

DRUG COURT PRACTITIONER FACT SHEET

FAMILY DEPENDENCY TREATMENT COURT: ¹ APPLYING THE DRUG COURT MODEL IN CHILD MALTREATMENT CASES ²

By Meghan M. Wheeler, M.S. and Carson L. Fox, Jr., J.D.

INTRODUCTION

A number of family courts³ across the nation are successfully applying the drug court model to child welfare cases that involve an allegation of child abuse or neglect related to substance abuse. "Family Drug Courts" or "Family Dependency Treatment Courts" (FDTc), which began in Reno, Nevada, in 1995, seek to do what is in the best interest of the family by providing a safe and secure environment for the child while intensively intervening and treating the parent's substance abuse and other co-morbidity issues. The FDTc approach has resulted in better collaboration between agencies and better compliance with treatment and other family court orders necessary to improve child protection case outcomes. Through December 2005, the number of operational FDTcs has grown to 198 (Huddleston, Freeman-Wilson, & Marlowe), with an additional 188 in the planning stage.

THE LINK BETWEEN CHILD MALTREATMENT AND SUBSTANCE ABUSE

Each year in the United States, nearly 1 million cases of child abuse and neglect are filed and substantiated (Administration on Children, Youth, and Families [ACYF], 2006). Of those filings, approximately 1,490 cases involved the deaths of children (ACYF). The national rate of referrals to child welfare agencies increased to 42.6 referrals per 1,000 children in 2004 from 39.1 referrals per 1,000 children in 2003. The number of children in out-of-home placement has nearly doubled in the last two decades (ACYF). Currently, more than half a million children live in foster care, with nearly 126,000 awaiting adoption (ACYF). Of the estimated 281,000 children who exited foster care during Fiscal Year (FY) 2003, 50 percent had been in care for more than 12 months, with the time children spent in foster care changing little between FYs 1998 and 2003 (National Clearinghouse on Child Abuse and Neglect Information, 2005).

The correlation between parental substance abuse and child maltreatment is well-documented (National Center on Addiction and Substance Abuse, 1999).

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In 80 percent of confirmed child abuse and neglect cases, experts identify parental substance abuse as a precipitating factor, which further complicates these already difficult and complex cases (Child Welfare League of America, 2001).

A parent's inability to maintain a drug-free lifestyle and make other significant changes delays reunification with his or her children and may ultimately lead to the termination of parental rights. Families with parents who face alcohol and drug dependency face additional challenges, including poor housing, mental and physical health problems, transportation issues, lack of appropriate child care, educational challenges, and lack of stable employment. Under the more traditional family court system, a disconnect often exists between the family court, child protection caseworkers, and drug treatment services, leading to uncoordinated and limited services, which further leads to children spending prolonged time in foster care.

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THE ADOPTION AND SAFE FAMILIES ACT

Congress passed the Adoption and Safe Families Act (ASFA) in 1997 to strengthen the performance of child welfare systems. Specifically noted, "The passage of this new law gives us an unprecedented opportunity to build on the reforms of the child welfare system that have begun in recent years in order to make the system more responsive to the multiple, and often complex, needs of children and families" (Child Welfare League of America, 2001). ASFA's primary goal is to provide for the safety, permanent placement, and well-being of children and families (1997). To promote efficiency in permanency planning⁴, based on the best interests of the child, ASFA mandates that courts finalize permanent placement no later than 12 months after a child enters foster care. In addition, in most cases, ASFA requires courts to begin termination of parental rights after the child has been removed from the home for 15 of the last 22 months (Office of the Federal Register, 2000). Child welfare and clinical experts have expressed concern that the timeframes imposed by ASFA are unrealistic, given the time necessary for effective treatment and sustained recovery of substance-abusing parents. This concern is particularly troubling, considering that waiting lists at treatment facilities are not uncommon.

Without access to appropriate treatment, comprehensive case planning, and structured and frequent visitation, parents often struggle to comply with complex court orders. Furthermore, while ASFA mandates more frequent case reviews by the court, the first review hearing commonly occurs 6 months after the disposition of a case, leaving the parent very little time to complete the case plan and comply with court requirements. After the initial hearing in a child maltreatment case, parents typically leave the courtroom angry at the system for intruding in their lives, unclear about the court's expectations, unaware of how to access community services, and unmotivated or unable to follow through.

The complexity of child abuse and neglect cases and the requirements of ASFA have created a great challenge for family courts, child welfare systems, and treatment providers. Representatives from all disciplines within these systems must reevaluate the way in which child abuse and neglect cases are handled, including their approach to supervision and family services.

FAMILY DEPENDENCY TREATMENT COURTS: FAMILY-FOCUSED PRACTICES

The planning, implementation, and operation of a family dependency treatment court is not as simple as taking the adult criminal or juvenile delinquency drug court model and placing it in the family court setting. The focus, structure, purpose, and scope of a FDTC differ significantly from the adult criminal or juvenile delinquency drug court models. FDTC applies the drug court model to cases entering the child welfare system that include allegations of child abuse or neglect. FDTC draws on best practices from both the drug court model and dependency court practice to effectively manage cases within ASFA mandates. By doing so, they ensure the best interest of children, while providing every imaginable service to the parent(s). Without these services, the parent(s) will more than likely lose custody of their children and put future children at risk. FDTC partners include the court, child protective services, and an array of service providers for parents, children, and families.

Since an FDTC focuses on cases of child abuse and neglect that involve parental substance abuse, FDTCs' goals are to protect children and to reunite families by providing drug-abusing parents support, treatment, and access to services. In the more traditional family court system, professionals from child protective services, treatment providers, and public health systems separately report to the court, making requests that can be inconsistent with each other and ultimately leading to results that may not be in the best interests of the

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child or parent. Using the drug court model, FDTC brings these professionals together on an interdisciplinary team, which works to address the complex array of issues impacting families-including addiction, child abuse, and child neglect.

The expertise of each FDTC team member is critical to the success of families entering the system. While team members must adhere to individual ethical and professional standards, they also respect and understand the roles of their fellow team members in the FDTC process. Ongoing cross training among team members is essential to this interdisciplinary approach. This exchange of information helps team members gain a better understanding of each other's roles and how they can work together to reduce institutional or programmatic barriers to better serve families.

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The lasting collaborative partnership of an FDTC team requires strong leadership. Though the development and ongoing operation of an FDTC team may be shared among many individuals and systems, the judge is the team's natural leader in the FDTC process because of the court's legal responsibility to make judgments about the best interests and safety of children. Because the judge focuses treatment resources on the parent, FDTC improves outcomes for children and families. Parents who abuse substances are much less likely to effectively provide for the basic needs of children, often resulting in neglect and increasing the likelihood of long-term emotional, intellectual, and physical problems for children (National Clearinghouse on Child Abuse and Neglect Information, 2003). FDTC provides an elaborate support network for families to ensure the safety of children, while simultaneously assisting the parent in making significant life changes.

The FDTC review session is a valuable opportunity for the judge to interact with each parent on a regular basis, providing immediate responses to compliance and noncompliance with both support and re-direction.

In an FDTC, child protective services and treatment providers join forces to identify, assess, and provide immediate access to substance abuse treatment and other services

for substance-abusing parents. Based on comprehensive assessments, the FDTC team develops service and treatment plans that address the needs of the entire family. In the traditional family court process, child protection case plans and substance abuse treatment plans often are developed in a vacuum, out of touch from other services with which the family is involved. In contrast, the FDTC team agrees on the needs of the parent and child and determines the pace and order of each requirement in the case and treatment plans. The team regularly reviews and modifies these plans, as necessary.

FDTCs also heighten the judicial oversight of children and families by increasing the number of times a parent is required to report before the court. Weekly or bi-weekly drug court review sessions are common, and a team meeting typically precedes these court sessions. In this pre-court meeting, the team reviews progress in each case to be called before the FDTC that day. Team members may recommend modifications to the unified treatment and case plans. Team members also make recommendations to the judge for sanctions or incentives to encourage positive behavior and discourage noncompliance. To ensure the best use of time and personnel, the court receives a uniform report in advance of the team meeting. This meeting prepares the judge and team by providing accurate, timely information on each case brought before the court that day.

The FDTC review session is a valuable opportunity for the judge to interact with each parent on a regular basis, providing immediate responses to compliance and noncompliance with both support and re-direction. The courtroom, traditionally adversarial, is transformed into an opportunity for judges to constructively address problems. In an FDTC, parents are empowered to be involved in decision making and are acknowledged for their accomplishments. They also must face their problems and accept the consequences for noncompliance. Although the participant in FDTC court appearances is the parent, the focus of the

team meeting and court hearing are on the progress and obstacles facing both parents and children.

The FDTC team monitors the progress of families and continuously facilitates access to services through the exchange of information and coordination across systems. The identification of services in the FDTC extends far beyond substance abuse treatment. Abstinence from drugs and alcohol, although a significant accomplishment for parents involved in child welfare services, is not the only factor that determines whether a child is reunified with a parent. Issues such as domestic violence, mental and physical health, pending criminal charges, housing, child care, and employment are factors that can delay the reunification process and ultimately increase the time children remain in out-of-home placements. By providing greater coordination and access to services, FDTCs support and encourage the development of healthy parent-child relationships.

FDTC RESEARCH

Preliminary data from a federal cross-site study to evaluate the effectiveness of FDTC, conducted by the Northwest Professional Consortium, Inc. (2005), indicate positive child welfare, court, and treatment results:

On average across sites, parents enrolled in family treatment drug courts were more likely than parents in traditional child welfare case processing to be reunified with their children and less likely to have terminations of parental rights. Furthermore, on average, family treatment drug court cases were shorter than traditional child welfare cases. The strongest results were in the treatment arena: family treatment drug court parents were more likely to enter treatment, had more treatment episodes, spent more total days in treatment, and were more likely to complete treatment than comparison group parents (B. Green, personal communication, January 2, 2005).

These evaluation findings demonstrate the value and benefit of the drug court model to address the intergenerational cycles of substance abuse and child maltreatment.

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FINAL THOUGHTS

FDTCs have enhanced the ability of the family court, child protection agencies, and treatment systems to respond to families in crisis. Not only must parents in FDTC take responsibility for their substance abuse and recovery, but they must also be held accountable to provide their children a safe, stable, drug-free home environment. When FDTCs function well, their promise is extraordinary. FDTCs afford substance-abusing parents a genuine opportunity for family reunification with support and treatment and strengthen the community response to child abuse and neglect by decreasing the risk of physical and emotional harm to children.

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Endnotes

1. In this document, the term "Family Dependency Treatment Court" (FDTC) is used throughout, although locally an FDTC may be referred to as Family Drug Court, Dependency Drug Court, Family Treatment Court, and the like. The name Family Dependency Treatment Court was coined during a joint meeting of the Office of Justice Programs, Bureau of Justice Assistance, National Council of Juvenile and Family Court Judges, National Association of Drug Court Professionals, and National Drug Court Institute to define more specifically the drug court model applied in child abuse and neglect case processing.
2. In this document, the terms "child maltreatment" and "child abuse and neglect" are used interchangeably.
3. In this document, the term "Family Court" is used throughout to refer to the state court, which has jurisdiction over child abuse and neglect cases.
4. Permanency planning is defined as a process through which planned and systematic efforts are made to ensure that children are in safe and nurturing family relationships expected to last a lifetime. (See: <http://www.cwla.org/newsevents/terms.htm>.)

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FACT SHEET QUIZ: WHAT DID YOU LEARN?

Test your new knowledge. Answer these true and false questions based on the Fact Sheet text.

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|----------------------------|----------------------------|--|
| <input type="checkbox"/> T | <input type="checkbox"/> F | 1. FDTC is integrated in the existing family dependency court structure. |
| <hr/> | | |
| <input type="checkbox"/> T | <input type="checkbox"/> F | 2. The multidisciplinary team exclusively focuses on substance abuse treatment and recovery for parents. |
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| <input type="checkbox"/> T | <input type="checkbox"/> F | 3. FDTC is simply taking the adult criminal or juvenile delinquency drug court model and placing it in a family court setting. |
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| <input type="checkbox"/> T | <input type="checkbox"/> F | 4. The operational structure of the FDTC draws on best practices from both the drug court model and dependency court. |
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| <input type="checkbox"/> T | <input type="checkbox"/> F | 5. A parent's abstinence from drugs and alcohol is the only factor that determines whether a child is reunified with a parent. |
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| <input type="checkbox"/> T | <input type="checkbox"/> F | 6. The FDTC team monitors the progress of families and facilitates access to services for parents and children. |
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Answers: 1. True; 2. True; 3. False; 4. False; 5. True; 6. True



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