criminal Justice Social Work report although in some cases this will already be available. The Drug Court Addiction Worker's role in assessment is to carry out a full drugs and alcohol assessment and to collate treatment assessment information from external agencies. Doctors and nurses from the Glasgow Addiction Service Drug Court Team conduct the medical assessment, which includes: an identification of the offender's current health needs; an assessment of their suitability for medical intervention in relation to drugs misuse; and the preparation of an initial treatment plan for each suitable offender. With the offender's consent, the medical assessment also includes an initial urinalysis drug test, the result of which is produced at court at the end of the assessment period. These numerous reports are then integrated by the allocated social worker into a final assessment report. The reports submitted to the court include a Criminal Justice Social Work report (where appropriate), a drug assessment report, and a drug treatment action plan. Usually, the case will be kept open for around 4 weeks to allow the assessment reports to be prepared. If the offender does not attend or co-operate with the assessment process, whether more time should be given for assessment is at the discretion of the Sheriff.

6.3 Drug Court Orders

Drug Court Sheriffs have a range of community-based treatment orders at their disposal in the Drug Court. These include Drug Treatment and Testing Orders, Structured Deferred Sentences, Community Payback Orders, and Restriction of Liberty Orders. Although Drug Court Sheriffs have the same powers as other Sheriffs in the criminal court, they have exclusive jurisdiction over the community-based drug treatment orders. As the Drug Court tends to deal with persistent offenders, it is not uncommon to find that an offender will be the subject of more than one complaint. Often, these are gathered by the Drug Court procurator fiscal in order to be dealt with together. Often, the offender will be made the subject of a Drug Court order in relation to one of the complaints, with sentence being deferred regarding the other complaints. In this case, sentence is deferred until the outcome of the next review of the Drug Court order (this is distinct from a Structured Deferred Sentence).

6.3.1 Drug Treatment and Testing Order (DTTO)

A DTTO is the principal order of the Drug Court and is the most intensive community-based drug treatment order available to Drug Court sheriffs. Often, offenders are initially made the subject of a Structured Deferred Sentence, and this can later be converted to a full DTTO if the Sheriff and Drug Treatment and Supervision team perceive that the participant has engaged with the SDS. DTTOs are governed by the Criminal Procedure (Scotland) Act 1995 section 234B to section 234K. DTTOs can be imposed for any period no less than 6 months and no more than 3 years: in practice they tend to last around 12-18 months. Before a DTTO can be imposed, the following criteria must be met there must be clear evidence that the offender is dependent or has a propensity to misuse drugs; the offenders' dependence or propensity to misuse drugs should be susceptible to treatment; and the offender must be assessed as a suitable person for treatment (Glasgow Sheriff Court, 2013). Whilst there is no legal definition of a 'suitable person', suitability is determined by factors explored in the screening and assessment process, such as motivation to address drug misuse.

The Criminal Procedure (Scotland) Act 1995 sets out the minimal requirements of a DTTO, which include: to submit to treatment; to provide supervised samples of urine for drug testing; to be under the supervision of the supervising officer; and to attend regular court reviews of the order at intervals of no less than one month. The Drug Court manual describes DTTOs as comprising the following elements: statutory supervision by a Drug Court supervising officer; a testing regime; stabilisation in treatment; participation in harm-reduction and relapse prevention programmes; identification of a personal development programme linked to community-based resources (i.e. education, training and community-based rehabilitation programmes); and clear exit strategies to enable treatment to continue in the community at the end of the order (Glasgow Sheriff Court, 2013). Once a DTTO is a made within the Drug Court, drug testing will be carried out twice a week for the first month and the level of testing will reduce as the order progresses. The level of contact with the Drug Court Supervision and Treatment Team is reviewed on an ongoing basis throughout the duration of the order. The DTTO is considered the most intensive programme of treatment offered by the Drug Court and as such tends to be targeted at high tariff offenders. Because of the long criminal careers of those subject to DTTOs, a conviction for a further offence does not automatically constitute a breach of the order.

6.3.2 Community Payback Order with a Drug Treatment Requirement (CPO)

Although a DTTO is the principal order of the Drug Court, the court may wish to instead impose a Community Payback Order with a Drug Treatment Requirement. Community Payback Orders with a Requirement for Drug Treatment are governed by the Criminal Justice and Licensing (Scotland) Act 2010 (s)227U. The Act outlines a "drug treatment requirement" as a requirement that the offender must submit to treatment with a view to reducing the offender's dependency on, or propensity to misuse, drugs. The kinds of drug treatment outlined by the Act include both residential and non-residential drug treatment. Before the court can impose a CPO with a Drug Treatment Requirement, they must be satisfied that: the offender is dependent on or has a propensity to misuse controlled

drugs; the dependency or propensity requires or may be susceptible to treatment; and arrangements have been or can be made for the proposed treatment. As such, the Drug Court manual explains that CPOs may be targeted at offenders whereby a chronic history of drug dependence has not been established, but there is a direct link between offending behaviour and the misuse of drugs (Glasgow Sheriff Court, 2013). Offences for which a CPO would be imposed would therefore be of a lower tariff than those for which a DTTO would be imposed, as a CPO can be considered as distinct to a DTTO in that it is not a sole alternative to custody. Drug Court CPOs are also suitable for those who need intensive support but not an intensive testing regime, as the minimum requirement under a CPO is to submit to urinalysis testing at least once a week, rather than the bi-weekly DTTO regime. As such, CPOs can offer a regime of medical and addiction support with reduced drug testing.

6.3.3 Structured Deferred Sentence (SDS)

Drug Court Structured Deferred Sentences target offenders with a record of drug-related offending behaviour, but who are deemed too unstable or chaotic to comply with the rigorous demands of a full DTTO. Here, the Drug Court may prepare an SDS tailored to the specific needs of the individual. Sentencing in these cases is deferred for good behaviour and to give the offender an opportunity to engage with other interventions and achieve a degree of stability (Glasgow Drug Court, 2013). The length of deferral depends on the needs of the individual, but normally involves the offender coming back to court after a certain period to review their progress (this is usually 1-3 months). During the period of deferral offenders are supported by the Drug Court Supervision and Treatment Team and are referred to other services in the community such as housing and addiction services. Healthcare professionals in the Drug Court are also able to provide substitution prescribing during the period of deferral. The aim of the deferral is for the offender to be sufficiently stable by the end of the deferral period as to be placed on a statutory Drug Court order.

6.3.4 Restriction of Liberty Order (RLO)

A Restriction of Liberty Order (RLO) is a high-tariff community sentence which may be imposed by Drug Court Sheriffs and other sheriffs in the criminal courts in Scotland. RLOs are outlined by the Criminal Procedure (Scotland) Act 1995 (s)245A and require an offender to be: restricted to a specific place for a maximum of 12 hours per day for a maximum of 12 months, and/ or restricted from a place or places for 24 hours a day for a maximum of 12 months. This legislation also provides for the use of electronic tagging to ensure compliance with the Drug Court order. An RLO would not be imposed alone by Drug Court Sheriffs but would accompany the imposition of a statutory Drug Court order or Structured Deferred Sentence.

6.4 Drug Court Review Procedures

A key, defining feature of the Drug Court procedure as compared to the typical procedure for criminal courts is the emphasis on ongoing review of participants on Drug Court orders. The procedure for reviewing Drug Court participants has three dimensions. On one hand, social workers in the Drug Court Supervision and Treatment Team conduct ongoing progress reviews of participants throughout the duration of the order, by conducting interviews with Drug Court participants and meeting with addiction workers and medical staff providing treatment to participants. Drug Court participants' progress is reviewed in multidisciplinary pre-court review meetings which involve a range of Drug Court professionals and, perhaps most importantly, participants also attend regular hearings in the Drug Court in which Sheriffs discuss participants' progress with the participants themselves.

6.4.1 Review Reports

Written progress reports are submitted to the court in advance of each Drug Court review hearing. The allocated social worker has the responsibility for compiling these reports, but the contents are agreed upon jointly by the participant's designated case group, comprising members of the Drug Court Supervision and Treatment Team including: the social worker, addiction worker, nurse, and medical

officer assigned to oversee each offender over the course of their order. The addiction workers and healthcare professionals provide the allocated social worker with monthly progress reports from which the progress review report is compiled. The report also includes the results of urinalysis drug testing and the interpretation of these results.

6.4.2 Pre-Court Review Meetings

Pre-court review meetings are a unique characteristic of the Drug Court compared to traditional criminal trial procedure. Pre-court review meetings are private meetings attended by the Drug Court Sheriffs and the Drug Court Supervision and Treatment team. The purpose of these meetings is to give the Sheriffs the opportunity to discuss the contents of written review reports with the allocated social worker and treatment professionals who compiled them. Pre-court review meetings give the opportunity for the Drug Court Supervision and Treatment team to fully inform the Drug Court Sheriff of the participant's progress, or lack thereof, during the month under review and to give the opportunity for any questions arising from the written report to be answered. The pre-court review meeting also gives the opportunity for Sheriffs to be briefed on the most up-to-date results of urinalysis testing where this information may not have been available at the time of writing the report, such as urinalysis results from samples taken that morning.

The contents of the pre-court review meetings are confidential. Drug Court participants are not invited to attend the pre-court review meeting, although a Defence Agent may attend to represent the interests of the participant. The participant does, however, attend the Drug Court review hearing discussed below. The private nature of these meetings allows Sheriffs to be briefed by the Drug Court Supervision and Treatment Team on highly sensitive or personal matters which may have affected the participants progress but are not appropriate to be discussed in open court or in front of other participants (Glasgow Sheriff Court, 2013).

6.4.3 Drug Court Review Hearings

Perhaps the most defining feature of the Drug Court is the use of regular review hearings which take place in open court and are presided by a Drug Court Sheriff and attended by the Drug Court participant, members of the Drug Court Supervision and Treatment Team and a range of legal professionals and criminal justice workers. The purpose of Drug Court review hearings is to formally evaluate a participants' progress on a Drug Court order, on a regular basis, for the duration of that order. Drug Court participants are required to attend all their review hearings (unless their absence has been approved beforehand) and they are usually legally represented.

Drug Court review hearings begin with the Sheriff Clerk calling each participant by name, and declaring the type of Drug Court order they are on and which period of review they are in. If it is the participant's first hearing, the Sheriff will order the completion of the screening and/or assessment report and recall the case at the next sitting of the court. If the screening and assessment has been completed, and the Sheriff is to impose a Drug Court order and/or impose any other sentences, the Procurator Fiscal is then invited to make any representations as may be necessary regarding the participant's complaint or conviction. At subsequent review hearings, the Procurator Fiscal rarely makes any representations.

Most hearings, particularly subsequent hearings, are opened by Defence Agent's representations on behalf of Drug Court participants, once the clerk has called them. This is sometimes followed by brief statements from the Drug Court Supervision and Treatment Team. Defence Agents representations in the Drug Court are typically brief, as despite the need for representation in the court setting, Drug Court review hearings place an emphasis on direct dialogue between the Drug Court Sheriff and the participant. Whereas in other criminal courts the Sheriff will direct their questions to the offender's legal representative, in the Drug Court questions about progress in treatment, urinalysis test results, or what the participant is doing in their free time, are directed to the participant.

The purpose of this direct dialogue is to foster a relationship between the Sheriff and the participant over the course of the order. The Drug Court manual suggests that this can encourage participants to "accept personal responsibility for their actions" and to "be more honest with the court" (Glasgow Sheriff Court, 2013; p. 27). The manual also suggests that this relationship is key to the Sheriff's ability to motivate the participant to engage with the order, and helps provide an effective sanction, as simple expressions of encouragement or disappointment can have a significant impact on participant engagement (Glasgow Sheriff Court 2013; p. 27). In addition to this, having hearings take place in open court and attended by several participants can influence the growth of peer support and motivating others (Glasgow Sheriff Court 2013; p. 27). This will be explored in more detail in Chapter 5, which discusses observed Drug Court hearings.

In addition to the monthly court reviews, Social Work reviews of progress are held in the Drug Court team offices every 3-6 months.

6.5 Drug Treatment

Another key defining characteristic of the Drug Court as compared to the traditional criminal court is the inevitable emphasis on the provision of drug treatment services. Whilst the purpose of the Drug Court review hearings is to review participants' progress in drug treatment services, beyond these monthly hearings, the Drug Court provides a range of intensive addiction treatment support. The form that drugs treatment takes in the Drug Court is multifaceted. On one hand, the Drug Court Supervision and Treatment Team comprises medical and healthcare staff who provide medical addiction treatment and support such as detoxification and preventative health services. However, the Drug Court Supervision and Treatment team also comprises a social work team who provide social and therapeutic approaches to addiction treatment in the form of one-on-one counselling and group therapies. In addition to this, the Drug Court has commissioned and purchased the services of external addiction organisations to support Drug Court participants through their recovery.

6.5.1 Addiction Health Services

The medical team working within the Drug Court Supervision and Treatment Team provide a range of treatments and preventative health services. This includes the prescription of methadone or other pharmacological substitutions, the use of post-methadone substitution reduction regimens, benzodiazepines detoxification if required, and suboxone prescribing. It is noted in the Drug Court manual that medical staff will not prescribe methadone without also providing an explicit, associated programme of counselling and support (Glasgow Sheriff Court, 2013; p. 31). Participants in the Drug Court are also offered immunisation against Hepatitis B and C; health education which addresses nutrition, exercise, information on the prevention of blood-borne viral infections, the use of alcohol, and sexual health; counselling and support for those undergoing screening for blood-borne viral infections; arranging relevant diagnostic tests; and supervision and support of abstinence-based programmes through the provision of urinalysis testing.

The medical officer and nurse assigned to each participant form part of their assigned group of caseworkers and as such, medical staff are responsible for reporting concerns to other members of the Drug Treatment and Supervision Team. Medical staff continually review participants' treatment plans and may recommend changes based on their clinical judgement of the participants' progress.

The medical team also provide community-based detoxification for those who need to become drug-free as a requirement for admittance to abstinence-based programmes. Detoxification is carried out by providing an increasingly reduced prescribed dose. Detoxification is considered where the agreed treatment programme is based predominantly on drug-free interventions for which the participant needs to be stabilised and detoxified, or where the participant has successfully completed a programme of drug substitution and, in the normal course of treatment planning, the participant is ready to progress to drug-free objectives.

6.5.2 Addiction Counselling

Addiction workers within the Drug Court Supervision and Treatment Team act as the treatment case managers and take the lead role in assessment as well as the direct provision of some treatment interventions. Addiction workers provide practical assistance with recovery, issue-based counselling, monitoring and reassessment, and relapse prevention. In terms of practical assistance, addiction workers seek to provide crisis intervention by assisting the offender to resolve immediate issues arising from drug misuse. Drug Court addiction counsellors also seek to encourage skills of practical problem solving through advice, advocacy and support regarding participants' accommodation, financial situation, and outstanding legal matters. Addiction workers seek to instil behavioural change in participants, by providing support to achieve changes in health and personal care and to reduce the personal and community risks of continued drug misuse. Additionally, addiction workers assist the medical team in providing health-related advice on matters such as diet, sexual behaviour, self-harm, and alcohol use. Furthermore, through issue-based counselling, addiction workers seek to reinforce participants' self-esteem and motivational enhancement. This is achieved by helping participants to examine their beliefs and values and promote change where this is favourable to reducing drug use, and challenging participants' attitudes to drugs misuse in a consistent and sustained way. Issue-based counselling is also a vehicle for addiction workers to encourage progress from ego-centric attitudes to empathetic attitudes, and to help to promote pro-social values. This involves broadening participants perspectives to include wider social responsibilities and the fulfilment of 'higher needs' (Glasgow Sheriff Court, 2013; p. 33). Additionally, issue-based counselling can help participants to achieve a perspective on traumatic life events to facilitate better coping skills. The one-to-one relationship provides a basis for regular assessment of participants' progress on their treatment plan, and the impact of interventions is reviewed, and treatment options can be adapted by addiction workers. In addition, the close relationship that develops between the addiction worker and the participant provides a basis on which the addiction worker can build recovery and relapse prevention strategies. Established drug dependence is characterised as a "chronically relapsing condition" and through counselling addiction workers can assist participants to build an awareness of their cues for relapse, to avoid or deal with these cues, and to use social learning from previous experiences to better equip the participant for future relapses (Glasgow Drug Court, 2013).

Individual counselling through the Drug Court is provided in one-to-one sessions lasting one hour. The structure of counselling sessions is as follows: problem definition; mutual recognition of problems to be addressed and priorities for action; formulation of alternatives and action needed to realise those alternatives; action plan decision making; implementation and verification of effects; review and re-orientation as necessary (Glasgow Drug Court, 2013). This requires, in each interview: clarity of purpose of intervention, reinforced by written contracts; exploration of the nature and extent of problems; identification of remedial tasks; ending the interview with clear definition of remits; case-worker recording.

Most Drug Court orders also include group work or group counselling as an element of drug treatment. A key purpose of group therapy through the Drug Court is to encourage behaviour modification, by determining mutually shared experiences of problems and agreeing effective responses. The group dynamic reinforces motivation for change and should help to monitor effective progress. Another purpose of group working is to share information about each other, behaviour and strategies for improved functioning, or about useful skills such as employment or relationship skills. Group working and group counselling also intends to help participants to develop activities and fill their time with positive social experiences and helps to foster peer support amongst those in recovery.

6.5.3 External Services

In addition to the medical and social care interventions provided by the Drug Court Supervision and Treatment Team, Drug Court addiction workers have also arranged for Drug Court participants to

have access to other relevant services in the area from a range of providers. The range of additional services available to the Drug Court includes abstinence-based day programmes; day programmes for offenders stabilised on prescribed medication; residential rehabilitation (crisis, short-term, long-term, and gender-specific); detoxification programmes; programmes related to employment and training; supported accommodation; youth justice services; and alternative therapies. The purpose of this is to ensure that participants are holistically supported as much as possible, to maximise their chances of succeeding on a Drug Court order.

6.6 Drug Testing

The use of urinalysis drug testing is a core aspect of the Drug Court process, especially given that drug testing at regular intervals is a statutory requirement of the principal order in the Drug Court: the DTTO. As well as being drug tested at regular intervals, participants are also drug tested at the point of initial screening and assessment to ascertain participants' drugs of choice. Drug testing in the Drug Court is intended to fulfil the following purposes: to inform the court as to participants' initial and continuing patterns of drug use; to augment information provided by the offender as to their drug use; to inform clinical decisions with regard to participants' treatment plans; to increase confidence in treatment on behalf of the court, the treatment provider, and the wider community; and to, on occasion, ensure abstinence from specific substance misuse (Glasgow Sheriff Court, 2013). However, the Drug Court is keen to ensure that the results of urinalysis testing are "interpreted in the wider context of the offender's response to treatment" and that the results of such tests should not be the key factor on which the treatment process is determined (Glasgow Sheriff Court, 2013). There is an emphasis, however, on the value of drug testing and its ability to support or contradict information disclosed by participants, and the impression of professionals, regarding the response to treatment (Glasgow Sheriff Court, 2013). As such, the results of urinalysis testing prompted some interesting exchanges in Drug Court hearings (see the Findings).

Prior to testing by the Drug Court, all Drug Court participants must first give their written and informed consent to take part. Participants are briefed on the procedure for testing and do have the right to arrange their own independent drug tests, but they must bear the cost of this themselves. For each drug test, participants are required to pass a sample of their urine which is then subject to dipstick testing. Although it is recognised by the Drug Court that dipstick testing is not the most accurate form of testing, given that the results are interpreted in the context of participant disclosures and their response to treatment, further laboratory testing may be utilised where the participant contests the result. In order to ensure the validity of samples collected, the following elements are incorporated into the procedures: direct observation of urine sample collection; verification of temperature if required, to reduce the risk of substitution; documented chain of possession for each sample collected; secure transmission of samples to the laboratory; regular quality control checks and assurance procedures; and procedures for verifying accuracy when test results are contested (Glasgow Sheriff Court, 2013).

The first test which participants are subject to takes places during the assessment period. This uses the dipstick methodology and covers a broad range of misused drugs. Once an order is made, testing is carried out twice weekly during the first month of the order, in the case of DTTOs. At least one of these tests in the first month is a laboratory test. From the second month of the order onwards, testing is reduced as and when the participants' progress dictates. This is at the discretion of the Sheriff. At least one drug test per month is carried out, on a random basis, for participants on all kinds of orders, once the participant is on a fortnightly or monthly testing regime. Any failure to submit to testing, any known or suspected attempts to subvert or undermine the urinalysis testing process, and any contested test- including the outcome of any retest- is reported at pre-court review meetings and may lead to the initiation of breach proceedings (see Section 6.7.3 on breach and termination).

6.7 Enforcement

Drug Courts have a hybrid nature which incorporates therapeutic recovery into the criminal court system. As the Drug Court is a specialist court within the network of Scottish criminal courts, and as the range of Drug Court orders are by their very nature statutory orders, Drug Court Sheriffs have at their disposal a range of powers to ensure Drug Court orders are complied with. The nature of enforcement in the Drug Court is, as such, very different to the typical incentives and consequences which are typically applied in more traditional recovery settings. Most notably, Drug Court Sheriffs, being summary Sheriffs, retain the power to sentence offenders to custody. However, whilst Drug Court orders are statutory orders, they can only be imposed with the consent of the participant. This creates an interesting situation in which a Drug Court participant may have retroactively consented to the imposition of a custodial sentence for an allegation that they may otherwise have pled not guilty to. The range of incentives and punishments available to the Drug Court Sheriff, and the level of discretion with which they are empowered to impose them, makes the Drug Court a unique recovery setting, especially regarding its mechanisms for enforcement.

6.7.1 Incentives

The discretionary enforcement tools available to Drug Court Sheriffs are not solely punitive in nature. There are a range of incentives and motivating tools that Drug Court Sheriffs may use to reward participants for showing engagement and making progress with their orders. These incentives include reducing the level of drug testing or the frequency of review hearings, which gives participants more personal liberty to fill their time as they choose and arguably demonstrates a degree of trust in the participant from the Drug Court Sheriff. Similarly, the Sheriff may choose to end a Restriction of Liberty Order (RLO) following demonstrable engagement and progress with orders. The Drug Court Sheriff also has the power to excuse an offender from personal attendance at all future hearings, which gives participants a strong degree of personal liberty. The use of this tool can also be helpful for participants who are engaging in educational or employment-related courses which require regular attendance and commitment. Furthermore, allowing participants to attend and engage with external service providers can also be an incentive to motivate Drug Court participants to engage with their orders. Some external service providers, such as GalGael, which provides employment-related skills workshops based on carpentry skills and boatbuilding, is particularly popular with Drug Court participants. However, participants can only engage with programmes such as the GalGael Project when they have demonstrated that they are sufficiently stable and committed to their recovery. Other popular external organisations in the Drug Court prove to be popular incentives, such as a charity which provide Drug Court participants with gym memberships to help them fill their spaces.

However, the Drug Court manual highlights that the "most valuable incentive of all" is the use of praise and encouragement from the Sheriffs themselves. As Drug Court participants are high-tariff offenders with long histories of drug-related crime, they tend to be well known to the Sheriffs and many of the other professionals involved in the Drug Court, such as the police and the Criminal Justice Social Workers. Moreover, as the Drug Court involves participation in an intensive programme of drug treatment, with regular Drug Court review hearings which emphasise direct communication between Sheriffs and participants, a close relationship between the two can develop over time. For participants who have not had many role models or much praise in their life thus far having a close relationship, with and having direct encouragement from, a judicial authority figure can present as a strong motivating factor in Drug Court participants recovery journeys. This is a powerful form of positive reinforcement which can have a profound effect on participant engagement.

6.7.2 Actions for Non-Compliance

However, Sheriffs also have a range of sanctions at their disposal for instances of non-compliance, which can be imposed on the spot at Drug Court review hearings without the need to initiate full breach proceedings. These include increasing the levels of drug testing or the frequency of review hearings, as well as their ability to find that a participant has "failed" a review hearing and cannot continue to the next review period until they have shown improved compliance and engagement at a

"continued review" hearing (Glasgow Sheriff Court 2013, p. 42). Again, one of the most impactful sanctions available to the Drug Court sheriff is the expression of disappointment or dissatisfaction from the bench, given the emphasis on direct dialogue in review hearings. This has been shown to have a profound effect in precipitating increased compliance in future Drug Court review hearings (Glasgow Sheriff Court, 2013).

The Drug Court also has procedures to be followed in relation to specific instances of non-compliance.

6.7.2.1 Failure to Attend Drug Court Review Hearing

Failure to attend a Drug Court review hearing is considered a clear and serious breach of a Drug Court order. In these circumstances, the Drug Court Sheriff has the power to issue an immediate warrant for arrest for the participant to be brought to court. Failure to attend a Drug Court review hearing may lead to breach action, but this is only at the direct behest of the Sheriff. In instances where the Drug Court order is a DTTO, a warrant can be issued in terms of section 234G of the Criminal Procedure (Scotland) Act 1995, without the requirement for a report from the supervising officer detailing the breach through failure to appear.

In general terms, an acceptable absence is one that the participant had no control over. Examples of acceptable absences include cases where the participant was in custody at the time or was ill at the time. If the participant was ill, a medical certificate is required, and self-certification is not acceptable. Participants are also expected to have given advance notice to their treatment provider and supervising officer regarding their illness. Participants may also make advance requests for absence to their treatment provider and supervising officer. However, such authorisation must not be granted unless there is an overriding reason as to why priority should be given to an external event over the participant co-operating with the terms of their order.

6.7.2.2 Failure to Attend or Co-operate with Testing

Mandatory drug tests are a unique legislative feature of a DTTO and are a characteristic of many other Drug Court orders. As such, any failure to comply with drugs testing is considered a serious breach by the Drug Court. Subject to any contrary direction from the Sheriff at Drug Court review hearings, the established enforcement rules for community disposals apply in this instance. Following investigation for the reasons for non-attendance, in the first instance, participants are given a verbal warning and a recorded delivery letter from their supervising officer. In the second instance, participants are given a final warning and a recorded delivery letter from their supervising officer. In the third instance, the Drug Court will initiate breach proceedings.

There is also a requirement to co-operate with testing, as well as to attend for testing. This includes passing a urine sample to submit for urinalysis. Where an offender is unable to give a sample, rather than unwilling, participants should be given up to one hour to pass a witnessed sample. Participants may have a warm or soft drink in this time, are not permitted to drink so much that it may distort the test result. If they are unable to pass a sample within an hour, participants are given advance warning that the court will be notified. Where a participant is unwilling to provide a sample, this is regarded as an unacceptable failure to attend for testing and the circumstances of this are detailed to the court.

6.7.2.3 Attempts to Interfere with the Integrity of Testing

Any attempt by participants to interfere with or distort the integrity of the test or result is a grave breach of the Drug Court order and will precipitate immediate institution of breach action by the court. Attempts to interfere with or distort the integrity of the test include substitution, dilution, or any other means by which participants may attempt to effect a change in their drug test results.

6.7.2.4 Failure to Attend for Treatment

Failure to attend for treatment is a direct breach of a condition of Drug Court orders and as such, it is treated with concern by Drug Court professionals. However, such failure should be interpreted within

the participant's overall pattern of compliance with, and progress on, the order. Periods of lapse and relapse are recognised by the Drug Court as an inevitable element of recovery during treatment and supervision, and as such are distinguished from general instances of non-compliance. Where a participant has 1 in 5 unacceptable absences from treatment appointments in an 8- week period, they receive a verbal warning and a recorded delivery letter from their supervising officer. Where a participant has 1 n 4 unacceptable absences in an 8- week period, they receive a second verbal warning, a recorded delivery letter from their supervising officer, and they must report to review court for advice. Where a participant has 1 in 3 unacceptable absences from treatment appointments in an 8-week period, the Drug Court will initiate breach proceedings, subject to shrieval advice to the contrary.

6.7.2.5 Failure to Co-operate with Treatment

Participants must "submit to treatment" under the "direction of the treatment provider" as a legislative requirement of DTTOs (Criminal Procedure (Scotland) Act 1995, section 234C), and compliance with drug treatment is a requirement of other Drug Court orders. Accordingly, participants must comply with reasonable instructions given by treatment providers and conduct him or herself in a reasonable manner to be seen to be co-operating with treatment (Glasgow Sheriff Court, 2013). Unfitness to co-operate with treatment because of alcohol or drug misuse constitutes a failure to co-operate. What action should be taken for such failures to co-operate is a matter of discretion for the supervising officer and the participant's caseworkers. The seriousness and frequency of such conduct determines the appropriate response.

6.7.2.6 Lack of Punctuality for Treatment or Testing

Participants are expected to be punctual in their attendance for drug treatment and testing. Specifically, participants on DTTOs are legislatively required to attend treatment "at such intervals as may be so specified" by the treatment provider and attend testing "at such times and in such circumstances as may… be determined by the treatment provider" (Criminal Procedure (Scotland) Act 1995, section 234C). It is again a matter of discretion for the supervising officer as to what action should be taken for such failures to co-operate.

6.7.2.7 Reporting to Supervising Officer

Uniquely, the DTTO places requirements on participants to report to their supervising officer. The participant is required to "report to their supervising officer as required" and "notify the supervising officer of any change of address" (Criminal Procedure (Scotland) Act 1995). These are ancillary requirements to support the package of treatment, drug testing, and court supervision involved in a Drug Court order. Infractions of these requirements does not normally lead to the initiation of breach proceedings, except at the outset of the order, before testing and treatment instructions have been issued.

6.7.3 Breach and Termination

All failures to comply are reported to the Drug Court Sheriffs by way of review report or breach report, depending on the circumstances. The institution of breach proceedings will not necessarily lead to termination of an order: breach can also have a therapeutic function in encouraging a participant to return to treatment (Glasgow Sheriff Court, 2013; p. 44). Where breach action is initiated, the order and associated treatment is not normally suspended. Conviction for a subsequent offence does not constitute automatic breach of a DTTO.

Breach proceedings in the Drug Court have two features. First, they must be initiated or endorsed by a Sheriff, who can invite a supervising officer to submit a breach report. A supervising officer can, in some circumstances, initiate breach proceedings without obtaining prior sanction from the court, but this must be endorsed by the Drug Court Social Work Manager. Secondly, breach proceedings are "fast-tracked" so that they can be heard at the next scheduled review hearing. Where the participant

denies that they have breached the order, the Drug Court will assign the case to another court to hold a proof hearing and will return the case once the outcome of the proof hearing is known.

The Drug Court has all the typical powers of sanction on breach as other criminal Sheriff courts. This includes the imposition of fines up to £1000 or the imposition of community service orders up to 240 hours, both without prejudice to the Drug Court order continuing to remain in force. The Drug Court also has exclusive powers, referred to as "interim sanctions" in section 42 of the Criminal Justice (Scotland) Act 2003, to impose additional sanctions. These include imprisonment or detention for any period between 1 day and 28 days, available at any time during the order until the 28 hours are used up; or community service for any period between 1 hour and 40 hours, available during the order until the 40 hours are used up. These sanctions are available to the Drug Court in instances of non-compliance with the terms of the order and can be imposed without prejudice to the order continuing to remain in force.

Where a Drug Court participant is found to be in breach of the order and the Drug Court is of the view that they can no longer be held usefully in treatment or that they are not likely to comply with the conditions of the order, then the court can terminate the order and impose any penalty which may have been imposed at first instance. In the case of high-tariff DTTOs, this is most likely to be a custodial sentence.

6.8 Graduation

From January 2019, following successful completion of a Drug Court order, participants will be invited to take part in a graduation ceremony. The graduation ceremony takes the place of the participant's final review hearing, in front of open court and other, current Drug Court participants in the public gallery. The graduation ceremony commences with a short speech from the Sheriff on the specific participant's recovery journey in the Drug Court. This often features a lot of praise and positive reinforcement, as well as kind and sentimental words from the Sheriff. Following this, the Sheriff will get down from the bench- which is unheard of in traditional criminal trials- and approach the dock to present the participant with a graduation certificate and shake the participant's hand. The participant is then invited to make a few words if they so wish, and many participants take this opportunity to thank the Sheriff and the wider Drug Court Supervision and Treatment Team for their support. Graduation ceremonies are often powerful and emotional moments in the Drug Court, and feature both smiles and tears from Drug Court participants and staff alike. Having the graduation ceremony take place in open court in front of all the Drug Court staff and other participants creates a sense of togetherness amongst professionals and offenders, as everyone present in the court is invited to share in the success of a completed order. Furthermore, observing successful graduation ceremonies can provide a powerful motivational tool for other participants at different points in their Drug Court recovery journey.

7. The Impact of the Drug Court

Initial research findings on the Drug Court were largely positive, indicating that whilst there were some teething problems such as the location of the Drug Court Treatment and Supervision Team away from the Criminal Court, which has now been moved to next door, the overall conclusion was that the Drug Court was having a positive impact in reducing the prevalence of drug dependence and drug-related crime (Eely et al, 2003; McIvor et al, 2006). At a regional level, local news agencies have reported the positive impact that the Drug Court has in promoting recovery and reducing drug-related crime, noting that the Drug Court has made a positive impression on local stakeholders and community representatives (The Courier, 2019). A milestone of the Drug Court's journey was marked in January 2019, when it held its first ever graduation ceremony, which was reported in Scottish newspapers (The Courier, 2019).

This Scottish Drug Court has had an impact on the development and implementation of other Drug Courts around the world. Representatives from the judiciary of Sweden have visited the Drug Court to

observe its procedures and produced a report on its effectiveness and potential application in the Swiss judicial system. Also, in 2018, representatives from the French judiciary also visited the Drug Court to film a Drug Court hearing, attend the pre-court review meeting, and explored whether a Drug Court would have a positive impact on drug dependence and drug-related crime in Normandy. Thus, the generally positive impact of the Drug Court has been of note locally, and across Europe.

Whilst the Drug Court pilots in England and Wales were found to be successful, these projects were largely terminated in line with the 'court rationalisation' project ongoing since 2011, which has precipitated the wide-spread closure and amalgamation of courthouses across the judicial estate (Ward, 2018). Similarly, another Drug Court in Scotland ceased to exist in 2013 due to there being limited space in the courthouse (The Herald, 2013). The future of the Drug Court in this study, however, seems relatively secure. This seems to be the result of a combination of factors including, but not limited to the specific need for drug treatment services given the prevalence of dependence, drug-related crime, and drug deaths in the local authority area; the consistently positive research findings arising from the court; and the willingness of the Scottish Executive to secure funding for innovative responses to the prevalence of dependence and drug-related deaths.

Summary

The Drug Court is a specialist Sheriff court which sits within the criminal court structure in Scotland. Precipitated by record levels of drug-related deaths and a high level of drug-related crime in the local authority area, the specialist Drug Court provides judicial supervision, drug treatment, drug testing, and a range of ancillary support services to high-tariff offenders with a long history of committing drug-related crime. The Drug Court comprises a team of Sheriffs who provide judicial supervision, and the Drug Treatment and Supervision team, who provide drug testing, medical services, one-to-one addiction counselling, group counselling, and social support to help drug-dependent participants to enter recovery. The Drug Court also has a unique set of policies and procedures which enable it to carry out its functions, from the assessment and screening process to rules regarding attendance and punctuality at drug treatment, to the procedure for breach and termination of an order. It is through these policies and processes that the Drug Court can function and aim to meet its purpose: to reduce the level of drug-related offending behaviour, and to reduce or eliminate participants' dependence on or propensity to misuse drugs.

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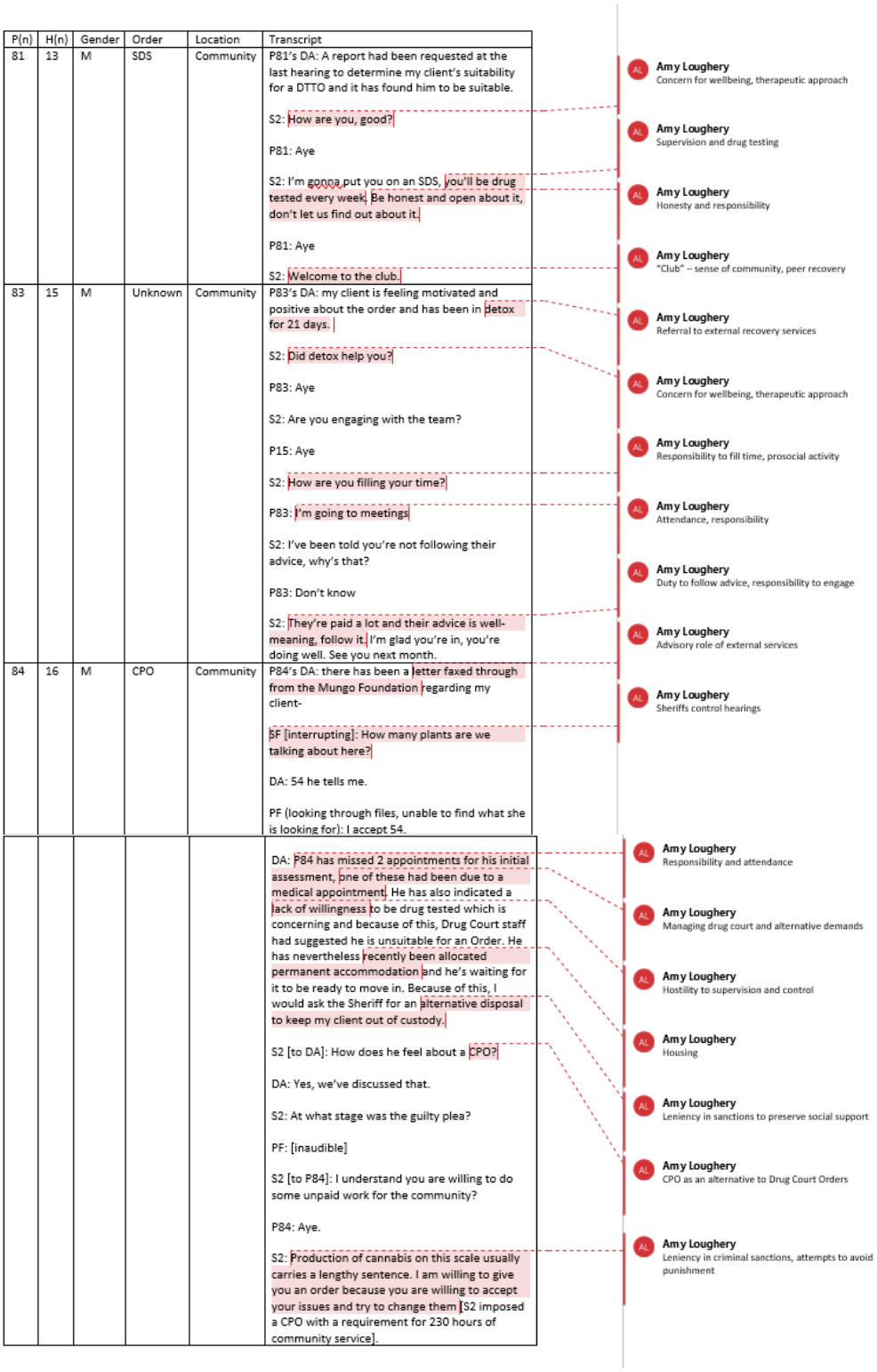
Appendix 8: Coded Fieldnotes Sample



P(n)	H(n)	Gender	Order	Location	Transcript
81	13	M	SDS	Community	P81's DA: A report had been requested at the last hearing to determine my client's suitability for a DTTO and it has found him to be suitable. S2: How are you, good? P81: Aye S2: I'm gonna put you on an SDS, you'll be drug tested every week. Be honest and open about it, don't let us find out about it. P81: Aye S2: Welcome to the club.
83	15	M	Unknown	Community	P83's DA: my client is feeling motivated and positive about the order and has been in detox for 21 days. S2: Did detox help you? P83: Aye S2: Are you engaging with the team? P15: Aye S2: How are you filling your time? P83: I'm going to meetings S2: I've been told you're not following their advice, why's that? P83: Don't know S2: They're paid a lot and their advice is well-meaning, follow it. I'm glad you're in, you're doing well. See you next month.
84	16	M	CPO	Community	P84's DA: there has been a letter faxed through from the Mungo Foundation regarding my client- SF [interrupting]: How many plants are we talking about here? DA: 54 he tells me. PF (looking through files, unable to find what she is looking for): I accept 54. DA: P84 has missed 2 appointments for his initial assessment, one of these had been due to a medical appointment. He has also indicated a lack of willingness to be drug tested which is concerning and because of this, Drug Court staff had suggested he is unsuitable for an Order. He has nevertheless recently been allocated permanent accommodation and he's waiting for it to be ready to move in. Because of this, I would ask the Sheriff for an alternative disposal to keep my client out of custody. S2 [to DA]: How does he feel about a CPO? DA: Yes, we've discussed that. S2: At what stage was the guilty plea? PF: [inaudible] S2 [to P84]: I understand you are willing to do some unpaid work for the community? P84: Aye. S2: Production of cannabis on this scale usually carries a lengthy sentence. I am willing to give you an order because you are willing to accept your issues and try to change them [S2 imposed a CPO with a requirement for 230 hours of community service].

Appendix 9: Interview Topic Guide and Scheme of Prompts

These interviews aim to explore:

- What role do different professionals play in the Drug Court process?
- How do the different professionals involved in the Drug Court process perceive the process?
- How do professionals describe their work in the Drug Court and how do they describe an average working day?
- How do professionals describe their work and relationships with clients?
- What stories do professionals tell about participants?

Interview outline:

- First 10 mins:

  Introduce researcher: *"As you are aware, my name is Amy Loughery and I am a PhD student at the University of York, completing a research project about Drug Courts".*

  Introduce project: "*This project aims to explore perceptions and understandings of 'care' and 'control' in Drug Courts. To facilitate this, the researcher would like to interview members of staff from the Drug Court to get an insight into how you describe your role, your work in the Drug Court, and the stories you tell about your experiences".*

  Introduce interview format: *"This is primarily a narrative interview, but firstly, I would like to ask you about your role in the Drug Court. To do this, interviewer will ask you some questions about your role and what you do at work. We will then move on to the narrative portion of the interview, where you will be asked about some of your 'successful' and 'challenging' clients and what your experience was working with these. This portion of the interview does not have any set questions although the researcher may ask for more information on certain aspects, which should give you the freedom to emphasise which elements of Drug Court policy and practice that you feel are the most important".*

  Confirm receipt of signed consent form and ask if they have any questions about the interview or the research project.

- Remaining 35- 45 mins (approximately):

  Ask following questions:

Semi-structured questions	
Professionals' role	*How would you describe your role in the Drug Court?* *Can you describe what a typical day is like working in the Drug Court?* *What role do you play in hearings?* *Can you tell me about your relationships with participants?*

	What other professionals are involved in the Drug Court process and what role do they fulfil? *How do you interact with other professionals?*
Drug Court Procedure	*Can you tell me about the Drug Court process/ procedure?* *What role do you play in the overall procedure?* *What elements of the procedure do you think are beneficial or not?*
Sheriff-specific questions	*What role do Sheriffs play in the Drug Court? How do you contribute to hearings?* *How do Sheriffs work with participants? What types of interventions are you responsible for?* *Can you tell me about how Sheriffs interact with other professionals in the Drug Court?*
Social work-specific questions	*What role do social workers play in the Drug Court? How do you contribute to hearings?* *How do social workers work with participants? What types of interventions are you responsible for?* *Can you tell me about how social workers interact with other professionals in the Drug Court?*
Addiction worker-specific questions	*What role do you play in the Drug Court? How do you contribute to hearings?* *How do addiction workers work with participants?* *Can you tell me about how addiction workers interact with other professionals in the Drug Court?*
Narrative prompts	
Questions	*Can you tell me about some of your 'successful' participants/ cases?* *Can you tell me about some of your more 'challenging' participants/ cases?*
Follow-up prompts	*How did this participant become involved with the Drug Court?* *What was particularly successful or challenging about this case?* *What contributed to their success or lack thereof?*

	What types of intervention were delivered in this case? *How did this participant respond to interventions?* *Were some interventions more successful than others?* *What was your experience working with this participant?* *How did they interact with the Drug Court and other services?* *Were some Drug Court domains more successful than others?* *What was the outcome for this participant?* *Where are they now?*

- Final 5 minutes: Conclusion/ wrapping up

Thank professionals for their valuable time and knowledge. Reaffirm positive/ challenging narratives. Ask how they found the interview process and if there is anything they have not touched upon that they would like to mention. Provide contact details in case they would like to discuss interview in future or think of anything they would like to add.

Appendix 10: Information Sheet for Interviews

Narrative Research Project: Drug Court

Drug Court Staff Information Sheet

What is this research project about?

This project aims to explore stories from the Drug Court and understand people's experiences within it. This project is being carried out as part of a PhD project at the University of York.

What data are the researchers gathering?

The researchers would like to interview Drug Court actors to ask about your memorable cases and experiences in the Drug Court, what a typical day is like working with the Drug Court, and how you perceive your role. The researcher has also observed Drug Court hearings to get an insight into participant's stories and how these unfold in the hearings.

What will happen if I participate?

If you agree to participate in the study, you will be interviewed via Zoom by the researcher. The interview should last between 30 minutes to an hour and, with your permission, will be audio-recorded. The interview will focus on your memorable experiences in the Court. This will also be an opportunity for you to share your perspective on the Drug Court process and what you think is helpful or not helpful about the Drug Court. Everything you say will be completely confidential and will not be reported back to the Drug Court, or the Scottish Courts and Tribunal Services or Scottish Social Services, in a form that can be linked back to you.

What will happen to the audio recording after the interview?

At the start of the interview, before the audio recording begins, you will be asked to choose a fake name (a pseudonym). The audio recording of the interview will be held on a password-protected recording device, before being transferred to a password-protected computer server at the University of York. Only the researcher will have access to it. All the interview material will be deleted from the recording device once stored on the server. No identifying information will be kept on the server, and it will not be possible to link any information to you as an individual. The final report will only identify you through your chosen pseudonym. Every effort will be made to ensure that nothing else in the report can be connected to any individual person.

Do I have to take part?

You have a right to withdraw from this project at any time during the interview without providing a reason. At that point we will seek permission from you to retain the information that you have already provided to use in the research. If you do not wish this to happen, the interview recording, and any transcripts, will be deleted.

Information about the General Data Protection Regulation (GDPR)

Under the General Data Protection Regulation (GDPR), we need to include the following information which is all about the University's legal obligations to you as a participant who is providing us with information – or 'data':

The University must identify a legal basis for processing personal data and processing special category data. In line with our charter which states that we advance learning and knowledge by teaching and research, the University processes personal data for research purposes under Article 6 (1) (e) of the GDPR:

"Processing is necessary for the performance of a task carried out in the public interest".

Special category data is processed under Article 9 (2) (j):

"*Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes".*

Research will only be undertaken where ethical approval has been obtained, where there is a clear public interest, and where appropriate safeguards have been put in place to protect data. In line with ethical expectations and to comply with common law duty of confidentiality, we will seek your consent to participate in this research. However, this consent is not the legal basis for processing your data under the GDPR. Data will be processed for the purposes outlined in this information sheet and will be accessible only to the researcher. Under the GDPR, you have a general right of access to your data, a right to rectification, erasure, restriction, objection, or portability. You also have a right to withdrawal. Please note, not all rights apply where data is processed purely for research purposes. For further information see, https://www.york.ac.uk/records-management/generaldataprotectionregulation/individualsrights/.

Who can I ask for further information or advice about taking part?

Please feel free to contact the lead researcher, Amy Loughery, at any time for more information on this project. She can be contacted by email at XXXXXXX.

If you would prefer to talk to someone else about the research project, please contact the project supervisors:

Sharon Grace, Professor in Social Policy, the Department of Social Policy and Social Work, University of York, email: XXXXXXX, telephone: XXXXXXX;

Or Professor Charlie Lloyd, Director of the Graduate School, the Department of Social Policy and Social Work, University of York, email: XXXXXXX, telephone: XXXXXXX;

Or the Head of the Ethics Committee, Social Policy and Social Work at the University of York on spsw-ethics@york.ac.uk or telephone: 01904 321480.

Thank you again for your interest in taking part.

Appendix 11: Consent Form for Interviews

Narrative Research Project: Drug Court

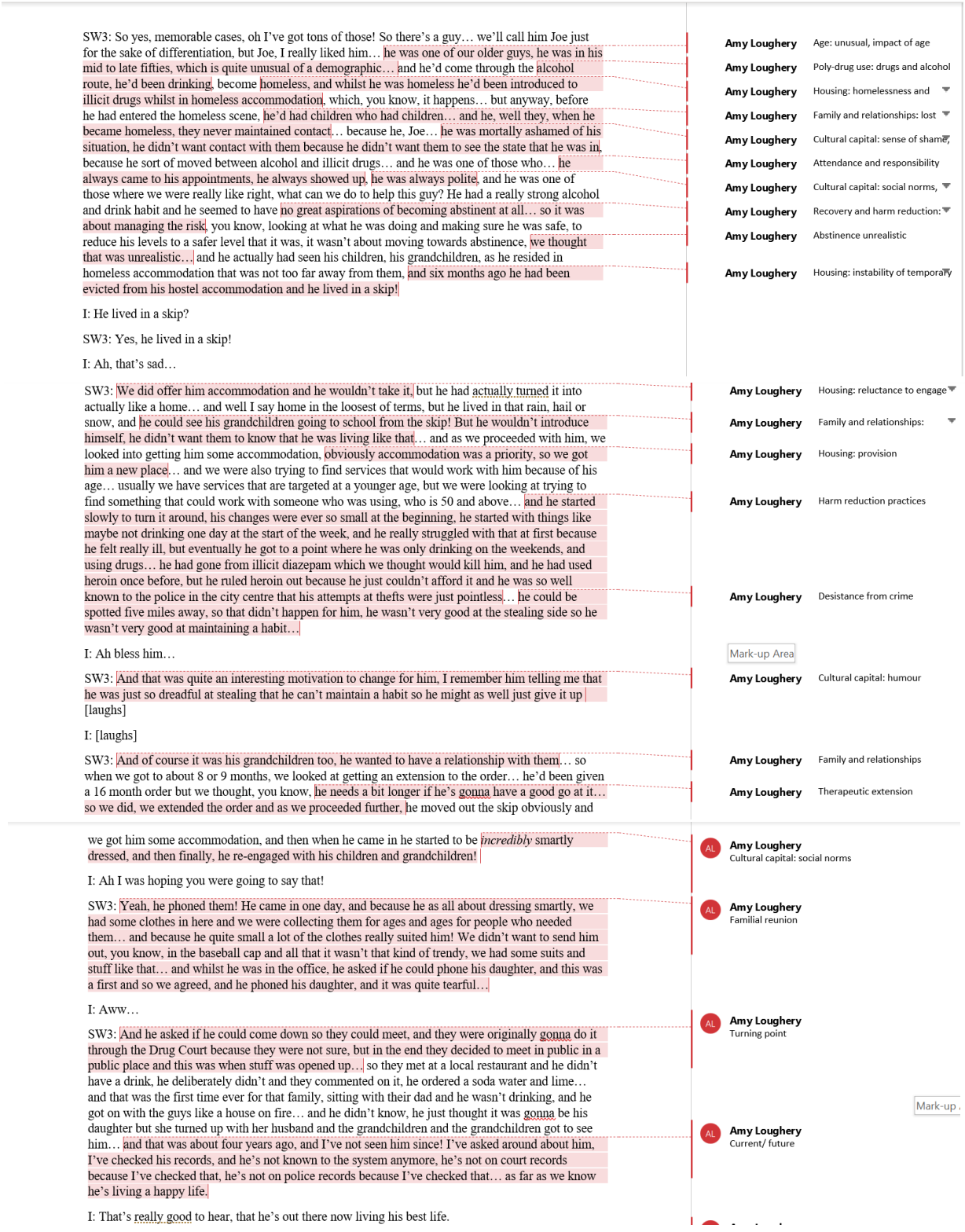
Drug Court Staff Consent Form

I agree to take part in the interview.	Yes	☐	No	☐
I agree to you recording me. (You can still take part without being recorded).	Yes	☐	No	☐
I understand that I do not have to take part in the research.	Yes	☐	No	☐
I have been told what this research is about, who is doing it and why it's being done. I've been given an information sheet.	Yes	☐	No	☐
I have been able to ask questions about the research.	Yes	☐	No	☐
I can refuse to answer any question and can withdraw at any time.	Yes	☐	No	☐
If I do choose to withdraw, I agree that my interview can still be used in the research. (You can still take part if you do not agree to this).	Yes	☐	No	☐
I will not be named in any research reports, and my personal information will remain confidential.	Yes	☐	No	☐
I understand that in the unlikely event that the researcher believes that I or someone else might be at risk of harm, they will have to contact the relevant authorities, but they will discuss this with me first.	Yes	☐	No	☐
I give consent for you to use my words in any research output.	Yes	☐	No	☐

Participant signature: _____ Date: _____

Researcher signature:_____ Researcher name:_____

Appendix 12: Coded Interview Transcript Sample



SW3: So yes, memorable cases, oh I've got tons of those! So there's a guy… we'll call him Joe just for the sake of differentiation, but Joe, I really liked him… he was one of our older guys, he was in his mid to late fifties, which is quite unusual of a demographic… and he'd come through the alcohol route, he'd been drinking, become homeless, and whilst he was homeless he'd been introduced to illicit drugs whilst in homeless accommodation, which, you know, it happens… but anyway, before he had entered the homeless scene, he'd had children who had children… and he, well they, when he became homeless, they never maintained contact… because he, Joe… he was mortally ashamed of his situation, he didn't want contact with them because he didn't want them to see the state that he was in, because he sort of moved between alcohol and illicit drugs… and he was one of those who… he always came to his appointments, he always showed up, he was always polite, and he was one of those where we were really like right, what can we do to help this guy? He had a really strong alcohol and drink habit and he seemed to have no great aspirations of becoming abstinent at all… so it was about managing the risk, you know, looking at what he was doing and making sure he was safe, to reduce his levels to a safer level that it was, it wasn't about moving towards abstinence, we thought that was unrealistic… and he actually had seen his children, his grandchildren, as he resided in homeless accommodation that was not too far away from them, and six months ago he had been evicted from his hostel accommodation and he lived in a skip!

Amy Loughery: Age: unusual, impact of age
Amy Loughery: Poly-drug use: drugs and alcohol
Amy Loughery: Housing: homelessness and
Amy Loughery: Family and relationships: lost
Amy Loughery: Cultural capital: sense of shame,
Amy Loughery: Attendance and responsibility
Amy Loughery: Cultural capital: social norms,
Amy Loughery: Recovery and harm reduction:
Amy Loughery: Abstinence unrealistic
Amy Loughery: Housing: instability of temporary

I: He lived in a skip?

SW3: Yes, he lived in a skip!

I: Ah, that's sad…

SW3: We did offer him accommodation and he wouldn't take it, but he had actually turned it into actually like a home… and well I say home in the loosest of terms, but he lived in that rain, hail or snow, and he could see his grandchildren going to school from the skip! But he wouldn't introduce himself, he didn't want them to know that he was living like that… and as we proceeded with him, we looked into getting him some accommodation, obviously accommodation was a priority, so we got him a new place… and we were also trying to find services that would work with him because of his age… usually we have services that are targeted at a younger age, but we were looking at trying to find something that could work with someone who was using, who is 50 and above… and he started slowly to turn it around, his changes were ever so small at the beginning, he started with things like maybe not drinking one day at the start of the week, and he really struggled with that at first because he felt really ill, but eventually he got to a point where he was only drinking on the weekends, and using drugs… he had gone from illicit diazepam which we thought would kill him, and he had used heroin once before, but he ruled heroin out because he just couldn't afford it and he was so well known to the police in the city centre that his attempts at thefts were just pointless… he could be spotted five miles away, so that didn't happen for him, he wasn't very good at the stealing side so he wasn't very good at maintaining a habit…

Amy Loughery: Housing: reluctance to engage
Amy Loughery: Family and relationships:
Amy Loughery: Housing: provision
Amy Loughery: Harm reduction practices
Amy Loughery: Desistance from crime

I: Ah bless him…

Mark-up Area

SW3: And that was quite an interesting motivation to change for him, I remember him telling me that he was just so dreadful at stealing that he can't maintain a habit so he might as well just give it up [laughs]

Amy Loughery: Cultural capital: humour

I: [laughs]

SW3: And of course it was his grandchildren too, he wanted to have a relationship with them… so when we got to about 8 or 9 months, we looked at getting an extension to the order… he'd been given a 16 month order but we thought, you know, he needs a bit longer if he's gonna have a good go at it… so we did, we extended the order and as we proceeded further, he moved out the skip obviously and

Amy Loughery: Family and relationships
Amy Loughery: Therapeutic extension

we got him some accommodation, and then when he came in he started to be *incredibly* smartly dressed, and then finally, he re-engaged with his children and grandchildren!

AL Amy Loughery: Cultural capital: social norms

I: Ah I was hoping you were going to say that!

SW3: Yeah, he phoned them! He came in one day, and because he as all about dressing smartly, we had some clothes in here and we were collecting them for ages and ages for people who needed them… and because he quite small a lot of the clothes really suited him! We didn't want to send him out, you know, in the baseball cap and all that it wasn't that kind of trendy, we had some suits and stuff like that… and whilst he was in the office, he asked if he could phone his daughter, and this was a first and so we agreed, and he phoned his daughter, and it was quite tearful…

AL Amy Loughery: Familial reunion

I: Aww…

SW3: And he asked if he could come down so they could meet, and they were originally gonna do it through the Drug Court because they were not sure, but in the end they decided to meet in public in a public place and this was when stuff was opened up… so they met at a local restaurant and he didn't have a drink, he deliberately didn't and they commented on it, he ordered a soda water and lime… and that was the first time ever for that family, sitting with their dad and he wasn't drinking, and he got on with the guys like a house on fire… and he didn't know, he just thought it was gonna be his daughter but she turned up with her husband and the grandchildren and the grandchildren got to see him… and that was about four years ago, and I've not seen him since! I've asked around about him, I've checked his records, and he's not known to the system anymore, he's not on court records because I've checked that, he's not on police records because I've checked that… as far as we know he's living a happy life.

AL Amy Loughery: Turning point

Mark-up

AL Amy Loughery: Current/ future

I: That's really good to hear, that he's out there now living his best life.

List of Abbreviations

ACMD: Advisory Council on the Misuse of Drugs

AW(n): Addiction Worker (number)

BBC: British Broadcasting Company

CPO: Community Protection Order

DA: Defence Agent

DCM: Drug Court Manager

DCPO: Drug Court Program Office

DCSTT: Drug Court Supervision and Treatment Team

DIY: Do-It-Yourself (home improvements)

DRR: Drug Rehabilitation Requirement

DTTO: Drug Treatment and Testing Order

DV: Domestic Violence

EMCDDA: European Monitoring Centre on Drugs and Drug Addiction

HF: Housing First

MMT: Methadone Maintenance Therapy

NADCP: National Institute of Drug Court Professionals

P(n): Participant (number)

RLO: Restriction of Liberty Order

S(n): Sheriff (number)

SDS: Structured Deferred Sentence

US: United States

UK: United Kingdom

UKDPC: United Kingdom Drug Policy Commission

UNAIDS: The Joint United Nations Programme on HIV/AIDS

UNODC: United Nations Office on Drugs and Crime

SAMHSA: Substance Abuse and Mental Health Services Administration

SIMOR: Social Identity Model of Recovery

SW(n): Social Worker (number)

TJ: Therapeutic Jurisprudence

WHO: World Health Organisation

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i The GalGael programme is a social enterprise that provided carpentry skills courses and boatbuilding workshops to Drug Court participants. Further information can be found here: *www.galgael.org*

[ii] The Caledonian Programme provides tailored support to domestic violence perpetrators. More information can be found here: https://www.gov.scot/publications/caledonian-system-evaluation-analysis-programme-tackling-domestic-abuse-scotland/pages/3/
[iii] See note ii.
iv See note i.
[v] Housing First is a housing organisation that operates in the local authority area, and nationally, offering an "innovative" approach to housing. For more information, see: https://www.turningpointscotland.com/getting-support/glasgow/glasgow-housing-first/
[vi] Tomorrow's Women is a service which supports women who have been involved with the criminal justice system, for more information see: https://www.glasgow.gov.uk/index.aspx?articleid=26881
[vii] This was a measure undertaken by the local authority and charities during the Covid-19 pandemic.
[viii] The Mungo Foundation is a Scottish non-profit company that delivers care and support services to vulnerable people. For more information, see: https://www.themungofoundation.org.uk/about-us/our-work/
[ix] We Are with You, formerly known as AddAction, is a charity that offers support to people in England and Scotland with drug, alcohol, or mental health issues. For more information, see: https://www.wearewithyou.org.uk/
[x] See note iii.