

# “All Hands on Deck”: A Phenomenological Study of Lived Experiences of Drug Treatment Court Judges

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## Abstract

*This paper examines the experiences of drug treatment court judges in Virginia relative to their implementation of therapeutic jurisprudence, procedural justice, and working across a multidisciplinary team. A transcendental phenomenological design using semi-structured interviews from nine judges was conducted. The findings were summarized in three themes: judges' experiences with drug court participants, judges' experiences with the drug court team, and judges' experiences as learners. Universal themes revealed a lack of training in addiction on the part of the judges and emphasized the role of the judge as key to shaping the culture of the court. The judge serves as the fulcrum for drug treatment court operations, yet most judges do not have the requisite training in addiction science. Recommendations include mandatory judicial training on substance use disorders. Further research is needed to offer a theoretical guide to explain the lived experiences of drug treatment court judges.*

**Keywords:** drug court, judges, substance use treatment, therapeutic jurisprudence, procedural justice

In the 1980s, specialty dockets emerged as a response to challenges in establishing programs to effectively respond to drug- and alcohol-related problems and to uphold safety for individuals with substance use disorders (SUDs) involved in the legal system (Von Hirsch, 1998). These specialty dockets are also referred to as problem-solving courts, as they offer an alternative to the punitive nature of the judicial system by joining the accountability of court proceedings and judicial oversight with evidence-based treatment through a multidisciplinary team approach (Goldkamp, 1994; Kaiser & Holtfreter, 2016; Marlowe & Carney, 2012). Problem-solving courts follow 10 key concepts: integrated addiction treatment, non-adversarial approach, identification of participant eligibility, provision of a continuum of treatment services, frequent drug screenings, provision of rewards and sanctions, ongoing judicial involvement, monitoring and evaluation of the program, continuing education for drug court team, and community partnerships (Bureau of Justice Assistance, 1997).

Two important frameworks of a problem-solving court are therapeutic jurisprudence (i.e., therapeutic application of the law) and procedural justice (i.e., the idea of fairness in the processes that resolve disputes). Wexler (1990) first introduced the concept of therapeutic jurisprudence by describing the idea as the use of the law as a therapeutic agent. A goal of therapeutic jurisprudence is to improve the psychological well-being of the individual (Winick & Wexler, 2003). A principle underlying therapeutic jurisprudence is legal actors' purposeful use of words and actions and how their words and actions can support or impede efforts to rehabilitate the person involved in the criminal justice system. The judge plays the central role in how therapeutic jurisprudence is administered to individuals involved in the criminal justice system, with research underscoring the importance of judicial interaction between the judge and the individual involved in the system (Winick & Wexler, 2015).

Procedural justice is anchored in perceived process fairness, group engagement, and legitimacy of authority. Procedural justice focuses on four concepts: voice, neutrality, respectful treatment of participants, and trustworthiness (Tyler, 2006). Voice is the opportunity for each participant to tell their own story. The concept of neutrality represents decisions that are made without bias or presupposition. Respectful treatment involves engaging with participants courteously and politely. Finally, trustworthiness is embodied through sincere expressions of concern and a benevolent approach. Tyler (2006) suggested that individuals found more value in being able to state their case (i.e., have a voice in the court proceedings) than influencing the court outcome.

A commonality across all problem-solving courts is the judge who serves as the titular and de facto leader. The judge is part of a multidisciplinary team that includes attorneys, probation officers, and treatment team members. Transparent and proactive information sharing among team members, including the judge, is associated with higher functioning drug court teams and presents a clear, unified message to drug court participants (Farringer & Manchak, 2022). Van Wormer et al. (2020) found that professionals working on drug court teams identified multiple benefits to collaboration, including developing shared goals, identifying new solutions to problems, and matching services to drug court participant needs. The judge's role on the team is to balance public safety with therapeutic jurisprudence and procedural justice in cases that are involved in treatment courts. While researchers

have studied the effectiveness of problem-solving courts (Goldkamp, 1994; Lowenkamp et al., 2005; Marlowe et al., 2006), the role of judges in applying therapeutic jurisprudence and procedural justice has not been examined in depth from the judges' perspective. In addition, a dearth of studies has examined the lived experiences of drug treatment court judges in their application of therapeutic jurisprudence and procedural justice (Frazer, 2006). Studies have documented the efficacy of drug courts in reduced recidivism, increased sobriety, and overall functioning (Goldkamp, 1994; Marlowe & Carey, 2012); however, the role of the judge in the efficacy of drug court through the application of therapeutic jurisprudence and procedural justice is not fully understood. This is likely due, in part, to these approaches being applied differently by each judge, depending on factors such as the judge's experience, background, training, and philosophy.

Research supports the association of therapeutic jurisprudence and procedural justice with positive case outcomes in problem-solving courts because participants experience these court processes as more fair and just than traditional adversarial courts. This perception has led to greater compliance and cooperation for participants involved in specialty dockets (Fessinger et al., 2019; Kaiser & Holtfreter, 2016). Fessinger et al. (2019) also found that drug court participants felt that their voices were heard by the judge and their child welfare cases closed more quickly than the cases of parents involved in the traditional child welfare system. Research suggests that the judge is one of the most important factors in these courts' positive or negative outcomes (Carey et al., 2012; Fessinger et al., 2019). Studies found that judges who offer praise and support in line with therapeutic jurisprudence are linked to lower recidivism and increased abstinence by drug court participants (Rossman & Zweig, 2011). This phenomenological study examined the perspectives of drug treatment court judges through individual interviews with specialty docket judges in Virginia to identify themes and factors associated with the following frameworks: therapeutic jurisprudence, procedural justice, and balance of public safety. The distal research goal is to improve drug court outcomes for participants and families struggling with addiction.

## Design

This study aimed to deepen the understanding of the background, experience, and perspective of drug treatment court judges. Given the dearth of information on this topic from the perspective of judges, a phenomenological study offered an opportunity for an in-depth and rich exploration of the experiences and perspectives of drug treatment court judges (Kaiser & Holtfreter, 2016). The qualitative process involves using lived experiences to develop a conceptualization of common themes that provide a basis for reflection and analysis. This reflection allows meaning to be derived from the experiences of the individuals, in this case, drug treatment court judges (Moustakas, 1994). This study used procedures for organizing and analyzing data as guided by Moustakas's (1994) transcendental phenomenology. A goal of this approach is to identify and understand phenomena through individuals, who provide rich and layered descriptions of their experiences (Moustakas, 1994).

## Research Questions

Central Question: How do judges describe their experiences presiding over drug treatment courts in Virginia? Research has shown that the role of the judge is associated with improved perception of court fairness in specialty docket proceedings when therapeutic jurisprudence and procedural justice are applied (Kaiser & Holtfreter, 2016; Marlowe & Carey, 2012). Subquestion 1: How do participants describe their application of therapeutic jurisprudence and procedural justice in drug courts in Virginia? Subquestion 2: How do participants describe their role as part of the drug court multidisciplinary team? Subquestion 3: How do participants describe the balance between the application of therapeutic jurisprudence, procedural justice, and public safety?

## Setting

The Commonwealth of Virginia served as the setting for this study and the data collection. Nine individual interviews with drug treatment judges occurred in-person in local Central Virginia courthouses and virtually using *Microsoft Teams*. For the in-person interviews, a confidential and comfortable setting was provided for all participants. The first author conducted 60- to 80-minute interviews using an interview guide with a series of open-ended, semi-structured questions. Interviews were audio recorded and professionally transcribed.

## Participants

Criteria for recruitment in phenomenology require that participants have experience with the phenomenon and are willing to describe their experiences (Moustakas, 1994). Thus, a purposive sampling approach was used to recruit participants. The first author had a prior working relationship with a local former drug treatment court judge who assisted with judicial recruitment. The judge sent electronic mail inquiries to his colleagues to request participation in the study. In addition, snowball sampling methods assisted in participant recruitment (Creswell, 1998). Once an interview was completed, the first author asked the judge to suggest other judges to participate. The judges represented a variety of localities in Virginia, including urban and rural geographical areas. A treatment court judge in Virginia is a voluntary position with some localities rotating judges and others maintaining the same judge. The judges in this sample ranged in experience as a treatment court judge from 1 to 27 years with an average of 7 years of experience. Creswell (2013) suggested that sample size in phenomenology can range from 3 to 15 participants (p. 78). For the purposes of this study, ten judges were initially selected, and then nine interviews were conducted to confirm thematic saturation. After the interview of the ninth judge, no new themes were added after reviewing and coding of the transcripts; thus, data saturation occurred (Creswell, 2013). Judges were 78% ( $n = 7$ ) White, 22% ( $n = 2$ ) African American, and were split with 7 males and 2 females. Judges ranged in age from 45 to 75 ( $M = 53$ ). Judges were assigned pseudonyms in order of their interviews and corresponding to their first nine letters of the alphabet to protect their confidentiality (e.g., Judge Andrews, Judge Bryant, Judge Campbell).

## Procedures

University Institutional Review Board (IRB) approval was obtained prior to the data collection. The interview guides were developed through an iterative process that allowed for revisions along the way. The semi-structured, in-person and virtual interviews consisted of 10 questions, with 17 follow-up probes, beginning with a general background question to ensure that the participants were comfortable and at ease, and progressing to more specific questions about knowledge of therapeutic jurisprudence and procedural justice. From October 2022 through January 2023, the first author met with each participant for one individual audio-recorded interview. Participants were not compensated for the interviews.

## Data Collection

The interviews were conducted by the first author who was primarily responsible for the initial summarization and collection of themes. The initial interview question asked the participants to discuss their background, experience, and training in behavioral health and drug treatment court. The remaining questions, drawn from relevant literature, primarily addressed three topics: therapeutic jurisprudence, procedural justice, and public safety. The interviews resulted in quotes that provided context and interpretation of the data (Patton, 2015, p. 14). Some of the interview questions included:

1. What training have you received relative to drug court?
2. Describe for me your understanding of and experience with procedural justice (idea of fairness in the resolution of disputes).
3. Describe for me your understanding of and experience with therapeutic jurisprudence (applying the law in a therapeutic manner rather than an adversarial manner).

## Data Analysis

Moustakas (1994) outlined a specific six-stage process of analysis. In Stage 1, epoché, I (first author) described and recorded my experiences with the phenomenon and with the interview questions. This was accomplished through reflexive journaling and bracketing of my own experiences throughout the study. During Stage 2, developing a holistic understanding of raw data, I read the transcribed data repeatedly and listened to the interview recordings to gain a holistic understanding of the data. I summarized the interview content and highlighted significant statements pertaining to therapeutic jurisprudence and procedural justice. Stage 3, horizontalization, occurred by identifying and highlighting non-repetitive and nonoverlapping statements to gain an understanding of the overall experience. Statements were clustered into meaning units and emerging themes. During Stage 4, thematic analysis, the research team coded transcripts, examined themes, and identified contexts in which they appeared. The horizons were developed into clusters of meanings or themes. Data analysis was conducted according to the steps for transcendental phenomenology and phenomenological reduction outlined by Moustakas (1994). The research team (second and third author) participated in coding and theme development from the initial coding of the

principal reviewer. When the analysis moved to a team approach, discrepancies were managed by the second author who utilized a data triangulation strategy to test validity.

## Trustworthiness

Establishing trustworthiness in qualitative research is crucial, as trustworthiness lends credibility to the findings and interpretations of the study (Patton, 2015, p. 685). Lincoln and Guba (1985) described four components of trustworthiness in qualitative research: credibility, dependability, confirmability, and transferability. Several steps were taken to establish credibility, including purposive sampling and triangulation of the data. Triangulation of the data (e.g., peer debriefing, reflexive journals, interviews) occurred as I (first author) analyzed data to address possible biases. Dependability was addressed through the implementation of an audit trail. This trail described the record-keeping procedures and steps of the study for an independent reviewer to examine step-by-step how data were analyzed and how conclusions were drawn.

Credibility refers to the extent to which the findings in the study reflect reality. Credibility is dependent on the richness of the data gathered and the researcher's analysis of the data. Credibility provides assurance that the researcher's representation of the data correctly reflects the participants' viewpoint (Patton, 2015, p. 658). In this study, one method used to ensure credibility was data triangulation. Data were collected from a variety of sources, including semi-structured interviews and electronic mail, to corroborate the findings. Member checking served as another mechanism to ensure credibility. More specifically, I shared excerpts of the transcripts and preliminary data analysis with the participants and asked them to review the findings to determine if the data correctly described their experiences and responses to the interview questions (Creswell, 2013, p. 251). An additional mechanism to increase credibility was peer debriefing. A researcher with a doctoral degree and experience with qualitative research methods reviewed the data collection procedures and findings with the goal of ensuring that the data were not biased.

Dependability and confirmability in qualitative research focus on consistency through rich detail offered to the reader about the context and setting of the research study. The process of the study must be logical and consistent with reliable data (Patton, 2015, p. 658). To demonstrate dependability in this study, an audit trail is provided. In this audit trail, detailed information was gathered and shared about the steps taken during the study. To address confirmability, an external auditor was utilized. A researcher external to the study reviewed the methodology of the study and the findings and implications to ensure that the data matched and supported the findings (Cohen, 2006).

Transferability speaks to the findings of the study and how they may be generalized to other studies, sites, or participants (Patton, 2015, p. 385). Transferability was addressed in this study through the use of descriptions that were thick and rich (Geertz, 1973). Cohen (2006) suggested offering a thick and rich description of the overall phenomenon, including the setting, participants, and data collection and analysis, to give the reader findings and implications that can be applied to other settings. Findings from this study may be offered



as lessons learned to other drug treatment courts in Virginia. The use of maximum variation sampling techniques served to bolster potential transferability. The selection of sites and participants based on their variation increased the chances that the findings would reflect these differences (Creswell, 2013, p. 156). For example, efforts were made to recruit male and female judges and judges from different cultural and racial backgrounds in Virginia.

## Theme 1: Judges' Experiences with Drug Court Participants

One of the most important factors contributing to the success of drug treatment court participants is the judge/drug court participant relationship (Marlowe & Carey, 2012). All nine judges highlighted the importance of the judicial relationship with drug court participants, noting that the relationship develops through more frequent contact with individuals in drug court and the judges learning about their lives. Judges see participants more often and for a longer duration in drug court as compared to traditional court. Traditional courts, like circuit court, are often referred to as the “rocket docket,” highlighting the rapid rate at which individuals are seen in court by the judge. In contrast, participants in drug treatment court spend more time in court interacting with the judge. All the judges noted that they “root” for the drug court participants to do well. They become invested in the lives of the drug court participants and develop ongoing relationships that transcend the traditional judge/participant interaction. Theme 1, judges' overall experiences, is divided into three subthemes: prolonged engagement with the participants, the judge as reinforcer for treatment success, and judges' unique relationship with drug court participants.

**Prolonged Engagement with the Judge.** A striking difference between a treatment docket and a traditional docket is the extended amount of time a drug court participant spends in court. Many drug treatment court programs last between 12 and 24 months. This prolonged engagement allows for a bond to develop between the judge and the drug court participant. During this ongoing, even weekly, engagement, judges often get to know participants on a more personal and deeper level. They may ask about participants' jobs, families, and social interests. The drug court model encourages a prolonged connection, compared to traditionally prosecuted cases, marked by more frequent interactions, with participants compared to a traditional court.

Judge Campbell stated that participants often do not want to let the judge down, revealing a difference between specialty dockets and traditional court:

As far as the therapeutic side, one of the things that I've noticed . . . is that the participant will become invested in you, I guess, me as the judge. For example, during our team meeting, we talk about the progress or an update on each of the participants before we bring them in the docket. Sometimes, a good thing or perhaps a bad thing. And if it's a bad thing, a team member will say, “They're afraid they let you down.” Well, I've never . . . as a circuit court judge on a regular docket, no one's ever . . . no defendant's ever been afraid if they're going to let me down because they don't have anything invested.

Judge Bryant added that over the prolonged period of engagement with drug court participants, rapport is developed. This rapport facilitates engagement between the judge and the participant throughout the course of the program:

I enjoy talking with participants and trying to connect, and ask them personal questions, and . . . you know, how do you help people understand that you really do care about them, and you want to see them succeed? It really is just about developing that rapport.

**Judge as Reinforcer for Treatment Success.** The judge plays the central role in how therapeutic jurisprudence is administered to participants in drug treatment court, with research underscoring the importance of judicial interaction between the judge and the individual involved in the system (Winick & Wexler, 2003). Consistent with the literature on applying rewards and sanctions (Marlowe & Carey, 2012), the judges echoed the benefits of praise and positive reinforcement. Opportunities to offer praise to the drug court participants were welcomed by all nine judges. They recognized verbal praise and positive reinforcement are not typically a part of traditional dockets in the same way it is in treatment courts. A principle of treatment dockets is the application of rewards and sanctions. Interviews revealed that judges use verbal praise and positive feedback as a reward for participants when they are doing well and progressing through the program. Even if participants struggle, the judges noted that they try to find even small areas in which to offer praise. Judge Evans identified the connection between praise and positive feedback and participant progress toward their treatment goals:

They thrive when you encourage them. You tell them . . . I mean, it's crazy. Me saying, "I'm so proud of you. You have worked really, really hard." And we say that. "Are you proud of yourself?" You know, and they just beam!

While the judges described the satisfaction they gained through offering rewards and praise to support positive behavior, they also recognized the necessity of sanctioning negative behavior. This proved to be challenging for many judges, especially as they develop relationships with participants. Specifically, Judge Bryant noted the importance of relationship development and commented on the challenges of balancing an approach that both is therapeutic and provides accountability:

It's a bit of a balance, because they have to understand that, ultimately, I'm still the judge, and so there may come a time when I have to sanction them. But also, I want them to come in, and I want us to develop a rapport, and relationship. Because I think that's where the success comes. They know that we all care. We want to see you succeed. And so, but, I have gone back and forth on it. I think I've ultimately decided that I prefer to really try to develop those relationships, as difficult as it can be, when, for example, a relapse occurs, or a participant just isn't successful, and we have to make that really tough call.



Judge Givens outlined a challenge in the delivery of therapeutic jurisprudence to promote positive behavior change, a lack of consistency:

There's sometimes challenges around whether or not some behavior is sanctionable. We've created now a sanctions matrix so that we all understand that if this behavior happens, we need to be consistent. That's another problem, I guess you could say, being consistent. Even though each person is an individual, we still need to be consistent about when this behavior is going to merit a sanction or justify a sanction, whereas these type of behaviors are going to merit an incentive.

Voice and respect are central aspects of procedural justice (Tyler, 2006). The judges reflected on the importance of giving participants voice to support a therapeutic rather than adversarial approach. On the idea of drug court participant voice (i.e., procedural justice), Judge Campbell made a case for why this concept is a critical part of drug court and supports treatment success:

I think the more that they can be heard, the more they want, I guess, to be advocates themselves. And that's always been an important part of the process, for me, even on the regular docket. Before you sentence somebody, before you find someone in violation of their probation, I always want someone to feel like they had the opportunity to be heard.

Judge Hammond commented on the difference in the behavior of a specialty docket judge compared to a judge in traditional court. He spoke about use of different language with participants in drug court, consistent with therapeutic jurisprudence:

So, I now try to correspond with the ones who do well. I try to say, "I'm proud of you," which has always struck me as being a little odd coming from a judge, but it seems to work fairly well, and, "I appreciate your effort," and, "I see what you're going through," and try to give a little more empathy, for lack of a better term.

**Judges' Unique Relationship with Drug Court Participants.** Judges further described their unique relationships with the drug court participants as more personal than their relationships with individuals in a traditional court docket. This "outside-the-box" relationship is connected to Subtheme 1 (prolonged engagement with the participants). Prolonged engagement and more frequent interactions support a personalized approach shared by the judges. Judge Franklin described his approach to acknowledging participants in drug court that are doing well. This approach was echoed by six additional judges (Andrews, Bryant, Davis, Evans, Hammond, and Immanuel). Judge Franklin highlighted:

The group that is really doing well, they are recognized, called forward right at the very outset of our biweekly drug court meetings, recognized, and excused. I think we feel very strongly about recognizing and rewarding folks who are on track.

Relationship development allowed Judge Davis to consider weighing sanctions and second chances. He purposefully considered offering a second chance based on the relationship formed with participants. During the course of this relationship development, judges learn about the intricacies of the participants' lives. Judge Davis expounded on his deliberations regarding second chances:

Sometimes the weight of the evidence is that you need to give these folks a chance and let them work within the program to be successful. And the program exists in a way that allows people to make mistakes. And I am sometimes going to make knee-jerk reactions based on what I understand about this person because I've known them a long time.

## **Theme 2: Judges' Experience with The Drug Court Team**

The participants in this study offered rich reflection on both the benefits and challenges of working within a multidisciplinary team. Drug treatment courts consist of team members from multiple sectors, including probation (criminal justice) and treatment. Most of the judges (eight out of the nine) commented on the value of the differing perspectives of team members and the utility of guidance received from treatment providers, which were identified as two of the three subthemes.

**Strength of Differing Perspectives of Team Members.** Eight of the nine judges reported that one benefit of a multidisciplinary team was the different points of view of each team member based on their unique role on the drug court team. The judges felt the variety of perspectives offered depth and strengthened the team approach.

Judge Campbell, for example, elaborated on the benefits of a multidisciplinary team approach, highlighting the strength of different perspectives:

It allows you to understand what that participant needs. It allows you to be able to brainstorm in a very smooth and seamless way to be able to determine what services can be provided to address those needs.

Judge Davis and Judge Campbell each noted that in absence of differing perspectives, the drug court decision-making model is best described as an "echo chamber." Judge Davis also touched on a potential drawback of the multidisciplinary team, a lack of consensus:

We have more information available to us as a result of the multidisciplinary approach than we would have ever had if it was strictly Department of Corrections-based penal.

Negatives: The challenge is that people don't agree with me all the time, or don't agree with each other all the time.

Judge Givens highlighted a drawback of working with a multidisciplinary team: staff turnover. His response was supported by Judge Immanuel, who recently experienced turnover in two positions in his court, which is just a year old. Judge Immanuel added:

There's going to be turnover. You have a big enough team, just natural. . . . We've had several probation officers who were assigned to us, they just decided to go back to be a traditional probation officer. If you have a dozen people on your team, or however number it is, you're going to get some turnover.

**Guidance Received from Treatment Providers.** Since specialty dockets focus on a therapeutic rather than adversarial approach, treatment is an essential part of a drug court. Because judges are not required to have training in SUDs, they often rely on the treatment providers for guidance, recommendations, and feedback. The participants highlighted the value of guidance from the treatment providers on the drug court team. They suggested this guidance is used to make decisions about rewards, sanctions, and progress in the drug court program.

Judge Bryant succinctly highlighted both the benefits and challenges of working on a team. She also addressed the importance of practicing within her scope of expertise. Her feedback was supported by Judges Campbell, Davis, Evans, and Hammond. Judge Bryant noted:

Obviously, the benefits are just the experience, education experience that people from different communities bring to the group. Input that they can provide. And some of the challenges. We can't do that. We can't tell people that you can or can't take your medication; that's not my role.

Judge Davis emphasized the importance of trust in his relationship with treatment providers. Coupled with trust is his respect for the professional opinions of the treatment team:

And that's one of the things that you get, too, when you trust the folks that you deal with. I trust the folks in the program, the therapist, everybody that's participating are really good at what they do. And their point of view matters.

**Judge as Decider.** Notably, while the judges sought guidance from the treatment team to make decisions relative to drug court participants, the data showed that the judge is the ultimate decider and enforcer in a treatment docket. The judges run the docket operations, including the order of the cases that are presented in court. They decide the placement of the individuals in the physical setting of the courtroom. Behind the scenes, the judge leads the case staffing meetings with the treatment team and probation officers. Their multiple roles as lead actor/producer/executive director were highlighted by Judges Campbell, Davis, Franklin, and Immanuel.

Judge Davis reflected on his role as the enforcer in his court. He discussed encouraging dialogue among the drug court participants and his role addressing drug court program violations:

I think my role in drug court is to talk to folks and get them to expose themselves in a room in a forced kind of way. I make them speak. Those who are violating the program, I think, have to be able to believe that the judge who's going to make the ultimate decision will be a fair arbiter of the dispute that takes place.

Like Judge Davis, Judge Franklin described his role as the "hammer" of the drug court team. He recognized the importance of playing the role of "bad guy" in order for treatment and probation to interact with participants as the "good guys." This becomes necessary when individuals are not adherent to the drug court program. Judge Franklin explained:

I always like for the judge to be the hammer so that they're recognizing the folks on the ground, pushing the probation officers as the ones they should look to for guidance, and as protectors, and otherwise.

Overall, Theme 2 emerged through the participants' thoughtful responses regarding both the positives and negatives of working within a multidisciplinary team. Ultimately, the judge as lead actor/producer/director and ultimate decider presented as a subtheme, as participants recognized that feedback from team members ultimately helped them to arrive at a decision about drug court participants in the docket.

### **Theme 3: Judges' Experiences as Drug Court Learners**

While seven of the judges in this study attended at least one conference on treatment courts, none of the nine judges had formal training on addiction or SUDs. Their training was largely self-directed, and they often learned by observing judges in other dockets. As a result, some of the judges questioned, "Am I doing this right?" The third theme, experience of judges as learners, elicited the following subthemes: each judge's experience shapes their approach with drug court participants, each judge has pursued their own learning about drug court/addiction, and judges have evolved through experiential learning. This theme emerged as the participants discussed the balance of a therapeutic approach with public safety.

**Each Judge's Experience Shapes Their Approach with Drug Court Participants.** Each judge's unique philosophy and approach to drug court was found to be shaped by their individual experiences. For example, over half of the participants in this study were former prosecutors. Two of the participants were in private practice, and one was a former defense attorney. Interestingly, one of the participants worked as a probation officer prior to attending law school to become an attorney. When queried about their experience in relation to the concept of a therapeutic docket, the participants had differing ideas about a therapeutic versus adversarial approach in the drug court context. For example, one judge in the study favored centralizing drug court management under the auspices of probation while the other judges in the sample had a diverse team consisting of treatment providers,

attorneys, and probation. Judge Davis voiced the benefits of therapeutic jurisprudence from a philosophical perspective:

And from a societal standpoint, if we can make people feel better about themselves, be better parents, be better spouses, be better employees, be better business owners, be better whatever it is that they're doing better, why not?

**Each Judge Has Pursued Their Own Learning About Drug Court.** While drug court principles are outlined in the literature (Bureau of Justice Assistance, 1997) and best practices have been established in *The Drug Court Judicial Benchbook* (2017), there is no required training for judges to preside over a drug treatment court. Some of the judges pursued knowledge by reading (i.e., self-study activities) or attending drug court conferences, including an annual statewide drug court conference and AllRise (formerly the National Association of Drug Court Professionals), a national conference. Fewer of the judges have attended the national conference and none of the judges mentioned a free online resource, *The Drug Court Judicial Benchbook* (2017). For example, when asked about receiving drug court training, Judge Davis replied:

I did not. No. [Name withheld] went to meetings about drug court, conferences about drug court, read about drug court, and created a model for the drug court program. I only know about what I know from drug court based on what [name withheld] told me I needed to know and what I read from the manual that we had that I was participate.

Judge Andrews offered a suggestion for judges who become specialty docket judges. While he sought training on his own, he recommended mandatory training for judges:

But really, you probably should go through an intensive two-week training on this thing to start with. There's a lot you don't know.

**Judges Have Evolved Through Self-Directed (Experiential) Learning.** Virginia does not require training or continuing education on addiction or drug courts for specialty docket judges. Relatedly, the participants described learning primarily through on-the-job training and observing judges in other localities or by following the protocols established by their predecessor.

Judge Evans, the only former defense attorney in this study, described her experiential learning about addiction through former clients that she represented with substance use issues:

I was a criminal defense lawyer. So, I had a lot of experience representing individuals that had substance use issues, mental health issues, and co-occurring issues, and did a lot of work with mental health professionals and service providers. I had sort of a

strong background in knowing about and working with individuals that had these issues in the criminal justice system.

Judge Hammond discussed his experience as an attorney prior to becoming a drug court judge. Over time, his learning experiences allowed him to develop a balance between a therapeutic approach and the accountability of the criminal justice system:

As I always told the lawyers in our firm, I said, if you do criminal work . . . if you're not cynical, you're being stupid. I said, but if you lose all trust in all of humanity, I said, then you need to get in some other line of work. So, you try and learn that balance. You just try to strike a balance, I guess.

Judge Givens discussed experiential learning through protocols established by previous judges. Judge Bryant also stepped into her docket three years ago and learned from her predecessor. Drug treatment court judges may be rotated into the docket or replaced when judges retire. Regarding his docket, Judge Givens stated, "And so, he retired; I stepped in his shoes. The way we do things here, whatever your predecessor did, you're doing, and it was an easy transition because I been doing it at JDR [juvenile and domestic relations]."

Overall, the third theme, experiences of judges as drug court learners, led to the development of three subthemes. Since there is not a formalized training requirement to become a drug treatment court judge, the judges learned experientially, attending conferences on their own volition, reading, and accepting influence from other judges in surrounding localities.

## **Discussion**

The primary research question was addressed within Themes 1, 2, and 3. Theme 1, judges' experiences with drug court participants, was divided into three subthemes: prolonged engagement with the participants, judge as reinforcer for treatment success, and judges' relationship with drug court participants. Participants discussed how a treatment court differs from a traditional court, as the drug court participants have more frequent interactions with the judge. Participants outlined the use of rewards, including praise, and sanctions as part of drug court programming to support drug court participants' successful program completion. The judges discussed developing personal relationships with individuals in drug court as well as rooting for their success and feeling bad when they gave a sanction or discharged a participant from the program.

Theme 2, judges' experiences with the drug court team, was divided into three subthemes: strength of differing perspectives from the team, guidance from treatment experts, and Judge as decider. The participants outlined the value of feedback from multiple team members to shape a case conceptualization and underscored how recommendations from treatment experts guided their decision-making process in the docket. Sanctions and rewards



were often based on feedback from treatment providers. The judges reported on their role as the ultimate enforcer or king of their domain.

Theme 3, judges' experiences as drug court learners was also explicated in three subthemes: each judge's experience shapes their approach with drug court participants, each judge has pursued their own learning about drug court, and judges have evolved through self-directed learning. The judges reflected upon their own experiences prior to presiding over a specialty docket and spoke of their individualized efforts to attain knowledge on drug court principles and operations. The judges also reported they learned by doing and through observing other specialty dockets.

**Sub-question 1:** How do participants describe their application of therapeutic jurisprudence and procedural justice in drug courts in Virginia?

This research question was also addressed by Themes 1 and 3. As described in Theme 1, participants reported that their prolonged engagement with participants supported a more informal relationship with them. This relationship fosters a therapeutic approach as the judge uses participant first names and a conversational tone in court. Concomitantly, the judges described rooting for participants to do well, which contrasts with an adversarial approach focused on punishment and negative consequences. Procedural justice, which involves giving voice to participants, was endorsed by the judges as critical to the drug court process.

Theme 3, judges' experiences as drug court learners, was divided into three subthemes; each judge's experience shapes their approach with drug court participants, each judge has pursued their own learning about drug court, and judges have evolved through self-directed learning. The judges described their background and philosophical approach shaping their role as a docket judge. Participants discussed their own individual level of training since there is no broad mandatory drug court training for judges. Finally, the judges reported on learning as they preside over the docket, which shapes how they apply the law in a therapeutic rather than adversarial approach.

**Sub-question 2:** How do participants describe their role as part of the drug court multidisciplinary team?

This research question was addressed within Theme 2: judges' experiences with the drug court team. Three subthemes were constructed: strength of differing perspectives from the team, guidance from treatment experts, and judge as decider. Participants reviewed the benefits of having access to multiple perspectives in working with individuals with SUDs. Participants discussed their reliance on treatment experts to guide their interactions with individuals in the drug court program and provide recommendations. However, the judges confirmed that they are the ultimate stated and de facto leader of the team.

**Sub-question 3:** How do participants describe the balance between the application of therapeutic jurisprudence, procedural justice, and public safety?

This research question was addressed by Themes 1 and 3. The judges reported that a prolonged relationship with the drug court participants supported a more informal and therapeutic approach because the judges get to know the participants intimately. The judges

discussed the personal relationship developed with individuals in drug court. As reinforcers, the judges stated that they feel satisfaction when giving rewards to individuals in the program to support their accomplishments. In contrast, some of the judges struggled internally when giving sanctions for nonadherence. They recognized that drug courts uphold public safety through accountability but also offer an opportunity for the judge to develop therapeutic relationships with participants through handshakes and verbal praise.

Theme 3, judges' experiences as drug court learners, was divided into three sub-themes. The judges discussed how their background informed their use of therapeutic jurisprudence and procedural justice. The participants described their own level of training and how that training influenced a therapeutic rather than adversarial approach. The judges reported on how they evolved through self-directed learning as they preside over the docket, which shaped how they balance of public safety with a therapeutic approach.

## Implications

The findings from this study underscore the importance of a therapeutic rather than adversarial approach converging with existing literature highlighting the relationship with the judge as a critical factor in the success of the drug court model (Kaiser & Holtfreter, 2016). Relationship development between judges and drug court participants is a key factor in successful outcomes for individuals that are involved in these specialty dockets. Additionally, the findings from this study suggested that judges would benefit from specialized training in addiction and mental health disorders. Judge Andrews stated, "Mental health, substance abuse, domestic violence. We don't have the appropriate training for it. And yet, that's a large part of what we do." Training should include etiology of SUDs, signs and symptoms, and evidence-based interventions.

Research on drug treatment courts points to the judge is the stated and de facto leader of the multidisciplinary drug court team (Fessinger et al., 2019). Analysis of data from this study revealed the benefits that judges derive from the team, including differing perspectives on approaches, accessibility to expertise in a variety of fields (e.g., treatment, peer recovery), and a shared vision. These findings converge with literature on network collaboration (Provan & Lemaire, 2012). Drug court teams may wish to consider approaches to foster team building including trust, homophily, appropriate governance, building and maintaining legitimacy, emergent relationships, and friendship (Provan & Lemaire, 2012). One way to facilitate team cohesion is to develop a shared vision statement and tagline that can be included in the electronic mail signature lines of the drug court team. Teams must also be aware of inherent challenges in cross-sector collaboration, including cultural clashes, loss of autonomy, and communication difficulties (Huxham & Vangen, 2005). To address these potential pitfalls, team members can provide training in their various sectors to one another so that there is an increased understanding of the philosophy and approach that each sector operates from. Teams that are equipped to understand the benefits and challenges of collaboration may be better able to withstand the tribulations that they will likely encounter in being a part of a specialty docket.

Administrators are often charged with balancing financial and service delivery components in human services programming. They must take fiscal responsibility for programming while assuring that programming operates with fidelity to evidence-based metrics. Drug court administrators will benefit from ensuring that judges receive addiction-specific training. Training may be coordinated for the entire team, inclusive of the judge. Alternatively, judicial-specific training for judges at the onset of their appointment to a drug treatment court should be considered as a requirement.

## Limitations

For this study, there are a few notable limitations, beginning with the homogeneity in the sample. Most of the participants ( $n = 7$ ) were male. Additionally, most of the participants identified as Caucasian ( $n = 7$ ). While the goal of the researcher was to obtain a diverse sample, except for two individuals, the participants identified themselves as Caucasian. Due to the limited participant population, it was necessary to continue the research study with a lack of participants from diverse ethnic backgrounds. There were two African Americans participants in the study. This limited variability may restrict the transferability of the research findings. A third limitation is that most qualitative methodologies cannot be truly replicated in the same way as quantitative experimental designs. Therefore, qualitative studies are unable to be verified (Theofanidis & Fountouki, 2018). This study may be limited in transferability and application because it was limited to a sample of nine judges. A more diverse research sample obtained by increasing the number of judges may increase the applicability and transferability of this research study's results to other drug treatment courts. Due to the challenge of recruiting participants and difficulty accessing the judges' time for the study, a focus group as a means of triangulating the data did not occur. Focus groups can bring to light areas of agreement and inconsistencies around the phenomenon being explored (Gill & Baillie, 2018).

## Conclusion

The purpose of this transcendental phenomenological study was to describe the experiences of current drug treatment court judges. Through the transcendental phenomenological methodology, the judges' voices were lifted, which provided three primary themes, each of which comprised three subthemes. The first primary theme was judges' experiences with drug court participants. This theme encompassed three subthemes: prolonged engagement with the participants, the judge as reinforcer for treatment success, and judges' relationships with drug court participants. The second primary theme was judges' experiences with the drug court team, which also had three subthemes. The first subtheme was the strength of differing team perspectives. The second and third subthemes were guidance from treatment experts and the judge as decider. Lastly, the third primary theme, judges' experiences as drug court learners, had three subthemes: judges' experiences shape their approach with drug court participants, each judge has pursued their own learning about drug court/addiction, and judges have evolved through experiential learning.

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