

FAMILY DRUG COURTS: A BEST PRACTICE THAT WORKS

By Judge Leonard Edwards (ret.)¹



Juvenile dependency courts are relatively new. Juvenile court oversight of abuse and neglect cases grew out of the significant changes in the law with the passage of Public Law 96-272 in 1980. Over the past 34 years, juvenile dependency courts and social service agencies have developed a number of best practices including the use of trained volunteers (Court Appointed Special Advocates - CASAs), the practice of one family-one judge, dependency mediation, wrap-around services, and family finding and engagement to name some of the most

prominent. I believe the most important best practice has been the introduction of Family Drug Courts² into dependency process.

Family Drug Courts (FDCs) are a very recent development, the first one created in Florida in the 1993.³ They have spread rapidly with 346 nationwide and 32 in 25 California counties.⁴ These FDCs have been created in all sizes of counties, from Los Angeles to Mariposa, some with few clients while others have over a hundred (Riverside and Sacramento).

FDCs focus upon substance abusing parents, a problem that exists in from 60% to 80% of substantiated child abuse and neglect cases.⁵ It is important to note that the prevalence of substance abuse in substantiated cases is not well reported.⁶ FDCs have been successful in fostering rehabilitation for parents trying to reunify with their children. Numerous studies have demonstrated that parents who participate in FDCs reunify with their children more frequently as compared to the traditional family reunification process, their children spend less time in foster care, and returns to the dependency court are

¹ The author wishes to thank Phil Breitenbucher and Alexis Balkey for their assistance in writing this paper.

² Family Drug Courts are also known by the names Dependency Drug Courts, Family Treatment Courts, Family Treatment Drug Courts, Family Preservation Courts and others.

³ Edwards, L., "Sanctions and Rewards in Family Drug Treatment Courts," *Juvenile and Family Court Journal*, Vol. 61, No.1 Winter, pp 55-62 at 56.

⁴ The author personally contacted many of California's counties to determine the accurate number of FDCs as of January of 2015. Several counties are considering starting an FDC.

⁵ Young, N., Boles, S., & Otero, C. (2007) "Parental Substance Use Disorders and Child Maltreatment: Overlap, Gaps, and Opportunities," *Child Maltreatment*, 12, 137-149.

⁶ In California, only 12% of removal cases are documents as AOD-involved, while the national average is 31% and some states record over 60%. U.S. Department of Health and Human Services, SAMHSA, Office of Applied Studies (2009) *The NSDUH Report: Children living with substance-dependent or substance-abusing parents: 2002-2007*, Rockville, MD. National Average: National Data Archive on Child Abuse and Neglect (2012) Adoption and Foster Care Analysis Reporting System, Ithaca, NY.

lower.⁷ Moreover, since their creation FDCs have become more sophisticated and efficient with the development of a wider range of needed family-centered treatment services, mentor parent programs, developmental services for children, infants' courts, and similar innovations. Participation in FDCs also has significantly reduced costs to the child welfare system.⁸

What makes FDCs successful remains somewhat of a mystery. Is it the fact that the parent works with a collaborative team (The Team)? Is it because the service plan is carefully tailored to meet the client's often complex needs or using evidence-informed practices? Could it be the expansion of services available to the client? Perhaps it is the frequent appearances in court, meeting with the judge and (in some FDCs) other team members and hearing words of praise as they move on the path of recovery. I believe it is all of these factors and more.

I believe that the FDC process and its professional and service provider partners have become sophisticated about substance abuse recovery. Bringing substance use disorder experts to the dependency court is an acknowledgment that a majority of these cases involve substance abuse and that social workers have neither the training nor expertise to develop effective reunification plans involving substance abuse recovery. It is also because the FDC does not stop at substance abuse recovery, but deals with problems facing the client as they arise and uses The Team to work with the parent to solve those problems.

The Team, with judicial oversight, holds itself and partnering agencies accountable. For example, the outcomes from the *Children*



Affected by Methamphetamine project revealed that a comprehensive family-centered FDC approach that addresses the specific needs of children and families in addition to a parent's recovery contributes to improved child, parent, and family well-being.⁹

Many of the dependency court clients have experienced failures throughout their lives. Given a supportive team, including a judge, all working together to help the client be successful seems to be a formula that works. Statements such as "I never thought I could stop using drugs," and "I finally realized that my children were more important than my drugs," confirm that the FDC can successfully redirect a parent's path to recovery.

⁷ Marlowe, D.B., and Carey, S., "Research Update on Family Drug Courts," NADCP, Need to Know, 2012; Green, B.L., Rockhill, A., & Furrer, C., "Does Substance Abuse Treatment Make a Difference for Child Welfare Case Outcomes? A Statewide Longitudinal Analysis," *Children and Youth Services Review*, 29, 460-493 (2007).

⁸ *Id.*, Marlowe, at pp 3-5. According to several studies cited in Marlowe's article, participation in FDCs resulted in average cost savings to the child welfare agency per participant from approximately \$7,000 to \$15,000.

⁹ SAMHSA, Center for Substance Abuse, *Grants to Expand Services to Children Affected by Methamphetamine in Families Participating in Family Treatment Drug Court*, Brief 2014. Accessed: https://www.ncsacw.samhsa.gov/files/CAM_Brief_2014-Final.pdf



Except in a very few egregious cases, the first goal for permanency placement in dependency court is family reunification.¹⁰ The federal Adoption and Safe Families Act (ASFA) gives the parent a limited amount of time to achieve rehabilitation. Failure can result in a loss of parental rights. With cookie-cutter services, no engagement strategies, and minimal support, it is no wonder that many parents fail to reunify with their children. The reunification process becomes much more effective when the client

participates in an FDC. If we in the court system are serious about achieving family reunification, it follows that we should have an FDC or, in the alternative, if we have an FDC, we should expand it. If we are interested in giving parents a fair opportunity to reunify with their children, FDC should be a part of the dependency court process. We might go so far as to say that reasonable efforts now should include an effort to arrange for the best possible services such as those an FDC can provide in order to prevent termination and enable reunification.

Do we know who will be successful in our FDC? One of the surprises I encountered during my years presiding over an FDC was my inability to predict who would be successful in the reunification process. At the first hearing I might see a mother in custody looking as though she had given up on life. I sometimes said to myself – this is a hopeless case. Then a few months later she would walk into the FDC and few would recognize her. She would hold her head high and talk about how she is clean and sober and has changed her life. Such dramatic transformations occur regularly in FDCs, and they are inspirational. These “surprises” led me to conclude that entry into the FDC should be much more open than the original entry criteria we created when we opened the court.

FDCs are problem-solving courts. One of the first questions I would ask a client at the review hearings was “what can this court do to help you today?” The client would discuss issues

regarding housing, education, domestic violence, medical assistance, driver’s licenses, and the list goes on. The Team would then work with the client to move forward, to rebuild his or her life. This type of enhanced case management and parent/child/family support is crucial to the success of FDCs.

The FDC had an impact on the dependency cases I was hearing even when the parent decided not to participate in the FDC. I was still able to order a substance abuse assessment from one of the team experts and tailor the service plan accordingly. I was also able to bring that parent back to court for frequent interim reviews in an effort to monitor progress and give the parent encouragement. The intensity of court oversight has proven effective in these cases. No longer are there six-month reviews when the parent has done little or nothing on the case plan and comes to court to discover that his or her parental rights are significantly at risk.

¹⁰ W & I §300.2

STEPS TO TAKE

Any court that wants to increase successful family reunifications should start an FDC. It is not difficult.

- ❖ Numerous organizations offer technical assistance including the Center for Children and Family Futures and The Center for Families Children & the Courts.¹¹ The Center for Children and Family Future's publication, *Guidance to States*, can provide additional assistance.¹²
- ❖ The FDC does not depend on new funding; instead, you can redirect already existing funding and leverage new partnerships. I ran our FDC for several years with no funding.
- ❖ What the court is doing is rearranging calendars and coordinating services. Bringing the substance abuse experts into the court is an important first step. Most local substance abuse professionals have enjoyed success working with criminal drug courts and are generally pleased to play a significant role in the FDC. After all, substance-abusing parents are their clients and by participating in an FDC, they can have contact with them more efficiently and have a judge and a team support their efforts.
- ❖ Some grant funding is available. Many California courts have federal grants while others have secured funding from the county First Five, community foundations, or other local funders including the County Board of Supervisors. Treatment funding is available from federal funds given to the State, which the state passes through to the counties; total funds for these purposes (which include other mandated clients as well) total hundreds of millions of dollars annually.
- ❖ Medicaid funds can support some forms of treatment as well, and support for children of drug court clients has been arranged from early childhood funding streams in several counties, including Head Start and state preschool funding.¹³



¹¹ For The Center for Children and Family Futures contact Phil Breitenbucher at pbreitenbucher@cff.org or go to their website at www.cffutures.org. For the Center for Families, Children & the Courts, contact Nancy Taylor at NTaylor@cfcc.org

¹² Young, N.K., Breitenbucher, P., & Pfeifer, J. (2013) *Guidance to States: Recommendations for Developing Family Drug Court Guidelines*. Prepared for OJJDP, Office of Justice Programs. Retrieved from <http://www.cffutures.org/files/publications/FDC-Guidelines.pdf>.

¹³ For funding information see: <http://www.ncsacw.samhsa.gov/files/FundingWhitePaper.pdf> and http://www.samhsa.gov/sites/default/files/final_funding_paper_508v.pdf

- ❖ A very effective way to get an idea of what an FDC looks like is to plan a visit to another court.¹⁴ Scores of court teams visited my court, each bringing a judge, some attorneys, social workers, substance abuse professionals, and others. When a team visits in this manner, each member can meet with his or her counter-part and get their perspective.
- ❖ Another useful means to start or improve an FDC is to invite an expert in to discuss court operations with the team. Children and Family Futures offers that type of technical assistance, as does the Judicial Council's Center for Families, Children & the Courts.¹⁵

CONCLUSION



The time to create or expand an FDC is now. Convene a meeting of stakeholders. It may be necessary to meet with some of them privately first to ensure their buy-in. Let them know you would like to start an FDC. Show them a video – available from the author.¹⁶ Plan a visit to an FDC in a nearby county or to a FDC Peer Learning Court. Contact Children and Family Futures or the Center for Families, Children & the Courts and discuss start-up plans.¹⁷ All it takes is judicial leadership bringing together a group of stakeholders. The other professionals know that FDCs work. They have heard from their colleagues in other counties, and they are ready to participate in this best practice.

¹⁴ Nine FDC Peer Learning Courts have been established by OJJDP. <http://www.cffutures.org/plc>

¹⁵ *Id.*

¹⁶ Email me for a copy. Judgeleonardedwards@gmail.com

¹⁷ *Op.cit.* footnote 11.