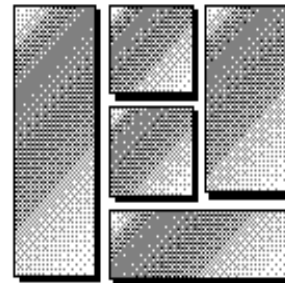

**REVIEW OF SPECIALIZED FAMILY
DRUG COURTS: KEY ISSUES IN
HANDLING CHILD ABUSE AND
NEGLECT CASES**



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Review of Specialized Family Drug Courts: Key Issues in Handling Child Abuse and Neglect Cases

Family Drug Courts

Family drug courts (FDCs) are designed to help abused and neglected children by addressing parental substance abuse within the context of family court child-protection cases. Specifically, FDCs handle cases (1) involving parental rights in which an adult is the respondent; (2) that come before the court through either a civil or criminal process; and (3) that arise out of the substance abuse of the adult parent and deal with custody and visitation disputes; abuse, neglect, and dependency matters; petitions to terminate parental rights; guardianship proceedings; or other laws, restrictions, or limitations of parental rights (Cooper and Bartlett, 1998). According to a recent drug court clearinghouse report, 10 FDCs are operating in the United States and 10 more are in the planning stage (Cooper and Bartlett, 1998).

The emergence of FDCs can be attributed in part to a convergence of judicial, statutory, and social service pressures. The number of child abuse and neglect cases and the proportion of these that involve substance abuse has grown in recent years, placing pressure on the courts. Between 1980 and 1994, the number of abused and neglected children reported to Child Protective Services (CPS) increased from 1.1 million to over 2.9 million. To demonstrate what this statistic means for courts, one study notes family court judges reported handling as many as 50 cases a day in 1997; assuming an eight-hour day, that is less than 10 minutes for each case (The National Center on Addiction and Substance Abuse, 1999). New child welfare legislation has dramatically cut the time available for developing permanent placements for children in foster care. The families in these cases have multiple problems –social, economic, and medical–that demand a level of coordination and comprehensive service that has eluded most communities. Despite intensive interventions, the sheer number and complex needs of these families have made it difficult for child welfare agencies to be effective in preventing out-of-home placements of children from substance-abusing families (see references in Dore and Doris, 1997; General Accounting Office [GAO], 1997).

Collectively, these pressures create an environment in which the need for immediate and efficient intervention becomes overwhelmingly important. Eyeing the comprehensive nature and

broad judicial authority of the drug court model, some family court judges not only see an opportunity for effective intervention, but also recognize that they must act quickly, based on the overwhelming number of cases and the requirements of the new laws. Therefore, they are attempting to adjust the structure of their courts to meet both the needs of the children and the requirements set out in the new law. Their efforts have been supported by health care professionals, child welfare advocates, policymakers, and social service agencies, who also recognize an apparent disconnection and lack of coordination among the various branches of the government and community that should be able to protect children while assisting substance-abusing parents (Bennett and Lawson, 1994; Haack, 1997). Proponents of FDCs hope that the authority of the courts can be used to increase the effectiveness of child welfare agencies by expanding access to alcohol and drug treatment, increasing pressure on parents to address their substance-abuse problems, and coordinating the multiple social services needed to stabilize many of these families.

This report examines how FDCs relate to general trends in child welfare reform, lessons from drug courts, and rising interest in therapeutic jurisprudence. It also examines the strategies and issues identified in site visits to FDCs in Manhattan, Suffolk County, New York, and Escambia County, Florida. The goals are to provide a context for understanding the objectives and challenges courts face in developing effective interventions for substance-abusing parents in family court, and to suggest areas for research and evaluation to assist the courts in this undertaking.

Changing Child Welfare Laws and the Role of the Court

The role of juvenile and family courts has changed drastically over the last 30 years as a result of ongoing efforts to address the needs of abused and neglected children. In this process, the roles and responsibilities of both the courts and child welfare agencies have evolved. Traditionally, the role of family courts has been to determine whether a child has been abused or neglected and whether the child needs to be placed under court supervision, relying heavily on the placement recommendations from child welfare agencies. CPS agencies have been responsible for investigating allegations of neglect and for petitioning the court for changes in custody, visitation, child protection, or parental rights based on the results of their investigations. They have also been responsible for monitoring the progress of both families of children who

remain in the home, offering services to improve parenting skills and the home environment, and foster care and other placements. CPS agencies also bear responsibility for developing plans for placing children permanently to ensure continuity of care and to avoid long-term shifting in foster care placements.

An increase in the number of children in foster care in the 1980s, in addition to increased drug use, homelessness, and poverty, inspired new approaches to child welfare. States began to focus on early intervention and preventative efforts designed to strengthen families before they reached a crisis stage (GAO, 1997). Changing child welfare law requirements for both agencies and courts began with The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). Procedural changes for the courts under this act included new responsibilities for evaluation of reasonableness of services to preserve families, periodic review in foster care cases, adherence to deadlines for permanency planning decisions, and procedural safeguards concerning placement and visitation (National Council of Juvenile and Family Court Judges, Spring 1995). Expansion of the role of the court in monitoring the safety of the child was followed by legislation designed to maximize the likelihood of a long-term placement with the family of origin. Many experts and child welfare agencies recognized the shortcomings of the foster care system and the benefits to be gained if families could, through child welfare services, be enabled to care for their children. The 1993 Family Preservation and Support Services Act (P.L. 103-66) bolstered the shift to family reunification among state agencies (Dore and Doris, 1997) and courts by responding to states' call for more federal funding to expand family preservation programs. The Omnibus Budget Reconciliation Act of 1993 provided \$930 million in grants for state family preservation and support services over 5 years.

Child welfare reform continued in November 1997, when the President signed into law the Adoption and Safe Children Act of 1997 (P.L. 105-89). The law changes and clarifies policies under the 1980 law, and is designed to improve the safety of children, promote adoption and other permanent homes for children who need them, and support families. The law introduced dramatically different time lines for both permanency hearings and adoption. The permanency planning hearing, a post-dispositional hearing to determine the permanent home of a foster child, must now be held within 12 months of a child's entry into care, rather than 18 months. Therefore, courts are charged with determining more quickly whether a child will be returned home, adopted, or referred to a legal guardian or other alternative permanent living

arrangement. The new law also requires courts to initiate termination of parental rights proceedings while recruiting and approving a qualified adoptive family for children that have been in foster care 15 out of the most recent 22 months. Children already in foster care are covered under the law, and states are required to act on all existing cases within 18 months of their first legislative session following enactment of the law. In reauthorizing funds to continue and expand the family preservation and support services program, the new law includes specific funds for time-limited reunification services such as counseling, substance abuse treatment services, mental health services, and assistance for domestic violence.

The result of these various reforms has been a shift in the traditional division of responsibility between family courts and child welfare agencies, with courts taking a more active role in the development of service plans and permanent placements. Inevitably, these new responsibilities have led courts to recognize the problems welfare agencies face in working with substance-abusing parents. Substance abuse is a major factor in child abuse and neglect cases appearing in family courts. Parental substance abuse and dependence has been found to be highly associated with child maltreatment, independent of confounding factors (Kelleher et al., 1994). A 1993 study found that children in alcohol-abusing families were nearly four times more likely to be maltreated, almost five times more likely to be physically neglected, and 10 times more likely to be emotionally neglected than children in non-alcohol-abusing families (U.S. Department of Health and Human Services, 1993). The Child Welfare League of America reports survey results showing chemical dependency in 40 percent to 80 percent of the cases coming into the child welfare system. In the early 1990s, 80 percent of the 22,000 babies annually abandoned at birth tested positive for drugs (Shalala, 1993; as cited in Haack, 1997).

State child welfare agencies are often ill-equipped to track, identify, and treat parents involved in substance abuse. Not only do few states' child welfare agencies track data on substance abuse in the families of the children they serve, but parental drug or alcohol abuse is not always included in the risk assessment protocols used by child protective service case workers (Wingfield, 1998). Case managers have rarely received special training in identifying drug and alcohol abuse (Curtis and McCullough, 1993). Even when case managers recognize the severity of a parental substance-abuse problem, they can only provide treatment to a portion of alcohol-or drug-involved parents in need, and often at great delay. Child welfare professionals

estimate that about 67 percent of parents involved in the child welfare system need substance abuse treatment, but resources exist to help only 31 percent (Liederman, 1998).

Even well-trained child protective workers find it extremely difficult to get substance-abusing parents to seek treatment voluntarily, again experiencing difficulties in solving the multiple problems exhibited by these families. Research indicates that parents who maltreated their children were significantly less likely to comply with court-ordered services if they had a drug problem (Famularo, et al., 1989). In New York, service availability and adequacy were reported to be barriers to treatment in only 2 percent to 3 percent of the cases, while the primary barrier was found to be lack of parental cooperation with treatment referrals (68 percent of the cases; Marisol Joint Case Review Team, December 1997). In the past, many cases lingered in family courts for years while child welfare agencies struggled to stabilize these families. In the end, parents with substance-abuse problems are more likely to lose parental rights than maltreating parents without substance-abuse problems (Curtis and McCullough, 1993; Murphy et al., 1991; Tracy and Farkas, 1994).

Lessons from Drug Courts

The apparent success of criminal drug courts stimulated interest in developing family drug courts. The first drug court was established in Dade County, Florida, in the summer of 1989, when Janet Reno was the prosecutor. Drug-involved offenders could get their charges dismissed if they successfully completed a one-year treatment program. The idea spread rapidly across the country and was organized under the leadership of the National Association of Drug Court Professionals. The Office of Justice Programs reports that, as of June 1998, 300 drug court programs operate in 42 states, the District of Columbia, and Puerto Rico, with 175 more nearing implementation. The General Accounting Office reports substantial increases in federal funding for drug court programs since 1993. For the last two years, the federal government has been funding new drug courts under Title V of the Violent Crime Control and Law Enforcement Act of 1994.

Initially, drug courts developed out of a growing recognition of the link between substance abuse and criminal activity, coupled with an increasing lack of faith in traditional criminal justice responses. Studies indicate that drug-involved offenders have higher rates of criminal activity, with the frequency and severity of criminal behavior increasing as personal use

increases (Anglin and Maugh, 1992; Vito, 1989). Narcotic addicts were found to commit four to six times as many crimes when they were abusing drugs (Gropper, 1985), a pattern even more pronounced among habitual criminal offenders (Vito, 1989). Despite increases in the severity of penalties and mandatory minimum sentencing laws for drug offenses, addicted offenders who received no drug treatment do not seem to be deterred and return to active drug use and criminal activity when released to the community. One study found that 60 percent of federal parolees who were opiate-dependent were re-incarcerated within six months of release—virtually all for opiate-related crimes (Metzger et al., 1996).

Research also indicates that drug treatment is effective. The Drug Abuse Treatment Outcome Study showed that the percentage using cocaine regularly dropped from 66 percent in the year before treatment to 22 percent in the year after treatment among those receiving long-term residential treatment, while the percentage reporting predatory illegal activity dropped from 41 percent to 16 percent. The National Treatment Improvement Evaluation Study found that 40 percent to 50 percent of regular cocaine and heroin users who spent at least three months in treatment were almost drug-free in the year after treatment, regardless of the treatment type. This five-year study of over 4,000 drug treatment clients found large and significant decreases in alcohol and drug use, criminal activity, AIDS risk, and homelessness, and increases in employment, income, and physical and mental health one year after discharge. At least three major studies indicate that clients who stayed in drug treatment for three months or longer reported greater reductions in drug use than those who received less treatment, regardless of treatment type (GAO, 1998).

Drug courts vary in how they operate. Some are limited to misdemeanor cases or first-time offenders. Others accept felony cases and offenders with long criminal histories. Some offer diversion for successful completion. Others offer pleas to lesser charges or reductions in the severity of the sentence. Despite the variation, the National Association of Drug Court Professionals (NADCP, 1997) has identified key components of drug courts:

- (1) Drug courts integrate alcohol and other drug treatment services with justice system processing;
- (2) Drug courts use a non-adversarial approach, prosecution and defense counsel promoting public safety while protecting participants' due process rights;

- (3) Eligible participants are identified early and promptly placed in the drug court program;
- (4) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;
- (5) Abstinence and use of alcohol and other drugs are monitored through frequent drug testing;
- (6) A coordinated strategy governs drug-court responses to participants' compliance;
- (7) Ongoing participation with each drug-court participant is essential;
- (8) Monitoring and evaluation measures the achievement of program goals and gauges effectiveness;
- (9) Effective drug court operations require continuing interdisciplinary education; and
- (10) Forging partnerships among drug courts, public agencies, and community-based organizations enhances drug court effectiveness and generates local support.

Each drug court applies a different mix of judicial monitoring, drug testing, graduated sanctions and incentives, and treatment –sometimes to very different populations. Therefore, measuring the success of drug courts through various methods of evaluation is quite a challenge. A 1997 GAO report reviewed 20 drug court evaluations and was unable to reach firm conclusions on their impact, citing differences and limitations associated with the objectives, scopes, and methodologies of the evaluations (GAO, 1997). While noting that the overall completion rate for these programs averaged 48 percent with retention at 71 percent, many of the program evaluations suffered limitations for a variety of reasons, such as evaluating new programs where many of the participants being evaluated were still active in the program; short follow-up periods; exclusion of post-program assessment of criminal recidivism or drug use relapse; and exclusion of comparisons between participant and nonparticipant arrest rates after program completion (GAO, 1997).

Since many of these evaluations are ongoing, there continue to be more data showing success in keeping drug-involved offenders in treatment while lowering their likelihood of recidivism and drug use. According to the 1997 Drug Court Survey Report by American University, retention rates in drug courts remain high (65–86 percent), as drug courts have reduced recidivism rates of participants to between 2 percent and 20 percent, and have reduced drug use of participants (NCJA, 1998). The survey found that 60 percent of those who entered

remained active in treatment at the end of one year (Cooper, Bartlett, Shaw & Young, 1997).

Court-based intervention with drug-involved offenders can increase participation in treatment and reduce crime. Treatment that is combined with urinalysis and court monitoring with sanctions is more likely to be successful than treatment alone (Falkin, 1993). Four of the six studies reviewed in the GAO report that included post-program comparisons revealed lower recidivism rates for drug court participants; however, follow-up on the two studies that rendered insignificant results in the GAO review have since produced significantly lower rates of post-program recidivism (Belenko, 1998). An evaluation of the Multnomah County STOP program found participants had significantly fewer subsequent arrests and convictions in the two years after the program, with length of treatment negatively associated with arrest rates (Finigan, 1998).

Some evaluations, such as the Santa Clara County and Ventura County Drug Court Programs, have shown lowered drug use during program participation through urine test results (see Belenko, 1998). A recent Urban Institute evaluation of Washington, D.C.'s Superior Court Drug Intervention Program looked at drug use both during and after the program. It compared defendants on a standard docket with those that received either graduated sanctions as part of a sanctions docket or court-based treatment as part of a treatment docket. Sanctions docket participants experienced reduced drug use during the program period, reduced stronger drug use in the year following sentencing, and a lower likelihood of being arrested in the year following sentencing (Harrell et al., 1998). Treatment participants also had reductions in drug use during the program period and reductions in stronger drug use in the year following sentencing, but were not less likely to be arrested overall (Harrell et al., 1998).

Finally, court-based intervention has been found to be a good investment of public funds. The Honolulu Drug Court estimated that it saved between \$677,000 and \$854,000 in averted prison costs for offenders who would have been incarcerated if not successfully treated (cited in Belenko, 1998). The Multnomah County Drug Court saved nearly \$2.5 million in criminal justice costs. When savings in victimization, theft reduction, public assistance and medical costs were added, the payoff rose to just over \$10 million over two years (Finigan, 1998). In the evaluation of the D.C.'s Drug Court, the estimated benefits in averted crime costs alone far outweighed the cost of the sanctions program, resulting in an annual estimated net benefit of \$867,354 (Harrell et al., 1998).

Drug testing, a key part of the accountability structure in drug courts, seems to hold promise for FDCs. Preliminary results from an Urban Institute evaluation of the effects of parental drug testing in child abuse and neglect cases in Washington, D.C., found that children of parents placed in drug monitoring were more likely to be placed in the permanent care of their family than in foster homes and were under court supervision a shorter time than children of substance-using parents not placed in drug monitoring. The monitored parents received more service referrals such as drug treatment and were more cooperative with referrals to diagnostic services than the parents not placed in drug monitoring (Newmark, 1995). This study did not examine the effects of treatment, but rather studied effects of monitoring through drug testing.

There is also evidence that integrating substance abuse and domestic violence treatment is successful in getting participants to begin and stay in treatment longer than participants involved in a dual process of attending each treatment separately, resulting in lower re-arrest rates for participants in the integrated approach (Goldkamp et al., 1994). One study duly notes that alcohol- and drug-involved parents often deal with a wide variety of other pressures, such as deteriorating housing, domestic abuse, community violence, and poor health, among others—substance abuse may be a parent’s least pressing concern (Dore and Doris, 1997). A GAO study confirms that the problems of the families of the children in the foster care go beyond substance abuse to include homelessness/lack of stable residence, domestic violence, and substance abuse coupled with mental illness (GAO, 1997). Without more holistic and extensive treatment, many drug-involved parents may not have a chance to keep their families together.

The therapeutic elements of FDCs—including the contract between the judge and the parent and tailored services with strict rules for accountability—may be necessary for effective intervention with substance-abusing parents. Many health care and child welfare professionals point out that a strictly punitive approach to pregnant substance abusers results in fear of prosecution, deterring women from seeking care, confiding in their doctors, and participating in treatment (National Institute on Drug Abuse, 1992). This view is supported by the American Medical Association, the American Academy of Pediatrics, the American College of Obstetrics and Gynecology, the American Society of Addiction Medicine, and the American Nurses Association.

Therapeutic Jurisprudence

Both criminal drug courts and FDCs are consistent with growing interest in therapeutic jurisprudence. From the perspective of therapeutic jurisprudence, courts should place increased importance on the goal of protecting victims from future harm (see McColl, 1996). This view of justice, referred to as a social defense model of justice, has profound implications for the operational rules and procedures within the courtroom and the agencies with which the courts work.

One significant implication is the shift in emphasis from retribution or rehabilitation to creating accountability and establishing a therapeutic judicial process. Criminal courts focusing on retribution seek to determine if the defendant is blameworthy and deserving of punishment and, if so, to set an appropriate punishment. Corrections agencies impose the penalty and law enforcement agencies apprehend those who do not comply with the conditions of the punishment. Civil courts focusing on retribution seek to formulate an equitable ruling to redress harms resulting from the behavior of parties named in the case. The court assumes only a general supervisory role in overseeing the implementation of the conditions specified in the ruling. The primary objective of retributive justice is “just deserts,” with punishments that are proportionate to the harm inflicted.

Criminal courts focusing on rehabilitation seek to determine if the offender’s behavior is illegal and in need of reform and, if so, set a sentence that includes referral to an agency that can arrange for treatments as needed. Agencies such as probation departments, TASC agencies, and prisons are expected to decide which services are needed to achieve reform, provide these services, and monitor progress towards behavior change. Law enforcement agencies are responsible for apprehending those who fail to reform and returning them to the court for subsequent consideration. Family courts focusing on rehabilitation refer cases to CPS agencies for family reunification services and infrequently review progress towards rehabilitation. CPS agencies have faced difficulties in getting parents to comply with treatment recommendations and have relied on foster care placements to protect the children. The goal of rehabilitative justice is to provide offenders with an opportunity for personal reform.

Under a social defense model of justice, criminal drug courts assume that the protection of society is the central goal of the justice process. Judicial attention shifts from determining individual blameworthiness to ensuring personal accountability and from offering an opportunity

for rehabilitation to requiring demonstrated progress toward rehabilitation goals. Under this model, FDCs continue their primary focus on child protection, but also use the power of the courts to ensure that parents are offered treatment with requirements to demonstrate progress toward rehabilitation. The goal of both criminal and family drug courts is to decrease the chance of recidivism while guarding the interests of potential victims.

The implications for court procedures are substantial. In the traditional adversarial legal system, defendants (through their attorneys) and the state (through prosecutors) follow an objective set of rules. The defendant and the state defend their positions and interests; there are clear-cut winners and losers, and the outcome is determined by a neutral judge on the basis of the facts they present concerning specific criminal acts. In drug courts, the attorneys, while observing the ethical obligations requiring zealous representation of their clients, work within the structure of the drug court to achieve the optimal family recovery plan. In FDCs, child advocates, substance abuse treatment professionals, attorneys for child welfare agencies, and attorneys for the parents need to identify their common interests and work closely together to place the child in a safe home—that is, one free of substance abuse, preferably with their biological parent. The court is the prime mover, ensuring that the goals and objectives of the plan are achieved through the consistent application of appropriate rewards and sanctions.

Both criminal and family drug courts involve more active judicial monitoring of defendant behavior than traditional courts. Under the rehabilitation and retribution models, the judge focuses on deciding the case and determining a sentence or settlement, while other agencies (pretrial services, probation, TASC agencies, child welfare agencies) assume responsibility for monitoring behavior and reporting violations to the court. In drug courts, the judge retains a central role in monitoring treatment progress and compliance with requirements. In criminal drug courts, a recognition of the ultimate goals of the program tempers the adversarial nature of the process. Prosecutors often reserve the right to exclude selected cases (high-risk offenders; cases linked to other cases; cases with high public visibility, such as drug dealing on school grounds), but generally agree to structure plea offers that allow the drug court to apply a combination of treatment and penalties to achieve drug desistance with most defendants. Defense attorneys usually allow their clients to enter drug court if they view their clients as seriously addicted and thus at high risk of recidivism and/or believe the client is very likely to be convicted on the basis of the evidence. In FDCs, the judge asks the parent to consent to drug treatment,

drug testing, and court monitoring, with sanctions for noncompliance. Attorneys representing the parents are given the opportunity to advise their clients to accept or reject the judge's offer of treatment under these conditions. Child welfare professionals are asked to collaborate closely with drug treatment providers and other social service agencies in monitoring parental compliance with court-mandated treatment plans.

In both criminal and family drug courts, the defendants have an active role in this collaboration. At the heart of increased accountability is the forging of an understanding between the court and the offender on behavioral requirements and consequences. When drug court defendants enter into an agreement in court, they accept a "contingency contract" that makes them accountable for participating in treatment and complying with a known set of rules. The rules offer sanctions and incentives that they can control through their behavior (see Inciardi et al., 1996; Pendergast et al., 1995). These arrangements offer offenders the chance for a better "deal," but include the risk of severe consequences, possibly more severe than might otherwise be incurred, for failure to comply with treatment conditions.

In criminal drug courts, the courts must avoid the risks of indeterminate sentencing and loosening of the link between the severity of the original offense and the severity of the consequences. Drug courts, if they are to succeed, must balance efforts to rehabilitate offenders with competing goals of equity in sentencing and punishment commensurate with the severity of the offense. In FDCs, the courts need to find ways of holding parents accountable for their progress, allowing them to demonstrate that the children in question can be safely placed in their custody.

Innovative Family Drug Court Operations

Site visits to three FDCs were conducted to observe the courts in action, discuss project planning and implementation issues, and collect available project forms, reports, and statistics. The courts included the Suffolk County Family Drug Treatment Court Program, the Manhattan Family Treatment Court, and the Escambia County (Pensacola) Family-Focused Parent Drug Court. The first two courts have adapted the drug court model to case processing within civil family court proceedings and accept only neglect cases that meet selection criteria. The Escambia County Family-Focused Parent Drug Court is a quasi-criminal docket established to run a drug court in parallel with family court processing and accepts substance-abusing parents in most

child abuse and neglect cases. All three jurisdictions shared similar motivations for starting an FDC, namely recognizing that new laws required speeding up permanent placements for abused or neglected children, that CPS agencies lack the authority to enforce parental treatment recommendations, and that the courts can play a more active role in family reunification efforts. In all three jurisdictions the CPS agencies engage in dual permanency planning to enable courts to have fully developed placement choices at the end of a period of case supervision.

The following sections describe the procedures and policies of each court. These were taken from reports and proposals prepared by the courts and from observations and meetings during one-day site visits. As a result, the court summaries may describe procedures and policies as they have been designed, but not necessarily as they operate. The section on implementation issues that follows the site visits summaries highlights the major areas in which changes to policies and plans have been required and areas in which problems continue to confront the courts.

The agency structures and staff titles vary in each jurisdiction. To simplify comparisons across the courts, the site summaries identify the agency responsible for child protective services and thereafter refers to it as the CPS agency. Similarly, staff is described by role, not title. The clients in these drug court cases are usually mothers, but may include fathers and others with legal custody of the children. However, the report refers to all clients as parents.

The Manhattan Family Treatment Court

The Manhattan Family Treatment Court is part of the Family Justice Program developed by New York State Chief Judge Judith Kaye in partnership with the New York State Unified Court System and the Center for Court Innovation. The model is adapted from procedures used by the Brooklyn Treatment Court. Key objectives include (1) early intervention and speedy enrollment of substance-addicted parents into appropriate treatment programs and other services; (2) maintaining accountability by monitoring parent performance and treatment progress, encouraging progress by rewarding achievement, and penalizing drug test failures and missed appointments; (3) basing child-placement decisions on timely information about parental performance; and (4) enhancing coordination of service delivery and monitoring among parties involved in child neglect cases.

The court operates in a single courtroom with a dedicated judge. A court attorney assists the judge by coordinating case matters and helps prepare decisions. Staff from other agencies dedicated to the project include three attorneys and a supervisor from the Administration for Children's Services (the designated CPS agency) to file petitions and act as prosecutors in the case, nine attorneys from the Assigned Counsel Panel to represent the respondents named in the petitions, two Legal Aid attorneys and a supervisor to serve as law guardians and a Legal Aid social worker to help the children, and two court liaisons from the Administration for Children's Services (ACS) who represent CPS field workers. Project staff paid for by the court include a clerk who screens cases, a project director, a clinical director, two case managers, and a courtroom resource coordinator.

The interagency coordination for the court is managed by a series of committees that meet regularly. Team meetings with all staff are held every six weeks to distribute information and discuss areas of concern. A "troubleshooting" committee consisting of the judge, court staff, and two representatives from each agency meets every month to six weeks to discuss policies, practices, and barriers to collaboration. A clinical planning committee meets regularly to discuss service expansion and changes in the clinical program. A community outreach committee has recently been established to enhance communication within the larger staff of participating agencies to educate and involve the child welfare community at large (family law practitioners, child advocates, foster care agencies) about the court and to establish ties to the community at large in a concerted effort to broaden services for clients in areas such as housing, employment, and aftercare.

Eligibility

A court clerk reviews intake petitions from CPS and identifies petitions alleging neglect related to parental drug use or alcohol abuse, including cases in which the child tested drug positive at birth. The parent must be 18 years of age or older and live in New York County (Manhattan). All respondents named in the neglect petitions must be independently eligible for participation in the treatment court program, meaning there must be drug or alcohol allegations against each respondent. Many cases become ineligible because one respondent is eligible and another is not. Other cases are excluded due to mental illness, other open cases in the family court, or having children whose current placement in foster care exceeds three years. During the

startup phase the court was selective due to limited resources, but has since broadened the range of cases eligible for intervention. Because CPS rarely refers cases to the court prior to removal of the children, almost none of the parents had custody of their children at the time of entry.

Orientation and Arraignment

Respondents are assigned an attorney from the Assigned Counsel Panel at their first appearance. Prior to the first hearing, orientation to the legal procedures in FDC is provided by an attorney and orientation to case management is provided by program staff. When the respondent appears in court, the judge explains the allegations as well as the program and offers eligible respondents the opportunity to be assessed by the treatment court clinical staff. Those who agree to be assessed sign a limited waiver of confidentiality, are arraigned, and are sent to the treatment court clinical offices for assessment that day.

Assessment and Program Entry

The assessments are conducted by a treatment court case manager. The assessment consists of a comprehensive interview, which is based on the procedures used at the Brooklyn Treatment Court, and a urine test. The assessment determines the nature and severity of the addiction and identifies other client and family service needs. If the respondent is addicted and eligible for treatment, the case manager develops an initial treatment plan. The plan consists of assessment summary information; immediate, short-, and long-term treatment needs and goal; recommended treatment modality; other service needs and referrals if appropriate; and recommendations regarding the service needs of children and terms of visitation.

Before the case returns to court, a case conference is held. The child's law guardian (usually the Legal Aid Society's Juvenile Rights Division), the respondent's attorney (usually a member of the Assigned Counsel Panel), and the Administration for Children's Services lawyer and court liaison meet with clinical staff to review the assessment summary information and the initial treatment plan. If new information is learned at that time, modifications may be made to the treatment plan. Once the plan is fully developed, the respondent reviews the plan with his or her attorney.

At the next scheduled court appearance, respondents who agree to participate sign the treatment court contract consenting to the treatment plan and admitting to allegations of neglect and substance abuse. For participants, this appearance constitutes a *fact-finding hearing*. At that

time, participants must also agree to waive their right to petition for the return of their children (if remanded into foster care) for 30 days so that their initial focus can remain on establishing abstinence. Eligible respondents who initially refuse to participate may apply for reconsideration in writing within 30 days after the initial appearance.

Once a client is an official family treatment court participant, he or she again meets with the court case manager to be referred for treatment and services as indicated in the treatment plan. If placement in a program is not immediately possible, clients are placed in “*pre-treatment*” status and required to report to the court case management unit at least two times per week for counseling and urine testing. Pre-treatment clients may also be required to attend other appointments for health or entitlements and are told to appear in court weekly.

Client Treatment and Monitoring

A number of treatment programs are available to court clients, although there is a shortage of inpatient services for clients who have custody (a relatively small number of clients). The project has developed a list of treatment resources for parents who have lost custody of their children. The treatment programs offer parenting programs for noncustodial parents and include inpatient programs, intensive outpatient programs, and freestanding programs in the community.

Once placed in treatment, client progress is governed by a three-phase system as well as a framework of graduated sanctions and rewards. In addition to participating in a treatment program, clients must meet regularly with court case managers for counseling and urine testing. Parents are also required to participate in family conferences, complete parenting programs, and complete other requirements of the treatment plan in addition to drug treatment. During the early stage of treatment, clients are required to appear in court every two weeks. Frequency of court appearances may change depending on client situation and/or progress in treatment.

Throughout the course of participation, court case managers work with CPS case workers to ensure that treatment and services for both parents and children are delivered. Dedicated CPS court liaisons working in the treatment court facilitate the flow of information between the agency and the court. Court case managers reach out to clients who fail to appear for court or other mandated services. Home visits to review the family and child status are conducted by the CPS worker and by a Legal Aid social worker if reunification is contemplated.

The program has developed guidelines for reward and sanctions to be used in conjunction with the treatment program. The rewards include items such as increased visitation, in-court acknowledgment by the judge, having their case heard early on the designated hearing day, being named on an honor roll, a photo album for pictures of children, a certificate for court advancement, a disposable camera for family pictures, consideration for reduced frequency of urine testing, consideration for reduced appearances in court, and unsupervised day visits. Sanctions are linked to type of infractions and an infraction is listed as a Level A Infraction, Level B Infraction, or Level C Infraction. Sanctions include warrants or jail time, increased treatment intensity or change or modality, or phase setback. They also may include increased urine testing, inpatient detoxification, increased court appearances or days spent watching court proceedings, mandatory workshop attendance, or journal writing or essay writing. Reductions in

frequency of child visitation or restrictions on conditions of visits are instituted only when dictated by indications of risk to child safety.

Court plans call for four family conferences in an 18-month period. The two-hour family conferences will be used to exchange information between the agencies and the families. The goal is to engage families in problem-solving as the reunification plans unfolds. Initial conferences focus on information-sharing. Later conferences focus on identifying family members and others who can serve as resources for a family as it approaches reunification. The conferences are attended by the parents; the children, if age appropriate; foster parents, if applicable; the respondents' attorneys, if he or she chooses; and any extended family members and agencies that are working with the family.

Disposition

Dispositional orders for treatment court clients are entered 90 to 180 days after the fact-finding hearing. However, in contrast to normal case processing, where the court's relationship with a family ends with the entering of the dispositional order, treatment court clients are monitored for the entire dispositional period. Clients continue to participate in treatment as per treatment court policies and must continue to appear regularly in court on a monthly basis, meet with the court case manager for updates and urine testing, participate in family conferences and visitation, and work toward completion of all listed requirements for graduation/reunification. Therefore, the court maintains the ability to amend the dispositional order as the case progresses.

For cooperative clients, the ongoing monitoring may result in a gradual increase in visitation, perhaps to the point that a child is paroled to parents while under court supervision. At the end of the dispositional period, children may be formally discharged to parents if the family is ready. In some cases trial reunification may occur during the period of court supervision if the respondent is abstinent and in compliance with all aspects of treatment, and the child's emotional and physical safety can be confidently assured in the parent's care. Given the ability of the court to monitor families and parents after disposition, trial reunification need not be a part of the original dispositional order but can be instituted at any time thereafter.

Treatment Court Completion

By the end of the dispositional period, the court must make a decision regarding the likelihood of the parent's ultimate rehabilitation. Clients are considered for graduation when they

have completed treatment and a permanency plan has been approved. The expected time to complete all three phases of treatment and the dispositional period is 15 to 18 months. For most cases, reunification is the primary goal for the children, and the permanency plan for children involves return to the parent. In those situations, graduation occurs when the client has completed treatment; established a safe, sufficient drug-free home; and has successfully completed all treatment court requirements; and addressed all other issues so that CPS or court supervision is no longer necessary. In other cases, reunification may not be the goal. Some parents may complete treatment and all other requirements, but all parties may decide to support the granting of custody to other family members as a case outcome. For those cases, graduation for respondents is determined and handled on a case-by-case basis. If a parent has failed to comply with the reunification plan, including participation in treatment, parenting skills or any other component, the case may be terminated from the Treatment Court and, following the dispositional period, termination of parental rights proceedings may be initiated.

Progress to Date

Between March 11, 1998, and September 30, 1998, the Manhattan Family Court identified 144 parents with a total of 238 children who were eligible for FDC. Of these, 71 parents with 133 children entered the court; 73 refused or failed to appear. Of the 71 parents, 60 had entered services at the time of the monthly report: 43 were in full compliance with FDC requirements and 17 were not.

Suffolk County Family Drug Treatment Court

The Suffolk County Family Drug Treatment Court serves parents, predominately women, and their multiple children in cases in which substance abuse has resulted in a finding of child neglect. The court has been designed as an enhancement to CPS in Suffolk County and is organized around the basic functions and organization of the Child Protective Agency. Key objectives of the Suffolk County court include (1) speedy fact-finding hearings; (2) coordinated case management; (3) speedy dispositional hearings; and (4) regular review of cases, including weekly face-to-face meetings between the judge and respondents/parents.

Judge Nicollete Pach developed the court part and hears these cases on a separate docket one afternoon a week. A referee (county attorney) has been assigned to assist the judge with monitoring and reviewing of the treatment court cases and changes in orders agreed to by all

parties. Staff paid for by the court includes a project manager responsible for program development and coordination, a clinical coordinator, and a clerk responsible for screening the cases. These staff work with staff dedicated by other agencies jointly as members of the multi-disciplinary, multi-agency Case Management Team (CMT). The CMT develops and supervises services for participating clients. In addition to the court staff, the CMT includes the following staff from the Education and Assistance Corporation (EAC), a not-for-profit agency that provides support services for the court: a team facilitator, case managers, and a child welfare specialist (law guardian for the child) from the Court-Appointed Special Advocate program. CMT members from other agencies include drug and alcohol specialists from the health department and a liaison from the Department of Social Services.

The CMT is managed by the court's clinical coordinator, who assigns cases to individual case managers and child welfare specialists; ensures that records, including CPS records, are available to the team as the cases are processed; ensures that cases are presented to the judge with a clear case plan; and supervises the collection of materials and case information needed to evaluate and measure the performance of the Family Drug Treatment Court. The court is considering a revision to this staffing plan that would assign clinical coordination to one of the supervisors at EAC already responsible for the staff assigned to the court; and replace the court's clinical coordinator with an MIS/data manager to assist in developing and maintaining program records.

A critical element in developing the court has been the active role of an interagency policy committee that includes the heads of agencies whose staff serve these families. Members include senior staff from the departments participating in court activities. The committee meets regularly to consider resource needs and policies, and to support the court. It has played a major role in the designing and staffing of the project.

Eligibility

Court staff screen the neglect petitions filed by CPS in Suffolk County Family Drug Treatment Court to identify those in which parental substance abuse is alleged. The parent must be over age 21. Parents of infants that test positive for drugs at birth are included. About one-half of the families had custody of children at the time of their entry into the family treatment court;

the remainder had children in foster care at the time of entry or children immediately placed in foster care upon entry.

Cases are not restricted on the basis of earlier family court actions or other pending family court actions, but great care is taken to coordinate the activities of this family court action with others. The court began by offering eligibility in the treatment court to cases in selected child protective catchment areas within the county. It plans to extend to the other areas as the program gains experience.

Orientation and Arraignment

Initially, the court planned to have a substance abuse assessment and treatment plan prepared prior to the first court appearance. This would have allowed the judge to issue a dispositional order at the first hearing that would include drug treatment. This plan did not work because of respondents' denial of both drug use and the neglect charge on the part of the respondents. For this reason, the court process begins with a hearing that establishes the fact of neglect.

At the first appearance, the case is presented by the county attorney. The judge determines if there are any emergency orders needed to protect the children and asks the parent to admit to the petition of neglect and consent to participation in the family treatment court. If they agree, the parents are referred to the case management team at the court for a formal screening.

Assessment and Case Planning

Members of the CMT share responsibility for developing the case plan. The drug and alcohol specialists conduct the initial assessment of the parent's treatment needs and locate appropriate treatment facilities. Their agency negotiates referral agreements with the various treatment resources enhancing the court's access to immediate treatment slots. The child welfare specialist interviews the parents and identifies service needs of the children and family. These needs may include child care, early intervention screening for children, housing, and transportation. The Department of Social Services (DSS) staff liaison helps obtain DSS services for clients. These include Medicaid (the primary resource for paying for treatment), housing, transportation, and child care assistance. The facilitator works with the court case manager and CPS liaison to develop a written dispositional plan for the court that incorporates the specifics of the case plan and referrals to treatment and ancillary services for which the family is eligible.

Orders of Disposition

At the next court hearing, the case plan is presented to the parties and their attorneys at a conference. The court either makes the case plan part of the court order of disposition upon the consent of the parties or holds a hearing on the disputed aspects of the plan and thereafter enters an appropriate order.

The dispositional order includes a schedule of face-to-face meetings with the case managers, frequent court appearances, including urine screens at the courthouse, and reports to the judge by the respondent/parent on progress in treatment. The order also requires a specific level of treatment. The options range in intensity from outpatient treatment twice a week with weekly random urine tests to intensive daily outpatient treatment under probationary supervision with daily urine testing to inpatient treatment at a nonsecure short- or long-term facility.

Frequent Monitoring

The case manager facilitates the parent's acceptance and entry into the treatment program, is responsible for monitoring of the parent's progress in treatment, meets regularly with the parent either at the courthouse or at the treatment facility, ensures that a drug test is completed every time the parent appears in the courthouse, and advises the Court promptly if any difficulties arise.

In a parallel effort, the dispositional orders require CPS to supervise the children. The child welfare specialist reports at the scheduled court monitoring appearances about how the parent's compliance is affecting the family and children and on child safety and service issues. The CPS case managers are encouraged to attend the review hearings and become involved in monitoring the case plan.

The court recently introduced plans for four family conferences. The first will be devoted to orientation to the case plan requirements, sanctions, and incentives. The next three conferences will be devoted to goal setting, decisionmaking, and aftercare planning.

Cases are reviewed at the court weekly on Thursday afternoons. All parties appear in court. These include the members of the CMT, the CPS worker when possible, the full court staff (judge, clerk, bailiff, prosecuting attorney), the parents, and possibly the parents' attorneys. Before each hearing, the client meets with the case manager, completes a drug test, and discusses

any compliance issues. At the hearing, members of the CMT report on client progress and status with regard to each part of the case plan.

The frequent court contact changes the current practice of only seeking judicial intervention for egregious violations or when the original order is about to expire. The court may make adjustments to court orders as needed. The new approach allows the court to be continuously appraised of the status of parent and child and able to modify orders accordingly.

Sanctions and Rewards

As part of the monitoring process, the court has a range of court-imposed sanctions and rewards consistent with the parent's compliance. Sanctions may include stricter treatment requirements, more frequent urine testing, the addition of probationary supervision, and jail sentences for up to six months for contempt of the court's dispositional order. The ultimate sanction is expulsion of the parent from the CMT's caseload and all of the concomitant services. Reductions in visitation are not used as sanctions; parental contact with the child is governed by the best interest of the child and a careful consideration of potential risks, not always directly linked to treatment performance.

There also are graduated levels of rewards for compliance and progress in treatment. Rewards are designed to support parental involvement with the children and enhance the parent-child relationship. The rewards may include the public congratulation of the court, books for the parent to read with the child at a visit, coupons for a local food or ice cream establishment, and special outings for parent and child.

Program Completion/Termination

The respondent/parent's progress in the Family Drug Treatment Court is acknowledged by advancement through three phases and, ultimately, graduation. Progress is measured by two equally important milestones: the number of months the parent has maintained sobriety and the number of months of meeting their parental obligations to their children. Graduation is achieved when the parent has attained 12 months of sobriety and met his/her obligations to his/her children (the last 6 months of which must be consecutive) along with meeting other milestones, including participation in a school- or community-sponsored activity with his/her children, completion of his/her treatment program or support of the program for graduation, and establishment of stable employment, or a firm educational or vocational training plan.

Cases that consistently or repeatedly fail to meet program requirements are terminated from the FDC, and it is likely that termination of parental rights proceedings will be initiated.

Progress to Date

Between December 10, 1997, and July 1998, the Suffolk County Family Drug Treatment Court accepted 30 eligible parents with 50 children. These cases came from a single CPS zone served by a small number of CPS case managers. Ten of those cases remained active in July, several were pending services, and one was a known failure. At the time of the site visit, not enough time had passed to assess the success of the project in retaining clients in treatment.

Since the site visit, the court has expanded services to all CPS zones in the county. Staff changes include the addition of a case manager supervisor from EAC, an additional child welfare specialist and supervisor from the Court-Appointed Special Advocate Program, and a shift to one treatment specialist from the Division of Alcohol and Drug Abuse Services.

The Escambia County Family Treatment Court (Pensacola, Florida)

The Escambia County Family-Focused Parent Drug Court (Dependency) is one of a cluster of four family-focused community justice programs developed under the leadership of Judge John Parnham, Circuit Court Judge, in Pensacola, Florida. The other three courts include the Family-Focused Juvenile Drug Court, the Family-Focused Juvenile Domestic Violence Court, and the Family-Focused Adult Drug Court.

Escambia County has established dual dockets to handle child abuse and neglect cases concurrently. One docket is the Family Drug Court, a quasi-criminal drug court docket that is described below. Cases are referred to this docket for contempt of court upon violation of dispositional orders issued by the civil family court. The other docket is the traditional Family Court, which handles dependency matters, including changes in case plans, custody, visitation, and termination of parental rights. The same judge handles the cases on both dockets, clearly differentiating which matters are handled on the drug court docket and which are handled in family court. The dependency hearings in the Family Court are closed to the public as required by state law. The proceedings in the Family Drug Treatment Court are open to the public and are attended by a number of active clients and their family members.

The project began without new court positions. The judge and his assistant, Robin Wright, manage the project. However, others required by the project include a probation officer

from the Department of Corrections to monitor the clients while they are on pretrial release in the drug court, a CPS liaison designated to represent the agency's case managers, and a CPS attorney to file the petition of noncompliance.

Other project staff have been assigned by agencies to collaborate in the treatment, services, and monitoring. The CPS agency, the Department of Children and Family Services, prepares case plans in family court. This agency has three child welfare units located in the county, with 21 counselors. At this time they have 25 to 29 families, averaging 2.5 children each (75 children). The court encourages these counselors to attend drug court reviews of their cases, and the judge encourages cooperation of families with the CPS workers during review hearings. However, because attending hearings places heavy demand on staff time, the CPS liaison is present to represent those who cannot attend. The department would like to have the budget to develop a specialized family court counselor, so that all their counselors would not have to come in from around the county for the hearings. A counselor from the treatment agency, Pathways, represents the agency at case conferences and review hearings. Pathways is a large substance-abuse treatment division within the private, not-for-profit Lakeview Center, the fourth-largest community mental health agency in the country, and is the treatment agency for all drug court clients.

Eligibility

In family court, the judge issues a dispositional order that includes the finding of abuse and neglect and requires compliance with a case plan developed by CPS. The case plan, based on a CPS assessment of the risk to the child, specifies procedures for keeping children safe through a specified supervised visitation schedule or complete cessation of parental visits. It always includes one home visit by the department in cases where custody remains with the parents. The order includes requirements to remain drug free and undergo drug testing and specifies the services and steps parents must take to regain custody of their children.¹ This dispositional order states that the parent will be held in criminal court if they fail to adhere to the case plan.

¹ Although the court encourages CPS to refer child abuse and neglect cases to the family court as soon as they see any evidence of continued abuse or neglect or failure to cooperate with voluntary child welfare service plans, CPS must have sufficient standard of proof to meet the civil court requirement of preponderance of evidence before they can take cases into the court. As a result, cases usually go to court after repeated complaints and efforts to engage parents in services. By the time these cases enter the family court, most have lost custody of their children.

The first time a parent fails a drug test or fails to appear for a drug test, the CPS files an action alleging contempt of court with the Family Drug Treatment Court. The court rejects very few substance abusers active in family court. Clients include those with many past CPS cases and long histories of CPS service. The court's docket includes cases of abuse as well as cases of neglect and of parents of infants born positive for drugs. The average client is what Judge Parnham calls a "deep-end client" with one to three prior drug treatment failures and years of service from the child welfare agency.

Entry into the Family Drug Court

Cases enter the family drug court on charges of contempt of court for failure to comply with the family court dispositional order. This usually follows a positive drug test administered by the Department of Children and Families. Respondents are assigned a public defender if they do not have a private attorney. An attorney from the Department of Children and Families serves as the prosecutor in these proceedings. At the initial hearing, the judge offers the respondent the choice of (1) a bench trial and a possible sentence of 12 months in jail for conviction on contempt charges, (2) a jury trial and up to one year for conviction, or (3) entering the family drug court.

If the client selects the family drug court, they must plead guilty to contempt of court, accept a suspended sentence of six months, and agree to comply with the conditions of drug court. Defendants are given rules and requirements of drug court up front and waive their rights. At that time, the judge explains the penalties the defendants face for failure to comply with the requirements of the Family Treatment Court, including jail sanctions and/or imposition of the sentence to which they have pled. The public defenders and the judge review the agreement in detail with the defendant. This process has survived one legal challenge to waiver of right to a jury trial.

During the time the client is in the family drug court, the cases remain active in the family court and review hearings are scheduled every six months, or more often if needed. During this time, CPS continues to monitor the family and work to implement the case plan described in the family court order.

Assessment and Treatment

Parents are referred to Pathways for substance abuse assessment as soon as they accept the treatment court offer. When Pathways gets a referral from the family drug court, they receive background information, a case plan history, and a CPS statement of reunification goals. They then prepare a treatment plan for the court. The treatment plan deals with the parents; the child welfare specialist deals with the safety and welfare of the children. Both the CPS plan and the treatment plan share an interest in the residential stability, employment, and parenting skills of the parent.

Most drug court clients enter the Pathways intensive outpatient program that has 30 slots dedicated to drug court clients. This program meets four times a week, four hours per session for a year and includes two hours a week of parenting education for the drug court clients. It offers a three-phase treatment program, in which clients are tested at least twice a week at the treatment facility. The Pathways outpatient program is staffed by five counselors and a clinical supervisor. To simplify communication with the court, Pathways has one primary counselor assigned to the drug court cases and this counselor attends the case conferencing and review hearings at court. Clients sign a release-of-information form upon entry at Pathways that allows the counselor to report information on their treatment to the court, to probation, and to child welfare services. Clients who do not do well in the intensive outpatient program can be placed in the Lakeview Short-Term Residential or the Lakeview Long-Term Residential Program.

Arrangements have been made to ensure that drug court clients can get treatment funded under various state substance abuse program guidelines, although state requirements regarding eligibility had posed some problems in developing appropriate services. Some of the funds have come from the Postpartum Women's Intervention Continuum of Care Project, which began as a CSAT project for drug-positive babies or pregnancies referred to substance abuse treatment.

Pathways is committed to wraparound services for the drug court clients and works with a variety of service providers and community organizations to arrange these. The program uses the services of WISE, Women Intervention Services and Education Program, started earlier under a CSAT grant, and the Women's Transition Center, which does longer-term planning, housing, and aftercare planning for those leaving Pathways. All women entering Pathways from the family drug court are immediately linked into WISE if they are not already participating.

Case Monitoring

The family drug court hearings are scheduled once a week. Prior to each hearing, the cases scheduled for that day are reviewed by the judge and representatives of the agencies providing services and monitoring the clients. Those attending the case review meeting include CPS, the probation department, the drug-court nurse from the Department of Health, and the treatment professionals. The judge actively promotes teamwork among the agencies involved with the family. He meets with them all in one room so that there is no delay in exchanging information, no ambiguity about which agency promised which things to the clients. This establishes a very high level of accountability, not only for clients but also for the agencies that must comply with their part of the case plan. The process has also contributed to setting realistic goals because agencies can speak up in the joint meetings about the barriers they face in getting the client into treatment or finding housing. This has contributed to a better understanding among the agencies of the problems that each of them faces.

Clients are asked to report to court three times during the first two weeks and once every other week thereafter to meet with a court case manager. This may decrease to once a month if they are doing well. The judge has made an effort to give the courtroom a therapeutic atmosphere. In front of the audience he recognizes client achievements, welcomes children by giving them candy, and talks openly with clients about their problems or feelings of satisfaction with progress. The audience also witnesses the imposition of sanctions for noncompliance.

Drug testing is an integral part of case monitoring. Pathways frequently tests clients and reports the results to the court at review hearings. In addition, CPS can randomly drug test all clients. Any positive test must be reported to the court as a violation. CPS has no discretion in reporting drug test failures.

The court convenes a family conference four times in the course of a case. At these conferences, agencies exchange information and create a support network planning for the needs of the parent and resources for the child.

The court uses a variety of sanctions for noncompliance. Often these involve increased monitoring or more intense treatment. Clients who drop out of treatment or relapse are given multiple opportunities if they express commitment to the goal of recovery. Repeated noncompliance may result in short stays in jail. At some point if the judge determines that the client has been unwilling or unable to progress in treatment, the original sentence for contempt of

court is imposed. This sentence involves one year of jail time starting from the time of sentencing, but subtracting the time spent in jail for any sanctions. There is no credit for the time spent in the community on probation. At that time, CPS is likely to institute a petition in family court to terminate parental rights and move forward with the alternative permanent placement for the child.

Program Completion/Termination

As in the FDCs described above, clients attain graduation by successfully completing their treatment program and complying with other parts of the case plan requirements. The treatment plan develops in phases as clients move towards this goal. Following graduation, the contempt charges are dropped, and the case returns to the family court docket for a determination of a permanent placement for the child.

Progress to Date

Since its start in February 1996, approximately 30 parents per year have entered the family drug court in Escambia County. The average client is 32 years old, single, unemployed at the time of entry, and undereducated. About one half are white and one half are African American. As of October 8, 1998, there were:

Active cases	39
Terminated cases	39
Successful in program	(21)
Unsuccessful in program	(18)

The closed cases have resulted in reuniting 52 children with their parents and placing 38 children in other homes.

Implementation Issues

Each of the three family treatment courts began slowly and developed procedures adapted to the resources available. The site visits revealed areas in program development that required particular attention. Implementation issues faced by the Manhattan Family Treatment Court have included:

Collaboration with the Child Welfare Agency. The CPS agency serving Manhattan, the Administration for Children’s Services, is divided into divisions that make coordinated

case handling difficult. The law division handles prosecution of cases in court and focuses on establishing the facts required to move children into foster care or to terminate parental rights. This mission often puts them at odds with the division responsible for family reunification services, which works with parents to improve the home and against removal of the children, which works against full sharing of all case information relevant to comprehensive planning by the FDC. Further specialization of responsibilities means that families have multiple case workers as they move from one stage of service at ACS to the next. For example, they may have an emergency intake worker, a family reunification case manager, case managers who supervise children while they are in foster care, and others who work on permanent placement plans. This makes it difficult to assemble complete and timely information on a case for court hearings as cases move from one stage to the next. Because ACS is under attack, short of staff and budget, and facing reorganization, commitment to the project has had to battle with other reform initiatives for ACS resources. Unlike the other two FDCs visited, this project appeared to be less oriented to enhancing and supporting CPS agencies and more oriented towards assuming responsibilities that might otherwise fall within the CPS agency. For example, case plans are originally developed individually by the court case manager, not in collaborative case conferences.

Difficulty identifying and recruiting eligible clients. During the startup phase, restrictions on eligibility limited the number of cases admitted, despite the huge numbers of neglect cases filed each year and the widespread substance abuse problems in this population. The largest number of neglect cases with a parent involved in substance abuse was rejected because other respondents named in the petition did not have substance abuse problems. Other causes for rejection included severe mental health problems, other open family court cases, and, initially, allegations of domestic violence (this exclusion has been dropped).

Implementation issues for the Suffolk County Family Drug Treatment Court included:

Clarifying staffing roles. The project staff have been delegated from other agencies to assist the family treatment court and have brought with them some responsibilities and

expectations from their agencies. The result has been some duplication/overlap in areas of expertise. For example, the TASC agency and the court both employ clinical coordinators and both court staff and staff from the Division of Drug and Alcohol Services are involved in developing treatment placement options. The regular meetings with the steering committee were extremely helpful in clarifying roles and optimal staffing patterns. A facilitated discussion was held in December that identified areas needing additional clarification and resulted in establishing additional staff meetings for exchange of information and problem-solving on a regular basis.

Information systems. The Suffolk County Family Drug Court has begun to confront the problem that many automated MIS systems developed for drug courts do not meet the needs of family treatment courts for several reasons. For family treatment courts, records must be established on the basis of the child, not the parent, and multiple children (and possibly different case plans for each) need to link to a single parent. In addition, procedures are needed to link multiple cases involving the children and/or parents across courts in the county. Moreover, modules need to be added to cover service conditions and monitoring of CPS requirements and those of the child's law guardian.

Implementation issues in Pensacola included:

Developing substance abuse treatment for this population. The treatment provider, Pathways, has needed to improvise procedures for getting these parents the longer-term or more intensive treatment many of them need within the guidelines of state funding eligibility rules. They have worked with other service providers to add parenting components to the treatment program and transitional services for women as they progress towards graduation and aftercare.

All three sites cited some implementation issues. These included:

When and how to maintain client confidentiality. There is a delicate balance to be maintained between exchanging information between treatment providers, CPS, and the courts. The parents have a right to be protected from having information divulged in treatment used against them in CPS petitions alleging abuse or neglect. At the same time,

the protection of the child requires that parents be held accountable for meeting standards laid out in court orders. As discussions among agencies become more collaborative and open, policies and procedures for balancing these interests must be carefully laid out and rigorously adhered to. All three sites had devoted considerable attention to this issue.

Imposing sanctions for noncompliance. Although the two FDCs that operated within the family court framework theoretically have the legal right to charge clients who fail to comply with court orders with contempt and impose sanctions that include arrest and time in jail, neither the Manhattan or the Suffolk County court imposes such sanctions on a regular basis. The opposition of public defenders has been intense to imposing criminal penalties for violations of civil orders (although this practice has gained acceptance in enforcing civil protection orders in domestic violence cases). In contrast, the FDC in Pensacola regularly uses jail sanctions for persistent noncompliance. Adult drug courts have the power use these sanctions and impose a sentence (or institute criminal prosecution) when clients fail repeatedly in treatment. The effects of limited sanctioning on the efficacy of the FDC intervention is unknown.

Demands on resources. All three sites found that the service needs of these families, both for substance abuse treatment and in other areas, were very extensive and expensive and that the process of coordinated planning, monitoring, and court review is very labor-intensive. It will be very important to conduct research on the optimal patterns of staffing, the range of services required, and, particularly, to examine the cost-effectiveness of FDCs.

Lessons on FDCs

The judges, project staff, and staff of collaborating agencies at the three sites were asked what important lessons they had learned in their work on FDCs. The following observations surfaced repeatedly.

- 1) FDCs are labor-intensive. All agencies have to make significant investment -- treatment providers, CPS, the court, and other community agencies. The costs

- include the need to meet frequently to develop and revise procedures and plans, the costs of regular case conferencing with representatives of multiple agencies, and the additional services by treatment providers and community agencies used as a result of intensive monitoring and court coercion to participate.
- 2) FTC planners need a very clear picture of the clients and their needs. Pensacola underestimated the extent of needs of clients they were serving. If services are not adequate and inclusive, FDC may have a negative, rather than a positive effect and jeopardize chances of long-term recovery.
 - 3) Early intervention is important. CPS and the court need to respond with comprehensive services as soon as possible. All three courts tended to become involved in families with long histories of CPS contact, but all three courts emphasized that it is more difficult to resolve long-standing problems than to head them off, and advocated earlier intervention.
 - 4) Interagency collaboration is essential at two levels -- policy development and case management. Policy level coordination in Pensacola involves ad hoc meetings with top officials on policy matters every 3 months. In Manhattan, committees have been established to work in specific areas. In Suffolk County, a social services coordinating committee includes top-level representatives of agencies in the county, including the commissioner of social services, the commissioner of health, the director of the division on drug and alcohol services, the director of probation, and the director of the TASC agency. Clinical coordination needs to be consolidated through joint case management under the direction of the court to provide consistency in requirements and responses. The court may need a clinical coordinator to work with multiple agencies to negotiate case plan details. In Pensacola the Judge coordinates this directly at the present time, but the court may need a clinical coordinator to work with multiple agencies to negotiate case plan details.

- 5) Do not underestimate the difficulties of interagency collaboration. Each agency must respect the professional knowledge and experience of the others. Judges should let treatment providers have the last word in clinical decisions. Treatment providers must let CPS and child law guardians have the last word on reunification recommendations, because their focus on the interests of the child must supersede the interests of the parent in treatment in these cases.

- 6) Comprehensive and holistic treatment does not mean that all agencies are doing everything all the time. Case plans need to think out the transition from one service provider/case manager to another as the case progresses in stages and the client develops the capacity to move forward. This would be one advantage to having a clinical coordinator at the court to link movements in stages required by multiple agencies named in the case plan.

Gaps and Future Directions

The three FDCs were inspiring in their vision of the possibilities for the future of their courts. Despite daunting amounts of work required to operate these FDCs within the resources available, they are actively thinking about, and planning, ways to expand and improve their services. To attain their full potential, the sites recommend that FDCs:

Offer more services to the children. These children need counseling to deal with the trauma of family breakup and reunification. They often have unmet needs for medical and social services. The traditional CPS response has been to place children in foster care where it is assumed, not always correctly, that foster parents can meet the child's needs. The treatment agencies focus on wraparound services for the parent to enhance recovery. Transitional services for the children, particularly after reunification, are needed.

Offer transitional and aftercare services for parents. There is growing recognition in all drug courts that clients need continuing aftercare and other transitional services, particularly for housing and employment problems, to increase the chances that treatment successes will be sustained.

Give services to victims of domestic violence. One service need that was mentioned only in passing was the need for help for victims of domestic violence. It is widely acknowledged that many of these parents may themselves be victims of abuse, but this problem does not appear to be a focus of treatment or service planning.

Both the Manhattan and Pensacola courts have started thinking about community linkages and outreach to build support and understanding of the court and expand the resources available to graduates upon family reunification. These courts are motivated by the vision of community justice in which the courts, functions are made more consistent with, and visible to, community interests and involve community members in planning. Judge Parnham in Pensacola further envisions the FDC as a step towards a consolidated family jurisdiction encompassing criminal and domestic violence cases, drug cases, delinquency, and civil matters that could be combined in a court that plans to deal with the entire family as a unit.

Evaluation Issues

As the FDC movement builds, it will be important to develop the research base to guide the structure of these courts and to determine whether the considerable investment of public funds required results in benefits to abused and neglected children, their families, and communities. This review suggests areas in which research on FDCs is needed and feasible at the courts visited for this review.

- 1) Process evaluation. Studies need to document the policies and procedures developed by innovative courts around the country. Issues to be examined in the process evaluations need to be: (a) policies regarding confidentiality, (b) staffing patterns and requirements, (c) interagency collaboration patterns and requirements, (d) sanctioning practices and issues, and (e) concerns of advocates about the adequacy of representation of the parents and children and the extent to which the process respects their civil rights.

- 2) Service needs of these parents and children. Studies need to assess service needs in the following areas: substance abuse treatment, legal, social, health, employment, housing, domestic violence, and other areas. Ideally, a consistent needs assessment will include samples from multiple FDCs. Two of the courts noted that they were not fully prepared for the severity and range of problems to be addressed and had little information about their target population at the start of the project.
- 3) Services received by parents and children. This information should include type of service, service intensity and duration, descriptions of the service providers, how service costs are covered (by agency budgets, entitlement programs, special state funding programs, etc.), unmet service needs, and creative development of services through linkages to the community.
- 4) Outcomes for children. Immediate outcomes include the duration and number of foster care episodes while the case is before the court and the final placement (parents, in kinship foster care, and in foster care). Longer-term outcomes for those placed with their parents include the percentage named in subsequent abuse or neglect petitions, and, for those in which parental rights were terminated, the percentage adopted.
- 5) Outcomes for parents. Immediate outcomes include treatment graduation/failure, substance abuse and participation in aftercare following case termination, perceptions of fairness of court process, effects of process on treatment motivation and retention, and assessment of the relationship between FDC services and reductions in problems faced by parents.
- 6) System impacts. For courts, these include; the duration of cases, the number of hearings; the demands for staff, courtroom space, and other resources; the net widening effects of encouraging early intervention; the potential efficiencies of combining multiple petitions for multiple children in a family in a single case; and the potential for linking of cases active in different courts or dockets. For other agencies,

these include the impact on demand for staff and services, the requirements to change procedures, and the barriers to participation based on agency mandates or funders.

- 7) Direct expenditures and the value of in-kind contributions required by FDCs. These include those paid by existing agency funds, insurance, special government programs, and private funds or others, and those contributed by agencies and community groups. This is needed for comparison to the costs of the existing procedures for handling these cases.

These studies will face some challenges, including the lack of automated court records, complex flow of information between the agencies, concerns about confidentiality of client records, and informal decision-making in case planning that elicits information on service needs and circumstances not recorded in any records or systematic way. However, these challenges are probably surmountable.

These studies are important because they can lay the groundwork for more sophisticated studies, which may or may not be feasible, of the impact of FDCs. These studies should assess the effects of FDC on child well-being in a range of domains, including family stability, health, mental health, social adjustment, school performance, delinquency during adolescence, and subsequent abuse or neglect. They should also consider the longer-term benefits to parents in domains including substance abuse, health, mental health, housing and economic stability, parenting skills, and care of additional children. Impact evaluations also need to consider the effectiveness of specific service components and alternative sanctioning practices and identify the characteristics of cases most likely to benefit from FDC services.

Designing and implementing rigorous evaluations to address these questions face practical obstacles. The challenges include the relatively small number of cases per year served by these courts, difficulties in identifying a control or comparison group, problems in document service data for the control or comparison group, the confidentiality requirements sealing CPS records and family court proceedings, and the difficulty of locating and interviewing this population over time—particularly when parental rights have been terminated and children adopted. These feasibility issues may make it difficult to justify the cost of rigorous impact evaluation.

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