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# Relationship-Based Justice for Gender Responsive Specialty Courts

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*Family drug courts (FDCs) have existed in the U.S. since 1994. Since that time, dozens of studies have found evidence that FDCs improve child welfare outcomes compared to traditional dependency courts. The level of sophistication of this research has stalled, however, arguably because the theoretical foundations of the approach are underdeveloped. The social psychological theory of procedural justice can predict and explain outcomes in treatment courts better than therapeutic jurisprudence. However, in light of evidence suggesting that gender impacts treatment court outcomes, procedural justice alone falls short as the mechanism of change in family drug courts, because women constitute the majority of FDC participants. To reconcile the empirical with the conceptual, concepts from Lind and Tyler's relational model of procedural justice are examined through the lens of the feminist relational cultural theory. Suggestions for continuing social work research into family drug courts are offered.*

*Key words: relational justice, family drug court, feminist relational cultural theory, social psychology, procedural justice*

Family drug courts (FDC) are intensive, treatment-oriented, specialty child welfare courts designed to meet the needs of, and improve outcomes for, substance abuse-affected families. Since 1994, when the first FDC was put into service, the approach has increased in popularity, and now over 300 of these non-adversarial, team-led courts exist across the United States. Outcomes of nearly twenty studies suggest that involvement of FDCs decreases foster care utilization and increases timely permanent placements, including more frequent reunifications as a permanency outcome, compared to their traditional counterpart (see Lloyd, 2015). However, the level of

sophistication of FDC research has been, and remains, relatively limited. The majority of studies use cross-sectional, descriptive, or quasi-experimental designs comparing participation in an FDC to treatment-as-usual on child welfare indicators. Even the more rigorous studies, while supporting FDC effectiveness in general, have struggled to home in on the mechanisms that lead to the observed benefits.

The FDC research published to date suffers from a lack of theoretical formulations and support. Most authors writing about FDCs invoke therapeutic jurisprudence for their conceptual guidance (Choi, 2012; Hora, 2002; Hora, Schma, & Rosenthal, 1998; Pach, 2009). However, therapeutic jurisprudence does not explain how a court intervention produces actual therapeutic outcomes and generally directs inquiring scholars back to the social sciences literature for answers (Wexler & Winick, 1991). Thus, focused on therapeutic jurisprudence, the once inspired researcher may stall when contemplating ways to study and understand the inner workings of family drug courts.

In response to the limits of therapeutic jurisprudence generally, an embryonic body of literature on treatment courts incorporates the social psychological theory of procedural justice, specifically Lind and Tyler's relational model (Ashford & Holschuh, 2006; McIvor, 2009) to identify the therapeutic mechanisms of change. Generally, procedural justice can be understood as fairness of a process, as opposed to distributive justice, which addresses fairness of an outcome. Procedural justice is a subjective experience, and perceptions of the different relational and situational attributes of the experience of procedural justice are found in the literature (Lind & Tyler, 1988; Thibaut & Walker, 1975; Tyler, 1988), along with accounts of how the experience of procedural justice relates to behavior, particularly socially desirable behaviors such as motivation and compliance (Lind & Tyler, 1988).

Lind and Tyler's relational model suggests that if an authority figure interacts with an individual in a way that enhances perceived fairness, the individual will exhibit greater motivation to comply with the terms of the authority figure's orders (Lind & Tyler, 1988; Tyler & Lind, 1992). In a treatment court setting, compliance with these orders results in having

access to more treatment opportunities, and consequently, to better outcomes (Ashford, 2006; Ashford & Holschuh, 2006). However, the ability of procedural justice to explain why such procedural elements would influence outcomes in a FDC requires exploration. Further, procedural justice is inadequate for fully explaining the outcomes of FDCs, because it does not account for the experience of women who constitute the majority of FDC participants.

This paper begins by situating family drug courts within their larger theoretical frames. A review of the FDC literature follows and serves to link FDCs and procedural justice in part by referencing early scholarship regarding the utility of procedural justice as a tool for evaluating problem-solving courts (and therefore, FDCs as well). Then, after arguing that procedural justice is necessary but insufficient for family drug courts, relational cultural theory (RCT) will be proposed as a way to further illuminate the therapeutic change mechanisms within FDCs. Four key concepts from procedural justice are explored from a RCT perspective. This union of justice and relationship theories aids in examining FDC process and ultimately in explaining FDC outcomes. Implications for future research are discussed.

## Family Drug Courts

The first family drug court (FDC) was started in response to the influx of parents with substance abuse issues entering the child welfare system and the challenges that judges and caseworkers faced in reunifying these families (McGee, 1997). Parental substance abuse continues to be a primary factor in cases characterized by foster care utilization, unstable placements, delayed reunification, and recurring child protective services intervention. Three related influences are central to understanding FDCs: therapeutic jurisprudence; problem-solving courts; and the emergence of the FDC approach.

### *Therapeutic Jurisprudence*

Therapeutic jurisprudence is a legal perspective that was first developed in the late 1980s after the rise and plateau of the mental health patients' rights movement a decade earlier

(Wexler & Winick, 1991). The patients' rights movement started because psychiatrists were previously afforded extensive power in the court system, power not always used to the advantage of their patients. Judges often deferred to psychiatrists and psychologists, uncritically, for decisions on the treatment (or punishment) of people with mental illness. The rights movement sought to shift control from these professionals back to the neutrality of law and therefore to the individuals who could defend themselves in court. Although this shift spared people with mental illness from indefinite civil commitment or other constraints not imposed on the general population, it also barred judges from administering the law in a way that might therapeutically benefit defendants. In the wake of all this emerged therapeutic jurisprudence (TJ), which identified a middle ground by acknowledging that the courts and the adjudicatory process can yield a therapeutic impact on its participants. Therapeutic jurisprudence was not advanced as a theory, but as a framework for analyzing the consequences of law.

Central tenets of therapeutic jurisprudence include its regard for the law as a "social force that produces behaviors and consequences" (Hora, 2002, p. 1471). It asserts that the courts, guided by a set of rules and procedures, are not just neutral forums for weighing issues of law, but that they also have the capacity to therapeutically affect involved parties. Indeed, "the task of therapeutic jurisprudence is to identify and ultimately examine empirical relationships between legal arrangements and therapeutic outcomes" (Wexler & Winick, 1991, p. 8). Although TJ indirectly implies that civil or criminal procedure and judicial attention to behavioral health are important, the framework does not articulate what exactly is needed to achieve therapeutic outcomes. Early essays on TJ suggest that it asserts no preference for therapeutic outcomes, but later commentaries argue that therapeutic outcomes should be strived for, but only if in accordance with traditional legal values, including individual rights (Hora et al., 1998; Wexler, 2008; Winick, 2013).

### *Problem-Solving Courts*

Problem-solving courts are viewed as practical examples of therapeutic jurisprudence because their orientation is

treatment-focused (Winick, 2013). The first problem-solving court, a criminal drug court, was created in Dade County, Florida in 1989, and sought to rehabilitate offenders through mandated drug treatment, rather than incarceration. As of December 31, 2013, 2,907 drug courts and 1,133 other problem-solving courts were operating in the United States and its territories (National Drug Court Resource Center, 2014a, 2014b).

Problem-solving court (PSC) is a term used to characterize drug courts, mental health courts, domestic violence courts, veteran's courts, juvenile drug courts, DWI courts, truancy courts, and other special problem areas. These different types of PSCs share in common the understanding that the accused has come into contact with the legal system as a result of an underlying issue that must be addressed if permanent exit from the criminal or juvenile justice system is to be achieved. Although there is no strict definition of a problem-solving court, Weiner and Georges (2013) identified the two primary ways that traditional courts and problem-solving courts differ: the role of the judge; and the assumptions about human decision-making. The judge in a traditional court is an "arbitrator": objective, neutral, and fairly uninvolved and uncommunicative. The PSC judge is a "facilitator" who "serves as a case manager or team leader forming partnerships ... in order to understand and find solutions for the underlying social and psychological problems that contributed to the offender's conflict with the law" (Weiner & Georges, 2013, p. 12). In these court settings, the judge is actively involved in problem-solving, because the courtroom professionals agree that the charges or allegations stem from a solvable problem. This distinction is meaningful because it represents an alternative approach to understanding the nature of criminal behavior.

Similarly, the orientation in problem-solving courts presumes that motivations of defendants to follow or disobey the law are misunderstood in the traditional context. General courts are grounded in a rational utility maximizer model of decision making, which "assumes that people weigh the costs and benefits of following, or not following the law and based upon the outcome of that calculus deliberately choose a course of action" (Weiner & Georges, 2013, pp. 4-5). The consequences for unlawful actions, in accordance with the rational utility

maximizer model, are punitive. Problem-solving courts, on the other hand, having observed the revolving door phenomenon of the criminal justice system, rely on an alternative theory of criminal behavior and an alternative approach to addressing it. This alternative approach is a psychological understanding of decision making that does not assume that people are rational calculators. The implications of this perspective are that the judge, attorneys and other court room personnel handle noncompliance and punishment differently. For example, in a drug court setting, relapse into substance use is seen as a part of the defendant's nonlinear recovery process and is therefore treated therapeutically, rather than as a violation or act of defiance that must be punished.

### *FDC Model*

Family drug courts are a variation of the problem-solving court, and serve to adjudicate dependency cases for families where substance dependence is the primary reason for child abuse or neglect allegations. As a PSC, the FDC judge assumes a facilitator role, a role much different from that assumed by the judge in a common court who presides over child welfare hearings. Drug courts use a team approach; lawyers, treatment professionals and child welfare workers view and address cases in a non-adversarial manner with the judge at the helm. FDCs also understand that defendant parents are not operating according to a strict rational utility maximizer model of decision making; these courts assume that individuals with substance dependence can benefit from a therapeutically-oriented courtroom and emphasize timely entry into substance abuse treatment (Center for Substance Abuse Treatment, 2004).

Although there is no national governing body that oversees or accredits family drug courts and no two FDCs are identical, a common framework exists for all FDCs that is based on the National Association of Drug Court Professionals' (1997) "10 Key Components of Drug Courts." This framework reflects the commitment and participation of community stakeholders, reliance on interdisciplinary teams in the courtroom, compliance with policy/time constraints, the dynamic use of incentives and sanctions to encourage participant progression through the drug court program, the need for specialized training

on the course and nature of substance abuse, extensive case management, individualized service plans, significant linkages to comprehensive community services, and carefully monitored oversight related to parents' participation in FDC activities (Pach, 2009). FDCs also seek to balance the rights and needs of parents and children (Young, Breitenbucher, & Pfeifer, 2013).

## Literature Review

Researchers comparing child welfare outcomes for substance-affected families in traditional courts versus FDCs observed that children whose families are involved in FDCs spend hundreds of fewer days in foster care (Boles, Young, Moore, & DiPirro-Beard, 2007; Bruns, Pullmann, Weathers, Wirschem, & Murphy, 2012) and are 11 percent (Chuang, Moore, Barrett, & Young, 2012) to 40 percent (Gifford, Eldred, Vernery, & Sloan, 2014) more likely to achieve reunification. Given that parental substance abuse is a risk factor for poorer child welfare experiences and outcomes within the general child welfare population (Barth, Gibbons, & Guo, 2006; Brook, McDonald, Gregoire, Press, & Hindman, 2010; Green, Rockhill, & Furrer, 2007), and that across the system reunification is achieved in only half of all foster care cases (Children's Bureau, 2012), these findings are quite meaningful.

Little is known about how and why family drug courts produce these beneficial outcomes. Previous research into this unanswered question hypothesized that FDC participants have better substance abuse treatment experiences than parents whose cases are adjudicated in traditional dependency courts (Green et al., 2007; Worcel, Green, Furrer, Burrus, & Finigan, 2007). The results of those studies made two important findings: (1) FDC parents entered treatment faster, stayed in treatment longer, and completed treatment more frequently than comparison parents not in FDCs; and (2) even after controlling for these treatment characteristics, FDC parents were more likely to reunify with their children than comparison parents. This suggests that substance abuse treatment is not the sole driver of the improved child welfare outcomes observed in FDCs. Thus, other proposals regarding the causal factors in



FDCs are needed.

However, therapeutic jurisprudence is the preferred theoretical framework for family drug courts, and the capacity for determining the key constructs that lead to the value-added outcomes previously identified is limited. Consequently, some scholars have veered down an alternate theoretical path for understanding these courts—the social psychological theory of procedural justice.

### Procedural Justice

Keeping in mind the central concept of procedural justice (PJ)—that of fairness of process—several theoretical paradigms have been applied to PJ that help explain its value in particular applications. Thibaut and Walker (1975) were the first to use the term *procedural justice* to describe the social-psychological effects of procedural processes, particularly as it relates to conflict resolution procedures and legal proceedings. Their procedural justice theory rests on the premise that people want to maximize their personal gains. In many situations, however, individuals lack control over the outcome and, therefore, over whether they gain or lose. In a legal proceeding, the judge or arbitrator controls the outcome. Thibaut and Walker assert that individuals' self-interest goals will be satisfied even when they lack outcome control if they perceive control over the process; that is, the desire to control the process will trump the desire to control the outcome. Perceived process control is achieved when the judge or arbitrator conducts the proceeding in a manner perceived to be fair (Lind & Tyler, 1988; Thibaut & Walker, 1975). The extent to which people judge a legal proceeding as fair impacts whether they will comply with any resultant judicial orders. Additionally, Thibaut and Walker (1975) found that even when an individual loses a dispute, he or she will experience greater satisfaction with the proceeding if it was conducted in a manner perceived to be fair.

Lind and Tyler (1988), building on the work of Thibaut and Walker (1975), proposed a *group-value model* of procedural justice that suggests the observed effects of procedural justice are due to the innate need for affiliation or group identification, rather than self-interest. Their work ultimately yielded a *relational group-value model* (Tyler & Lind, 1992), which pro-

poses that the influence and attitude of an authority figure, perceptions of the individual, and the experience of fairness impact the outcome of increased motivation to comply with the authority figure's wishes or orders.

Tyler and Lind (1992) identified key factors which influence judgments of fairness: standing, neutrality and trust. *Standing* is defined as "status recognition," which is "communicated to people by the interpersonal quality of their treatment by those in a position of authority" (Tyler & Lind, 1992, p. 141), and this includes dignity and respect. *Neutrality* has to do with honesty and a lack of bias, and use of "facts, not opinions, in an effort to produce decisions of objectively high quality" (p. 141). *Trustworthiness* is defined as "whether the person believes that the authority can be trusted to behave fairly," which "involves beliefs about the intentions of the authority" (p. 142). Another key concept in procedural justice is *voice*, which is also called non-instrumental process control. It is the "opportunity to express one's views and opinions, even when the expression of views is clearly not instrumental to obtaining favorable outcomes" (p. 146). Thus, Thibaut and Walker theorize that fair legal processes lead to participant motivation to comply with judicial orders, and Lind and Tyler's work adds to this the idea that the preference for fair process is driven by an innate desire for a positive relationship between the judge and individual. Accordingly, effective jurisprudence requires the judge or authority figure to act in a manner that communicates the key relational procedural justice concepts.

### *Procedural Justice in Problem-Solving Courts*

The link between procedural justice concepts and problem-solving courts has been made by a small but growing group of scholars (Ashford, 2006; Ashford & Holschuh, 2006; Mahoney, 2014; McIvor, 2009; Rossman, Roman, Zweig, Rempel, & Lindquist, 2011). Gottfredson, Kearley, Najaka, and Rocha (2007) identified Lind & Tyler's group value model of procedural justice and life course theory as the two key theories underlying the adult drug court model. Mahoney's (2014) recent study explored perceptions of the judge-probationer relationship, procedural justice and outcome satisfaction in a co-occurring disorders' court. Findings suggest that perceptions of relationship quality are significantly linked with perceptions

of procedural justice.

Ashford and Holschuh's (2006) manuscript published in this journal explored procedural justice from a social work perspective and argued that future social work research into problem-solving courts should look to PJ theory for guidance. Because the profession values the importance of human relationships (NASW, 2009), Ashford and Holschuh specifically highlighted Lind and Tyler's relational model as appropriate for PSCs, and they argued for research into how the procedural aspects of relationships between judges and defendants connect to case outcomes. Certain qualitative research on family drug courts suggests that the participants' relationships with the judge and court team are indispensable (Burrus, Worcel, & Aborn, 2008; Dobbin, Gataowski, Litchfield, & Padilla, 2006; Somervell, Saylor, & Mao, 2005; Worcel et al., 2007). These findings are an initial indication of the importance of procedural justice in FDCs.

Two quantitative studies on the outcomes of an Arizona family drug court provide additional support for Lind and Tyler's relational model of procedural justice in FDCs. In 2004, the first peer-reviewed FDC evaluation reported that FDC participants were less likely to have their parental rights terminated, were more likely to achieve reunification, and that their children spent fewer days in foster care (Ashford, 2004). Two years later, grounded in Lind and Tyler's theory, a pilot study in the same court examined parental attitudes of the child dependency hearing process. Having previously reported that outcomes were superior in the FDC, the purpose of the follow up study was to examine whether tenets of the relational model of procedural justice may underlie the observed effects on child welfare outcomes. Participants in both the FDC and the traditional child welfare court were polled regarding the presence of Lind and Tyler's procedural justice concepts in their relationship with either the FDC judge or their caseworker. Results indicated that participants perceived the FDC judge as more fair and trustworthy than CPS caseworkers (Ashford, 2006), suggesting that Lind and Tyler's procedural justice influenced the outcomes observed in the FDC.

### *The Gender Factor*

Although at face value these findings suggest that

Lind and Tyler's relational model of procedural justice is sufficient for understanding family drug courts, certain theoretical issues remain unsolved. In criminal drug courts, which also exemplify this model of procedural justice (Rossman et al., 2011), participant gender has been found to influence outcomes. One key study examining the effect of gender on drug court outcomes found that, among women, drug court involvement significantly reduced recidivism when compared to traditional probation (Shaffer, Hartman, & Listwan, 2009). Other studies also found that female drug court participants have better outcomes than male participants (Latessa, Shaffer, & Lowenkamp, 2002; O'Connell, Nestlerode, & Miller, 1999; Spohn, Piper, Martin, & Frenzel, 2001; Wolfe, Guydish, & Termondt, 2002). Taken together, these findings suggests that the relational elements of procedural justice impact women more profoundly than men—a finding not explained by any procedural justice theory alone. Lind and Tyler's procedural justice relies on social identity theory to explain the motivational powers of relationship—that humans simply need to feel valued by others (Ashford & Holschuh, 2006). It does not account for gender differences. The fact that family drug court participants are close to 70 percent women (Boles et al., 2007) is therefore significant and calls for further inquiry. In order to understand procedural justice in the context of FDCs (and in turn, advance FDC research and scholarship), an additional theoretical framework that incorporates the unique experience of women is needed.

### Relational Cultural Theory

Miller's (1976) *Toward a New Psychology of Women* is considered the genesis of the ever-evolving relational cultural theory (RCT). The book was a landmark work in feminism that sought to reform psychodynamic theory to be more relevant for women. Its central thesis is that men and women undergo psychological development in different ways. While male development involves differentiation and culminates in independence, female development occurs through relational connection. For women, relationship functions as a means for self-discovery, growth, and change. Rather than viewing women's interconnectedness and dependence as weaknesses,

which was and arguably still is the hegemonic perspective, Miller (1976) called for female characteristics to be re-conceptualized as the strengths which they are. From this theory, even the notion of self can be viewed as a male concept when it is understood that the goal of self-development is to separate/individuate. From a RCT perspective, the female self is always in relation to others.

The relationally-oriented psychodynamic approach offered by Miller launched a new era of feminist scholarship that continues to the present day at the Jean Baker Miller Training Institute (JBMTI) at Wellesley College Centers for Women. Since it was originally articulated, additional theory-specific ideas have been explored and defined. The relevant concepts, "relationship," "connection," "power-with," "strategy of disconnection," "mutuality," and "caring about," are conceptualized as follows:

*Relationship:* "A set of interactions that occur over a length of time ... it may be composed of connections and disconnections, usually a mixture of both" (Miller, 1982, p. 26). As noted, relationship is the vehicle for women's growth and development.

*Connection:* "An interaction between two or more people that is mutually empathic and mutually empowering" (Miller & Stiver, 1997, p. 26). Connection is understood as an innate human motivation.

*Power-with (versus power-over):* "a power that grows as it is used to empower others" (Miller, 1982, p. 16). Power-over involves power differentiation, control, and disconnection.

*Strategy of disconnection:* "Ways for staying out of connection because the only relationships that had been available were in fundamental ways disconnecting and violating ... there was a good reason to develop these strategies" (Miller & Stiver, 1994, p. 3).

*Mutuality:* "...affecting the other and being affected by the other; one extends oneself out to the other and is also receptive to the impact of the other. There is openness to influence, emotional availability, and

a constantly changing pattern of responding to and affecting the other's state. There is both receptivity and active initiative toward the other" (Jordan, 1986, p. 82).

*Caring about (versus caretaking)*: Caretaking maintains the imbalance and distance between therapist and client, whereas caring about is an emotional investment in the client's well-being. Women want "to be listened to and understood in a way which precludes the kind of distancing which exists in the more traditional models of therapy" (Stiver, 1985, p. 10).

### *Relationship-based Justice in FDCs*

While relational cultural theory aids in interpreting the research finding that women respond to procedural justice differently from men, using RCT to explain all phenomena in FDCs is inappropriate, because RCT was developed to critique therapy practices and developmental theory. Although it has been extended to practice with non-voluntary clients (Kates, 2010), it is not fully applicable to a court setting where the "therapist" is a judge or FDC team. This is because the power in the relationship developed between the participant and judge is extremely imbalanced, and ultimately the judge must perform her or his role as a decider of law. That said, RCT can help to explain why concepts from Lind and Tyler's procedural justice are effective in a FDC.

Table 1 presents four key Lind and Tyler procedural justice concepts and the relational cultural theory interpretation. These concepts were selected for analysis because of their central position in Lind and Tyler's group-value model. The following will briefly elaborate on this relationship-based justice framework.

The concept of voice connotes the opportunity or ability for a FDC participant to express her views or opinions to the court team. In a family drug court, participants are called into the courtroom on a weekly basis during the first phase of the program, which typically lasts three to four months. At each hearing, the mother has an opportunity to communicate directly to the judge and the court team, facing and engaging them, rather than relying on her lawyer to do so or by being on the stand facing the courtroom audience. This allows participants

"to have a voice in their treatment progress instead of being a passive observer in a court while their lives were discussed by everyone else in the room" (McMillin, 2007, p. 108). According to Lind and Tyler's theory, voice relates to perceived fairness and procedural satisfaction. That is, people who feel that they have had their day in court also perceive that the process was fair and are therefore more likely to be satisfied and compliant.

Table 1: Relationship-based Justice Concepts

| PJ Concept      | How concept enhances relationship using a RCT lens   |
|-----------------|--|
| Voice           | Connection occurs when woman feels heard. Judge is impacted by experience. Also an opportunity for caring about, rather than caretaking.   |
| Standing        | Example of power-with, and therefore enables connection; enhances feeling respected.   |
| Trustworthiness | Perception that the judge is trying to be fair (and the act of the judge trying to be fair and convey that fairness) enhances feeling power-with, rather than power-over.  |
| Neutrality      | Honesty from authority to mother is an example of mutuality (because dishonesty is a strategy of disconnection). Lack of bias does not mean lack of emotional availability, necessarily. It means equal amounts of emotional availability to all participants. |

From a relational cultural theory perspective, however, how the experience of voice facilitates connection and relationship can be evaluated. Specifically, connection occurs when the woman feels heard. The phenomenon of mutuality emerges because the judge and team are impacted by listening to the mother, and each develops his/her own connection with the mother, as well. Additionally, creating a space where the mother can be heard is an example of caring about, as opposed to caretaking, because it minimizes psychological distance between the mother and judge/team. By hearing her out, the judge and team emotionally invest in the mother (whether

they intend to or not), and mutuality can flourish.

Recall Lind and Tyler's concept of "standing," which refers to status recognition: the authority figure treats people in a way that communicates respect and elevated status. In addition to respect, standing involves dignity and esteem. In a family drug court, mothers experience a different level of treatment from the judge than defendants do in a typical courtroom, evidenced by this quote from a FDC participant:

She (the judge) is respectful to the fact that we've had a drug problem and she doesn't judge us for it ... She makes sure that if you need anything, and I ask for it, I get put in the right direction in getting what I need ... She's rooting for us to be successful. (Worcel et al., 2007, p. 61)

Participants are treated with dignity and esteem by the judge and court team. Lind and Tyler's procedural justice theory invokes standing as enabling perceived fairness, because people are concerned with how they are viewed by the authority figure. Incorporating RCT concepts reveals that standing impacts relationship-building and is a source of connection. Standing is an example of power-with, as opposed to power-over. Power-with is the RCT concept of shared power that is mutually empowering. In a court setting, true "power-with" is never possible because of the inherent power differentials. But, when compared to a traditional child welfare court, where the concept of standing is not embraced, FDCs do move the pendulum toward power-with.

Trustworthiness, as Lind and Tyler's procedural justice concept, has to do with the ability of someone to believe that the authority figure has good intentions, or can be trusted to act in a way that is perceived as fair. Ashford's (2006) small study comparing procedural justice perceptions between 21 FDC and 19 traditional child welfare parents (78% were women) found that the FDC judge was perceived to be more trustworthy than the CPS caseworkers. Trustworthiness effectuates perceived fairness by implying to the defendant parent information about her relationship with the judge, and ultimately information about affiliation and group membership. RCT would suggest that the mother's perception that the judge



can be trusted and is trying to be fair also enhances feeling power-with, rather than power-over. In a situation of shared power, each person experiences trust and fairness as features of a connected relationship. Although the judge cannot truly share power with the participant, when the mother feels that the judge is trustworthy, a deeper connection can be made. Moreover, the judge will experience connection in the act of being trustworthy. Again, as the judge takes strides to invest in the relationship, mutuality can thrive.

The final Lind and Tyler concept, neutrality, has to do with honesty and a lack of bias. In the group-value model, neutrality also has to do with believing that one is not being discriminated against and is viewed as worthy in the eyes of the authority figure (Tyler & Lind, 1992). In a family drug court, participants view the FDC judge as making decisions based on facts and not personal biases (Ashford, 2006), which suggests that they view the judge as honest. One qualitative FDC study supports this notion. McMillin (2007) reported the following comments from participants in the Spokane County Meth Family Treatment Court regarding the judge: "She's direct and to the point; She lays out the requirements. Tells you how it's gonna be and then it's up to you" (McMillin, 2007, p. 112).

Relational cultural theory suggests that honesty from an authority to a mother is an example of mutuality (because dishonesty is a strategy of disconnection). When the judge and team are striving for honesty with the mothers, they are opening themselves up to an authentic exchange. Judge McGee, who started the first family drug court, echoes this concept: "[t]here will be ups and downs in every conversation with the offender. It is a mistake to encourage the participant to express a false level of enthusiasm. Let each court appearance reflect the energy and feeling of that moment" (Parnham, Smith, McGee, Merrigan, & Cooper, 2000, p. 44). Lack of bias does not mean lack of emotional availability from the judge and team. It means equal amounts of emotional availability to all participants. Emotional availability supports connection by requiring emotional input from the judge and team.

## Implications

With an enhanced understanding of how procedural justice interacts with relational cultural theory to form relationship-based justice (which in turn illuminates the process of family drug court participation for women), multiple implications for future research emerge. First and foremost, additional qualitative research is needed to evaluate whether this proposed theoretical linkage can be observed in participants' experiences. A semi-structured interview designed to capture relational aspects of the court process might reveal that FDC participants attribute the enhanced relationships with the judge to the judge's personality characteristics or gender, rather than to the perceptions of voice, standing, neutrality and trustworthiness. Using this proposed framework for qualitative inquiry also suggests that interviews should include open-ended questions regarding the ways that the experiences of relationship building in the courtroom enhance growth and change in an interdependent, non-linear process. Finally, interviews with fathers in family drug courts should seek to understand their experiences in a relational environment. Although relational cultural theory is woman-focused, it suggests that men, particularly men who are also members of oppressed groups, can also grow in connection with others (Comstock et al., 2008; Jordan & Hartling, 2002).

In addition to or following the qualitative inquiry, mixed-methods and quantitative research are important to further probe constructs from this relationship-based justice framework. Although questions examining the phenomenological experience of relationship are not feasible with quantitative methods, research seeking to understand the existence of concepts or experiences (i.e., using yes or no questions), can provide useful information. Quantitative measures can be developed and validated that approximate the occurrence of these relational elements, e.g., "Do you have an opportunity to verbalize your side of the story during FDC hearings?," "Do you feel respected by the judge?," "Do you think the judge is being honest with you?," "Do you think the judge is trying to be fair?," "Do you feel emotionally connected to the judge and

team?" Questions such as these can help to gauge whether relationship-based justice is present in a FDC and inform courts of the potential need for improvement in this area.

The primary benefit of quantitative research is the ability to generalize findings, and generalizability improves with increased sample size and a more rigorous design including random assignment, use of control groups, etc. The mechanism for accomplishing this in FDC settings is to harvest data from administrative databases. However, this type of research is limited by the extent of variables available. These databases are currently limited to recording the dates of child welfare involvement and reason(s) for case closure, dates of substance abuse treatment involvement and reason(s) for exit, etc. In order to test the proposed theoretical linkage, databases must be capable of recording simple measures of relational aspects, such as how much time the participant spends with the judge, and the extent of sanctions received (inverse relational variable). Gathering these data will complement the qualitative and questionnaire-based data and provide a complete picture of family drug courts.

## Conclusion

Over the last 30 years, an increasing number of women live in poverty, are addicted to drugs and alcohol, and are involved in the criminal justice system (Lapidus et al., 2005). These deleterious positions culminate in a population of mothers who face allegations of child abuse and neglect. Research suggests that poverty and parental substance abuse negatively influence child welfare experiences (Testa & Smith, 2009). Mothers with substance use disorders whose child dependency cases are adjudicated in family drug courts experience better outcomes than mothers in traditional juvenile courts (Lloyd, 2015). The mechanism(s) in FDCs that drive these outcomes remain unconfirmed.

Any theoretical framework for family drug courts must incorporate the experience of women who make up the majority of its participants. Compared to traditional child welfare courts, which emphasize self-sufficiency, independence, and detachment (Sinden, 1999), FDCs promote procedural justice

and, unintentionally, relationship-building between courtroom professionals and FDC participants. Thus, linking Lind and Tyler's relational model of procedural justice with the feminist relational cultural theory aids in explaining why FDCs are more effective than general juvenile courts.

Beyond its explicative properties, the promotion of this theoretical linkage serves another purpose. Social work's historically-prominent role in the child welfare system and allegiance to professional values directs our profession to advocate for justice in the CWS. Positioned in this way, we are called upon to work toward understanding and disseminating policies and practices that further the well-being and fair treatment of vulnerable individuals. The research and theory presented in this paper suggest mainstream jurisprudence that minimizes key aspects of procedural justice disenfranchises women with substance abuse and their children. Alternatively, relationship-based justice appears to improve outcomes for this population. It is our professional and ethical responsibility to critically examine the status quo and further the scholarship on fairness in specialty courts, including family drug courts, in the quest to achieve justice for vulnerable women, children, and families.

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