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Strategic Adaptation in a Crisis: Treatment Court Responses to COVID-19

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This article draws on a case study of how Massachusetts treatment courts responded to the COVID-19 pandemic to address two intersecting theoretical and policy questions: (1) How do actors who work within criminal legal organizations use the law to solve complex social and political problems? (2) How do organizations working within multiple, fragmented organizational fields respond to an exogenous shock? The findings draw on interviews with eighty-four treatment court judges and practitioners and build from neo-institutional approaches to the study of courts to show that legal actors and organizations pursue pragmatic approaches, strategically adapting to their external environments through buffering, which is protective, and innovation, which is transformative. Each strategy reflects the courts' autonomy or dependence on other organizations in the criminal legal and social service fields. The findings also provide insight into the social process of legitimation as personnel aligned beliefs with adaptation strategies, shifting understandings of surveillance practices and the utility of sanctions to meet overall court goals.

INTRODUCTION

On March 16, 2020, Massachusetts (MA) Governor Charlie Baker declared a statewide "stay at home" advisory and ordered all nonessential businesses to close. Baker subsequently declared a "state of emergency" on March 20, 2020. Following the advisory, The Massachusetts Trial Court, including all district courts and probation, closed temporarily for two days and reopened with restrictions on in-person appearances. Concurrently, Massachusetts jails and prisons began actively releasing detainees, sending many individuals with substance use and mental health disorders back to their communities. As concerns about COVID-19 dominated the political agenda, the Trial Court had to balance growing worries about drug overdoses, homelessness, and mental health challenges among probationers and arrestees, alongside the risk of recidivism if prisoners were released and the risk of COVID if prisoners remained incarcerated. The challenge was particularly acute for the state's treatment courts, which are designed specifically to aid probationers with mental health and substance use challenges.

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Treatment courts differ from traditional criminal courts in numerous ways, some of which make them uniquely vulnerable to the shutdown's effects (Baldwin, Eassey, and Brooke 2020). In MA, probationers who qualify and choose to enter a treatment court are managed by teams typically consisting of a probation officer, district attorney, defense attorneys, court clinicians, and session coordinators, and led by a judge.[1] The team is supposed to work in a collaborative manner to address underlying addiction, mental health conditions, and/or trauma, as well as the social and medical needs of the participant. Before the pandemic, participants typically came to a designated courtroom at a specific time to talk with the judge about their recovery process and compliance with court requirements. In many courts, participants advanced through predetermined "phases," each with fewer requirements, until they graduated with a beneficial legal outcome, such as the early termination of probation or, in the few courts that accept pre-plea participants, the reduction or even dismissal of charges. If they complied with requirements such as individual or group therapy, drug testing, court appearances, and maintaining contact with their case manager, participants received incentives such as verbal praise or gift cards. If participants did not comply, the judge could issue sanctions up to and including time in prison/jail, or termination from the treatment court and a return to the traditional criminal court system.

The shutdown created numerous challenges to these practices, most notably the option to meet in person, and to readily access drug testing, residential facilities, and in-person social services. Further, given efforts to reduce COVID risks in jails, the pandemic also diminished the ability to use incarceration as a sanction, as well as to rely on arrests and sentences to facilitate a steady flow of probationers volunteering to participate in the treatment courts.

This article draws on a case study of how MA treatment courts responded to these challenges to address two intersecting theoretical and policy questions: (1) How do actors who work within criminal legal organizations use the law to solve complex social and political problems? (2) How do organizations working within multiple, fragmented organizational fields respond to an exogenous shock? These questions remain central to the sociolegal study of courts by drawing attention to the people who implement laws, and by studying courts as collectivities that are both internally and externally constrained. A focus on treatment court response to the pandemic illustrates how social and political contexts shape the law as it exercises and legitimates power, offering a unique opportunity to understand "law as a facilitator of response to social needs and aspirations" (Nonet and Selznick 2001, 14).

Building from a comprehensive analysis of in-depth interviews with eighty-four judges and court staff in Massachusetts in summer 2020, this article shows how individuals working within treatment courts relied on a pragmatic approach to address the pandemic's evolving impacts on court practices, making difficult trade-offs between legal outcomes and previous court requirements. Their adaptations differed depending on their ability to autonomously change practices, through strategies characterized as buffering or innovating. While both are forms of strategic adaptation, buffering involved lessening or moderating the impact of the pandemic, while innovating went further

1. In MA, nearly all treatment courts are post-disposition, the exception being mental health courts in Boston that accept pre-plea participants. Probation is always on the team and often plays a dual role as coordinator. There is also a clinician assigned to the court, treatment providers, and often Sheriff's office staff, peer recovery coaches, and police. If an adverse action is likely to happen, the judges will usually delay until they find a defense attorney before proceeding with the discussion on that case.

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by creating new (primarily virtual) practices to realize their goals. These changes contributed to shifting understandings of what makes treatment courts effective, particularly the use of surveillance and sanctions.

The article develops this argument as follows. The theoretical framework guiding the empirical analysis brings together studies on therapeutic jurisprudence and legal pragmatism as a foundation to understand how treatment court actors approach salient political and social issues. It then draws insights from neo-institutional theories to expand understandings of legal pragmatism and to examine organizational responses to exogenous shocks. Following an explanation of data collection and analytic strategy, the findings focus on identifying buffering strategies deployed in response to decreasing referrals and limited drug testing, followed by innovation strategies in relation to virtual hearings and treatment requirements. The article's empirical section closes with a discussion of the impacts of adaptation on the organizational workgroup, which implicate the sustainability of reforms.

The conclusions revisit the theoretical and policy-related findings. In addition to illustrating the conditions under which buffering and innovating occur and how strategic adaptation changed understandings of surveillance and sanction, the findings suggest that neo-institutional theories must better account for differences among organizations in the for-profit, nonprofit, social welfare, and criminal legal fields, and specifically those working in multiple fields. The policy-related findings on buffering and innovation strategies are helpful for those reflecting on lessons learned about the short- and long-term implications of the pandemic and related shutdowns. Treatment courts must have contingency plans to address their dependence on criminal legal processes and social service providers, and their own resource constraints when their external environment changes. They must also consider the limitations and the benefits of new technologies in maintaining contact and communication with probationers. Finally, treatment courts must adapt to ongoing decarceration efforts that may limit their ability to both attract participants and sanction for noncompliance.

STRATEGIC ADAPTATION IN TREATMENT COURTS

The following discussion addresses the theoretical underpinnings of treatment courts in conversation with neo-institutional approaches to law and organizations. Overall, the framework provides initial insights into how actors working within the law address complex social and political problems, and how treatment courts are uniquely flexible and uniquely constrained in their ability to realize their goals, particularly as their external environment changes.

The Limits of Legal Pragmatism

Scholars often explain and justify treatment courts with the theory of "therapeutic jurisprudence," a normative theory as well as a movement to address underlying causes of criminal behavior through court-mandated treatments. Therapeutic jurisprudence was originally conceptualized to explain how a legal rule or practice affects the psychological well-being of individuals within the court (Wexler 1990). As applied to drug

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courts, the normative theory supports ongoing judicial intervention; close monitoring of, and immediate response to, behavior; integration of treatment services with judicial case processing; multidisciplinary involvement; and collaboration with community-based and government organizations (Winick and Wexler 2015, 480).

To address complex social and political problems, treatment court actors engage in legal pragmatism, a central logic of therapeutic jurisprudence that prioritizes efficacy of results (e.g., sobriety) over fidelity to rules about neutrality, fairness, and unbiased decision making (Nolan 2009). An important assumption behind therapeutic jurisprudence is that the threat of legal sanctions may be beneficial for individuals who need additional motivation to engage in treatment and maintain sobriety (Nolan 2003; Wexler 1990; Whiteacre 2007). The use of legal sanctions is in tension with a key premise of therapeutic jurisprudence—that relationships with probationers should be prioritized over sanctions to induce compliance (Winick and Wexler 2003). The threat of legal punishment distinguishes treatment courts from other substance use programs and, following their pragmatic approach, courts and treatment programs usually work in tandem to encourage participants to internalize logics about the need for self-discipline (Kaye 2019).

A pragmatic approach to the use of courts to enforce sobriety or other behavioral goals may seem intuitively appealing, but critics point to treatment court surveillance practices as a particularly invasive form of social control. While the incorporation of community services may offer psychosocial support otherwise unavailable to traditional criminal justice defendants, courts' benevolent surveillance (Moore 2011) integrates the community with other "assemblages of punishment" that impede work and family life (Hannah-Moffat and Maurutto 2012, 203). Critics point to treatment courts as part of a growing trend of mass probation (Phelps 2013, 2017), a complement to mass incarceration and parole (Zozula 2019). Concerns about the coercive nature of treatment courts also intersect with questions as to whether these courts reduce recidivism rates, and their financial costs and benefits (Peters and Murrin 2000; McNiel and Binder 2007; Gallagher et al. 2015).

Legal pragmatism poses other related dilemmas, both internal to its logic and external to it. As a theoretical matter, an instrumental approach to the law focused on efficiency and efficacy can erode the law's legitimacy for those who maintain fidelity to its promise of neutrality, fairness, and unbiased decision making (Nonet and Selznick 2001). More practically, despite their pragmatic approach focused on outcomes, treatment court personnel still work within a system that recognizes due process rights, subject to judicial review to ensure that they have fair hearings. Importantly, treatment courts can only facilitate "outcomes" consistent with the availability of treatment partners for participants. Additionally, changes outside of the courts' control may therefore affect their ability to provide treatment and/or impose sanctions.

In analyzing the challenges of legal pragmatism during the pandemic, this article builds from a wealth of sociolegal studies that view courts as organizations that, by definition, must procure necessary resources, develop internal decision-making rules, establish their authority, and institutionalize particular values (Parsons 1956; Ostrom et al. 2007; Eisenstein and Jacob 1991; Kohler-Hausmann 2013; Edelman and Suchman 1997; Singer 2018). Organizations are interested in efficiency and efficacy, but they must also prioritize internal legitimacy, making sure that their practices align with their

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normative, not only rational, values (Suchman 1995). This approach to the study of organizations is part of a line of inquiry under the umbrella of neo-institutionalism, which focuses on how organizations respond to institutional constraints (see, e.g., DiMaggio and Powell 1983; Tomaskevic-Devey and Avent-Holt 2019).

Neo-institutional approaches draw attention to organizational fields, defined as the collection of organizations that, in the aggregate, constitute a recognized area of social life (DiMaggio and Powell 1983, 148). As interdependent organizations, treatment courts are part of broader institutional fields—the criminal legal field and the social service field—shaped by both material-resource forces such as size and competition, as well as by social and cultural systems such as norms and beliefs (Scott 2004, 8). Neo-institutional approaches address beliefs and symbols that may have less to do with efficacy than with establishing and maintaining legitimacy (Rudes, Portillo, and Taxman 2021; Suchman 1995; Edelman and Suchman 1996).

As applied to courts, neo-institutional approaches emphasize the relative autonomy of political institutions and the importance of symbolic action in political life (March and Olsen 1984). They also focus on how judges' decision making reflects the organizational workgroup (Ostrom et al. 2007) and the institutional place of courts in American life (Clayton and Gillman 1999). Organizations scholars who depart from neo-institutionalism point out that institutional fields offer resources that organizational workgroups such as courts use to develop their own, internal logics, rather than there being a homogenizing effect of institutional fields on organizational practices (Tomaskevic-Devey and Avent-Holt 2019). From this perspective, an organizational environment is itself a "perspective" rather than a set of constraints.

Neo-institutional theories provide initial insights into the unique flexibility and constraints of legal pragmatism in treatment courts. With goals including maintaining the trust and managing the risk of their participants (Castellano 2017, 402), treatment courts sit at the intersection of two fields—criminal legal and social welfare—with different approaches, and justifications for them, related to social control (Baker 2013). McPherson and Sauder (2013) identify four drug court logics—macro-level beliefs that shape organizational decision making—as criminal punishment, rehabilitation, community accountability, and efficiency. As hybrid organizations working at the intersection of two fields (Battilana and Dorado 2010; Baker 2013), treatment court practitioners must negotiate these different logics as they coordinate with organizational partners. Court practices and decisions, as well as the logics that influence them, may shift as options for criminal punishment, rehabilitation, accountability, and efficiency change.

Responding to an Exogenous Shock

While some research explores the importance of social and political context for treatment court practices (see Castellano 2017), there remains little information on how an exogenous shock such as the pandemic might affect an organization that lies at institutional crossroads such as those navigating criminal legal and social service fields (Micelotta, Lounsbury, and Greenwood 2017). Corbo, Corrado, and Ferriani (2016), for example, point out how exogenous shocks can change rules previously taken for

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TABLE 1.
Summary of the Interviews

Type of Court	Number of Courts	Court Size	Judge Interviewed	Other Personnel Interviewed
Drug Court	26	Small: 20 Med: 6 Large: 0	20 (two judges from same court)	24 PO 3 Clinician 1 Court Coordinator
Mental Health Court	8	Small: 2 Med: 2 Large: 4	6	4 PO 3 Clinician (1 at two courts) 2 Social Worker 1 Court Coordinator (at two courts) 1 Defense Attorney
Homelessness Court	2	Small: 1 Med: 1 Large: 0	2	0 PO 0 Clinician 0 Court Coordinator
Veterans Treatment Court	5	Small: 5 Med: 0 Large: 0	5	3 PO 1 Social Worker 0 Court Coordinator
Family Treatment Court	2	Small: 1 Med: 1 Large: 0	2	0 PO 3 Clinicians 1 Court Coordinator

granted, call into question the perceived benefits of those rules, and undermine the calculations on which field relations had been based (see McAdam and Scott 2005).

The pragmatic approach that defines treatment courts suggests that they would prioritize efficacy and efficiency as they shift their practices, and that they are uniquely adaptable (Nolan 2001, 2009). Given their institutional complexity and need for material resources, treatment courts develop "chameleon-like" strategies to appeal to different stakeholders (Peyrot 2001; McPherson and Sauder 2013; Battilana and Dorado 2010). Zozula (2019, 141) explains this varied approach as "organizational ambivalence" about goals related to retribution and rehabilitation, with more fundamental goals related to establishing their legitimacy and managing uncertainty with both participants and stakeholders responsible for their day-to-day operations and funding (see also Castellano 2017). These goals are instrumental as well as expressive, and differ depending on where courts are located, who works in them, and the rules they are bound by (see Eisenstein and Jacob 1991, 25).

One way to conceptualize treatment court responses to a shock as extreme as the pandemic and ensuing shutdown are as a form of strategic adaptation, a concept modified from business and management to the study of social movements and other organizational forms, including courts (Singer 2018; Ganz 2000; McCammon et al. 2008). Strategic adaptation refers to the way organizations respond to environmental changes, successfully implementing new approaches to ensure efficacy. Eisenhardt and Sull (2001, 111) explain how successful organizations engage in "strategy as simple rules"

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when markets change, developing new features of how a process is executed ("how-to" rules), which opportunities can be pursued ("boundary" rules), how to rank opportunities ("priority" rules), as well as when to give up existing practices ("exit" rules). By changing these rules, adaptation may ultimately change underlying organizational field logics (McAdam and Scott 2005).

Other research suggests that, in response to external pressures, particularly pressures that demand scarce resources, organizations may engage in buffering to protect their core mission. Buffering does not change the environment directly but, rather, moderates the impact of an exogenous shock and insulates those parts of the organization that require stability. In addition, the process of buffering "expos[es] parts that assist the organization in adapting to change" (Lynn 2005, 37–38). Singer (2018, 2242) discusses buffers in the context of federal courts, explaining how courts lower "the stakes of resource dependence" by establishing their own rules, which works by "increasing the court system's overall autonomy and leaving it less susceptible to environmental disturbance." Singer (2018, 2243) also points out how all organizations prefer to operate buffers under strong internal supervision to "maximize efficiency and minimize external interference." Given their institutional complexity, treatment court buffering strategies illustrate interorganizational boundaries, highlighting where courts can autonomously adapt to moderate the effects of an exogenous shock and where they depend on other organizations to coadapt.

In addition to buffering, organizational theorists point out that external shifts may lead to innovation, a more proactive form of strategic adaptation that can change organizational forms and underlying institutional logics (Rao, Morrill, and Zald 2000). Innovation goes beyond moderating the impact of an exogenous shock to developing new ideas, behaviors, and practices (Crossan and Apaydin 2010). Scholarship on both for-profit and social movement organizations suggests that successful adaptation through innovation requires a "fit" with changing political circumstances, and that strategic adaptation more generally showcases organizational resilience (McCammon et al. 2008, 1112; Koronis and Ponis 2018). In fragmented fields, such as those with conflicting goals and overlapping jurisdictions, innovation can be more challenging (Meyer and Scott 1983; Rao, Morrill, and Zald 2000). Further, for adaptations to be sustainable, workplace routines may have to shift, and those routines may become part of the organizational change that increases efficiency, efficacy, and legitimacy (Rudes, Portillo, and Taxman 2021). For such changes to be considered legitimate, they must be in concordance with broader societal changes (Johnson, Dowd, and Ridgeway 2006).

Though useful in their explanations of buffering and innovation, theories from both the profit and nonprofit worlds require adaptation to the study of courts, particularly treatment courts. Like other criminal legal agencies, treatment courts are working within a dominant paradigm of punishment, meaning that they still rely on sanctions to change individual behavior (Rudes, Portillo, and Taxman 2021). Further, treatment courts' pragmatic approach means they work "outside the contours of the law" (Nolan 2009), but they are still rule bound, subject to judicial review, and must deploy at least a symbolic adherence to fairness and due process in ways in which other organizations might not (Ostrom et al. 2007). In treatment courts, strategic adaptation must not only include improving access to goods and services, as in the case of for-profit organizations, or promoting social or political change, as in the case of social movement

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organizations. Short-term and long-term adaptations require alignment with normative values related to fairness and due process, as well as efficiency and efficacy, that may differ depending on how the courts understand their goals (Rudes, Portillo, and Taxman 2021). Examining how treatment courts change, and how personnel make sense of those changes, expands understandings of strategic adaptation and the social process of legitimation in a distinct set of organizational and institutional fields with intersecting, overlapping, and conflicting logics and practices (Johnson, Dowd, and Ridgeway 2006).

STUDYING COURTS IN TRANSITION

This research on treatment court responses to the COVID-19 pandemic was conducted through the Center of Excellence for Specialty Courts at the University of Massachusetts Medical School, in collaboration with the Massachusetts Trial Court.[2] Massachusetts is a generative site of study because it boasts a wide array of treatment courts, including the more common drug and mental health courts, as well as family treatment courts, veterans treatment courts, and homeless courts. It benefits from a well-coordinated treatment court program, administered through the state's Trial Court with substantial logistical support from the state. Admission is supposed to be for those determined to be high risk of recidivism and high need of social services. All courts except mental health courts in Boston, which accept both pre-plea and post-disposition participants, only accept post-disposition participants—those who have already been found guilty of an offense and are facing sentences—per Trial Court policy.

The Trial Court encourages each court to follow the National Association of Drug Court Professionals best practice guidelines, which specify a collaborative approach; the need for sobriety; phases of treatment, which also include different surveillance requirements; and graduated sanctions. Despite this guidance, each court team can create its own rules for advancing through the court and graduation, and works with different social service organizations. Though Massachusetts is a comparatively wealthy and racially homogenous state, there are also stark differences in socioeconomic status and racial disparities in criminal legal outcomes throughout the state (Kasen et al. 2017). By focusing on one state, we were able to examine how courts that varied by type, size, and other features responded to the same shutdown order (the exogenous shock).

By April 2020, one month after the state shutdown, the research team developed a proposal to study changes in response to the shutdown. The MA Trial Court approved the study and provided contact information for judges in the fifty-one treatment courts that were open at the time,[3] which included thirty-two drug courts, nine mental health

2. The opinions expressed in the article are the views of the author and are not adopted or endorsed by the Massachusetts Trial Court.

3. Here, treatment court refers to the specific docket within a particular court. Some courts, particularly those in the urban metro area around Boston, host multiple treatment court dockets in the same court. We treat each docket as a separate court as there is typically a separate judge and treatment court team for each docket.

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courts,[4] two homelessness courts, two family treatment courts, and six veterans treatment courts (VTC), which typically require co-occurring substance use and mental health diagnoses in addition to state-designated veteran status. In our recruitment materials, we explained that we would ask a specific set of questions regarding court practices, treatment practices, and outcomes. Our goal was to interview two team members from each court to assess court changes efficiently and accurately.

By mid-August, we were able to interview at least one team member from forty-one courts, approximately 80 percent of all treatment courts in the state; team members in the other courts either declined to participate or were unavailable (see Table 1). Among those courts we were unable to study, three were large (over forty participants) courts (one drug court and two mental health courts) in the most densely populated area of the state, one was a medium (twenty to forty participants) urban drug court, three were small (less than twenty participants) rural drug courts, and one was a small, rural VTC.[5] This missing data may limit certain findings; two of the missing courts have more diverse participants than other courts in the state and, relatedly, accept pre-plea participants. Fortunately, we were able to interview two other large, urban mental health courts that accept pre-plea participants and are in the same geographic area as the missing courts. Our sample also includes other courts of similar type, size, and place (region of the state) as those we do not have data for.

Over a two-month period in summer 2020, we were able to conduct interviews with eighty-one court practitioners, including forty-eight drug court staff practitioners, seventeen mental health court practitioners, eight veterans treatment court practitioners, two homeless court practitioners, and six family treatment court practitioners working in the forty-one courts. Given the important role of judges in treatment court processes (Castellano 2017; Nolan 2003), we aimed to interview the judge in each court, and were successful for all but seven courts. For thirty of the forty-one courts, we have interviews with more than one team member. Most of the interviews were one-on-one interviews, though eight were group interviews with treatment court staff, including coordinators, probation officers, social workers, and clinicians. Our interviewees included judges, probation officers, clinicians, lawyers, and court coordinators. We also have three additional interviews with Trial Court staff working on coordination, probation, and social services at the state level. Thirty-three interviews, including three conference calls, were over the phone, while the rest were on Zoom, with similar lengths of time and content regardless of the medium. Each interview lasted between thirty and sixty minutes.

Our interview protocol divided topics based on changes to court practices and perceptions of participant outcomes. We did not have a different protocol for court type.

4. One court in this group requires both substance use and mental health disorder diagnoses.

5. Classifying courts by size is challenging, and we approached size from past literature on treatment courts. Most mental health and drug court studies focus on courts with twenty-five to five hundred participants with the average size in a major city being in the hundreds (see Carey, Finigan, and Pukstas 2008; Brown 2010). Having more than forty participants is rarer in Massachusetts, where the courts are post-disposition, and these are considered large because of their need for more resources such as multiple case managers. The majority of courts have less than twenty participants, which are easier to manage with one case worker. We classify small courts as those with less than twenty participants, medium as those with twenty to forty participants, and large as those with more than forty participants.

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We specifically asked about whether courts switched to virtual hearings and services, impressions of the hearings and services, whether there were changes to treatment court requirements, including drug testing, and individual impressions of how participants were doing. After three pilot interviews with treatment court judges and personnel, we added questions about the referral process, staff well-being, and drug and alcohol testing, as our initial interviewees identified these issues as important to their practices.

For our analysis, we created two separate databases: one in Excel that included quotes corresponding to our questions, and another in NVivo, software that allows for more detailed coding and analytic memos. The citations assigned to interviewees, whom we anonymize, come from cells in the Excel spreadsheets. The research team engaged in line-by-line coding, attaching descriptive codes to lines of data that answered questions about how the courts changed and what the participants thought of those changes (Charmaz 2006). On the next round of coding, the team identified emerging themes from the descriptive codes and continued in an iterative process to revisit earlier codes and develop analytic memos about participant perceptions of these changes (Lens 2009).

These initial rounds of coding did not distinguish court type, place, or size, but we noted differences between courts that require drug testing and those managing large populations. We did not find distinctions between courts in different regions of the state aside from the Boston area, which, in addition to being the only urban metro, has a municipal court system with its own rules for entry to mental health courts (pre-plea). Relatedly, we noted that courts working in urban areas had different challenges than those working in rural areas. Following this initial round of coding, we reorganized the Excel spreadsheet to group courts by type, and also case-coded the transcripts in NVivo to classify courts by type, size, and population density of their districts, identifying urban courts as those in districts with a population greater than fifty thousand (see MAPC 2008). We also case-coded comments by professional role (e.g., judge vs. probation officer) in order to address emerging themes related to the organizational workgroup.

Given the small number of courts aside from drug courts and the small numbers of professional groups aside from judges, we are cautious in attributing different adaptation strategies and understandings of them to the type of court (e.g., homelessness vs. drug treatment), population density (e.g., urban vs. rural), professional identity, a mix of the above, or the multitude of other factors such as specific social service providers that support an individual court. For example, courts may be in urban settings yet serve populations in nearby rural areas. This is especially common in the central and western parts of the state but is also true for courts in urban centers outside of the Boston city limits. Further, though interviewees offered impressions of changes that may reflect their professional roles, our research questions focused primarily on observations of changes to the court, and we found little variation in answers among judges and other court staff. As our goal is to generate theory about strategic adaptation in these hybrid organizations working at the intersection of multiple institutional fields, we explain similarities across our interviews while also addressing divergent opinions, particularly as they relate to identifiable court characteristics. Many of our findings were relevant across court type, size, and place, with some notable differences in courts requiring sobriety, as well as in the larger, urban courts and in VTCs, which typically rely on Veterans Affairs (VA) services.

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As part of the analysis, interpretations of the data were shared with the participants, and the participants had the opportunity to discuss and clarify the interpretation and contribute new or additional perspectives (Battilana and Dorado 2010; Baxter and Jack 2008). Except for the treatment court coordinator who asked for small changes to how we characterize the courts, none of the interviewees asked for any modification to our findings, noting that they reflected the range of answers given. To maintain confidentiality and anonymity, we offer the specific professional role or use the term "interviewee" to represent an individual or someone from a group interview rather than a specific person.

FINDINGS: THE DYNAMICS OF STRATEGIC ADAPTATION

Our study found that treatment courts adopted two different types of strategic adaptations in response to the pandemic. First, buffering worked to insulate effects from changes to other organizations involved in enrolling participants and screening for illicit substances. Second, many courts innovated with virtual hearings and treatments, going beyond insulation toward reforming long-established practices. The findings also suggest that the exogenous shock of the pandemic contributed to new understandings about how surveillance and sanctions help realize court goals. These changes illustrate how what is becomes what is preferred (Johnson, Dowd, and Ridgeway 2006), revealing how the social process of legitimation enabled personnel to adjust to, and justify, their new practices.

Buffering: Maintaining the Core Mission

A treatment court's core mission requires getting people in and out of court, which occurs after a determination that they need social services for a broad range of complex challenges related to substance use, mental health, and poverty. Due to their unique flexibility, treatment courts could readily change their own requirements to get people out of court, in other words, to graduate them. But the courts were limited in their ability to get more participants into court, that is, enrolled in the program. The findings illustrate the courts' dependence on a fragmented criminal legal field with actors engaging in multiple, often overlapping roles, fomenting challenges in case processing, sanctions, and surveillance. Unable to maintain their core mission without the support of other organizations, the result was a pragmatic approach to keep people moving in and out of the court, with new "priority" rules focused on providing legal outcomes. This buffering aimed at moderating the impact of the pandemic, ensuring that participants could get the legal outcomes they sought without transforming these well-established court practices and relationships.

Getting into Treatment Court: Buffering Decarceration

To address the complex social issues that bring people into treatment courts, judges and personnel rely on distinct organizational pathways that the pandemic upended.

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These courts depend on police, prosecutors, probation officers, and defense attorneys in finding and identifying individuals who would benefit from social services related to substance use, mental health, homelessness, and other issues that the treatment courts address. The pandemic brought to the fore previously-taken-for-granted practices that bring people into contact with the criminal legal system and funnel them into treatment courts. Given their interorganizational dependence, responses to these challenges were mostly protective, which is a distinguishing feature of strategic adaptation through buffering.

All respondents mentioned a decrease in referrals to the court, creating challenges for those hoping to offer court benefits to individuals with substance use and mental health disorders, and an existential threat if the numbers dropped too low. Individuals undergoing criminal cases who might qualify as high risk for recidivism and high need for services were difficult to identify at the start of the pandemic, when many criminal legal processes paused or substantially changed so as not to expose people to COVID. Nearly all interviewees expressed frustration about the reduced referrals, with one interviewee calling it "terrible, really, really bad" (CN35) and another interviewee calling it "sad" (CP51) because they could not help all the people who might benefit. There was only one outlier to the general concern about the referral process, which came from a judge in a large, urban mental health court accepting pre-plea and post-disposition participants (CP54). This judge said that the reduction in referrals was helpful, as their court was "busting at the seams" before the pandemic, and they had had to turn people away. Now, with fewer referrals, they could better serve their participants.

Personnel across all court types suggested that they could do little to address these referral challenges, a stark illustration of their dependence on other criminal legal organizations. Interviewees suggested that with fewer arrests, dispositions, pleas, and probation violation hearings, there were fewer individuals legally eligible for court (CP58; CN28). One court coordinator in a small, urban drug court (CR36) estimated that 90 percent of their referrals come from probation violations, which, at the beginning of the shutdown, courts were not issuing unless there was an "imminent risk to the public." A judge (CR49) and probation officer (CP15) working at a large, urban mental health court opined that policing is more "reactive than proactive," meaning that police are not out looking for people using or selling drugs because their resources are stretched thin. A clinician in a small, urban mental health court (CN33) expressed dismay that twelve people were in line for screening prior to the shutdown, but none were enrolled. They noted, "I don't like having so few clients."

Interviewees identified several reasons for the reduction in clients. Some of these challenges reflect the fact that most MA courts are post-disposition and thus require a conviction to enroll a participant. The inability to hold jury trials due to COVID resulted in cases going unadjudicated much longer than usual, reducing the number of convictions that might result in a referral. COVID also significantly reduced pre-trial detention—in part due to a lawsuit filed to release pre-trial detainees because of the quick spread of COVID in jails—which also reduced enrollment. Pre-pandemic, clinicians had often identified potential candidates for enrollment while they were in pre-trial detention. The reduction in pre-trial detention meant fewer opportunities to find new participants. Judges were also more reluctant to sentence the nonviolent offenders

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who are typically eligible for treatment court to prison due to the high risk of COVID exposure. Judges were thus left in the position of offering offenders the choice between (regular) probation or enrollment in a treatment court, which is significantly more intrusive and onerous than probation. According to the Trial Court administrator, nearly everyone chose regular probation rather than drug court (Trial Court administrator, pers. comm.).

A judge in a small, urban mental health court (CN60) suggested another way that the shutdown disincentivized enrollment for post-disposition participants. They described how the shutdown postponed sentencing hearings, which meant that there was more time to see potential participants doing well in pre-trial. As a result, judges were often reluctant to sentence these participants to another year of probation in drug court. A probation officer from a small, urban drug and mental health court lamented these changes:

> It's really got to be last resort and you really have to be at the end, with the judge saying, "you are going to go to jail or you are going to go here." And the judge is not really sending anyone to jail right now. A lot of people said, "I don't want to do drug court, and I'll do something else." It's been hard. We have not been able to get anyone in. (CS 60, pers. comm.)

Given these intersecting challenges in the criminal legal field, courts had to develop new organizational pathways, recalculating relationships with previous organizational partners. One treatment court team member from a small, urban drug court mentioned branching out to get referrals from the police (CP24), going directly to the source of arrests rather than waiting for courts to impose a sentence. One associated challenge was tracking potential participants down when they were released from jail, which proved difficult. Although it was not possible to go to the jail to identify qualifying arrestees, virtual visits were an option. Still, one judge in a midsized court that requires co-occurring substance use and mental health disorders echoed other interviewees in mentioning that virtual intakes are different, and less effective, than in-person ones (CN25). Intakes are designed to identify not only substance use or mental health disorders but also nonverbal cues that indicate a desire or ability to comply with treatment court protocols. The judge relayed the story of a clinician doing an intake over the phone, which made it challenging to assess the applicant's needs and whether the court could meet them.

Regardless of type or size, judges and personnel reflected on their "boundary rules" between themselves and other criminal legal agencies as they struggled to find organizational pathways to get people into the courts. The process uncovered taken-for-granted assumptions about the regularity of arrests and case processing, and the limits of relying on informal practices to determine eligibility. More broadly, these dilemmas illustrate the limits of strategic adaptation in treatment courts without coadaptation in the criminal legal field to bolster treatment court participation.

Phase Advancements and Graduations: Buffering to Maintain Legal Outcomes

One of the core functions of treatment courts is to reward complying participants with beneficial legal outcomes, such as sentence reductions or release from probation. The ability to award these outcomes is also central to the courts' legitimacy with their

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participants. While the referral process illustrates the courts' reliance on other criminal legal organizations to enroll participants, phase advancements and graduations illustrate treatment courts' unique adaptability to maintain their core mission without overhauling their practices. This is because graduating from a treatment court is a process almost wholly dictated by court personnel. At the same time, phase advancements leading to graduation are not, because advancement typically comes after participation in treatment. As courts tried to minimize the pandemic's impact on graduations, they revisited "priority" rules due to changes in the social service field that affected treatment, and related sanction and surveillance, options.

All courts maintained their goal of graduating compliant probationers. Interviewees at twelve courts, across all court types except the homelessness courts, mentioned ongoing graduations with the same legal outcomes. One, a small, urban drug court (N61) even held an in-person, outdoor graduation ceremony with social distancing. One judge at a small, urban homelessness court (CW60) explained that court was not in session for three months, meaning that they could not terminate probation for eligible participants. This interviewee noted that some participants appreciated the ongoing support, which would end upon graduation, while others would have preferred to just be done.

For some courts, buffering meant addressing requirements to move between phases and graduation. Interviewees at twelve courts across court type, size, and place mentioned a backlog of advancements, with some saying that they were just trying to keep the "status quo" rather than make significant changes to their court practices. Others, including interviewees at seven courts differing by type, size, and place, mentioned relaxing requirements because they could not require drug testing or treatments that were no longer available, changing long-standing surveillance practices. Other interviewees, including a probation officer from a medium, urban drug treatment court (CW65), and two judges, from a medium and a large, urban drug court, respectively (C12; K62), stopped having clearly defined progression through the phases, where moving into a higher phase reduced surveillance requirements such as check-ins during court hearings. For these interviewees, having participants attend regular hearings was a buffering strategy to maintain surveillance as treatment options decreased. Similarly, one interviewee at a small, urban veterans court (CW69) mentioned that their court was reconsidering mandating hearings for those who are doing well at the later phases, just asking participants to check in with their case manager during the week rather than attend court hearings.

These buffering strategies reflect responses the individual courts could control to changes outside the courts' control. One judge from a mid-sized, urban mental health court (CW55) explained that advancement has slowed down, but not because of anything the court is doing. Rather, they noted a lot of personnel transitions and challenges finding treatment providers as personnel turned over and treatment options changed. Other barriers arose for participants to meet program requirements, such as increasing difficulty in getting employed or doing community service. At least one large, urban drug court shifted its requirements for community service to allow different forms of labor, such as cooking for one's own residential treatment facility, to qualify (CY43). Other courts buffered by advancing participants along more rapidly rather than sticking to the regular protocol. Three interviewees (C59; C62; C27), including one from a medium, urban drug court and one from a small, urban mental health court,

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mentioned reducing probation sentences (two drug court judges mentioned reductions to fourteen months from eighteen-month sentences) as a way of rewarding those who had been compliant prior to the pandemic.

These different responses illustrate how treatment courts across type, size, and place developed strategies that reinforced their core mission of providing legal benefits while also reassessing their treatment requirements. They manifested their pragmatism in prioritizing legal outcomes, insulating themselves from the pandemic's effects by shifting, but not wholly transforming, requirements for phase advancements and graduations.

Shifting Sanctions: Maintaining Authority Absent Control

The contradictory premise of therapeutic jurisprudence, that law can be a "healing agent" when courts motivate treatments by offering rewards and, more importantly, threatening sanctions, became more complex when the options for incentives and sanctions changed (Winick and Wexler 2003). Incentives include nonmaterial items such as praise and material items such as gift cards. Treatment courts sanction in a variety of ways, with verbal admonitions, as well as requirements that participants write essays explaining their behavior or apologizing. Courts may also impose restrictions on freedom of movement, such as a GPS monitoring device, or other confinement-based strategies such as incarceration. Most interviewees explained how incentives stayed the same during the shutdown, but sanctions became much harder to deploy. With little ability to independently develop new sanctions, treatment courts adapted existing practices as well as justifications for them. While these challenges inspired changes to treatment requirements, outlined above, they also inspired new ways to think about the relationship between sanctions and compliance.

The challenge of imposing sanctions was more acute for courts that depend on drug testing, affecting all drug courts as well as some mental health courts, veterans treatment courts, and family treatment courts. Testing in these courts is often tied to sanctions because failing a drug test in a court requiring sobriety is a sign of noncompliance. At the beginning of this research, Trial Court leaders expressed grave concerns about overdoses and the risks posed by a lack of drug testing options. Courts rely on independent contractors, vendors, as well as probation officers to help drug test participants. At the start of the pandemic, the union representing probation officers, many of whom supervised drug testing, raised concerns with the Trial Court about the need for personal protective equipment and safe working conditions before they would resume testing. One result was that, for two months, the Trial Court was left with one vendor to do testing. While some interviewees were able to successfully rely on this one vendor, interviewees noted that there was no effective testing until the state set up three or four additional drug testing sites in May 2020 (e.g. AR26).

Without drug testing, the courts requiring sobriety faced choices they did not anticipate around surveillance and sanctions. In another example of buffering, many courts adapted their drug testing requirements to ensure that participants could still get the legal outcomes they desired. Interviewees at eighteen courts, across all sizes and types except homelessness, mentioned reduced testing requirements, particularly at the beginning of the crisis. Some interviewees suggested that the first month of limited/reduced testing was a problem as they see sobriety as "fundamental" to the program. One judge said, "you cannot run a drug court without drug testing" (AR37), an

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illustration of how this judge conceptualizes the court's core mission, how to realize it, and how impactful the pandemic was.

For courts requiring or regularly testing for sobriety, those insulating themselves from changes in drug testing contributed to shifts in the court's "priority rules" as judges and personnel considered health and life obligations in new ways. In this regard, courts faced different challenges depending on type and place. Some interviewees were concerned about the absence of testing but worried that testing exposed participants to other health risks. Staff (AW77) in a family treatment court mentioned the challenge of asking parents to get tested when there was no one to take care of the kids. One judge in a large, urban drug court (AV46) mentioned that the location of the one testing site available was very close to an urban area where drugs are commonly sold, and they did not want to make participants travel from far distances to get there. By contrast, a judge in a small, urban VTC (AK68) noted that drug testing was less problematic for them as their participants had alcohol problems that required a distinct test. With additional state funding to support the veteran population, they also had access to hair testing if needed. These differences illustrate how all courts were impacted by changes to the criminal legal and social service fields but insulated themselves differently depending on their individual court goals and the specific, local organizations they relied on.

While concerns about how participants could balance competing obligations related to drug testing and other necessities such as work and family are always present in drug court programs, the pandemic brought them to the fore (Moore 2011; Kaye 2019). To adapt, the courts enforcing sobriety not only shifted existing practices but previous understandings about the efficacy of long-established practices related to sanctions and surveillance. These shifts occurred across court size and place. One judge in a small, rural drug court (DS43) said they were trying to do house arrests to sanction and surveil participants using substances that violated program requirements. Another judge at a small, rural drug court (K22) mentioned that they were relieved when a struggling participant chose to detox; during normal times they would detain the participant as a safety measure, but they did not have that option during the shutdown.

These adaptations illustrate a change in "exit rules," as courts recognized when they simply had to let regular drug testing go, at least temporarily. They could not create new drug testing modalities, so they buffered to minimize the impact of this change in social services. Rather than focus on what was previously seen as the most objective indicator of sobriety, interviewees including a judge, court coordinator, and probation officer at a small, urban drug court mentioned working from an "honor system," hoping that simply calling in had "therapeutic value" because they "might" be held accountable (AR42). Another judge at a medium, urban drug court (C16) suggested that calling in was "almost as good" as testing itself. To the extent that they could adapt, both by shifting their own practices and by relying on other organizations, some court personnel tried to maintain closer contact rather than punish participants for not showing up. For example, one court coordinator at a medium, rural drug court explained how they were on the phone trying to get ahold of all the participants who would typically come in for meetings, trying to be proactive rather than reactive about their attendance (DY7). A probation officer at a medium, urban drug court explained, "We are not going to come down hard on them if they miss a meeting or if they are not able to sign on at eleven on a Tuesday for the drug court session. As long as they are maintaining contact

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and not losing contact with myself and their recovery coaches then that is good enough for us" (DI11).

These adaptations reflect a change in drug court logics rooted in criminal legal accountability (McPherson and Sauder 2013): rather than rely on the *certainty of punishment* to change behavior, these interviewees suggest that the *possibility of punishment* may be as, or almost as, effective. However, these changes were not universal; court sized mattered. In contrast to these small- and medium-sized courts, a caseworker at a large, urban mental health court said that they struggled to keep track of all their participants who did not have technological access and could not check in for virtual hearing (AG54). A group of interviewees from a large, urban drug court described their efforts to issue warrants absent in-person hearings, but noted that they faced enforcement challenges since participants had to turn themselves in. Members of this group expressed concern that all the standards became more lenient, with participants able to "get away with more and that even with a lot of oversight, they still cannot sanction or punish" (DQ45). Smaller courts likewise struggled to surveil if their participants did not have Wi-Fi access, but there were fewer participants to track. Further, a judge from a small, rural drug court (BQ43), noted that sanctioning and surveillance was less challenging for them because most of their participants were placed in residential facilities when the pandemic struck, and those facilities continued testing and monitoring.

Overall, this section illustrates how strategic adaptation through buffering sought to moderate or lessen the impact of the pandemic through practices that would preferably subside when the pandemic subsided. Further, without the ability to sanction through detention, and without reliable and available drug testing as a form of surveillance, courts adapted not only practices but also justifications. While some findings point to challenges that may be specific to larger courts and drug courts, all courts had to shift priority and exit rules, deciding what parts of the treatment court protocol they could maintain and what they had to release to provide the legal outcomes—which they could control—that their participants sought.

Going Virtual: Innovation in a Crisis

In addition to buffering, organizations may respond to an external shock through innovation. This is distinct from buffering as it is more proactive than protective, an adaptation in which new ideas and practices can fundamentally change how organizations realize and understand their goals. Successful organizations innovate in ways that "fit" the demands of the external environment while maintaining their core mission (McCammon et al. 2008; McAdam and Scott 2005). While buffering strategies may shift when the challenge of an exogenous shock subsides, innovations are likely to remain. Our findings suggest that the courts' pragmatic approach led to innovation around virtual hearings and treatment services, with potential long-term changes in court operations because courts witnessed benefits related to enhanced communication and access.

Virtual Hearings: "We're Keeping It"

A defining feature of treatment courts are regular meetings between participants and team members to discuss progress through the court program. With courts closing

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in March 2020 and our interviews primarily occurring in July 2020, all the courts had transitioned to virtual hearings by the time of our interviews. Innovation around virtual hearings was not uniform, and required courts to rethink assumptions about how to foster a community and maintain contact (i.e., surveillance) with participants. Given perceptions of its success, interviewees mentioned reevaluating existing surveillance techniques, which may ultimately lead to a new organizational form in which some courts operate both in person and online in the long term.

This innovation was not a given—it required foresight and action—and it was not universally supported. The courts benefited from proactive staff at the state and district court levels. To avoid delays by going through the state's purchasing procedures, the state's treatment court administrator personally bought and was later reimbursed for over fifty Zoom business accounts. One court mentioned that it was their probation officer who acquired licenses for online software, while another court said that their clinician set them up on Zoom within a few weeks, "before [the team and participants] were even ready" (K72; P61). Challenges with virtual hearings transcended court type and size but were more acute for courts working with participants in rural communities and those experiencing homelessness. One medium, urban drug court judge (AB40) described starting with emails, then text, then conference calls, and finally, Zoom. Another small, rural drug court (B36) started with telephone meetings due to the connectivity challenges of its population. This interviewee noted that some participants did not have access to technology that would enable them to use Zoom, so they first worked to get phone conferencing. A judge (EC53) at a large, urban mental health court initially resisted virtual hearings because of the challenges of getting their participants adequate technology, also noting that the homelessness court in their district court stopped completely because of these challenges.

For those working in smaller courts, interviewees who initially resisted the switch to virtual hearings expressed concerns about whether or to what extent this innovation would undermine goals that have as much to do with legal outcomes as with relationships. For example, interviewees in four of the state's veterans treatment courts mentioned concerns about how virtual hearings would affect court practices. One small, urban VTC (M69) tried to use telephone hearings but was dissatisfied with the impersonal nature of them. One small, urban VTC chose not to use Zoom, with the judge expressing concern about both privacy on the medium, which was an anomaly among interviewees by and large less concerned about privacy than we expected, and participants worried about their appearance (M68). This court used PolyCom, a telephone conferencing system, rather than Zoom. One judge in another small, urban VTC (P41) suggested that they are doing the best they can with it, but said that "the court was really designed to be in person," and sometimes it is tempting to just say "the heck with it and we'll see you in the fall." These comments illustrate a defining feature of VTCs being their efforts to foster community among the veteran participants both inside and outside the courtroom, often with the support of veteran peer mentors (see Russell 2015). A judge in a small, urban VTC suggested that technology challenges made him "more lenient," aware that both he and the participants were struggling to manage different Zoom links and obligations. Due to the challenge of confirming different requirements over Zoom, the judge ended up just "giving the benefit of the doubt" (C74).

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While all courts eventually switched to virtual hearings by the time of our interviews, staff and judges across court type, size, and place still expressed concerns about participant engagement, which they viewed as vital to their core mission of keeping participants involved with the court and accessing treatments required for graduation. Importantly, one interviewee from a small, urban drug court (AF23) mentioned that, while the court is in an urban center, a third of their population lives in rural settings and simply does not have Wi-Fi, meaning that they initially worried they could not access all their participants at home through Zoom. However, the most frequent concern about Zoom was that it was not as intimate or personal as in-person meetings. A mental health court judge in a small, urban court (R4) noted that participants were showing up at court even after it closed, hoping for community. They said that that kind of community is just "not possible" on Zoom. One interviewee at a small, urban drug court (R44) suggested that people are "just zoning out" with Zoom, undermining the solidarity they saw when case managers had in-person contact and could interact one-on-one. Another judge at a small, urban drug court (P61) said that some participants love Zoom since it means that they do not have to get themselves to court, but others hate it because they do not want to see themselves on the screen or talk on the phone. One clinician working in a small, rural family treatment court (S85) providing therapeutic services added that the loss of personal connection was hard for them and the client, a sentiment representative of how other interviewees viewed the loss of intimacy on Zoom:

> I worked with these parents for close to a year and it was just really hard to not be there in person and congratulate them on the work that they had done. I mean I could say it on the screen in front of everybody else but it's those side conversations that you have afterwards and being able to put your hand on somebody's shoulder and look them in the eye directly one to one that is lost on Zoom. (S85, pers. comm.)

These concerns illustrate how treatment courts see themselves as providing more than simply legal outcomes: they want to create a community for their participants, seeing the latter as facilitating the former. Yet, over time, and out of necessity, many of these personnel ended up reconciling initial concerns and coordination challenges related to virtual hearings with the exigencies of the moment. When asked about the benefits of virtual hearings, the most common response was increased attendance. For both smaller and larger courts, in rural and urban settings, concerns about technological access gave way to appreciation that participants could join hearings without transportation issues. Interviewees viewed contact as essential to helping participants move through the program, with virtual contact as decreasing the burdens of court requirements. A case worker from a large, urban mental health court suggested that the pandemic's "silver lining" was pushing them into virtual hearings that made surveillance much easier and even more affordable since participants did not have to pay for transportation to the court (Q54). One judge at a small, urban drug court (P14) explained that younger participants with competing obligations were able to participate in court hearings without conceding school and family responsibilities. Another probation officer at a

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small, urban drug court (K26) was emphatic that it is "absurd" to make participants take a day off work to come into the court to report.

In contrast to concerns about Zoom being less personal, some interviewees mentioned the increased intimacy of Zoom, being able to comment on objects in the screen or other things that increase the social connectedness and decrease the hierarchical feeling of court hearings. One judge from a small, urban drug court (C13) expressed appreciation for the fact that family members could join graduations. One court coordinator (Q78) in a rural setting suggested that, in addition to the benefits of increased contact and decreased transportation issues, some participants were more comfortable on Zoom because they did not have to stand in front of a crowd. This was especially true for those who had to read aloud, such as when they chose to read an essay at phase advancement or were assigned to write an essay as a sanction. In a unique experience, a medium, urban drug court was able to include a well-known comedian who was in recovery during its first Zoom graduation. The judge (Q10) was struck by this opportunity, which they saw as community building.

Additional comments reveal how court judges and personnel aligned their perspectives on virtual hearings with the necessity of them, an example of the legitimation process that, for the most part, crossed court type, size, and place. One judge at a small, urban drug court (C31) said, "Oh, we are keeping it," when asked about Zoom, and explained that videoconferencing is especially beneficial for those in residential programs who were unable to join in the court. The judge, like several others, emphasized that they could maintain regular contact with those in residential treatment and not alter scheduled court appearances if participants were unable to leave a facility. Two judges from small (one urban and one rural) drug courts (P17; P22) suggested that the participants would want to keep using Zoom even when they are ready to get back to in-person hearings. A judge in a small, urban veterans court suggested that their distinct population was able to adjust quickly, noting that while court practitioners may prefer "in-person services . . . they say, okay, that is the way it's going to be, I'll make the best of it" (S74).

These findings suggest that innovation during the pandemic enabled various court personnel to shift their assumptions about what makes treatment courts effective, aligning their beliefs about what works best for their participants with what was available. While in-person check-ins were assumed to be therapeutically beneficial and necessary to monitor compliance, the necessity of virtual hearings shifted their assumptions. In this way, the pandemic provided an opportunity for courts to think about the benefits and drawbacks of well-established surveillance practices.

Telehealth: Expanding Access

Like courts, social service organizations had to pivot from in-person to virtual meetings. Interviewees across treatment court type, size, and professional role explained responses to these changes in ways that reveal a legitimation process similar to that of switching to virtual hearings. Despite challenges related to surveillance and sanctions, interviewees came to view what was available to address substance use, mental health, and other complex challenges—which preexisted but were exacerbated by the pandemic and ensuing shutdown—as advantageous because of increased access for participants.

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Some interviewees approached virtual treatment meetings with similar skepticism as virtual court hearings, worried about interpersonal dynamics. One interviewee from a family treatment court (S85) suggested that virtual therapy works if there is already a relationship between the participant and the provider. A judge from a small, urban drug court (CD23) explained that the lack of available services meant that they had to change requirements as the court did not want to force participants to comply with services that were difficult to find. A probation officer from a medium, urban mental health court (BR6) noted that some participants did not want to do virtual mental health treatment and asked to simply wait until they could go back in person. This comment was echoed by other mental health court practitioners who noted challenges with getting participants engaged over the phone or computer (S64; S65). Other issues arose specifically for drug court participants who needed access to medical therapies (i.e., methadone), not only talk therapies (CB57).

Given these and other challenges, the switch to virtual services led courts across type, size, and place to rethink surveillance and sanctioning practices. A probation officer from a large, urban drug court (CB30) remarked that accountability in telehealth was a problem because the participants could not easily get signatures from providers. Interviewees relayed that attendance for the court's mandated treatment meetings was "all over the place," with meetings sometimes having one participant and sometimes ten, and some participants claiming technological difficulties. One judge in a small, urban drug court (C36) noted that monitoring compliance was particularly challenging because the participants can blame technology when they are not able to make excuses like missing the bus, which they could pre-pandemic. Another interviewee from a small, urban drug court (CD37) relayed problems associated with surveillance through the anecdote of a participant saying they could not attend treatment because their phone broke three times. Eventually, the participant eventually "just took off" and was on warrant status. Likewise, a probation officer from a small, urban drug court and a judge from another small, urban drug court mentioned that "it's voluntary" (CD37) or "it's the honor system" when it comes to accountability for treatment (CB31).

Although interviewees worried about surveillance, the crisis also presented an opportunity to recognize long-standing challenges to mandated treatments that virtual services might fill. Overall, interviewees suggested that there was better attendance in virtual treatment sessions. According to an interviewee working at the Trial Court level (EJ2), the missed meeting rate went from 60 percent to 5 percent during the first few months of virtual services, with some variation in which courts pivoted more easily. In this regard, adaptation in VTCs differed from that in the other courts because participants getting treatment at the VA were immediately funneled into virtual services. Other courts had to be proactive in seeking out and adapting to changes in social service organizations, but they quickly saw the benefits. One judge from a small, urban drug court (P55) called this experience a "blessing in disguise," a boon for the court's participants, particularly those with mental health disorders. They relayed that some participants were able to get treatment from providers far away, and that some providers joined court sessions virtually and would have been unable to come to court in person. A judge from a small, urban drug court in another part of the state (BP10) talked about a participant doing "worldwide" therapy, happy to be in a virtual setting since in-person meetings made him uncomfortable. A case worker at a large, urban mental health court

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relayed appreciation for no longer having to worry about the first available provider being in an area difficult to access through public transportation (BP47). Other interviewees noted that virtual services were highly beneficial to courts in rural areas where transportation is a challenge, especially where there are high levels of poverty (CD41).

With these innovations, virtual treatment options provided an opportunity to rethink assumptions about what makes the courts effective. While courts remained concerned about monitoring compliance with treatments, they developed new strategies to encourage engagement, fostering new approaches court goals and strategies. To verify attendance, some courts asked probationers to write essays about their sessions, while other courts contacted therapists or asked participants to take screenshots of sessions. A judge from a small, urban drug court said that virtual services worked well because they now had "all hands on deck" to help, and help monitor, participants (CB56). Others mentioned how drug treatment might be altered for the better, again because of increased access. One group of interviewees working at the Trial Court (CB63) mentioned that responses to the shutdown included new and preferred options to provide methadone treatments.

Innovation around virtual services shifted practices in ways that may outlast the pandemic, an illustration of how this form of strategic adaptation goes beyond the protective measures of buffering. No longer dependent on social services in their area, which can frequently constrain a court's ability to connect participants with treatment, these courts were able to form new affiliations around the country, ultimately reshaping their organizational fields. The findings also suggest that this form of strategic adaptation occurred because of coadaptation in the organizational field that supported treatment court participation. The availability of telehealth expanded opportunities for participants to fulfill court requirements, and various courts came to view these changes as aligned with their organizational goals.

Adapting the Organizational Workgroup

One of the unexpected findings from this study is the importance of thinking about staff, not only participants, when contemplating efficiency and efficacy in response to an exogenous shock. Current research shows that organizational change requires time and resources, alignment of resources, and leadership (Rudes, Portillo, and Taxman 2021). These findings underscore that the legitimacy of changes, and therefore their sustainability, requires a focus on the organizational workgroup. Due to the pragmatic approach that characterizes therapeutic jurisprudence, court staffing is critical in the success of a treatment court that seeks to closely monitor and quickly respond to individual participants, as well as create a cohesive group identity.

Adapting to the pandemic and ensuing shutdown through buffering and innovation required court personnel to take on additional responsibilities related to both treatment options and new surveillance strategies. Notably, courts working with homeless populations, which include homelessness courts as well as other treatment court types, as well as those supervising probationers whom they would otherwise send for residential treatment (typically for substance use), faced unique challenges as most residential facilities were not taking new participants and, according to court personnel, participants did not feel safe going to a shelter. One interviewee at a small, urban drug court

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(CB24) mentioned that the residential facilities were being more forgiving, not wanting to discharge people who did not adhere to strict sobriety, but that finding housing for those unsheltered was a challenge.

Treatment court personnel helped buffer against these changes by taking on responsibilities previously left to their organizational partners. One judge from a medium, urban drug court (C28) described the challenge for participants who lost their jobs and were facing homelessness. They explained that the court began working to get participants unemployment benefits in addition to their regular work securing treatments. Another judge and probation officer team from a small, rural drug court (K6) explained how they kept supplies on hand to help participants who need basic clothing and toiletries. Two interviewees from probation (K6) described how probation purchased beds in facilities to ensure that their participants would have access. One judge from a medium, urban mental health court (C55) also described how proactive the police have been in helping encourage participants to stay in touch with the court, which they hoped would facilitate a smooth transition when they came back in person.

Many staff, particularly probation officers and case managers, expressed challenges related to the amount and conditions of their workload as they adapted. This finding holds across court size. Personnel reported that it was more difficult to do their work without their physical office because they need access to files, printers, and other tools, and because their job is better performed with face time with participants. Some staff with children at home said that working from home during this time is made more difficult by childcare obligations (DY65; M66). Another important concern raised was related to staff who must work at multiple courts. One interviewee (C62) said that the shutdown was particularly difficult for clinicians who were having to learn new systems to respond to the pandemic at multiple sites. Another probation officer from a medium, urban drug court (DY6) echoed this concern, explaining how hard it was to be a court coordinator and probation officer dealing with "liabilities" but wanting to do more for participants' well-being. One judge from a small, urban drug court (C18) mentioned how probation officers were internalizing the participants' struggles, highlighting potential mental health challenges for those trying to aid the courts' vulnerable population.

These findings underscore the limits of legal pragmatism as both a normative theory and a movement for legal reform because it requires buy-in and significant resources from court personnel and other criminal legal and social services. During the pandemic, strategic adaptation required not only changes in how people make sense of their goals and strategies, but also an increase in human resources to meet the needs of participants struggling in the wake of the pandemic. Given the multifaceted and fractured organizational fields in which they work, treatment courts had to adapt in ways that expanded workgroup responsibilities to fill in for other agencies. As a policy matter, this finding illustrates the increased human and financial resources needed to sustain a pragmatic approach to the law during a crisis.

DISCUSSION: PRAGMATISM IN A CRISIS

This study shows how a pragmatic approach to the law required strategic adaptation to the exogenous shock of the pandemic. Adaptation occurred through both

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buffering and innovation, with different approaches depending on the ability of other organizations to coadapt. Beyond moderating the impact of the pandemic and shutdown, courts were able to innovate with new ideas and practices related to virtual hearings and treatments, which many saw as beneficial beyond the shutdown. These strategies challenged taken-for-granted assumptions about what makes treatment courts effective, particularly the role of surveillance and sanctions.

As a theoretical matter, these findings extend organizational theories into a new arena. Examining treatment courts with the insights of neo-institutional theories, which focus on how organizations maintain authority and legitimacy, as well as the importance of looking at organizational field dynamics, illustrates the nature and the limits of legal pragmatism, particularly legal pragmatism in a crisis. By showing how actors in these courts pursue pragmatic responses to institutional constraints (Tomaskevic-Devey and Avent-Holt 2019, 50), the study illustrates how institutional fields—in this case the criminal legal and social welfare fields—matter for organizational practice. First, the findings illustrate that institutions matter in different ways, sometimes creating external constraints that an organization must buffer against or innovate in relation to. Treatment courts determine their own criteria for entry and graduation, making them uniquely flexible criminal legal organizations. At the same time, these courts cannot admit participants without referrals from other criminal justice actors such as district attorneys and public defenders, and they cannot mandate treatments without available community providers. To protect their core mission of offering legal benefits, they sought new organizational pathways to admit people and changed their sanction and surveillance strategies to graduate participants. Yet, because they are rule bound, subject to judicial review, and dependent on other rule-bound organizations within the criminal legal field, treatment courts have a narrower set of adaptation options than both for-profit and nonprofit organizations.

Institutional fields also shape perceptions about what is possible, providing important insights into how individuals working within the criminal legal system address complex social and political problems. The findings illustrate that strategic adaptation can be a proactive and reactive process that provides important insights into the social process of legitimation. In this study, interviewees articulated changing perspectives on the role of sanctions and surveillance as they pursued their core mission of providing legal benefits. By showing how these treatment court actors made sense of their decisions, the study reveals how "what is becomes what's right" (Johnson, Dowd, and Ridgeway 2006, 57). The result is a rare opportunity to view an accelerated process of legitimation shaped by the unique social and political context of the pandemic and state emergency.

Although it is useful to study courts with the insights of neo-institutional theories, it is important to recognize that these theories originated in studies of profit-seeking organizations with different goals and external constraints than a judicial organization that, while also seeking efficacy, efficiency, and legitimacy, has less autonomy in how it achieves any of these goals. The findings reinforce scholarship that avoids emphasizing the homogenizing effects of institutional pressures to show how individual organizations adapt in different ways to similar constraints (Tomaskevic-Devey and Avent-Holt 2019). Many treatment courts across the states adapted in similar ways, yet also with differences related to court size, place, type, and individual preferences that underscore the varied ways that individual organizations make sense of field-level changes.

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Along these lines, this study further illustrates the conditions that shape adaptation strategies. The capacity of these organizations to strategically adapt, and the form in which they did, reflects the ability of organizations working across fields to coadapt. This further illustrates the limits of the law to address entrenched social problems made more complex by a public health disaster and political emergency. An exogenous shock reveals taken-for-granted relationships and logics that guide organizational behavior. Studying how these relationships and logics change, and justifications for those changes, reveals social and political contingencies that shape the law and may otherwise be difficult to recognize.

As a practical matter, while buffering strategies may recede as criminal legal case processing resumes, innovations related to virtual hearings and treatments may transform how treatment courts operate moving forward. Aligning beliefs with practices is essential for personnel to maintain enthusiasm for treatment courts (Nolan 2001), and for reforms to be sustainable (Rudes, Portillo, and Taxman 2021). Those changes that are sustainable will likely endure because court personnel view them as pragmatic, beneficial, and in line with their overall organizational goals (Rudes, Portillo, and Taxman 2021). While theories of therapeutic jurisprudence emphasize the interdisciplinary teams required to create a successful drug court, the pandemic illustrated how interdependent different criminal justice and social service organizations are, as well as fragmentation, variability, and uncertainty in these fields. The buffering strategies illustrate organizational constraints that require further attention to avoid the same challenges in a future emergency. The findings underscore the need for better planning between police, courts, and jails in the next emergency.

There are additional practical implications from this study that require ongoing research and reflection. The first is the generalizability of a study in a state with a well-organized treatment court program, where courts have leeway in adapting their rules, and where most participants are on probation rather than participating in a treatment court to avoid a criminal sentence. MA treatment courts may have had to buffer against decarceration efforts in different ways than do courts that are pre-plea, where participants can enter before they are sentenced and where the district attorney has more decision-making power in offering legal outcomes. Likewise, MA treatment courts are smaller than many treatment courts that are pre-plea or a blend of pre-plea and post-disposition. Relatedly, MA treatment courts may have less socioeconomic diversity, and certainly a smaller overall number of racial minority participants, than other states' treatment courts. Drug treatment courts typically have 80 to 120 participants per year, and potentially hundreds more in a major city such as New York or Los Angeles (see Brown 2010). Larger courts, and those with more diverse participants, may worry about efficiency in different ways than do smaller courts where there are fewer participants to manage. Finally, MA courts have coordination at the state level, which provides more support than may exist in other states. It will be important to replicate this study across other geographic areas to examine how rules and state-level institutional structures affected other treatment courts.

Further, given that studies predict treatment court completion, and thus success, when participants are gainfully employed, married, and have other social ties (Hepburn and Harvey 2007), it will be important to further document whether the virtual hearings helped participants graduate, stay sober, and avoid criminal behavior and rearrest. This will provide additional information on whether this innovation is efficacious, or just perceived to be. Critics may worry about more, or different, surveillance techniques

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through virtual hearings and treatment, and "reformist reforms" that simply divert people from incarceration but do not fundamentally challenge the criminal legal structure (Bell 2021). Such critics may be assuaged in the short term if the surveillance does not contribute to more detention, but it will be important to further examine whether or to what extent the switch to virtual settings further undermines participant privacy, and whether broader efforts to reform the criminal legal system can help reduce racial and other disparities in who accesses and benefits from treatment courts (see O'Hear 2009).

Finally, the study also points to potential changes that will more broadly affect treatment courts, criminal legal practices, and social services. As other courts explore virtual options for jury trials, depositions, and other practices that have historically been face-to-face, these changes are likely to become permanent. In addition, with progressive criminal legal policies in some cities focused on decarceration, police reform geared toward using social service providers for individuals having substance use or mental health crises, and decriminalizing drugs, there may be fewer referrals to treatment courts overall. This may lead to other changes to who accesses these courts, what they offer, and what they require. Moving forward, courts can hopefully take stock of the changes they implemented, decide which to keep and which to discard as courts return to in person, and develop plans in case of another emergency.

REFERENCES

Baker, Kimberly M. "Decision Making in a Hybrid Organization: A Case Study of a Southwestern Drug Court Treatment Program." *Law & Social Inquiry* 38, no. 1 (2013): 27–54.

Baldwin, Julie M., John M. Eassey, and Erika J. Brooke. "Court Operations during the COVID-19 Pandemic." *American Journal of Criminal Justice* 45, no. 4 (2020): 743–58.

Baxter, Pamela, and Susan Jack. "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers." Qualitative Report 13, no. 4 (2008): 544–59.

Battilana, Julie, and Silvia Dorado. "Building Sustainable Hybrid Organizations: The Case of Commercial Microfinance Organizations." *Academy of Management Journal* 53, no. 6 (2010): 1419–40.

Bell, Marina. "Abolition: A New Paradigm for Reform." *Law and Social Inquiry* 46, no. 1 (2021): 32–68.

Brown, Randall T. "Systematic Review of the Impact of Adult Drug-Treatment Courts." *Translational Research: Journal of Laboratory and Clinical Medicine* 155, no. 6 (2010): 263–74.

Carey, Shannon M., Michael W. Finigan, and Kimberly Pukstas. *Exploring the Key Components of Drug Courts: A Comparative Study of 18 Adult Drug Courts on Practices, Outcomes and Costs*. Portland, OR: NPC Research, 2008. www.npcresearch.com.

Castellano, Ursula. "The Politics of Benchcraft: The Role of Judges in Mental Health Courts." *Law & Social Inquiry* 42, no. 2 (2017): 398–422.

Charmaz, Kathy. *Constructing Grounded Theory: A Practical Guide through Qualitative Analysis*. London: Sage Publications, 2006.

Clayton, Cornell W., and Howard Gillman. *Supreme Court Decision-Making: New Institutionalist Approaches*. Chicago, IL: University of Chicago Press, 1999.

Corbo, Leonardo, Raffaele Corrado, and Simone Ferriani. "A New Order of Things: Network Mechanisms of Field Evolution in the Aftermath of an Exogenous Shock." *Organization Studies* 37, no. 3 (2016): 323–48.

Crossan, Mary M., and Marina Apaydin. "A Multi-Dimensional Framework of Organizational Innovation: A Systematic Review of the Literature." *Journal of Management Studies* 47, no. 6 (2010): 1154–91.

DiMaggio, Paul J., and Walter W. Powell. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48, no. 2 (1983): 147–60.

https://doi.org/10.1017/lsi.2022.93 Published online by Cambridge University Press

Edelman, Lauren B., and Mark C. Suchman. "Legal Rational Myths: The New Institutionalism and the Law and Society Tradition." *Law & Social Inquiry* 21, no. 4 (1996): 903–41.

——. "The Legal Environments of Organizations." *Annual Review of Sociology* 23, no. 1 (1997): 479–515.

Eisenhardt, Kathleen M., and Donald N. Sull. "Strategy as Simple Rules." *Harvard Business Review* 79, no. 1 (2001): 106–76.

Eisenstein, James, and Herbert Jacob. *Felony Justice: An Organizational Analysis of Criminal Courts*. Lanham, MD: University Press of America, 1991.

Gallagher, John R., Anne Nordberg, Michael S. Deranek, Eric Ivory, Jesse Carlton, and Jane Woodward Miller. "Predicting Termination from Drug Court and Comparing Recidivism Patterns: Treating Substance Use Disorders in Criminal Justice Settings." *Alcoholism Treatment Quarterly* 33, no. 1 (2015): 28–43.

Ganz, Marshall. "Resources and Resourcefulness: Strategic Capacity in the Unionization of Californial Agriculture." *American Journal of Sociology* 103, no. 3 (2000): 1003–62.

Hannah-Moffat, Kelly, and Paula Maurutto. "Shifting and Targeted Forms of Penal Governance: Bail, Punishment and Specialized Courts." *Theoretical Criminology* 16, no. 2 (2012): 201–19.

Hepburn, John R., and Angela N. Harvey. "The Effect of the Threat of Legal Sanction on Program Retention and Completion: Is That Why They Stay in Drug Court?" *Crime & Delinquency* 53, no. 2 (2007): 255–80.

Johnson, Cathryn E., Timothy J. Dowd, and Cecilia L. Ridgeway. "Legitimation as a Social Process." *Annual Review of Sociology* 32, no. 1 (2006): 53–78.

Kasen, Nancy, Rosalie Torres Stone, Reginald Tucker-Seeley, and Denise Hines. *Unhealthy, Unwealthy: Health Disparities in Massachusetts*. Worcester, MA: Clark University, Mosakowski Institute for Public Enterprise, 2017.

Kaye, Kerwin. *Drug Courts, Therapeutic Communities, and the Intimacy of the State*. New York: Columbia University Press, 2019.

Kohler-Hausmann, Issa. "Misdemeanor Justice: Control without Conviction." *American Journal of Sociology* 119, no. 2 (2013): 351–89.

Koronis, Epaminondas, and Stavros Ponis. "Better than Before: The Resilient Organization in Crisis Mode." *Journal of Business Strategy* 39, no. 1 (2018): 32–42.

Lens, Vicki. "Confronting Government after Welfare Reform: Moralists, Reformers, and Narratives of (Ir)responsibility at Administrative Fair Hearings." *Law and Society Review* 43, no. 9 (2009): 563–93.

Lynn, Monty L. "Organizational Buffering: Managing Boundaries and Cores." *Organization Studies* 26, no. 1 (2005): 37–61.

March, James G., and Johan P. Olsen. "The New Institutionalism: Organizational Factors in Political Life." *American Political Science Review* 78, no. 3 (1984): 734–49.

Massachusetts Area Planning Commission (MAPC). "Massachusetts Community Types Summary." July 2008. http://www.mapc.org/wp-content/uploads/2017/09/Massachusetts-Community-Types-Summary-July_2008.pdf.

McAdam, Doug, and W. Richard Scott. "Organizations and Movements." In *Social Movements and Organization Theory*, edited by Gerald F. Davis, Doug McAdam, W. Richard Scott, and Mayer N. Zald, 4–40. Cambridge, UK: Cambridge University Press, 2005.

McCammon, Holly J., Soma Chaudhuri, Lyndi Hewitt, Courtney Sanders Muse, Harmony D. Newman, Carrie Lee Smith, and Teresa M. Terrell. "Becoming Full Citizens: The U.S. Women's Jury Rights Campaigns, the Pace of Reform, and Strategic Adaptation." *American Journal of Sociology* 113, no. 4 (2008): 1104–47.

McNiel, Dale E., and Renée L. Binder. "Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence." *American Journal of Psychiatry* 164, no. 9 (2007): 1395–1403.

McPherson, Chad Michael, and Michael Sauder. "Logics in Action: Managing Institutional Complexity in a Drug Court." *Administrative Science Quarterly* 58, no. 2 (2013): 165–96.

Meyer, John W., and W. Richard Scott. *Organizational Environments: Ritual and Rationality*. Thousand Oaks, CA: Sage Publications, Inc., 1983.

https://doi.org/10.1017/lsi.2022.93 Published online by Cambridge University Press

Micelotta, Evelyn, Michael Lounsbury, and Royston Greenwood. "Pathways of Institutional Change: An Integrative Review and Research Agenda." *Journal of Management* 43, no. 6 (2017): 1885–1910.

Mirchandani, Rekha. "What's So Special about Specialized Courts? The State and Social Change in Salt Lake City's Domestic Violence Court." *Law & Society Review* 39, no. 2 (2005): 379–418.

Moore, Dawn. "The Benevolent Watch: Therapeutic Surveillance in Drug Treatment Court." *Theoretical Criminology* 15, no. 3 (2011): 255–68.

Nolan, James L. *Reinventing Justice : The American Drug Court Movement*. Princeton, NJ: Princeton University Press, 2001.

—— "Redefining Criminal Courts: Problem-Solving and the Meaning of Justice." *American Criminal Law Review* 40, no. 4 (2003): 1541–66.

—— *Legal Accents, Legal Borrowing: The International Problem-Solving Court Movement*. Princeton, NJ: Princeton University Press, 2009.

Nonet, Philippe, and Philip Selznick. *Law and Society in Transition: Toward Responsive Law*. New York: Routledge, 2001.

O'Hear, Michael. "Rethinking Drug Courts: Restorative Justice as a Response to Racial Injustice." *Stanford Law & Policy Review* 20, no. 2 (2009): 463–99.

Ostrom, Brian J., Charles W. Ostrom, Matthew Kleiman, and Roger A. Hanson. *Trial Courts as Organizations*. Philadelphia, PA: Temple University Press, 2007.

Parsons, Talcott. "Suggestions for a Sociological Approach to the Theory of Organizations-I." *Administrative Science Quarterly* 1, no. 1 (1956): 63–85.

Peters, Roger H., and Mary R. Murrin. "Effectiveness of Treatment-Based Drug Courts in Reducing Criminal Recidivism." *Criminal Justice and Behavior* 27, no. 1 (2000): 72–96.

Peyrot, Mark. "Institutional and Organizational Dynamics in Community-Based Drug Abuse Treatment." *Social Problems* 38, no. 1 (2001): 20–33.

Phelps, Michelle S. "The Paradox of Probation: Community Supervision in the Age of Mass Incarceration." *Law and Policy* 35, no. 1–2 (2013): 51–80.

—— "Mass Probation: Toward a More Robust Theory of State Variation in Punishment." *Punishment and Society* 19, no. 1 (2017): 53–73.

Rao, Hayagreeva, Calvin Morrill, and Mayer N. Zald. "Power Plays: How Social Movements and Collective Action Create New Organizational Forms." *Research in Organizational Behavior* 22 (2000): 237–81.

Rudes, Danielle S., Shannon Portillo, and Faye S. Taxman. "The Legitimacy of Change: Adopting/Adapting, Implementing and Sustaining Reforms within Community Corrections Agencies." *British Journal of Criminology* 61, no. 6 (2021): 1665–83.

Russell, Robert T. "Veterans Treatment Courts." *Touro Law Review* 31, no. 3 (2015): 385–401.

Scott, W. Richard. "Reflections on a Half-Century of Organizational Sociology." *Annual Review of Sociology* 30 (2004): 1–21.

Singer, Jordan M. "The Federal Courts' Rulemaking Buffer." *William & Mary Law Review* 60, no. 6 (2018): 2239–2309.

Suchman, Mark C. "Managing Legitimacy: Strategic and Institutional Approaches." *Academy of Management Review* 20, no. 3 (1995): 571–610.

Tomaskevic-Devey, Donald, and Dustin Avent-Holt. *Relational Inequalities: An Organizational Approach*. New York: Oxford University Press, 2019.

Wexler, David B. *Therapeutic Jurisprudence: The Law as a Therapeutic Agent*. Durham, NC: Carolina Academic Press, 1990.

Whiteacre, Kevin W. "Strange Bedfellows: The Tensions of Coerced Treatment." *Criminal Justice Policy Review* 18, no. 3 (2007): 260–73.

Winick, Bruce J., and David B. Wexler. *Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts*. Durham, NC: Carolina Academic Press, 2003.

——. "Drug Treatment Court: Therapeutic Jurisprudence Applied." *Touro Law Review* 18, no. 3 (2015): 479–85.

Zozula, Christine. *Courting the Community: Legitimacy and Punishment in a Community Court*. Philadelphia: Temple University Press, 2019.

https://doi.org/10.1017/lsi.2022.93 Published online by Cambridge University Press