

Improving Drug Courts - A Preliminary Study

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Abstract

Since the early 1980s, specialized problem-solving courts known as drug courts emerged in the United States as a response to the backlog of drug and alcohol-related cases plaguing the U.S. criminal justice system. In a few decades, with the seeming success of the drug court in helping AOD defendants achieve sobriety while reducing recidivism, the drug court model has achieved international prominence as well. This paper discusses a pilot study which seeks to analyze the feasibility of connecting a website, drughelp.care, developed at the host institution of the co-authors, to the everyday operations of local drug courts. Talcott Parsons' AGIL schema is utilized as a conceptual template for organizing our thinking about how the website could improve services to administrators and clients according to the unique functional elements of the drug court.

Keywords: drug courts; functionalism; Talcott Parsons; compassion; coercion; AGIL; criminal justice system; psy-complex.

Introduction

Although law and legal systems are a prominent and taken-for-granted feature of modern societies, it has not always been this way. In ancient times, human societies consisted of small nomadic groups—no more than 60 or so members—who roamed across local geographical areas in search of whatever food and shelter from the elements were available. Whatever notions of proper conduct had been developed were tied to immediate survival needs of the group, and attachments between members were based more upon mutual physical protection than on emotional needs, the latter of which being more characteristic of modern understandings of interpersonal and familial relationships.

Over time, those human groups that weathered the trials and travails of harsh physical environments slowly and inexorably experienced upgrading through social and physical evolution, including the ability to support a larger population through better food quests—for example, with the discovery of agriculture which reduces reliance on nomadism and leads to new requirements for living peaceably within settled communities—and also through an array of other cultural and technological innovations. With population growth comes greater diversity, and the old pattern of mechanical

solidarity based on likeness and familiarity (cultural homogeneity) is replaced by a new organic solidarity characterized by a burgeoning division of labor and tolerance of differences, that is, cultural heterogeneity (see Durkheim, 1984 [1883]). In these larger, settled communities, because people are now living side-by-side others who may not share the same experiences, backgrounds, and worldviews, whenever disputes arise they are likely to seek third parties to resolve them. This introduces new levels of formality which were not needed in the earlier mechanical solidarity of clan or tribal rule. This objective arbiter of disputes for purposes of responding to conflict and claims of harm between increasingly disparate citizens is the state (Hobbes' Leviathan), and the law becomes the primary instrument through which social life is stabilized and made predictable (Collins, 2020). In essence, through textualization into codes and statutes, the law "thingifies" the sentiment of the group, and these laws arise only within the context of the history and experiences of those persons living and working together locally over potentially long stretches of time. In other words, the law emerges incrementally, first in the form of tacit and unwritten notions of proper conduct (the folkways); then later in the form of higher order cultural truths (or mores, such as taboos or things which members in good standing ought not do); and finally in the emergence of laws and political systems whether absolutist, aristocratic, parliamentary, constitutional, republican, democratic, or some mixture of these (see Sumner, 1906).

Settling disputes authoritatively means setting up systems of procedural law, which directs professional practitioners in the various areas of substantive law to maintain fidelity to only the legal facts available in each case while as much as possible eliminating extrajudicial elements which would be viewed as nonprobative—that is, not helpful or lawful—within the process of administering justice in criminal, civil, or administrative court proceedings. This is the idea of "equal protection under the law," one of the foundations of modern common law (Vile, 1998). However, with the establishment of criminal law and the requirement that states, when seeking convictions against criminal defendants, must prove that the defendant possessed a "guilty mind" (*mens rea*) concurrent to the commission of the offense (*actus reus*), this introduced subjectivity into court proceedings which thereby threatened to derail the search for empirical facts stripped of emotionalism. Positivism in law and science argues that personal biases, hopes, and aspirations can be held in abeyance while following procedures established prior to any quest to unlock empirical elements of a scientific or legal case. In the criminal case, for example, the quest is to ascertain, beyond a reasonable doubt, the guilt or innocence of a defendant on the basis of the evidence at hand. This emphasis on procedure is a technical requirement of law to ensure the legitimacy of the legal system, for example, that those in charge are not simply making up the rules as they go along. This is the "basic legitimation demand" of any fair and impartial system of justice which does not rely on mere coercion or

the whim of truth-finders free from procedural requirements to ensure social order (Dyzenhaus, 2021).

Law and the Problem-Solving Court Movement

Modern western societies have become more therapeutic and now aptly can be described as therapeutic states (Nolan, 1998). The term therapeutic state refers to the ascendancy of the medical model of disease as the prevailing ideology of the modern welfare state. Within the therapeutic state, medical terms such as “syndrome,” “pathology,” “sickness,” “illness,” “disease,” “addiction,” and “therapy” tend to dominate social, legal, political, policy, and even informal (that is, everyday life) arenas of discourse (Chriss, 1999, pp. 5-6). The structure of therapeutic states is tied to the development and establishment of psychology (from the nonmedical side) and psychiatry (from the medical side) as legitimating or normalizing discourses in those societies (Oliverio and Lauderdale, 1996). For example, within law and legal studies there has emerged a movement known as therapeutic jurisprudence (TJ). Therapeutic jurisprudence is a perspective that is concerned with using social and behavioral science research to study the extent to which a legal rule or practice promotes the psychological wellbeing of participants in the criminal justice system (Wexler and Winick, 1996). The aim is to maximize therapeutic and minimize anti-therapeutic outcomes of law and legal rulings (Chriss, 2002).

These sorts of hybrid or problem-solving courts—examples include drug courts, mental health courts, community courts, teen courts, and valor courts—add heavy doses of emotivism, therapeutics, and confessional modes of discourse which coexist rather uneasily with the coerciveness and formalism of traditional courts (Nolan, 2009). For example, a judge who is sympathetic to TJ principles may, during jury instructions, inform the jury that because deliberations are often stressful and contentious, jury members can reduce such pressures and difficulties by acting more collaboratively and with more compassion, patience, and tolerance towards one another, while turning to each other for emotional support during such “trying” times (Hora et al., 1999). A jury instruction of this sort effectively aims to turn jury deliberations into a group therapy session.

Indeed, over time law and court proceedings have become more emotional. In the original blueprint for the modern criminal court, cases would be decided by the sober collection of evidence in an adversarial system where the state on the one side would seek a conviction against the defendant supported by his or her legal defense team on the other. Any evidence or testimony deemed to be too emotionally charged would be excluded from the court proceedings, in that anything that inflamed the passions of the jury could get in the way of the sober, rational quest for the “facts” as based on the evidence at hand. This meant that for the most part victims were left on the sidelines

while legal representatives of the state argued for a conviction. This move was made for purposes of eradicating, as much as possible, emotionalism and subjectivity from courtroom proceedings.

Today, however, as reflected in the victims' rights movement, the criminal court is attempting to incorporate victims into the legal process in more meaningful ways. One way this occurs is through the allowing of victim impact statements during the sentencing phase of the criminal trial. Other innovations, such as the recent creation of a category of criminal offense known as "hate crimes," have further granted legitimacy to emotions within the modern courtroom (Karstedt, 2002). This introduces a confessional mode into court proceedings, but rather than the private confessional taking place between priests and members of the religious congregation, it is now made available publicly in open criminal, civil, or administrative courts. Secularization, then, ushers in the triumph of the public confessional.

Further, in a modern, enlightened and technologically advanced society, there is a strong belief that many of the bad things that happen in life—accidents, disease and sickness, death, broken hearts, unsatisfying marriages, uncertainty, being bullied, feeling sad, anxious, nervous, jittery, stressed out, or traumatized—can be reduced or even eliminated with the proper application of cutting-edge scientific, medical, social scientific, and behavioral science knowledge (Chriss, 2022). Modern nation states have a vested interest in the maximization of the life chances, productivity, and happiness of its citizens, primarily through the private business sector's ability to create such life-enhancing products and services for those among the middle-class who can afford them. Those that cannot attain the ideal of a middle-class lifestyle are serviced by the welfare apparatus of government, and although for many years welfare programs have been run by the rather sober logic of economics and policy analysis, even welfare of late has become medicalized (Schram, 2000).

As described above, this burgeoning therapeutic culture has escaped the confines of the lifeworld or everyday life, where tacit notions of propriety hold persons accountable to each other through proper internalization of notions of morality delivered via socialization, and is now colonizing major social institutions including law. The rise of problem-solving courts is now an international movement, and in the guise of the drug court specifically, there are new attempts to merge the compassion and humanism of treatment protocols—where the wraparound services of the therapeutic alliance led by a licensed therapist or counselor prevail—and the coercion of conventional criminal courts, in terms of the imposition of potentially harsh punishments for those found guilty (Nolan, 2010). In many drug courts, for example, technical requirements of conventional criminal court procedure, such as preliminary hearings which are part of the due process provisions guaranteed to criminal defendants, are now viewed as impediments standing in the way of fast-tracking them into treatment for their

own good. This means that the spirit of the therapeutic alliance is extended to all members of the drug court—judges, prosecutors, defense attorneys, family members and witnesses, and treatment providers—in broad defiance of the conventional view of the criminal court as essentially adversarial (Hiller et al., 2010).

This represents a longstanding tug-of-war over the appropriate way to respond to persons who have come to the attention of formal systems of control and, as a result of this scrutiny, are facing the possibility of receiving a range of possibly life-altering negative sanctions. The choices for disposition of such cases appear stark: Assuming the prevailing statutes of the local jurisdiction provide the option for formal processing of the defendant through criminal court, should this person experience the full force of the law and be placed in confinement for a period of time in a designated correctional facility, or is it appropriate to seek alternatives to incarceration via such programs as probation, fines or restitution, home confinement (with or without electronic monitoring), or transfer to a specialized problem-solving court to deal with the defendant's alcohol, drug, or related issues as documented in the case report?

Boiled down to its essence, this is the conflict between the goals of criminalization, on the one hand, versus rehabilitation, on the other. The conventional goal of criminal justice is of course justice, meaning punishing the offender for the harm he or she has caused society. The unconventional goal of criminal justice, which has arisen concomitant to the growth of therapeutic culture, is utility, which rejects the universalism of legal procedure in favor of a medical case model approach which values specificity over diffuseness. Through this scrutinizing of pertinent elements of a defendant's background and life history, focusing specifically on those factors implicated in the person being charged with a criminal violation—including a possible history of drug use or abuse, including addiction—appropriate treatment resources can be identified which, upon implementation, can lead to sobriety and inculcate prosocial adjustment without the need for conventional punishment. If the latter were to work as intended, the greatest good for the greatest number of persons would be achieved, thus fulfilling the indirect goal of utility rather than the direct, conventional goal of technical justice. The utility goal of rehabilitation, then, is achieved and even maximized—particularly in comparison to conventional criminal justice approaches—insofar as benefits to both defendant and the general public outweigh potential harms of treatment or later recidivism or relapse (Abbasi et al., 2018).

Functional Elements in Compassion and Coercion

In order to better understand the broad movements which have given rise to the modern problem-solving court—and here specifically focusing on the drug treatment court—we may deploy the analytical arsenal of Talcott Parsons' AGIL schema which specifies four functions operating across all levels of social reality. According to Parsons, all

social systems must satisfy four functional requisites in order to maintain themselves as operational wholes over time. AGIL is the acronym for these four functions, namely, adaptation, goal-attainment, integration, and latent pattern maintenance. (Paris

The AGIL schema is well-suited to understanding the development and evolution of complex human social systems in relation to external environments. Parsons assumes that social systems—but also subsystems within those systems—are open relative to environments. This means that there is communication between system and non-system (i.e., environment), hence, systems are described as boundary-maintaining insofar as there is an incessant interchange of inputs and outputs between system and environment. With regard to the four functions, two are internal to the system (integration and pattern maintenance) while the other two are external (adaptation and goal-attainment). Social systems are dynamic to the extent that they maintain themselves within a moving equilibrium subject to changes and perturbations from the external environment.

The conceptualization of structure and the articulation of four functions operating within and across any system is organized by a prevailing framework which Parsons refers to as the “action frame of reference.” Specifically, action consists of “the structures and process by which human beings form meaningful intentions and, more or less successfully, implement them in concrete situations” (Parsons, 1969, p. 5). Complex human societies are constructed of parts such as roles, norms, values, and institutions, and the building block of social systems is what Parsons (1968, p. 43) referred to as the “unit act.” The unit act is the most fundamental or elementary element for sociological analysis, and it consists of actors (A) pursuing goals (G) in a social situation (I), with the consideration of means to be used in pursuit of goals informed by an overarching value system (L). Hence, the unit act, as the fundamental building block of social systems within the action frame of reference, consists of ends, means, norms, and conditions (Fox et al., 2005, p. 3).

Across all levels of analysis, the four functions (or AGIL) are related to one another according to the cybernetic principle that “things high in information control things high in energy” (Chriss, 2007, p. 693). Think of a rider on horseback, or a helmsman steering a ship at sea, or a thermostat controlling the temperature of a room. In all instances, the things high in information govern other things lower in information relative to them, even as the low information items set the conditions upon which the higher order governing activities operate. This is also consistent with the ideal of the march of rationality and enlightenment over time whereby the intellect takes control over raw passions. Across the entirety of the social system, there is this enduring relationship between information and energy, from the micro-realm of face-to-face interaction all the way up to the social system in its totality, and within all subsystems that can be specified at any level.

For our limited purposes, we are interested in examining the subsystem of the Action System identified as the Social System, whose primary function is that of integration (I). It is within the social system where human actors, endowed with personalities which direct them toward the pursuit of goals, come together across space and time in role relations and operating within particular institutional spheres, to accomplish things in the world. These activities, guided by an overarching value system, reflect the interlocking of innumerable unit acts which produce the relative stability and patterned regularity that is social order. Although there is great flux and dynamism from moment to moment in any human society, to the degree that voluntarism prevails at least in open democracies or constitutional republics, for the most part societies in their totality cohere over time and maintain some semblance of order and stability. One way that such coherence and predictability is generated is by the creation and continual shoring up—through, for example, everyday life, business activities, government, and law—of major social institutions such as family, economy, polity, science, community, education, and so forth.

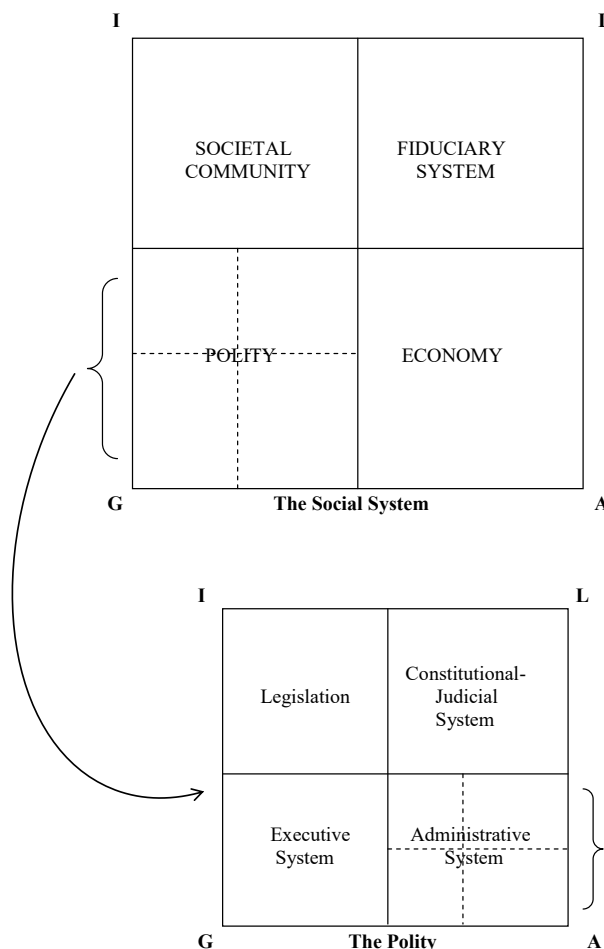


Figure 1. The Social System and the Polity Subsystem
 Source: Chriss (2013, p. 98)

As stated earlier, even as the primary function of the Social System is integration for the wider system, all systems can be broken down into component AGIL subsystems. This means that there are particular structures—actually, institutional spheres—within the Social System which fulfill the functions of adaptation, integration, goal-attainment, and latent pattern maintenance. Parsons identifies these four subsystems as the economy (A), the polity (G), the societal community (or civil society; I), and the fiduciary system (L; see Figure 1). The economy fulfills the function of adaptation insofar as raw materials from the environment are extracted and turned into usable products through a production system and made available to members through various markets. The circulating medium flowing throughout the economic subsystem is money. The polity (or government) fulfills the goal-attainment function insofar as it oversees the orderly pursuit of goals and establishes priorities through a rank ordering (e.g., candidates running for office declaring which issues are most pressing for voters and promising to implement changes if elected). All this is accomplished largely through the voting process but also through the constitutional delegation and separation of powers (legislative, executive, and judicial). The primary circulating medium for the polity is power.

The function of integration solves the problem of coordinating and adjusting the relations of actors or units within the system. As societies grow and become more complex with increasing structural differentiation (in the division of labor and elsewhere), integration becomes more and more crucial as increasingly specialized parts operate on their own logics and may interfere and come into conflict with other parts of the system. In order to reduce mutual interference between increasingly specialized parts, there is a generalized implementation of norms across a specialized sector known as the societal community, with the circulating medium of influence operating therein. This is the realm of everyday life, where informal pressures are brought to bear (e.g., morality) to steer persons to act in ways that conform to group expectations. This means that here the implementation of norms banks more on persuasion within the context of friends, family, and small groups, leading to collective notions of solidarity or the “good life” which is secured through mechanisms of informal control (even as socialization is closely related, but which is contained properly in the next subsystem to be discussed).

Finally, the fiduciary system fulfills the function of latency or latent pattern maintenance, and the central question to be addressed is securing commitment to shared values. Whereas integration in the societal community is concerned first and foremost with the implementation of norms, the institutions of family, religion, and education are concerned with maintaining the value system over time, and this brings to bear the transmittal of cultural values through socialization. Here, the operative circulation medium is culture including the roles, values, and symbols reflective

of the current ideational system. The fiduciary system, then, fulfills not only the pattern maintenance function for the broader system, but also provides tension management (e.g., religion brings together like-minded worshippers to put their mind at ease concerning existential questions that cannot be properly resolved or addressed through logic, science, or other approaches to reason, but instead banks on scripture as articles of faith and the promise of an afterlife).

For purposes of dealing specifically with criminal law and criminal court systems, the operative institution that contains the bulk of these activities is the government or polity. Remember, the polity fulfills the goal-attainment function for the Social System and utilizes power as the circulating medium for pursuing goals and accomplishing tasks assigned to this sphere. The polity can be broken down into its own AGIL components, and these are as follows. Government has four functional features, three of which reflect the constitutional separation of powers in the branches of executive (G), legislative (I), and judicial (L). The adaptation function is provided by the administrative system (A), which of course utilizes power within the institutional activities of the three branches of government (Parsons and Platt, 1973, p. 428). Administration is the grounding for all the activities of government and, borrowing from Max Weber, the legitimacy of the use of power by actors operating within courts, legislative chambers, and executive offices (e.g., president, governor, and mayor) is based on rational criteria for incumbency to office and the expertise and value-neutrality of those occupying government positions within the professional role-complex (Parsons, 1959; Parsons and Platt, 1973, p. 261).

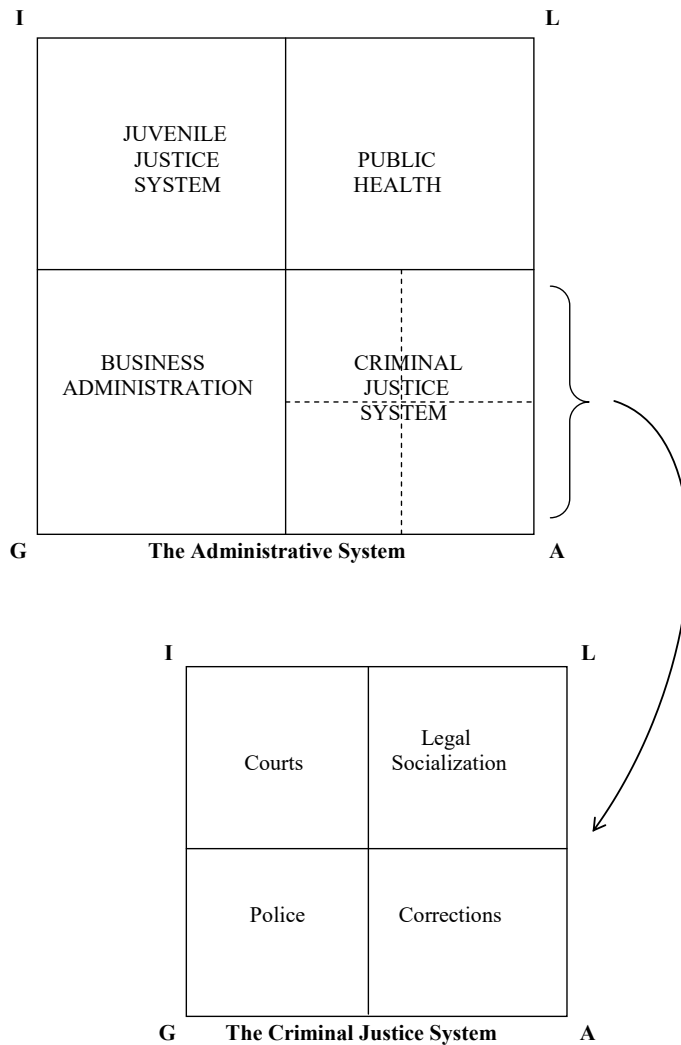


Figure 2. The Administrative System and the Criminal Justice Subsystem
 Source: Chriss (2013, p. 101)

The Administrative System can be decomposed into its own AGIL subsystems, and these are the Criminal Justice System (A), Business Administration (G), Juvenile Justice System (I), and Public Health (L). We will be concerned at this point with the Criminal Justice System. Following the logic of Parsons’ AGIL schema, the Criminal Justice System can be further decomposed into the subsystems of Corrections (A), Police (G), Criminal Courts (I), and Legal Socialization (L; see Figure 2). Although legal socialization is highest in information as it is carried out across multiple arenas including families, friends, professional organizations, media, and police, for direct purposes and with respect to the functions associated with separation of powers, criminal courts will be our major

focus. Keeping in mind constitutional separation of powers, the executive enforces the law, the legislature creates law, and the judiciary interprets law. With regard to these three aspects of the functions of government, interpretation of law is the highest in information relative to enforcement and enactment. This is likewise reflected in the criminal justice system cybernetic hierarchy, whereby the subsystem of courts (I) is higher in information relative to police (G) and corrections (A; see Chriss, 2013).

When cases are brought to the court, lower level law enforcement personnel have already performed such tasks of response, analysis, gathering of evidence, and in those instances requiring it, detainment and arrest. Prosecutors are the key agents in the transition from the police (G) to the courts (I), as they determine which cases to pursue based upon severity of charges, available evidence, and likelihood of a conviction for involved defendants. The criminal justice system and all personnel from corrections to law enforcement to the court, operate with what Weber described as rational-legal authority, meaning that such authority is vested not in the personal attributes of the personnel but in the rules institutionalized in offices and especially the technical knowledge of officeholders for specific positions. As Parsons (1960, pp. 190-191) notes, "Law is that aspect of the machinery for the definition and implementation of institutional norms which links legitimation through authoritative interpretation with application and enforcement by political agency." The courts, then, are interstitial between political and nonpolitical systems in much the same way that political parties connect government to the public (or the "body politic"). And all these activities serve (ideally) the public interest, not the private interests of criminal justice practitioners.

As a hybrid or problem-solving court, the drug court combines standard legal elements of technical justice with the utilitarian values of medicine, that is, the goal of getting a sick defendant well rather than the conventional goal of finding guilt and applying appropriate sanctions. In simpler terms, this is the project of combining compassion (medical ethics of utility emphasizing influence by way of the therapeutic alliance) with coercion (technical or conventional justice utilizing power to hold people accountable to the letter of the law). The role of the drug court judge reflects this hybridity, to the extent that on some level there is a conflation of law and medicine which introduces a potentially confusing multidisciplinary framework for defendants being processed through the court (Nolan, 2002). This is the general problem of role strain, namely, the potential conflicts and strains arising from competing demands and expectations of multiple roles of a person's role set (see Snoek, 1966). Many personnel in the criminal justice system are experiencing such role strain, for example, under community policing mandates, police officers are wearing many hats, acting not only as law enforcement agents but also social workers, therapists, health responders, and administrators. This "many hats" problem (Zakimi et al., 2022) is also affecting drug court judges, who must not only be well-versed in procedural law and providing instructions to triers of

fact—that is, jurors—for rendering a verdict against criminal defendants, but also nudging alcohol or drug (AOD) defendants who qualify for drug court programs into successful completion of therapeutic programs in order to avoid further, perhaps more onerous sanctions from the conventional criminal court.

Besides the problem of role strain, by injecting medical-utilitarian values of amelioration and harm reduction into the drug court, drug court judges along with psy-complex practitioners working in conjunction with them—and sometimes even acting as de facto co-judges—may be viewed as illegitimately encroaching on the work of other branches of government (Ingleby, 1985). For example, Long (1996, p. 29) has described the primary function of the drug court as engaging in “the cost-effective curtailment of drug use,” but judges are not delegated the task of stopping particular crimes or achieving other desirable social ends, as such work is instead delegated to the legislative or executive branches (Hoffman, 2002, p. 80). According to this idea of delegation, judges neither legislate nor enforce, but instead are the “mouthpiece” of laws which they neither make nor mold (Hart, 1997, p. 274).

In effect, within the Administrative System the latent utilitarian function of public health (L) has drifted into the primary adaptive function of criminal justice (A), insofar as criminal justice personnel are the raw material that the social system uses to adapt and respond to persons alleged to have committed a criminal violation. Across the Administrative System and within the Criminal Justice subsystem in particular, we witness how the conventional or traditional functions of specific subsystems (courts, police, and corrections) have been thrown somewhat into disarray consistent with the medicalization of the criminal court leading to a new configuration: The problem-solving drug court with its focus on medical utility rather than technical justice. As duly noted by Kathleen Contrino (2015, p. 174), “In drug courts, the defendant is transformed into the client, due process is set aside for rehabilitation, and judges are the enforcers of treatment.”

Efforts to Unify Theory and Practice

Using Parsons’ AGIL schema as a model for understanding functional subsystems within the criminal justice systems, a pilot study was conducted to ascertain how the functions of the traditional courts have been transformed with the advent of the drug court model. We were especially interested in how clients of the drug court viewed its operation and what went right or wrong in terms of program completion or failure. With the realization that drug courts are likely here to stay even as we have noted some of the challenges to its successful operation—with the main goal of maintaining sobriety of AOD defendants while reducing relapse or program failure—the transition to the problem-solving model could likely be especially challenging to persons accepted into the program who may face a dizzying array of demands both on their

time and behavioral accountability (for example, the expectation of clean urine tests and showing up for scheduled meetings). Specifically, this pilot study examined the preliminary feasibility of a website and possibly the later development of a dedicated app (see, e.g. Johnson et al., 2016) to help both drug court administrators and clients of the drug court navigate the difficult terrain that such defendants face with regard to how alcohol or drugs—with or without addiction—impact their work, friendships, family and intimate relations, and their everyday lives.

Drughelp.care

A team of faculty and over sixty students from various fields at Cleveland State University developed the website drughelp.care in the fall of 2018 to improve access to drug treatment services, reduce wait times, and ensure that individuals get the help they need for recovery.¹ The website allows substance use treatment agencies to log their services and easily update available treatment slots and wait time. The website offers a centralized system for substance use treatment providers to instantly share information on their treatment options, allowing anyone to identify available treatment facilities. This innovative website attempts to improve efficiency in service delivery within the recovery community.

Currently, over 100 substance use treatment providers have registered over 500 unique programs in Cuyahoga County, Ohio, to drughelp.care and are updating the availability and wait time of their various programs including assessment; outpatient; intensive outpatient; partial hospitalization; clinically-managed residential; medically-monitored inpatient; and recovery housing/sober living. For each program, agencies provide detailed information on services they offer including evidence-based interventions; medically-assisted treatment; dual diagnosis care specialties; accepted forms of payment/insurance; eligibility criteria; focuses and accommodations; and additional wrap-around services.

The website is fully searchable, allowing treatment providers, first responders, and individuals/family members seeking substance use treatment to find available services that match each individual's needs at the click of a button. Importantly, the search engine assures complete anonymity of substance users who may utilize the website seeking information or help (Hiriyanna et al., 2018). In addition, the website recently added a quick search feature with an algorithm that figures out the best treatment programs based on users' answers to a few basic questions. The website also includes information on harm reduction, such as locations for free naloxone, peer and family support programs, and crisis hotlines.

¹ The project has been funded by various Cleveland State University internal grants, the Woodruff Foundation (2018-2019), and Data to Action: Linkage to Care grant, Centers for Disease Control and Prevention (2020-current).

Methodology and Data

Our initial intention was to interview administrators, staff, and clients of the drug court in Cleveland, Ohio utilizing a semi-structured interview format. These would be conducted only after permissions were secured from all potential participants signing confidentiality forms reviewed and authorized through the Institutional Review Board (IRB). However, in the midst of the ongoing COVID-19 pandemic many facilities, both public and private, were shuttered or being operated on unpredictable schedules. Because the drug court was closed for most of the period we were attempting to recruit participants for the interviews, the next best option was to post calls for interview participants at bulletin boards and other strategic locations in and around the campus of Cleveland State University.

Purposeful snowball sampling is a particularly appropriate qualitative method for securing information-rich cases on some topic of interest to researchers (Palinkas et al., 2015). Additionally, the method is especially useful for gaining access to members of hard-to-reach populations, which of course include drug court participants because of the continuing stigma associated with their involvement with the legal system facing AOD charges (Messer et al., 2016). For example, some of the early interviewees identified friends, relatives, or other acquaintances who were involved with drug courts in some way and who later agreed to be interviewed.

A total of nine persons were interviewed via Zoom. The interviews took place between Monday, January 31 and Thursday, February 24 in 2022. Interviews typically lasted 20 to 30 minutes. The interview protocol of eight questions was developed and agreed to by all members of the research team prior to being administered. The goal of the interviews was to ascertain prevailing themes emerging from the accounts of participants' experiences with the drug court, with an eye toward the feasibility of incorporating the resources available through the drughelp.care website into the daily operation of local drug courts. Hence, after completion of the interview there was a follow-up period where interviewees were given information about the website. This allowed us to capture more information about how the experiences of drug court participants could be enhanced with the knowledge of the availability of such resources prior to beginning the court's treatment program. This also provided a tentative road map for approaching drug courts about the benefits of incorporating pertinent features of the website into their routine operations.

Perhaps the most useful data was generated from the question "What issues, if any, did you experience with the drug court?" Most interviewees reported that they did indeed complete the program in the recommended period (12 to 18 months), and that although the goals of achieving and maintaining sobriety were fulfilled, there were difficulties along the way. Some of these could be ameliorated with a meaningful

linking up of drughelp.care resources with information to participants as regularly and routinely provided by the drug court. Many suggested the drug court program is “intense” and “demanding,” and that oftentimes the technical demands of the program—intensive supervision, urinalysis and drug testing, and making all required meetings including travel to the facility—were overwhelming. Studies indicate that rather than intensive supervision per se, the more effective factor in achieving sobriety is ensuring that drug court participants maintain attachments to prosocial others, that is, that social solidarity with significant others outside of the drug court environment is available on an ongoing basis (see, e.g., Jones et al., 2013).

Another question posed to the interviewees, which asked them to describe the “areas of greatest need” of drug courts and their participants, reflected a theme of frustration with the technical demands of the process—that certain things need to happen predictably along a designated timeline. However, rather than utilizing punitiveness to achieve predictability of the process, many interviewees articulated the desire for the drug court and its personnel to incorporate a more “human component” of the reality of substance abuse and the quest for sobriety. Although over the years there has been a move within the drug court toward attaining this more humanistic or compassionate approach toward drug court participants, achieving it appears to be elusive based upon feedback from participants.

Even such issues as transportation and parking were articulated as problems plaguing many of the participants in their attempts to maintain requirements of the program. One thing that did help in getting them through such difficulties was the maintenance of social connections, and especially social support, from family and friends during the months of involvement with the program. The more successful programs provided a reliable timeline of expected activities and kept unexpected or unannounced changes to a minimum. Missing scheduled court dates, for example, was a constant source of concern for some of the participants as they wear fearful that punishments or other sanctions would become more severe. This means that, ideally, there should be good and consistent communication between all drug court staff and drug court participants.

Since the drug court has elevated to prominence the role of treatment providers in its day-to-day operations, the traditional role of the judge as the uncontested authority figure has diminished in favor of a shared authority arrangement between judge and psy-complex practitioners (see, e.g., Chriss, 2002). Indeed, non-legal case workers have continued to exert more authority in the drug court and have usurped some of the traditional powers of the traditional adult criminal court workgroup where the judge has always been the leading authority figure (Castellano, 2009). At least one drug court interviewee complained that judges need to reassert their authority, such as in the case of treatment providers recommending drug interventions which are viewed as dangerous or overly

harsh. This interviewee, who was a participant in drug court and is now pursuing a law degree, made this point particularly in reference to the opioid epidemic where drug treatments such as methadone or naltrexone may be mandated. In such cases, rather than deferring to the expertise of treatment providers, judges must be ready to insert themselves between the medical professional and the offender. This is somewhat the reverse situation from earlier times, where it was thought that treatment providers bring greater compassion and care to the offender as a buffer against the legal requirements enforced by judges in a sober or dispassionate manner. Additionally, a triadic relation characterized by unequal power among members—here, the offender or defendant clearly holds less power than the judge and therapist—is unstable and tends toward coalition formation or ultimately dissolution (McPherson and Sauder, 2013).

Conclusions/Recommendations

Günter Stummvoll (2022) has applied Parsons' functional theory to the case of drug use, and the broad contours of his analysis are useful for our own attempt to link up the drughelp.care website to the operation of the drug court. First of all, Stummvoll acknowledges the usefulness of Parsons' (1951) concept of the sick role, namely, the institutionalized system of attitudes and actions providing guidelines for the ill (e.g., the requirement to seek professional help) as well as those responding to them. As an example, since for the most part illness is a condition beyond the control of any individual, the appropriate reaction to them is treatment rather than punishment. Being held blameless in this way, the ill are given "time off" to possibly miss work, school, or other expected activities so that they can receive treatment until they are well enough to return to regular routines. As such, illness can be considered a form of deviance, and especially in the case of physical illness the institutionalized response favors treatment rather than punishment or punitiveness. Stummvoll (2022, p. 112) notes however that, because of conflict over the status of drug use which can be viewed as either an illness or a crime—or both simultaneously—drug users may come to occupy the category of "double deviance" insofar as violation of drug laws is a criminal matter even as it could be considered an illness especially when addiction or diminished capacities are involved.

Drug use leads to a potential entanglement between the criminal justice system (where the function of adaptation prevails) and the healthcare system (where the function of latent pattern-maintenance prevails; see Figure 2). Hence, rather than the standard dyadic relationship of doctor-patient in the typical case of illness, the special case of drug use may move to the triadic level of user-judge-therapist (as seen above). In this situation, the user is caught in a tug-of-war between forces of medicalization and criminalization, each trying to pull the user over the line to one or

the other side. This triadic structure reintroduces the problem of role strain (discussed earlier) across all the key actors of the drug court saga (the patient-defendant, judge, and therapist). Likewise, the specific expertise of the two classes of professionals in the drug court—judge and therapist—must be alive to the differential functions most salient to each of their mandates within the institutional sphere of the criminal justice system. Specifically, from the social control perspective the medical professional seeks to fulfill the function of adaptation whereby the assumption of medical utility informs the view that inebriation and diminished capacities impair the user’s ability to carry out (that is, adapt to) the social obligations of his or her salient social roles (e.g., mother, father, worker, friend, legal subject, etc.). On the other hand, judges are committed first and foremost to the function of goal-attainment, which is the channeling of the physical energy of those persons identified as legal subjects as defined by the court into the criminal justice process, with the goal of determining guilt and providing appropriate punishments—or in the case of the drug court, treatment options—for AOD defendants.

In the cybernetic hierarchy, the function higher in information relative to both goal-attainment and adaptation is integration, and it is here that drughelp.care could help integrate the resources needed at the lower functional levels as reflected in the real-world activities of defendants, judges, and therapists within the triadic structure of the drug court. The next step is taking raw data from the preliminary stages of this study (as described above) and, in consultation with key actors of the drug court, developing workable recommendations and guidelines for the continuing improvement of drug court operations.

This current and remaining work is difficult, insofar as there are decisions that need to be made regarding how best to update the drughelp.com website to make it user-friendly and transparent to administrators and clients of the drug court. A model for how to proceed with this work has been provided by Dhira Crunkilton’s (2009) Journey Mapping online evaluation tool which was designed specifically for drug courts. Importantly, Crunkilton (2009, p. 121) observes that “Learning what happens when an electronic system is introduced into the work environment is essential to understanding the functions and roles of the system.” Most essential is understanding the functional aspects of two competing and potentially conflicting aspects of the drug court, namely, its administrative and therapeutic goals, and how the client or defendant deals with both of them. Insights provided by Parsons’ AGIL schema, as summarized above, promises to bring greater clarity to these operational realities.

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