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Procedural justice and the judge–probationer relationship in a co-occurring disorders court☆☆☆

Q1 Myesa Knox Mahoney*

School of Criminology and Criminal Justice, Griffith University, 176 Messines Ridge Road, Mt Gravatt, QLD 4122, Australia

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ABSTRACT

Although a considerable amount of research has been conducted on treatment-based courts, there is little quantitative evidence that describes the relationship between the judge and the probationer. The present study examines perceptions of the judge–probationer relationship (JPR), procedural justice, and outcome satisfaction within a co-occurring disorders court (CODC) in Orange County, California. Based on interview and survey data from a sample of probationers within the CODC ($n = 24$), this article argues that perceptions of procedural justice are linked to perceptions of relationship quality between the judge and probationer. Analysis of the data found that probationers in the CODC have very positive views of their relationships with the judge, and elements of relationship quality are significantly linked with perceptions of procedural justice. Procedural justice is also a predictor of satisfaction with outcome in this sample. The results show promise that procedural justice and the quality of the judge–probationer relationship can positively affect probationers with co-occurring disorders in specialty courts.

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1. Introduction

Specialty drug treatment courts (DTCs) and mental health courts (MHCs) have shown a lot of promise in reducing drug use and lowering crime/recidivism rates for offenders in court-based treatment programs (e.g. see Carey, Finnigan, Crumpton, & Waller, 2006; Gottfredson, Kearley, Najaka, & Rocha, 2007; McNeil & Binder, 2005; Moore & Hiday, 2006; Wales, Hiday, & Ray, 2010). Although previous literature has suggested that the judge is a “key component” in the operation of drug courts (Marlowe, Festinger, & Lee, 2004), the reasons why this is so have not been fully uncovered.

This study explores the relationship between the judge and the probationer within a drug court specifically designed for offenders with co-morbid substance abuse and mental health disorders and what the relationship means for probationer experiences within this court. Through a single-court case study of a U.S. co-occurring disorders court (CODC), this study uses interview and survey data to analyze the judge–probationer relationship using a procedural justice framework. The results add something new to the field because there are so few treatment courts within the United States with specific dockets for offenders with co-morbid disorders (see Peters, Kremling, Bekman, & Caudy, 2012), and we can likely assume that many of the existing

drug courts see a large number of offenders with co-morbid disorders pass through their doors every week.

2. Review of the literature

The U.S. has witnessed an expansion of court-based treatment programs (i.e. drug courts, mental health courts, etc.) in the last two decades, and over 2200 such courts are operating across the country with more than 200 in the planning stages (Bureau of Justice Assistance Drug Court Clearinghouse Project, 2011). Some well-established drug courts or mental health courts may provide specialized services for participants with co-morbid disorders. However there are very few court programs dedicated specifically to offenders with co-occurring disorders. In a national survey of treatment-based court programs, Peters et al. (2012) found only six freestanding court-based treatment programs for offenders with co-occurring disorders. The present study examines one of these courts, the Orange County Co-occurring Disorders Court.

2.1. Description of the Co-occurring Disorders Court

The Orange County Co-occurring Disorders Court (CODC) is a post-adjudicative probation program in Orange County, California, designed to manage individuals arrested for a drug-related offense who have been diagnosed with co-occurring substance abuse and mental health disorders. The advantages here are 1) that offenders avoid a criminal trial and 2) probation-based treatment can begin immediately. Since the defendants in this court plead guilty to the charges in order to enter the CODC probation program, they must also understand that the participation comes with a suspended sentence to state prison

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* Tel.: +61 7 3735 1102; fax: +61 7 3735 5608.

E-mail address: m.knoxmahoney@griffith.edu.au.

(average 16 months), and if they fail to comply during the program, probation can be revoked and the offender sent to prison.

At the time the present study was undertaken in 2008, the Orange County CODC had evaluated 292 defendants for participation in the program and admitted 112 (admission rate of 38.5%), and 40 had successfully completed probation and “graduated” from the CODC program (Orange County Superior Court Collaborative Courts Unit, 2008). Since its inception in 2002, the CODC had seen only five of the 40 graduates re-arrested¹, which represents a 12.5% recidivism rate. In other words the court has experienced a “success” rate of over 85% with probation graduates. Compared with national recidivism rates between 28% and 40% for drug court graduates (Wilson, Mitchell, & Mackenzie, 2006),² the Orange County CODC is a positive outlier and shows promise for possibly reducing reoffending in these populations.

2.2. Role of the judge in specialty courts

The judge has been considered by some scholars and practitioners to play a very important role within court-based treatment programs. For example, in a descriptive study of the Brooklyn MHC published by Fislser (2005), judicial monitoring is identified as an essential element of managing public safety risks of MHC participants who suffer from serious mental illness. The study argues that judicial supervision helps to build trusting relationships with court participants, which in turn encourages participant commitment to the treatment program and may potentially reduce the likelihood of program attrition and the commission of new offenses (Fislser, 2005, p.601). In the U.K. Mclvor (2009) used courtroom observations and interviews with 143 drug court participants and several drug court sheriffs (i.e. judges) in Scotland to evaluate how drug court sheriffs were involved with offenders. This study found participants generally viewed their interactions with the sheriffs as positive and personal, and over time participants felt more comfortable verbally engaging in communication with the sheriff about their progress and personal situations (Mclvor, 2009). Both sheriffs and participants found the dialogue valuable, which “encouraged increased compliance and supported offenders in their efforts to address their drug use and associated offending” (Mclvor, 2009, p.45).

Finally in a third study, courtroom observations and outcomes³ of MHC participants in the Washoe County, Nevada MHC were analysed against a comparison group of offenders in a recent U.S. study (Frailing, 2010). The study found that personal interactions between the judge and court participants help to create a perception of a therapeutic environment in the court (Frailing, 2010). The study also concluded that through such personal interactions in which praise and encouragement are offered, and where offenders are given the opportunity to engage directly with the decision maker, participants in this court viewed the program as “a therapeutic environment” (Frailing, 2010, p.212). Few studies have been published regarding the judge–probationer relationship; this paper will discuss this type of relationship through a procedural justice framework.

2.3. Procedural justice

There is a large body of existing literature that suggests that if people feel they are treated fairly by authorities with *procedural justice*, they will be more accepting of and satisfied with an authority's decision

and rules, regardless of the outcome. Fair decision making and interpersonal treatment are the two primary elements of procedural justice identified by Tyler (2009). Tyler also states that participants who have the opportunity to present their arguments and take part in the decision making process are usually more accepting of the outcome, whatever the outcome may be (1990, p.163). Research in the area of procedural justice has also found a link between procedural justice and compliance with the law (see Jackson et al., 2012; Tyler, 1990; Tyler, 2009). If demonstrated in this setting, this would be important within the context of a treatment-based court, since it should increase the chances of success. In a study of probationers in the Baltimore City DTC, Gottfredson et al. (2007) found perceptions of procedural justice as a mediating factor in decreasing the variety of drugs used and type of crimes committed by 157 probationers; however these study participants were not diagnosed with co-morbid substance abuse and mental health disorders.

Several studies have specifically focused on persons with mental illness within mandated treatment settings (Cascardi, Poythress, & Hall, 2000; Pruitt, Pierce, McGillicuddy, Welton, & Castrianno, 1993; Watson & Angell, 2007). Perceptions of procedural justice by participants of treatment-based courts are of great interest, since high levels of procedural justice may be linked to greater program compliance and lower rates of recidivism (Gottfredson et al., 2007; Mclvor, 2009), although more research is needed in this area, especially with regard to offenders with co-morbid disorders. However, only two studies to date have examined the perceived importance of procedural justice in a mental health court context.

Wales et al. (2010) used qualitative and quantitative data from the District of Columbia's Mental Health Diversion Court to examine procedural justice and the judge's role in reducing recidivism for court participants with mental illness. This study concluded that the judge engages in “collaborative, respectful, and individualized negotiation” with participants to reinforce positive social norms, and participants reported overwhelmingly positive experiences with the judge (Wales et al., 2010, p.270). Ratings of procedural justice were also found to be high among these participants, even with the “small dose” of judge–participant interaction observed by the researchers (Wales et al., 2010, p.270). However, this study did not discuss recidivism or other outcomes specifically, but hypothesized that the role the judge plays will have independent effects within this program.

Poythress, Petrila, McGaha, and Boothroyd (2002) sampled 121 defendants in the Broward County Mental Health Court and compared their opinions of perceived procedural justice in the court with a sample of 101 defendants from another, non-mental health court in Florida.⁴ The Broward County sample reported higher levels of procedural justice than the traditional court sample on all items of the procedural justice scale used in this study; for example *perception of fairness* and *respectful treatment by the judge* were high in the Broward sample (means of 6.57 and 6.55 on a 7-pt. Likert scale), whereas the comparison group had means for the same items at or below 4.28 and 3.78, respectively (Poythress et al., 2002, p. 527). The study also reported that outcome satisfaction among the study sample was explained best by aspects of procedural justice, in particular if participants felt 1) they had been given voice, 2) were provided fairness, and 3) felt treated respectfully/ as a good person. These findings suggest that the non-adversarial nature of the mental health court may have contributed to the higher ratings of satisfaction and procedural justice among the experimental group.

These findings when taken together suggest that procedural justice may show great promise in producing higher levels of satisfaction and other positive effects for offenders referred to a mental health court.

¹ The time period evaluated here was after the probationer's graduation until 2008. The researcher did not have access to further data on how long each graduate was in the community before re-arrest.

² Although recidivism rates vary greatly by region, state and county due to differing drug court requirements, a recent meta-analysis of 55 drug court evaluations estimates that the recidivism rates for drug court participants falls between 28 and 40% (Wilson et al., 2006). The majority of studies in this meta-analysis had a maximum follow up of 12 months or less (46%).

³ Outcome measures include number of new arrests, days in jail, psychiatric hospitalization (Frailing, 2010).

⁴ The comparison sample was identified as “(a)...charged with a nonviolent misdemeanor, ordinance violation, or criminal traffic offense, and (b) currently has, or previously has had, mental health problems” (Poythress et al., 2002, p. 522). Further the authors matched the experimental and comparison samples on specific demographic variables and “current mental status.”

However whether these beneficial effects extend to offenders suffering with co-morbid disorders still remains unclear.

2.4. Present study

The present study proposes to describe the quality of the judge–probationer relationship and how it relates to procedural justice theory within a therapeutic court setting. This paper examines how perceptions of procedural justice are linked to perceptions of relationship quality between probationers and the judge in those suffering from co-morbid substance abuse and mental health disorders. Specific elements of relationship quality examined in this study include *caring-fairness*, *trust in the judge*, and *toughness* (Skeem, Eno-Louden, Polaschek, & Camp, 2007). This is consistent with Tyler's (1990) procedural justice theory, which posits interpersonal treatment is a critical part of an individual's perception of procedural justice; therefore if participants are satisfied with the process and feel they are treated with respect, fairness and have a voice in what goes on, then it is likely to come across in their perceptions of relationship quality with the authority figure (in this case the judge). This study hypothesizes that probationers will report high levels of procedural justice in this court and high levels of caring-fairness and trust in the judge, along with low perceptions of toughness in the judge–probationer relationship. Further, it is hypothesized that relationship quality and procedural justice will lead to greater outcome satisfaction and future intentions to comply with court rules in the CODC. To date there are no published studies which examine these elements within a sample of probationers with co-occurring disorders. This study also extends the current literature by looking at the impact procedural justice has on trust in the judge and satisfaction with the process and outcome.

3. Methods

3.1. Participants

The data discussed in this paper come from a larger case study of the Orange County Co-Occurring Disorders Court undertaken in 2008. This article focuses specifically on the judge–probationer relationship within this particular court setting. Data for the wider project came from three sources: courtroom observations, questionnaires and interviews with probationers in the CODC; however only the quantitative questionnaire data collected will be discussed in this paper. This court met on a weekly basis, excluding public holidays. A typical session would last 45–90 minutes and might include status hearings for 12–20 probationers. The researcher interviewed one or two probationers per week on average.

3.2. Recruitment

Study participants were recruited at the Superior Court of California in Orange County. At the beginning of court proceedings, the judge announced to probationers in the court that particular day that the researcher would like to recruit participants for a study on experiences in the court and explained that participation was not required, but encouraged them to approach the researcher for further details. The researcher also approached probationers after their cases were heard in the court. General details of the study were explained to potential study participants, and each participant received a study information sheet detailing the risks and benefits of participation, the confidentiality policy and contact information for the researcher. After reading this information to the subject, the researcher administered a "Consent disclosure – test of understanding," a procedure designed to ensure that subjects with mental illness are able to understand voluntary consent procedures and risks/benefits posed to them in the research study. This test of understanding consisted of five multiple choice questions about details discussed in the study information sheet. All subjects

marked at least four of five questions correctly, which was the minimum requirement needed to begin participation in the interview. The recruitment procedures and questionnaires were approved by the UC Irvine Institutional Review Board as well as the Orange County Superior Court.

Interviews were either scheduled on the spot or contact information was provided to the research by probationers for future telephone contact. Participants were recruited over a period of 8 months, and the researcher attended court sessions on at least a monthly basis. The CODC has funding for 50 total probationers at any given time. Of the 50 total program participants, 43 were approached⁵ by the researcher, and 41 agreed to participate and either scheduled set interview times or provided the researcher with contact information. However when contacted, many of the subjects were not able to be reached, declined to participate or missed scheduled appointments for a number of different reasons. Such reasons included serving a jail sanction, work conflicts, childcare issues and termination from the program (usually due to a new arrest or serious probation violation). Of the 43 potential study participants, only 24 (56% of those approached) followed through and completed interviews for this study. Considering that this population of offenders suffers from both serious mental illness and substance abuse disorders, completing 24 interviews was itself difficult. Participants were offered a \$15 payment for participating in the study and were paid in cash immediately after the interview was completed.

3.3. Sample characteristics

Twenty-four semi-structured interviews and face-to-face surveys were conducted with CODC probationers. The sample consisted of fourteen women and ten men with a median age of 33 (see Table 1). The majority of subjects were Caucasian⁶ (83.3%). All subjects were identified by the court and the Orange County Health Care Administration to have co-morbid substance abuse disorders and serious mental illness (SMI). SMIs include Axis I disorders (as defined by the American Psychological Association in the *Diagnostic and Statistical Manual (DSM) IV-TR*) such as major depressive disorder, bipolar disorder, schizophrenia and other psychotic disorders. Sixteen of the subjects reported suffering from bipolar disorder as their primary mental disorder, six reported major depressive disorder, one reported schizophrenia, and one denied that he had a serious mental illness (although he disclosed he was diagnosed with bipolar disorder but did not believe it).

3.4. Survey measures

Participants were asked to complete a survey of *Court Perceptions*, which consisted of 51 questions. This survey examined several areas of interest, including attitudes and experiences within the CODC and with the judge, perceived procedural justice, the quality of the judge–probationer relationship and perceived coercion. This paper specifically examines questions that relate to procedural justice, the judge–probationer relationship, outcome satisfaction, and future compliance intentions.

3.4.1. Perceived procedural justice

A measure similar to the one used by Poythress et al. (2002)⁷ was used to gauge participant perceptions of procedural justice in their court experiences. The four-item scale asks participants to express the degree to which 1) they had an opportunity to tell the judge

⁵ A total of 43 probationers were approached in person by the researcher, and the remaining 7 were likely not in court during the times subjects were recruited. These probationers may also have been in residential treatment, in jail, or otherwise not physically present during the times subjects were recruited.

⁶ According to the latest U.S. Census data, the estimated percentage of residents in Orange County who are Caucasian is 74.9% (United States Census Bureau, 2012).

⁷ The Poythress et al. measure was inspired by a survey of perceived procedural justice used by Cascardi et al. (2000)

Table 1
Self-reported background/demographic characteristics of the CODC sample ($N = 24$).

Characteristics	N	%
Gender		
Male	10	(41.7)
Female	14	(58.3)
Race		
Caucasian	20	(83.3)
Hispanic	3	(12.5)
Other	1	(4.2)
Reported Mental Illness		
Bipolar disorder	16	(67)
Major depressive disorder	6	(25)
Schizophrenia	1	(4)
Other	1	(4)
Age (years)		
Range	19–48	
Median	33	

information about their personal and legal situations (i.e. *voice*), 2) the judge seemed genuinely interested in the defendant as a person (i.e. *benevolence*), 3) the judge treated them with respect (i.e. *respect*), and 4) the judge treated them fairly (i.e. *fairness*). Each of these statements represents the four components of procedural justice (Tyler, 2006). Subjects were asked to mark their responses on a Likert scale ranging from 1 (*very little*) to 7 (*very much*).

3.4.2. The judge–probationer relationship (JPR)

The survey items used to assess the JPR were based on Skeem et al.'s (2007) Dual-Role Relationship Inventory (Revised) (DRI-R). The wording was modified for use in this study. Survey questions assess three factors of relationship quality, *Caring-Fairness*, *Toughness* and *Trust in the Judge* through a series of 30 statements describing the relationship. This measure was included in this study as an innovative way of examining aspects of the judge's use of procedural justice within a specialty court setting. Although *Trust* is inherently related to respect and fairness elements of procedural justice, *Caring-Fairness* and *Toughness* tap other interpersonal aspects, with *Toughness* reflecting elements of the judge–probationer relationship that may be seen as negatively influencing procedural justice. Subjects were asked to report how much they agree with each statement on a scale of 1 to 7 (e.g. 1 = *never*, 4 = *sometimes*, 7 = *always*). The aggregate mean of all survey items (JPR measure total) and means of each of the three subscales were analysed in this study.

3.4.2.1. Caring-Fairness subscale. This subscale included 19 statements that reflected probationers' perceptions of caring and fair behaviors. Statements included within the subscale included phrases such as: *The judge is enthusiastic and optimistic with me*, and *The judge is clear with me about what I have to do*.

3.4.2.2. Toughness subscale. Toughness was assessed using five items which asked participants about the supervisory style of the judge. Statements included in the toughness subscale included phrases such as: *The judge talks down to me*, *The judge makes unreasonable demands of me*, and *I feel that the judge is looking to punish me*. The lower the score on this subset of questions, the less the subjects perceived the judge as overly tough. In order to analyze the scores given by participants for the questions included in the Toughness scale, the means were subsequently reversed in order to be comparable with the other subscales.

3.4.2.3. Trust in the Judge. This three-item subscale included the following statements: *I feel safe enough to be open and honest with the judge*, *The judge is someone I trust*, and *I feel free to discuss the things that worry me with the judge*. A higher score indicates probationers were more trusting of the judge.

3.4.3. Satisfaction with outcome

Outcome satisfaction was assessed using a two-item scale which asked probationers 1) if they were satisfied with how the judge treated them and dealt with their case, and 2) if they were satisfied with decisions made by the judge about their case. Subjects were asked to mark their responses on a Likert scale ranging from 1 (*very little*) to 7 (*very much*). Higher means indicated probationers were more satisfied.

3.4.4. Future intent to comply

Participants' future intentions to comply with program requirements of the CODC program were assessed via two items. First, participants were asked about their intentions to continue mental health treatment once they were discharged or graduated from the CODC program. Answers were coded 0 for *No* and 1 for *Yes*. Second, because the CODC places a great emphasis on sobriety from both alcohol and drugs, participants' intentions to remain sober in the future (i.e. post discharge/graduation from the CODC program) were also assessed using a single question. Responses were coded 0 for *No* or *Not Sure* and 1 for *Yes*. An index variable was then created adding the scores from each question for each participant. Index scores ranged from 0 to 2. A higher score indicates greater intent to comply.

4. Results

4.1. Descriptive statistics

Table 2 displays the means, standard deviations, Cronbach's alpha reliability coefficients, and bivariate correlations among the measures used in this study. The mean of the perceived procedural justice scale was 5.76 ($SD = 0.81$), showing that subjects experienced a high degree of procedural justice in the CODC. This indicates that subjects feel they are treated very fairly by the judge during court encounters and are typically satisfied with such treatment. Outcome satisfaction is extremely high among this sample as well ($M = 6.31$, $SD = 0.94$). The mean of

Table 2
Means, standard deviations, Cronbach alpha reliability coefficients, and bivariate correlations for all measures.

Measure	Mean (SD)	Cronbach alpha	1	2	3	4	5	6	7	8	9	10
1. Procedural Justice	5.76 (0.81)	0.79	1									
2. Satisfaction with Outcome	6.31 (0.94)	0.88	0.68**	1								
3. Judge–probationer relationship	5.88 (0.49)	0.78	0.26	0.41*	1							
4. Caring-Fairness Subscale	6.07 (0.50)	0.88	0.25	0.40	0.94**	1						
5. Trust in the Judge	5.81 (0.64)	0.50	0.44*	0.36	0.66**	0.64**	1					
6. Toughness subscale (reversed) ^a	5.26 (1.04)	0.89	−0.03	0.12	0.67**	0.42*	0.20	1				
7. Refrain from Alcohol/Drugs	0.83 (0.38)	–	−0.07	0.17	0.15	−0.04	0.01	0.37	1			
8. Continue Mental Health Treatment	0.79 (0.42)	–	0.27	−0.03	0.32	0.10	−0.08	0.46*	0.32	1		
9. Age	33.00 (8.50)	–	0.43*	0.53**	0.41*	0.35	0.36	0.28	0.33	0.18	1	
10. Gender (0 = male, 1 = female)	–	–	0.25	0.42*	0.20	0.18	0.18	0.18	0.19	0.08	0.44*	1

Note. Given 20 of the 24 participants were Caucasian, race effects were not able to be examined in this sample.

* $p < .05$. ** $p < .01$.

^a Scores were reversed for the Toughness subscale for means to be comparable to the other subscale measures. The raw mean was 1.74 ($SD = 1.04$).

the Caring-Fairness subscale of the judge–probationer relationship scale was 6.07, which suggests that probationers experience a high level of Caring-Fairness within their relationships with the CODC judge. Trust in the judge was high as well ($M = 5.81$, $SD = 0.64$). The mean of the Toughness subscale was 5.26, indicating that subjects rated their relationship with the judge as relatively low in toughness (the scores were reversed to be comparable to the other subscale values; the original mean of the Toughness scale is 1.76 ($SD = 1.04$)). With regard to future intentions to comply, the majority of respondents reported that they would continue mental health treatment ($N = 20$) and refrain from using alcohol and/or drugs ($N = 19$) once they were out of the CODC program.

Turning now to the bivariate correlations, it can be seen from Table 2 that a number of interesting relationships between the measures emerged. For example, a central question of this study was how procedural justice would be related to the different elements of relationship quality between probationers and the judge in the CODC. As seen in Table 2, procedural justice is positively correlated with trust in the judge. Procedural justice is also strongly related to satisfaction with outcome, which is consistent with procedural justice theory. We also see a positive correlation between procedural justice and continuing mental health treatment; although this correlation is not significant in this sample, the relationship between variables is in the direction we would expect. We can also see that satisfaction with outcome is positively correlated with the entire judge–probationer relationship scale (which included all three subscales), but not with each individual subscale. Gender and age are also significantly related to outcome satisfaction, indicating that older participants and females were more likely to report greater outcome satisfaction in the CODC.

Among the subscales of the judge–probationer relationship scale, several interesting correlations are present. All of the subscales of the JPR scale are related to each other, consistent with Skeem et al.'s (2007) work. Caring-fairness is strongly correlated with trust in the judge, indicating that probationers who report a high degree of caring-fairness in their relationships with the judge are also likely to report a high degree of trust in the judge. We can also see that toughness is negatively correlated with caring-fairness and intent to continue mental health treatment. The latter relationship indicates that probationers' perceived treatment by the judge is important when considering their future intentions to comply with treatment orders.

4.2. Regression analyses

4.2.1. Predictors of outcome satisfaction

It was hypothesized that procedural justice and the quality of the judge–probationer relationship would best predict outcome satisfaction within this court sample. A multiple regression analysis was run with Outcome Satisfaction as a dependent variable. As seen in Table 3, control variables age and gender were entered at Step 1 of the analysis, followed

Table 3

Regression analysis for predictors of outcome satisfaction.

Variable	Step 1			Step 2			Step 3		
	B	SE _B	β	B	SE _B	β	B	SE _B	β
Age	0.05	0.02	0.43*	0.02	0.02	0.17	0.02	0.02	0.17
Gender ^a	0.44	0.37	0.24	0.38	0.32	0.20	0.38	0.32	0.20
Procedural Justice				0.63	0.19	0.54**	0.66	0.22	0.56**
Caring-Fairness							0.55	0.40	0.29
Toughness							0.03	0.16	0.03
Trust in the Judge							−0.26	0.31	−0.18
Constant	4.04	0.73	–	1.31	1.02	–	−0.57	2.10	–
R^2			0.27			0.50			0.47
ΔR^2			0.27			0.23			−0.03
ΔF			5.15*			10.90**			0.65
df			2, 21			1, 20			3, 17

* $p < .05$. ** $p < .01$.

^a Gender is coded 0 = male, 1 = female.

Table 4

Regression analysis for predictors of trust in the judge.

Variable	Step 1			Step 2			Step 3		
	B	SE _B	β	B	SE _B	β	B	SE _B	β
Age	0.02	0.01	0.31	0.01	0.02	0.18	0.00	0.02	0.03
Gender ^a	0.12	0.29	0.09	0.09	0.28	0.07	0.08	0.24	0.06
Procedural Justice				0.27	0.18	0.34	0.21	0.16	0.27
Caring-Fairness							0.74	0.25	0.57**
Toughness							0.03	0.12	0.05
Constant	4.83	0.57	–	3.65	0.93	–	−0.11	1.57	–
R^2			0.05			0.11			0.35
ΔR^2			0.05			0.06			0.29
ΔF			1.61			2.47			4.70*
df			2, 21			1, 20			2, 18

* $p < .05$. ** $p < .01$.

^a Gender is coded 0 = male, 1 = female.

by procedural justice at Step 2. Separate elements of relationship quality (i.e. caring-fairness, toughness and trust in the judge subscales) were then entered at Step 3. As seen in Step 2 of the model, 50% of the variance in outcome satisfaction can be explained by age, gender, and procedural justice. Addition of the three subscales of the judge–probationer relationship measure does not increase the fit of our model, as seen in Step 3 of the analysis. Age is a significant predictor of outcome satisfaction in Step 1; however when procedural justice is added to the model in Step 2, the effect of age disappears, indicating that demographic variables played little role in determining satisfaction with the outcome. Hence procedural justice is the best predictor of outcome satisfaction, and this is consistent with previous studies of procedural justice in treatment-based courts (see Poythress et al., 2002).

4.2.2. Predictors of Trust in the Judge

A second regression analysis was run using Trust in the Judge as a dependent variable. Control variables age and gender were entered at Step 1, followed by procedural justice at Step 2, and caring-fairness and toughness were added at Step 3. Thirty-five per cent of the variation in trust in the judge is accounted for by these five variables, with approximately 30% of the variance explained by procedural justice, caring-fairness and toughness (see Table 4). Perception of caring-fairness in the judge–probationer relationship was the only statistically significant predictor of trust in the judge; however when looking at the β values, procedural justice, although non-significant, was the next strongest predictor. Given the small sample size, this trend in the predicted direction suggests procedural justice may have a positive effect

Table 5

Regression analysis for predictors of future intentions to comply.

Variable	Step 1			Step 2			Step 3		
	B	SE _B	β	B	SE _B	β	B	SE _B	β
Age	0.02	0.02	0.30	0.02	0.02	0.31	0.02	0.02	0.21
Gender ^a	0.05	0.30	0.04	0.05	0.30	0.04	0.00	0.27	0.00
Procedural Justice				–	0.19	–	0.16	0.18	0.20
Caring-Fairness				0.01		0.01	–	0.37	−0.22
Toughness							0.29		
Trust in the Judge							–	0.14	–
Constant	0.80	0.58	–	0.82	1.01	–	0.37	0.59*	
R^2			0.02			0.03	–	0.26	−0.19
ΔR^2			0.02			0.05			
ΔF			1.18			0.00			2.72 ⁺
df			2, 21			1, 20			3, 17

* $p < .10$. ** $p < .05$.

^a Gender is coded 0 = male, 1 = female.

for building trust in this group. These findings lend support to the hypothesis that the way probationers with co-occurring disorders are treated in a specialty court is important and can influence trust.

4.2.3. Predictors of future intentions to comply

A central question of this study was whether procedural justice and relationship quality have an effect on probationers' stated intentions to comply (i.e. continuing mental health treatment and refraining from alcohol and drug use) within this co-occurring disorders court. A regression analysis was performed on the full sample using the compliance index variable as a dependent variable. The demographic predictor variables age and gender were entered at Step 1, followed by procedural justice at Step 2. The three relationship quality subscales were then entered at Step 3 of the analysis. As seen from the results displayed in Table 5, the demographic variables accounted for little variance in the model (2%). At Step 2 however, we can see that Toughness was the only statistically significant predictor, accounting for 17% of the variance in probationers' reported intentions to comply. This would indicate that the more "toughness" probationers perceive in their relationship with the judge, the less likely they are to continue mental health treatment and/or maintain sobriety. Procedural justice was not a significant predictor in this model.

5. Discussion

5.1. Procedural justice and the judge–probationer relationship

The intent of this study was to examine the quality of the judge–probationer relationship and procedural justice among dually diagnosed probationers in a co-occurring disorders court. The CODC judge wields both the coercive and authoritative power of the law to enforce treatment in mental health and substance abuse programming. However, it is not necessarily the coercive/authoritative power the judge has that makes this treatment based court "work" in the minds of probationers.

With regard to the quality of the judge–probationer relationship, probationers' scores reflect that the majority hold very positive views of their relationship with the judge. The mean scores of the Caring–Fairness and Trust in the Judge subscales were very high, which indicates probationers view the judge as an authority figure who also exhibits caring behaviors, respect for the probationers, and fair treatment within the program setting. This lends support to the initial hypothesis that we would find probationers viewed their relationships with the judge positively. Caring–Fairness was also a significant predictor of Trust in the Judge. These results demonstrate that elements of *care* and *control* are interrelated and affect each other within the judge–probationer relationship in the CODC, which is concordant with Skeem et al.'s (2007) findings.

The concept of *Toughness* as described by Skeem et al. (2007) became increasingly of interest in this study. The Toughness scale is described as a representation of negative elements present within the dual-role relationship, such as "an indifference to probationers' views and feelings, expectation of compliance, and punitiveness when expectations are not met"; the scale is also associated with negative aspects of dual-role relationships, such as "probationer mistrust, treatment amotivation, and future rule noncompliance" (Skeem et al., 2007, p. 407). In the present study, since probationers' perceptions of Caring–Fairness were negatively correlated with Toughness, it may be inferred that the more probationers feel they are cared for and treated fairly by the judge, the less likely they are to perceive "toughness" within that relationship. One of the more interesting findings is that Toughness is a significant predictor of self-reported future intent to comply for this sample of probationers. This result shows promise that a less punitive approach, more focused on individual needs and outcomes, might well have positive effects for probationers with co-morbid disorders. Since the sample size used in this study is small, the regression analyses

reported lack some predictive power; however this preliminary analysis of the data shows promise for future application of procedural justice within this context.

The findings of this study are not surprising when examined through the lens of procedural justice. Probationers who are satisfied with the treatment received in the program, feel as if they have a voice, and are treated with respect also report high quality relationship with the judge. This is consistent with the major hypothesis of this study. Because interpersonal treatment and fair decision making are both critical parts of procedural justice, this is also consistent with procedural justice theory.

Findings of the present study showed that procedural justice was important for predicting self-reported satisfaction with the outcome. The results also showed a strong bivariate correlation between procedural justice and trust (see Table 2) and a trend in the right direction with compliance. Overall, probationers in the Orange County Co-occurring Disorders Court express high levels of perceived procedural justice, which means they feel that the court procedures are fairly applied, that they have a voice in the courtroom, and that the judge is genuinely interested in them as individuals. These results are consistent with past research studies on perceived procedural justice in specialty mental health courts (Poynthress et al., 2002; Wales et al., 2010), but it is interesting to see the effects are present within a court focused on probationers with co-occurring disorders. Furthermore, procedural justice is a significant predictor of outcome satisfaction within this sample. This has important implications for both this court and future treatment-based courts involved with dually diagnosed offenders. Although the subject sample is small, the findings are significant. Although procedural justice was not found to predict trust, the results in Table 2 suggest that it and caring–fairness are positively related to trust (which is an aspect of procedural justice).

5.2. Implications of the findings

As shown by Skeem et al.'s (2007) study of probation officers and probationers, the *quality of the relationship* between the two is potentially important in predicting probation compliance, not the severity with which probationers are sanctioned; therefore if program compliance and completion are goals of the probation program, it would make sense to invest time and effort into strengthening this relationship from a practical standpoint.

From the results presented in this study, we may infer that the judge–probationer relationship is important to probationers in a COD court and should be considered by those who run or endeavour to set up a COD court. For offenders with co-morbid disorders, it is important to establish a relationship with the authority figure in such a program and to emphasize trust within this relationship. If a larger sample of probationers with co-occurring disorders is analyzed, we may find that probationers are likely to find the program more fair and respectful as well, which may potentially lead to greater compliance and possibly lower recidivism after participation has ended; in other words, if this relationship is established early and fostered over the length of an offender's participation in the program, we are more likely to see better outcomes for the dually diagnosed probationer. Therefore one can surmise that court personnel and treatment providers within non-adversarial courts may want to invest time and attention to building relationships that go beyond the traditional "punisher and punished" mentality.

Second, we can infer that having a voice in the process is also very important to offenders with co-occurring disorders who may feel doubly coerced into treatment because of their dual diagnoses. When offenders have a voice in the process of deciding what legal recourse may be taken and/or what treatment options are in their best interest, then they are more likely to accept the process and the outcomes of such a situation.

5.3. Limitations

This study has a number of limitations. The data were collected using a single court case study approach, and there was no comparison group against which the data can be evaluated. Because there are so few co-occurring disorders treatment courts in the U.S., it was not feasible to collect data at multiple sites for this study. Further, the sample size was relatively small ($N = 24$); however this represents approximately half of the subjects associated with the court in 2007–2008. Because the sample size was so small, this may explain the lack of significance in the regression analyses, as there may not be enough statistical power due to such small numbers. The mental health issues from which the participants suffered may have made contact and follow through problematic for some potential participants, as many were experiencing psychiatric symptoms and side-effects of psychiatric medication that may have impaired their willingness to engage with the researcher. Although it is impossible to know the definite reasons why potential subjects failed to set a time for interviews or declined to participate after initially agreeing to do so, one may speculate as to if the non-participating group differed significantly from those who followed through with participation in the study. My presumptions are that subjects who suffer from co-morbid disorders may have a more difficult time keeping appointments and schedules clear. The researcher is aware that those who experienced serious affectation issues or other uncomfortable side effects from their medication(s) were the ones who initially declined to participate, and perhaps subjects who initially agreed and then declined may have suffered from similar issues.

A further limitation is that only current probationers in the court were eligible for inclusion in the sample; no one who had graduated (i.e. successfully completed probation) or who had been terminated from the program was interviewed. The inclusion of these subjects may have yielded different results for this study. In addition the results presented are limited in scope, as there is no data included on recidivism or re-arrest rates of probationers in the CODC.

The next step in analyzing the data collected in this study is to examine the qualitative interview data and further explore the role of the judge and the importance of the judge–probationer relationship within this specialty court. Building upon this research, replicating the study with a larger sample size of participants in different COD courts would be logical. Analyzing more detailed information on outcomes (i.e. recidivism, continued sobriety, etc.) from probationers with co-occurring disorders who participated in COD courts, as well as general drug and/or mental health courts, is also a goal of future research. Finally comparing data on procedural justice, the judge–probationer relationship and recidivism between probationers with co-occurring disorders and probationers with substance abuse disorders only would also provide us with useful information on how the addition of mental illness to a substance abuse disorder might affect a person's perceptions and progress in a specialty court program.

5.4. Conclusion

Despite these limitations, this study has been the first attempt in the literature to examine the role of procedural justice and the judge–probationer relationship in the context of a co-occurring disorders court. The findings show promise that procedural justice and the quality of the judge–probationer relationship may positively affect probationers' perceptions and their experiences within these specialty courts. As the numbers of treatment-based courts in the United States and other countries continue to grow, evidence-based research will play an important role in shaping how these courts are run. Although past research on procedural justice has shown encouraging results within mental health courts (McIvor, 2009; Poythress et al., 2002; Wales et al., 2010), more research on offenders with co-morbid disorders should be undertaken to further expand the evidence base.

6. Uncited references

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