

# Judicial Perspectives on Family Drug Treatment Courts

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## ABSTRACT

Family Drug Treatment Courts (FDTCs), also known as juvenile dependency drug treatment courts, are a specialized calendar or docket that operates within the juvenile dependency court.<sup>1</sup> FDTCs are not courts in the traditional sense because they do not adjudicate. Instead

they provide the setting for a collaborative effort by the court and all the participants in the child protection system to come together in a non-adversarial setting to determine the individual treatment needs of substance-abusing parents whose children are under the jurisdiction of the dependency court. The participants in the FDTC work with these parents in an effort to rehabilitate them so that they can become competent caretakers and have their children safely returned to their care.<sup>2</sup> FDTCs are one of the newest arrivals in the drug court world.<sup>3</sup> The first FDTC was created in the mid-1990s and several other FDTCs were started a few years later.<sup>4</sup> Today they are one of the fastest growing types of drug courts in the United States.<sup>5</sup>

We are two juvenile court judges who started our FDTCs in the late 1990s and have presided over them ever since. We believe we have enough experience with these courts to describe how FDTCs work, what the critical issues are for their creation and maintenance, and where they are going. We also believe that there is enough evaluative information to declare them a

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The article will first describe what juvenile dependency courts do and the need

and purpose for FDTCs within the context of dependency courts. Second, it will discuss the creation of FDTCs. Third, we will discuss how FDTCs typically operate and some of the issues all FDTCs must resolve. Fourth, we will address what we believe makes these courts effective. Fifth, we will discuss some of the promising innovations that have been developed in FDTC practice. Sixth, we will address the difficult challenge of sustaining recovery for clients after they leave the FDTC. Seventh, we will examine some evaluative data indicating how successful these courts have been, and eighth, we will conclude with some thoughts on the future of FDTCs.

## I. NEED AND PURPOSE OF FDTCS

### A. Juvenile Dependency Courts

Juvenile dependency courts<sup>7</sup> oversee state intervention in the lives of abused and neglected children and their families. When the state intervenes in a family to protect a child from abuse or neglect, the law requires the judicial branch to review the decision to remove that child from parental care, the decisions concerning

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the provision of services to parents whose child has been removed, and the decisions relating to the permanent placement plan for the child (return to the parent, termination of parental rights, guardianship, placement with a fit and willing relative, or in another planned permanent living arrangement).<sup>8</sup>

Child protection and child welfare issues are governed by federal and state laws.<sup>9</sup> These laws describe the different roles that the executive and judicial branches play in the protection of children, the efforts to preserve families, and the timely determination of permanency plans for children. One of the unique aspects of these laws is that they are sensitive to children's developmental needs. For example, they declare that a permanent plan for a child must be determined in a short period of time, not to exceed one year from the time the child is placed in foster care.<sup>10</sup> This time frame reflects children's pressing need to live in permanent home as soon as possible so they can develop normally,<sup>11</sup> and also seeks to avoid "foster care drift," the movement of children from one foster home to another.<sup>12</sup>

Child protection and children's services agencies are faced with significant challenges in implementing these federal and state laws. These agencies must respond to reports of child abuse and neglect and determine whether children can safely remain in their homes.<sup>13</sup> If the case is serious, the family may be offered services or the child may be removed from parental custody. In removal cases, these agencies must then determine what service plan should be offered to the parents to give them a fair opportunity to be rehabilitated and safely reunited with their children. In a few very serious cases, the court may not order family reunification services (reasonable efforts) for the parents to reunify with their child.<sup>14</sup> Finally, child protection and children's services agencies must find a permanent home for removed children within a specific time frame. The juvenile dependency court must oversee all of these events to determine whether agency actions have a factual and legal basis.<sup>15</sup>

### **B. The Need for a Family Drug Treatment Court**

Children come before the juvenile dependency court for a number of reasons. Some are physically abused, and some sexually abused. Some have parents who abandon them or are so neglectful that the chil-

dren do not receive the basic necessities of life. Our experience, and that of the colleagues with whom we have consulted, is that the foremost presenting problem for abusive and neglectful parents is substance abuse. Research confirms our experience. Estimates are that from 50% to 90% of all child protection cases have substance abuse as a problem facing the parent or parents.<sup>16</sup> Substance abuse includes abuse of street drugs, prescription drugs, over-the-counter drugs, or alcohol. Usually it is substance abuse that leads to neglect of the child, although on occasion it leads to harm of the child as, for instance, when drugs are sold in the child's home, when the fetus is exposed to drugs during pregnancy, or when the child accidentally ingests drugs.<sup>17</sup> Other social and familial problems such as domestic violence, mental health issues, developmental disabilities, and lack of parenting and caretaking skills often plague families, but substance abuse clearly is the most frequently identified issue facing parents in juvenile dependency court.<sup>18</sup> We should add that in many cases substance abuse is the presenting problem, but by no means the most significant issue facing the parent. Often sobriety is achieved in a reasonably short period, but other problems such as domestic violence, mental health problems, and housing needs are the issues on which the FDTC court process will spend the majority of its time working with the parent.<sup>19</sup>

Because of the pervasiveness of substance abuse among dependency court clients, we learned early in our work as juvenile court judges that if we were going to be successful in our courts, we would have to manage substance abuse assessment and treatment issues effectively. We learned that our juvenile courts would have to develop a system that could assess substance abuse levels, design case plans, and have the resources to engage parents in effective substance abuse treatment. As judges, each of whom has been sitting on the bench for more than 25 years, it took us a rather long time to realize that our children's services agencies and we as judges did not have the expertise to assess for substance abuse, design treatment plans, or monitor treatment effectively.<sup>20</sup> We knew that the parents were unlikely to be able to assess their own needs because in most cases they resist acknowledging the extent of their addiction. Thus, it was a logical step for us to reach out to the substance abuse treatment community and invite

them into our courts to create a process in which they would advise us about our clients' substance abuse treatment needs and then provide that treatment.

All parents whose children come before the juvenile dependency court are subject to the stringent timelines set by the Adoption and Safe Families Act. When ASFA was written, some thought that the one-year timeline for family reunification was too short to give parents a fair opportunity to rehabilitate themselves and have their children returned. After all, many of these parents had been using drugs for more than 10 years.<sup>21</sup> We have learned that the FDTC has the capacity to start treatment quickly and thereby give the parent a chance for recovery even within ASFA timelines.<sup>22</sup> In our FDTCs, parents can start treatment almost the first day their child's case appears in the court for the initial hearing.<sup>23</sup> We believe that for a juvenile dependency court to deal competently with substance-abusing parents, the court and child protection and children's services agencies must have continuous access to substance abuse expertise. This expertise must be available so the court and the other FDTC members will understand the seriousness of the parent's substance abuse problem, order a treatment plan that will best meet the parent's addiction problems, and gain better perspective on the progress the parent is making in her recovery efforts.

### C. Purposes of a Family Drug Treatment Court

We believe an FDTC has three purposes. The first is to provide a substance abuse assessment and treatment plan in the context of juvenile dependency proceedings so a parent will have a fair opportunity to recover from addiction and correct the conditions that necessitated removal of the child, making it possible for the parent to reunify with his or her child within the strict ASFA timelines. The second purpose of an FDTC is to utilize the strengths of the drug court process to improve a parent's chances of success in treatment and recovery.<sup>24</sup> The third purpose is to provide the client with a new vision of life, one that will lead to long-term stability, and to help each client realize that vision.<sup>25</sup>

### D. FDTCs Save Time and Money

Many foster children do not reach permanency in a timely fashion. ASFA declares that a child should be placed in a permanent home in a year after removal from

his or her parent and that any child who has been in out-of-home care for 15 of the past 22 months should have a permanent home established immediately. Sadly, national statistics show that many children linger for years in foster care, some never finding a permanent home.<sup>26</sup>

We believe that FDTCs shorten a child's time to permanency. This happens for several reasons. First, the substance abuse issue is identified early and treatment starts early. Second, because of the individualized case plan and the drug court team's close monitoring, the parent is more likely to succeed. If the parent fails the program, there is usually no question that reasonable efforts have been provided. As a result, the child can find permanency in a more timely fashion.<sup>27</sup>

Just as adult criminal drug courts have been shown to save money,<sup>28</sup> substantial evidence supports the assertion that FDTCs also save money. To the extent that an FDTC shortens the time that a child remains in the foster care system, savings in foster care dollars can be realized.<sup>29</sup> Judge James Milliken (ret.) of the San Diego County Juvenile Court has evaluated the cost savings of the FDTC he started more than five years ago, the Dependency Court Recovery Project (The Project). The evaluations conducted by the federal Center for Substance Abuse Treatment found that The Project "made a dramatic impact on reducing the use and cost of foster care in San Diego."<sup>30</sup> The study showed a 58% cost savings when The Project was compared to traditional child welfare models.<sup>31</sup> Evaluations of other FDTCs have demonstrated similar savings.<sup>32</sup>

Additionally, we recognized that an FDTC could order the most effective preventive intervention that a court is capable of providing to addicted parents. Not only is the court working with parents (mostly mothers) and their children, but most of those mothers are still in their childbearing years. We have observed that our FDTCs often resemble a nursery, with new births occurring regularly within the client population. Success in an FDTC helps prevent babies from being born to a substance-abusing mother.

## II. CREATION OF FAMILY DRUG TREATMENT COURTS

We started our Family Drug Treatment Courts after hearing reports from colleagues regarding the few FDTCs that had been created. We were influenced

## Family Drug Treatment Courts

by the success of the criminal drug courts that were started in the early 1990s and that have grown and expanded quickly across the country.<sup>33</sup> Word of innovations spreads quickly in the juvenile judiciary and particularly among those of us who are involved with Court Improvement efforts<sup>34</sup> and the Model Courts Project of the National Council of Juvenile and Family Court Judges.<sup>35</sup> We have had great success improving our courts by adopting the best practices that have been developed by colleagues. FDTCs appeared to be another very promising innovation.

### A. Learning from Existing FDTCs

We learned that several of our colleagues across the country had started an FDTC in their jurisdictions. We discussed FDTCs with some of our local judges and with professionals who regularly appear in our juvenile dependency court, including the attorneys representing each of the parties, representatives from children and family service agencies, service providers, court administrators, and substance abuse treatment providers. We were interested. In Santa Clara County (San Jose), California, the local court team visited one of the first FDTCs in the country, the court that Judge Charles McGee started in Reno, Nevada (Washoe County). The trip included 10 people, including a judge, several representatives from the children's services agency, attorneys who represented the children, attorneys who represented social workers, attorneys who represented parents, substance abuse treatment providers, and a court administrator. Each person was able to talk with his or her counterpart in the Reno FDTC. Everyone came away believing that from their perspective the FDTC would be an improvement over what we had been doing before.

In Lucas County (Toledo), Ohio, the Administrative Judge led a multidisciplinary team to another of the nation's first FDTCs in Escambia County (Pensacola), Florida. Each person returned from the trip awed by the amount of effort required to make the FDTC a success, but inspired by the possibilities offered by this new court structure. The Toledo team immediately started planning for its own FDTC.

### B. Learning from Criminal Drug Courts

We also turned to our local criminal drug courts for guidance. Criminal drug courts started before FDTCs and have become the fastest growing type of court in

the United States.<sup>36</sup> We visited criminal drug courts, attended their graduations, and discussed their operations with the criminal court judges, the professionals, and the drug court case managers.<sup>37</sup> We learned that there are significant similarities and differences between the two types of drug courts. Some of the similarities are as follows:

- Both follow the 10 principles of drug courts.<sup>38</sup>
- Both develop an individualized plan for each client who appears in court.
- Both monitor the progress or lack thereof made by each client.
- The judges in each court praise those who are doing well, sanction those who are not following the case plan, and encourage all participants.
- Both courts address issues other than substance abuse, including housing, employment, and living stable lives in the community.

There are significant differences between the two types of drug courts. We stress that these differences must be acknowledged in the operation of a FDTC. Put another way, an FDTC is not a criminal drug treatment court in a dependency context. Some of the differences between the two types of courts are as follows:

- The juvenile dependency court focuses on children—criminal drug courts do not.
- The primary reasons for creating adult drug courts were: (1) reduction of jail and prison populations and (2) the “revolving door” reflecting adult offenders return to court time after time without ever rehabilitating.<sup>39</sup> On the other hand, the primary reasons for creating FDTCs were the pressure for timely permanency dictated by the passage of ASFA,<sup>40</sup> and the spirit of the court improvement movement in the nation's juvenile dependency courts.
- The juvenile dependency court must adhere to strict timelines—the criminal drug courts have no similar statutory scheme. The juvenile dependency court must follow the federal time guidelines established under ASFA.<sup>41</sup> Pursuant to this law and the state laws implementing it, a child who has been removed from parental care by the state in child protection proceedings must be given a permanent home within one year of the date the child entered foster care. This time frame creates a great deal of pressure on all participants in the child protection system, and particularly on the judge,<sup>42</sup> to move the process

along quickly and to conclude the permanency process in the one year time frame. This time frame means that there is a sense of urgency in all juvenile dependency matters, including the time by which a substance abusing parent must be rehabilitated. Treatment must start early and it is time limited.<sup>43</sup>

- The criminal drug courts utilize jail as a primary sanction. Some FDTCS use jail, while others do not. Moreover, the purpose of jail may be different in the two courts.
- The “ultimate sanction” in the criminal court is incarceration while the “ultimate sanction” in juvenile dependency court is loss of parental rights. This distinction may make all the difference in terms of a parent’s motivation to comply with court orders.<sup>44</sup>
- Most criminal drug court clients are male while women comprise more than 85% of the clients in most FDTCS.<sup>45</sup> This gender difference has significant treatment implications. Women’s treatment needs are different from men’s, and this has meant that our treatment services have had to be structured to meet women’s specific needs. Drug-dependent women often have low self-esteem and little self-confidence and may suffer from depression.<sup>46</sup> They often have suffered childhood trauma, and their drug use may be a form of self-medication.<sup>47</sup> They are more likely than men to have co-occurring mental health disorders or be domestic violence victims.<sup>48</sup> Being a victim of violence may increase the likelihood they will engage in substance abuse.<sup>49</sup>

As a result of these characteristics, women have different treatment needs than men.<sup>50</sup> The research indicates that the most effective substance abuse treatment for women must be comprehensive, should emphasize the “mother-child relationship,”<sup>51</sup> and should include the children, particularly infants, in treatment.<sup>52</sup> Research has demonstrated that men and women relapse at different rates and for different reasons.<sup>53</sup> In our FDTC practice we have found that often a woman’s case plan must include separation from a significant other in her life, usually a man.<sup>54</sup> We have also found that treatment can be more effective if there are gender-specific services for women such as programs for mothers with their children and AA/NA groups for women only.<sup>55</sup>

- The drug court team is comprised of a different set of professionals in each court. The criminal drug court team is made up primarily of professionals from the justice system, while the FDTC will have many professionals from the social service, men-

tal health, domestic violence, and public health sectors.<sup>56</sup>

- An FDTC is much more complex than a criminal drug court because all aspects of the client’s life and relationships, as well as the ultimate consideration of child safety, are part of the rehabilitative process. For example, the Center for Substance Abuse Treatment has identified ten kinds of services that a drug-dependent mother needs for rehabilitation. These include: (1) comprehensive screening and assessment; (2) medical intervention for women and their children (e.g., gynecology, HIV, TB); (3) linkages to federal and state supplementary programs (e.g., Head Start, legal aid, job training, TANF); (4) substance abuse and psychological counseling; (5) health education and prevention; (6) educational and vocational training; (7) transportation; (8) housing; (9) child care; and (10) continuing care.<sup>57</sup> Based on our experience, we would add (11) access to parenting classes and (12) domestic violence services to this list.
- Participation in the criminal drug court can be mandatory, but participation in FDTCS is usually voluntary.<sup>58</sup>

Considering the factors listed, we realized that the FDTCS could borrow much from the criminal drug court, but that the FDTC process had to be designed to address the different social and legal aspects of child abuse and neglect cases as well as the special needs of dependency court clients and their children.

### C. Learning from Juvenile Courts

We also relied upon our own experience as juvenile court judges. Juvenile court judges have long been performing drug court-like functions in their traditional roles as judges. The FDTC requires judicial leadership to bring the court system and service providers together and to create a collaborative environment. This has been the traditional role of the juvenile court judge, that of convenor of court systems and communities on behalf of children.<sup>59</sup>

From our years as juvenile court judges, we knew that the FDTC would work well in the context of the juvenile dependency court’s goal orientation. Rehabilitating substance-abusing mothers would result in better outcomes for children, and the FDTC appeared to offer great hope for improving outcomes for substance-abusing mothers. Juvenile court judges have always been goal oriented. Indeed, the juvenile court is

the original problem-solving court, and juvenile court judges have always attempted to identify services and strategies to rehabilitate children and family members.<sup>60</sup> This oversight and review-of-services role is consistent with juvenile court law.<sup>61</sup>

### D. Starting a Family Drug Treatment Court

Starting an FDTC requires several elements, but judicial leadership is the first and most important.<sup>62</sup> If the judiciary, or at least one member of the judiciary, is not interested in a FDTC, it will not be created. After judicial leadership has been identified, that person needs to do some strategic planning. At the outset, it is important to get permission or a “blessing” from the Presiding Judge or Supervising Judge of the juvenile court and, depending on the structure of the judicial branch in a particular district, possibly from the Presiding Judge of the entire court system. Because of the success of most drug court efforts in the United States, that permission should not be difficult to obtain. Once a judicial officer has an interest and permission from the local judicial branch to create an FDTC, organizational steps must follow. These steps may include the following:

1. The judicial officer should convene the participants in the juvenile dependency court system and discuss the creation of the FDTC. In our jurisdictions we regularly have meetings that bring together representatives of all professionals who participate in the juvenile dependency court process. We believe that such meetings are beneficial to the administration of the juvenile court and that they provide an ideal place to introduce new ideas concerning court improvement.<sup>63</sup> We introduced the idea of an FDTC at these meetings and the discussion that followed led to investigation of other FDTCs as well as to consultation with professionals involved in those courts. Additionally, the judicial officer can distribute information about FDTCs during these meetings. Helpful information and technical assistance are available from several sources.<sup>64</sup> It may also be useful to show a film about FDTCs.<sup>65</sup>
2. Because FDTCs are collaborative courts, the judicial officer must be prepared to create a collaborative environment within the juvenile court. A growing body of literature describes collaborative or problem-solving courts.<sup>66</sup> These courts operate under a different philosophy and with different rules than traditional courts.<sup>67</sup> The collaborative court approach stresses addressing each client’s individu-

alized needs, the efforts of a team of professionals assisting the court, and intense court oversight of progress (or lack thereof) by each client. Breaking from the traditional adversarial process, collaborative courts utilize team input into judicial decision making and focus upon reaching individual goals for each client. They also emphasize a new role for the judge, that of problem solver.<sup>68</sup> These courts have been given significant recognition and praise by the Conference of Chief Justices and the Conference of State Court Administrators.<sup>69</sup>

3. The FDTC must create a system in which substance-abusing parents are identified, assessed, given case plans, monitored during their time before the court, and given sanctions and encouragement as appropriate during the drug court process. Each of these stages needs to be developed by a team of professionals (the Team).<sup>70</sup> The assessment and determination of a treatment plan should come from substance abuse treatment providers. Case management can be provided either by social workers or substance abuse treatment professionals. The monitoring, sanctions, and encouragement can be provided by the court process.
4. We have found that frequent cross-training on substance abuse and other issues relevant to the operation of the drug court and the services needed for drug court clients has assisted in improving everyone’s knowledge about the dynamics of addiction and recovery and about the need to have substance abuse professionals as an integral part of the juvenile dependency court process. This cross-training also helps the substance abuse assessors and treatment providers understand the strict timelines for family reunification dictated by federal and state law. Cross-training is particularly effective because it brings professionals from different disciplines together around issues of common interest.<sup>71</sup> It aids in the process of truth finding in the juvenile dependency court and reduces some of the adversarial feelings intrinsic to the court process.<sup>72</sup>
5. We believe that the judicial officer must take a leadership role in contacting and convening the critical participants as the FDTC is created. For example, the judicial officer must be ready to reach out to the substance abuse treatment provider community to identify what resources are available and who will be willing to come to the table and be part of the FDTC. In Santa Clara County, the judge went to the local Director of the Department of Alcohol and Drug Services and asked him what he believed would be necessary to have adequate resources for an FDTC. Since he had already been working with the criminal

drug court, he had little difficulty agreeing to work with our juvenile dependency court plans.

In Lucas County, a “joint venture” involving Children’s Services and Alcohol and Drug Addictions Services (the policy making and funding board) existed before creation of the FDTC. The joint venture provided assessment and treatment referral on demand for parents whose children had been removed or were at risk of removal. Since most referrals for services from Children’s Services were women, most of the needed resources were in place, especially treatment capacity and housing for women. Those service providers were eager to engage with the FDTC because they soon learned that compliance with the service requirements was far better among FDTC participants. As a result, everyone enjoyed greater success.

We have discovered that the FDTC has required a different array of services than those used by the criminal drug court. As we pointed out earlier, most FDTC clients are women. Thus, the FDTC services must focus on pregnant and parenting mothers, and all service providers must have the capacity to work with the child and the mother. Housing resources must meet the needs of mothers and their children, substance abuse classes should have a mother-child component, and parenting classes likewise must address the needs of young mothers.

6. No drug court will be successful unless it has adequate assessment and treatment services (outpatient and inpatient) for the participants.<sup>73</sup> Our team meetings often address potential sources of support for treatment services and FDTC operational issues. We discovered that it was necessary for each of us to become advocates for substance abuse services and for women in recovery, in particular, as women have different treatment needs than men.<sup>74</sup> We discovered that a majority of the substance abuse treatment services in our communities focused upon men in recovery. Thus it was necessary to approach our local elected officials and service providers and ask for some new services for women and a redistribution of existing services so that women and children were more equitably treated. For example, housing resources must have the capacity to serve women in recovery and their children. Traditional housing for men in recovery does not allow for children in the living situation. We need to add that advocating for mothers and infants is much more politically attractive than the more traditional judicial branch requests, such as asking for a new courthouse or additional court clerks.

7. An important step in creating an FDTC involved working with child protection and children’s services agencies. As dependency court judges, we have always worked with these agencies collaboratively regarding the administration of justice.<sup>75</sup> This collaboration has continued in the creation and operation of our FDTCs and has been important for several reasons. First, children’s service agencies are very interested in any efforts to improve outcomes for children and families. These agencies have struggled for years with the problems presented by substance-abusing parents,<sup>76</sup> and for the court to create a system that produces better results for families and in a timely fashion is consistent with agency goals. Second, these agencies are under a legal mandate to provide “reasonable efforts” to prevent removal of children, to provide services so that separated families can be reunited, and to provide timely permanency for removed children.<sup>77</sup> The FDTC has proved to be an effective means of providing “reasonable efforts” in providing services to families separated from their children. Third, the children’s service agencies in both of our jurisdictions had experienced difficulties communicating and working with professionals who provide substance abuse services in our communities. The FDTC provided a vehicle for establishing productive, working relationships between the children’s services agency and substance abuse treatment professionals. As judges, we played an important role in bringing the children’s services agency together with the substance abuse service community in each of our jurisdictions. By keeping the focus on the FDTC’s operations, we helped to avoid turf wars and finger pointing.<sup>78</sup>

Finally, there is another important reason for children’s service agencies to be involved in the FDTC—resources. To the extent that these agencies accept responsibility for providing effective substance abuse treatment services, they may provide the resources to ensure that those services are present. In Santa Clara County, the agency is paying for substance-abuse experts to provide assessments for substance-abusing parents as they enter the dependency process and also for housing for substance-abusing mothers and their children. Since the children’s service agency has access to federal and state funding to provide such services, the juvenile court should not miss the opportunity to work closely with it to maximize the substance abuse treatment resources available for FDTC clients.

There are other sources of funding for drug treat-

ment and services for FDTC clients. These include grants from the federal government, Medicaid, TANF, and Title XX of the Social Security Act.<sup>79</sup> Additionally, state and local resources can support substance abuse treatment and even the creation and operation of an FDTC.<sup>80</sup>

8. Each of us spent considerable time with our drug court teams determining how the FDTC would operate. We believe we may have spent too much time and energy on these issues, but we did not have the benefit of technical assistance from many other courts or national organizations. We believe the process for starting an FDTC today has been made much easier.<sup>81</sup> Some of the issues that the judicial officer and the team must address include eligibility for the FDTC (which clients will participate in the FDTC and who will not be eligible), when the FDTC cases (calendar) will be heard, who will be a member of the FDTC team, how information will be communicated among the various parties and agencies,<sup>82</sup> what sanctions and rewards will be offered to clients, whether entry into the FDTC will be voluntary or mandatory, and what the relationship between the FDTC and the underlying dependency process will be. Some of these issues are discussed below.
9. At some point in the process of creating a new FDTC, the judicial officer and the team must decide that it is time to start the court process. We found that our FDTCs started slowly. Only a few clients were interested in the FDTC at the start, probably because it was new and the attorneys representing parents (and the parents themselves) were cautious about what benefits the FDTC would offer their clients. As the FDTC matured, the attorneys for parents understood the benefits of the court to their clients and urged them to join. Social workers also saw the benefits of the FDTC and advocated that their clients participate. Expanding an FDTC will depend on whether all parties, and particularly the parents and their attorneys, perceive the court to be beneficial to their interests. Regular team meetings should ensure that all concerns about the court and the processes are heard and addressed. Failure to have such meetings and to permit all professionals to air their concerns could result in creation of an FDTC which has few or no client participants.
10. Some jurisdictions, including both of ours, have found it useful to develop memoranda of understanding (MOUs) regarding the roles, responsibilities, duties, and authority among the entities involved with the FDTC. MOUs can be particularly helpful when working with agencies that do not have a history of collaboration.<sup>83</sup>

11. We should add that it can be very helpful to have a federal or state grant to support the start-up of an FDTC. Neither of our jurisdictions benefited from such a grant when we started our FDTCs because grants were not being offered to FDTCs in those days (only to criminal drug courts). Fortunately, times have changed, and both federal and state governments are beginning to support start-up FDTCs, as well as provide enhancement grants for courts already in existence.<sup>84</sup>

### III. STRUCTURE, PROCEDURES, AND OPERATIONS

#### A. How an FDTC Operates<sup>85</sup>

The typical operation of an FDTC involves a substance-abusing parent whose child is before the juvenile dependency court. After the court has sustained a petition alleging abusive or neglectful behavior, the client may apply to the court to become a member of the FDTC. The client will be assessed by a substance abuse treatment assessor to determine the best treatment plan for him or her.<sup>86</sup> If the client is accepted by the court or by the FDTC Team,<sup>87</sup> the client may sign an agreement<sup>88</sup> concerning treatment steps he or she will make and the conditions attached to entry into the FDTC. During the next months (usually a year), the client will appear before the court on numerous occasions with progress reports on treatment successes or setbacks, and the court will provide encouragement, rewards, and sanctions for the client's actions. After a year (or other specific time period) of successful participation, the client will complete the drug court process and will receive some recognition either through a certificate or graduation ceremony. There may be a period of time after graduation during which the client reports back to the court to ensure continued sobriety.

#### B. Structure

FDTCs have many similarities, but they are not identical. They vary in a number of significant ways, many of which were mentioned in the preceding section. Some FDTCs include all substance-abusing parents whose children are before the juvenile dependency court.<sup>89</sup> In some FDTCs, the same judge hears criminal and juvenile dependency cases, thus giving the judge additional power (the criminal sanction) over the client.<sup>90</sup> Some FDTCs utilize two judges to hear the calendar.<sup>91</sup> The length of participation in various FDTCs can

vary from a few months to over a year. The relationship between the dependency process and the FDTC also differs from court to court. Some juvenile courts hear the dependency case simultaneously with the FDTC, while others hold separate hearings. In some, the same judge hears the dependency proceeding and the FDTC session, while in others different judges hear the dependency and FDTC sessions. Another structural variation involves whether there will be a pre-hearing administrative meeting before the FDTC calendar is called. Both of our FDTCs utilize this type of meeting. We have found that such meetings are useful to exchange information about the progress or lack of progress by each client, and to address general administrative issues. Moreover, by having representatives from all participants in the FDTC proceedings present at these meetings, there is no ethical issue regarding *ex parte* communications.

### C. Procedures and Operations

For a number of operational issues, FDTCs around the country have developed different policies and procedures. A discussion of some of these issues follows.

1. *Determining Eligibility for the FDTC.* There is some variation around the country on this issue. Some FDTCs admit only women.<sup>92</sup> In Santa Clara County, the parent must be receiving family reunification services to be eligible for participation in the FDTC. This means that a parent who was not offered family reunification services (reasonable efforts to reunite parent and child) is ineligible for the FDTC. The court would not offer reunification services if it found the client ineligible because of aggravated circumstances.<sup>93</sup>
2. *Signing an Agreement or Contract upon Entry to the FDTC.* Should the applicant sign a contract at the time of entry into the FDTC? Most FDTCs are voluntary—that is, the participant agrees to enter into the more intensive FDTC by agreeing to participate in the FDTC activities and to follow the directions of the court and the Team. We have found that it is helpful to have a written contract that the participant, the participant's attorney, and the court each sign at the time of entry. This contract or agreement indicates what the court's expectations are concerning the client's actions while in the FDTC. It lays the foundation for monitoring the client's progress and outlines the possibility and severity of sanctions.<sup>94</sup>
3. *Determining the Client's Treatment Plan.* All clients entering our FDTCs must undergo a substance

abuse assessment conducted by substance abuse treatment providers. Our substance abuse assessors have informed us that based on their philosophy and training, they will try to work with a client at the treatment level the client is willing to accept. If a client believes that he or she can be successful with outpatient treatment, but the assessor believes that residential treatment is necessary, some assessors will accept the client's plan and try to work with him or her at that level of treatment.<sup>95</sup>

We suggest that the FDTC should not permit the client's assessment of his or her treatment needs to determine the court-approved treatment plan. We insist that the assessor inform the FDTC Team on both the treatment plan the client is willing to participate in and the plan the assessor believes the client needs to recover from his or her addiction. The FDTC Team almost always adopts the latter assessment.

4. *Content of the Treatment Plan.* What should the FDTC case plan include? Should it address only substance abuse treatment issues? What if domestic violence or other relationship issues are impacting the client? What if housing issues or mental health issues face the client? How far should the FDTC Team create a case plan beyond the substance abuse issues?

We believe that the case plan must start with substance abuse services the experts determine are appropriate for recovery. They may be outpatient or inpatient treatment, chemical testing, AA/NA meetings, obtaining a sponsor, completing the 12 steps, and other appropriate substance abuse treatment interventions.

Additionally, we believe that effective case planning must include a holistic approach to the client and her situation. We have learned this from operating our FDTCs. Clients would appear in court and state that they were clean and sober, but that they had no place to live or that their boyfriends were beating them or that they needed counseling. As a result, we learned that to be effective, the treatment plans had to go far beyond substance abuse issues. We now ask about domestic violence, mental health, housing, employment, education, driver's licenses, old criminal and traffic warrants, and other aspects of the client's life that might bear upon her ability to succeed in life.

If an issue is important to the client, the Team needs to hear about it and decide whether it will be included as a part of the case plan. For example, in a typical situation, the client (a mother) may be willing to engage in outpatient treatment, but unwilling to leave her boyfriend. The Team will investigate

to determine whether that living environment will be supportive of the case plan and goals. When the Team learns that the boyfriend has inflicted domestic violence or that he is still using drugs and is not in treatment, the case plan will likely direct the mother to move from that residence, probably to a sober living environment (SLE). The plan may also place restrictions on her contact with her boyfriend.<sup>96</sup>

5. *Voluntary Entrance into the FDTC.* Should clients be able to choose whether to enter and participate in the FDTC, or should participation be mandatory? In Santa Clara County, participation in the original FDTC was by application. In the past two years the Team has decided to change the model to include all substance-abusing parents in the FDTC. Some participants choose to participate in a more intensive track of the FDTC, and they do so voluntarily, but every substance-abusing parent is assessed and given a case plan that becomes a part of the court-ordered service plan.<sup>97</sup> In Lucas County, parents can choose to enter the FDTC. Once a participant has chosen to enter the FDTC, however, continued participation is mandatory. Participation is also voluntary in Washoe County, New York City's Family Treatment Court, the Escambia County (Florida) Drug Treatment Court, the Miami-Dade Drug Treatment Court, and the Erie County (New York) Family Court.<sup>98</sup>
6. *Responses to Client Participation.* One unique characteristic of the FDTC is an emphasis on frequent reviews of a client's progress, which includes rewards for success in following the treatment plan and sanctions for failures to follow that plan.
  - a. *Rewards.* Courts are not noted for praising or rewarding parties who appear in legal proceedings. One does not often hear about judges praising criminal defendants or civil litigants. Yet, rewards are a basic ingredient in the FDTC. Once the treatment plan has been established, at each review hearing the judge and other Team members will discuss the progress (or lack thereof) that a participant has demonstrated during the time between court appearances. Different FDTCs around the country have developed a variety of rewards from verbal praise to tokens to tickets to local community events. From our perspective, these rewards, and particularly the words of praise from the judge, support positive change and provide an effective incentive to continue compliance with the treatment plan.
  - b. *Sanctions.* Clients sometimes are not successful following the treatment plan. Most FDTCs will

impose sanctions when setbacks occur. Perhaps the most discussed issue among FDTC judges is whether jail should be used as a sanction for lapses in treatment.<sup>99</sup> When a client relapses or fails to follow the case plan, all FDTCs agree that some sort of sanction is appropriate, but the nature of that sanction is the issue. Most FDTCs use incarceration as a sanction. Those who favor the use of incarceration argue that it works.<sup>100</sup> They further declare that the dependency process and reunification of parents with their children is so important that the juvenile court has an obligation to get the parent's attention.<sup>101</sup> They state that a few days in jail is a trivial consequence when compared to the permanent loss of a child. They also point out that failure to follow a court order is subject to the court's contempt power. A number of those judges have reported to us that parents have thanked them for "waking them up" by putting them in jail and getting them back on track for reunification. Moreover, a California appellate court recently upheld use of jail as a sanction through the court's contempt power.<sup>102</sup>

If jail time is utilized, it is important to consider the framework in which it is being utilized. How does the participant view the time in jail? Is the jail term punishment for failure to comply or is it an opportunity to reflect about what has happened and to plan how to accomplish personal goals? Used in the latter sense, it can be more of a "retreat" than a punishment. One judge refers to the jail sanction in his jurisdiction as "therapeutic incarceration."

We caution that when using jail as a sanction, the judge must understand clearly the purpose for any jail sentence and use it only for that purpose. Most drug court participants are not dangerous in the community and do not need to be detained for anyone's safety. Moreover, just because the jail sanction is utilized extensively and successfully in the criminal drug court does not mean that it should be used as widely in the FDTC.

Other courts prefer positive reinforcement and milder sanctions for clients who relapse or otherwise get off track.<sup>103</sup> They argue that jail is not necessary. They believe that with the proper balance of other sanctions and rewards, parental motivation can be maximized. Some reflect that jail is an unjust consequence for failing to follow the drug treatment plan. They state that parents do have the right to choose whether they will reunite with their children

and can walk away from the dependency process, so the judge should not put them in jail for choosing not to participate. They point out that jail can be seen as demeaning to women in the FDTC and detrimental to their children who see their parent in jail.<sup>104</sup> They also point out that contempt is not utilized for parents who fail to go to parenting classes, who do not appear for visitation, or who otherwise do not participate in the court-ordered case plan. They argue that failure to engage in substance abuse treatment should not be treated any differently. Finally, they suggest that jail is a tempting sanction and will probably be over-utilized by the FDTC judicial officer because it is easy. On the other hand, they argue, creative sanctions can be just as effective as incarceration.

Whether jail is utilized or not, FDTCs use many other sanctions when clients are not compliant with the treatment plan. In Pima County, Arizona, for example, the court uses the following sanctions: (1) restrictions on associations and travel; (2) community service; (3) written essays; (4) increased treatment sessions; (5) increased court appearances; (6) increased 12-step meetings; (7) increased drug testing; (8) up to 48 hours in jail; (9) residential treatment; (10) delay in graduation to the next level or from the program; and (11) dismissal or suspension from the FDTC.<sup>105</sup> Both of our FDTCs also utilize these sanctions.

7. *Discussion of Dependency Issues at the FDTC Hearing.* The relationship between the FDTC and the underlying juvenile dependency case is an issue that all FDTCs must address. Should visitation or aspects of the court-ordered case plan be open for discussion and court decision during the FDTC hearing? One of our courts has made the decision that only treatment issues will be discussed at FDTC hearings.<sup>106</sup> The reasoning is that the team is addressing treatment issues with a unified voice and that only treatment issues are before the court. To inject other issues and the possibility of adversarial positions would detract from the collaborative nature of the court process. Other courts may handle this issue differently.<sup>107</sup>
8. *The Use of Information Gathered in the FDTC Process in Juvenile Dependency Proceedings.* Is the parent's failure to follow the drug treatment plan evidence that can or should be admissible in the juvenile dependency case? This issue must be addressed at the outset of the creation of the drug court. Otherwise, unresolved legal issues may arise in the dependency proceedings. This issue has impli-

cations for successful and unsuccessful parents. The successful parent would like to have her progress admitted in the dependency proceedings while the unsuccessful parent would not. We have concluded that treatment success or lack thereof is admissible in the dependency case.

9. *Graduation from FDTC.* Should the FDTC acknowledge completion of the program? In both of our FDTCs we have a celebration for clients who have completed a year of recovery in the program. The ceremony is the culmination of successful participation in the drug court experience. For many of our clients it is one of the most important moments in their lives. Friends and family attend and there are speeches and tears. It is a wonderful event. In Santa Clara County, we refer to the event as a graduation. The Lucas County FDTC celebrates completion of the drug court program with a Commencement. The court explains to the client that the Commencement marks the beginning of the client's life and that it will be the next phase in the client's recovery process.
 

Should the drug court honor a client who has participated in the FDTC, but who has not followed the treatment plan successfully? We recommend that they not graduate, but be given some acknowledgment of their efforts. One of us offers those clients a Certificate of Completion rather than a graduation certificate. The Certificate of Completion is not given at a ceremony, while Graduation/Commencement Certificates are awarded as a part of a graduation ceremony.
10. *The Relationship of Graduation from FDTC and the Juvenile Dependency Case.* Does graduation from the FDTC guarantee that a child will be returned to the parent? Some courts explain at the outset of the case that graduation will guarantee a reunification with the child—others do not. We suggest that the two issues (recovery from substance abuse and reunification with the child) remain separate and not be connected. We tell our clients that their chances of reunification will be enhanced by participation in the FDTC, but that the return of the child is a separate issue.
11. *Honesty.* Should the Team be concerned about participant honesty regarding recovery? Yes! Addiction and drug use are closely linked to dishonesty. Addicts lie in order to maintain their lifestyles and avoid detection and punishment. We both stress to FDTC participants the importance of honesty. The honesty issue arises regarding all aspects of the participant's life from treatment issues, to drug testing, to contact with old friends, to daily living. We discuss honesty

when the client appears on the FDTC calendar and praise clients who admit to transgressions, especially when they have not been detected by the Team. We believe that a client's honesty is one of the criteria that will indicate that recovery is taking place.

12. *Separate Court File.* Should the court system create and maintain a separate file for FDTC cases? In both of our courts, our clerks maintain FDTC records in the existing dependency file. Other FDTCs create a separate file for the treatment court. Creating a separate file obviously involves more time and expense, but it also separates the treatment plan and progress from the dependency issues. Some courts find this separation useful.
13. *Confidentiality Issues.* FDTCs must be prepared to address the issues surrounding confidentiality. Just as juvenile dependency court proceedings are usually confidential,<sup>108</sup> federal law protects information regarding substance abuse treatment.<sup>109</sup> Thus it is important for the Team to spend some time developing information-sharing protocols including releases. Examples of these protocols and release forms are available from the authors as well as from most existing FDTCs.<sup>110</sup>

#### **IV. THE REASONS FAMILY DRUG TREATMENT COURTS WORK**

We have spent considerable time and energy starting and maintaining our local FDTCs. We believe they are effective in what they attempt to accomplish: (1) to provide the appropriate level of treatment services for substance-abusing parents in the juvenile dependency court so that those parents will have a fair opportunity to reunite with their children in a timely fashion; and (2) to provide a unique and effective type of support and encouragement for these parents. We also believe that we have some perspective on why these courts work and why they will continue to grow.

We believe that FDTCs work because, like criminal drug courts, the judge and the other FDTC participants treat clients with respect and dignity, fashion individual plans for each person, and listen and respond to each client's problems and concerns. Unlike the ordinary court process where the judge makes orders, tells clients what to do, and deals with them on a more or less impersonal basis, the FDTC starts from the premise that each client has individual needs and problems, and that success in treatment is integrally connected to an understanding of the client's unique situation in life.<sup>111</sup>

To learn about a client's situation, the FDTC takes the time to learn the details of the client's substance abuse history, including previous treatment episodes, preferred drugs, sponsor status, clean and sober date, and use patterns. The Team inquires about significant relationships to determine whether they might impact recovery or lead to relapse. The Team also inquires about the client's living situation and learns about locations in the community where the client has used in the past as well as the people the client has used drugs with. Additionally, we have learned that it is important to learn about a client's family of origin, including those who have substance abuse problems and those who will be good supports for the client during recovery. Throughout the treatment process, the Team will ask what problems, if any, the client is facing in her efforts to remain clean and sober.

The FDTC judge, like the criminal drug court judge, takes time to talk with each client and to develop a personal relationship with him or her. For most clients, this is the first time that a powerful person has shown an interest in their well-being. The impact of the judge-client interaction when it is personalized, as it is in the FDTC, results in greater compliance with the treatment plan than in court proceedings when the court-client interaction is less personal.<sup>112</sup> From our experience as well as from the literature,<sup>113</sup> we conclude that this interaction is one of the most significant motivators for the client to change behavioral patterns. The comments we receive include "I have never felt so supported," "I couldn't have made it without you," and "You really care about what happens to me."

We also believe that frequent appearances before the judge and the Team provide an important continuity and support for the FDTC client. The federal and state child protection laws<sup>114</sup> mandate hearings every six months to review parental progress toward family reunification and child welfare. FDTC clients return to court on a weekly, biweekly, or monthly basis depending on their treatment progress. Knowing that one is returning for a progress report seems to be a strong motivator to comply with the FDTC case plan. Clients return to court because they have developed a strong relationship with the judge and the Team.<sup>115</sup>

We also have some strategy regarding the frequency of hearings. At the beginning of the case, the Team

holds hearings more frequently, often every week. The goal at this stage of the treatment process is to get the client into the appropriate housing situation, have her engaged in treatment, and have her regularly testing, attending AA/NA meetings, and securing a sponsor. Once the client demonstrates that she is fully engaged in the treatment plan, the hearings can be less frequent, perhaps every two weeks. When the client has demonstrated that she is fully engaged in treatment and is working to structure a new life, the hearings may be even less frequent, perhaps every three weeks. If there is a relapse or some problems in the treatment plan, the meetings increase in frequency.

Additionally, the frequent hearings also permit the court to hold the service providers accountable for the services promised to the FDTC participant. If the Team concludes that a service is important to a participant's success, then it is expected that the service will be provided. A review in a week or two enables the court to see that the provider has addressed the issue.

The FDTC also ensures collaboration and coordination among all service providers in the client's life. This collaboration is critical to successful service delivery and, ultimately, to client rehabilitation.<sup>116</sup> As we have mentioned, while substance abuse is usually the presenting problem in FDTC, we have discovered that domestic violence, mental health concerns, poverty, housing, employment, and other social problems can be equal or greater hurdles for the parent. Without identification of these additional problems and coordination among the service providers addressing all of the client's challenges, success may not be possible. FDTC brings all these providers before the court, whose authority ensures that they work together collaboratively.<sup>117</sup>

The FDTC approach to rehabilitation recognizes that there are no easy answers to the enduring problems of substance abuse, domestic violence, and mental health issues. But we also realize that bringing together a group of experts and service providers in the juvenile dependency court with a problem-solving mentality can build the strongest foundation for the recovery process. The dialogue between the Team and the client creates the opportunity for all problems and concerns to be addressed. This interaction builds trust and confidence between the client and the Team. It also means that each perspective (that of the social worker, the attorney/guard-

ian *ad litem* for the child, the attorney for the parent, the substance abuse expert, the other service providers, the judge, and the client) will be presented and discussed. Everyone in the process acknowledges that this is hard work, that it takes more time than the ordinary management of court cases, and that it can be exhausting. We are convinced that, given the enormity of the social and personal problems facing most FDTC clients, the extra effort is necessary and appropriate.

Success of the FDTC also reflects the importance of the underlying issue in all juvenile dependency court cases—reunification with one's children. We rarely discuss family reunification issues during client appearances in the FDTC, but everyone knows that success in the FDTC will maximize a parent's chances of reunifying with his or her children. The criminal court uses jail as the ultimate sanction—the juvenile dependency court's ultimate sanction is more significant, the permanent loss of one's children.

## **V. PROMISING INNOVATIONS IN FAMILY DRUG TREATMENT COURTS**

Our FDTCs are not static. None of them looks anything like what they were when we started operations in the 1990s. Moreover, we believe that our FDTCs will continue to evolve as we learn better ways to engage clients and motivate them to make significant changes in their behaviors. In this section, we will discuss some of the most promising innovations we have discovered.

### **A. Mentor Moms Program (Santa Clara County)**

One of the most challenging issues for any FDTC is persuading a client to engage in treatment. Many clients are in an early stage of readiness to change their pattern of substance use. They deny that they have a substance abuse problem—even if their children have been removed from them. Often they focus on their anger against law enforcement, social workers, or the court system and are unable to face the reality that their substance abuse was a major contributor to their problems in the child protection system. Others simply do not believe they have a substance abuse problem at all and that their use of drugs is something that they “can handle” without help. They are in denial.

One program that has assisted mothers in understanding and accepting their predicament, and has assisted them in engaging in substance abuse treatment,

has been the Mentor Moms Program operating in Santa Clara County. The attorney office representing parents hired several of the first graduates from the FDTC and asked them to work with new female clients. Instead of hearing about the FDTC from an attorney, the new female client will be introduced to a mentor who will explain the program and offer herself as a support.<sup>118</sup> The fact that the mentor, who is neither a social worker nor an attorney, can tell the new client that she, the mentor, has been through the system has had a significant impact on most clients and has helped persuade them to engage in substance abuse treatment and the FDTC.<sup>119</sup> The Mentor Mom model has been adopted by the Lucas County FDTC and has been recommended in the literature.<sup>120</sup>

### **B. Foster Grandparent Program (Washoe County)**

In this program, foster grandparents volunteer and provide support to families in the program. By tapping into the vast resources of the elder community, Washoe County has brought an important group of persons into the recovery process. By providing almost daily contact with drug court participants, the grandparents mentor excellence in parenting behaviors that many parents have never experienced before.<sup>121</sup> "Families need aftercare options when the program is over and it's difficult for a court to stay involved with the family. This relationship fills some of that void, and [the bonds] can go on forever."<sup>122</sup>

### **C. Celebrating Families Parenting Class (Santa Clara County)**

Utilizing the resources of a SAMHSA grant, Santa Clara County instituted a parenting class created by experts in substance abuse and child development. Celebrating Families is a 15-week parenting class that brings parents and children together in an enriched environment that includes a neurological assessment for each child, Head Start and Early Start for all the young children, and a curriculum carefully designed to address the special needs of substance-abusing parents. The objectives of the classes are to: (1) break the cycles of chemical dependency and violence/abuse in families by increasing participant knowledge and use of healthy living skills; (2) positively influence family reunification by integrating recovery into daily family life; and (3) decrease participants' use of alcohol and other drugs and to reduce relapse by teaching all members of the family about the disease of chemical dependency

and its impact on families. Celebrating Families has been evaluated and the results demonstrate a high degree of success. The program has been replicated in several other sites around the country and in several foreign jurisdictions.<sup>123</sup>

### **D. Specialized Social Workers (Santa Clara County)**

After a few years of working with the FDTC, the Santa Clara County Department of Family and Children's Services concluded that the structure of their agency should be modified to reflect the importance of substance abuse expertise on the social worker staff. The director created a new Substance Abuse Unit of eight social workers, two social worker assistants, and a supervisor. Each of these workers specializes in cases involving parents with substance abuse problems. Each social worker in this unit sees the parent on an as-needed basis which often means weekly contact. They have also learned about effective techniques to motivate parents toward recovery from addiction.<sup>124</sup> The recognition of the importance of substance abuse as a problem for the agency's clientele has been tempered by the realization that the juvenile dependency system has so many substance-abusing parents that the Substance Abuse Unit cannot handle all of the cases coming before the FDTC.<sup>125</sup> Nevertheless, the substance abuse expertise developed by the social workers in this unit has benefited the entire agency. Lucas County Children's Services has also developed a specialized social worker unit.

### **E. CASA Involvement**

Many jurisdictions utilize Court Appointed Special Advocates (CASAs) in the FDTC process. CASAs are trained, court-appointed volunteers who work with abused and neglected children in juvenile dependency cases. The first CASA program was started by a juvenile court judge in 1977, and at last count there are over 940 CASA programs in 49 states.<sup>126</sup> Many FDTCs use CASAs to support the children of FDTC clients as well as the clients.<sup>127</sup>

The FDTC can use CASA volunteers in numerous creative ways. In the District of Columbia Family Treatment Court, CASA volunteers support children and their mothers as they move from residential treatment into aftercare.<sup>128</sup> With the aid of an enhancement grant, the Santa Clara County CASA<sup>129</sup> program has identified a number of experienced child advocates who have been provided

additional training in issues relating to the FDTC process, substance abuse and recovery, and maintaining appropriate roles. These advocates are assigned to children under seven years of age and work with the child and the mother to help her understand her child's developmental needs and support children as they transition into life with their substance-free family. The advocates spend time with the mother and child (usually one child at a time) and mentor them regarding parenting skills. Thus far, all participants are enthusiastic about the results.<sup>130</sup>

**F. Dedicated Mental Health Services (Santa Clara County)**

After five years of operation, the Santa Clara County Team concluded that FDTC clients must have dedicated mental health services. With at least 50% of FDTC clients having co-occurring mental health difficulties, the Team applied for and received grant monies that will provide mental health assessments, medication assessments, medications, and therapy. The Team is convinced that integration of these mental health services into the case plans of FDTC clients will significantly improve the outcomes for dual diagnosis participants. The Lucas County FDTC team came to the same conclusion and added mental health services for dual diagnosis participants.

**G. Transportation Support (Santa Clara County)**

Getting around from one program to another, from drug testing to visitation, can be a significant challenge for a parent with few or no resources. Transportation can be particularly challenging in a large county. In Santa Clara County, the Team discovered that many mothers were struggling with transportation. On occasion, the children's services agency is able to provide bus passes for the clients, but sometimes the clients found themselves unable to get around the county to complete their treatment programs. The FDTC applied for and received an enhancement grant that included a modest sum for bus passes for FDTC parents. These have proved to be a small but effective investment in the client's successful completion of treatment plans.

**VI. SUSTAINING RECOVERY— AN ENDURING PROBLEM**

We have learned a great deal about substance abuse, recovery, and family dynamics. However, we recognize

that we are still learning and that our FDTCs have been unable to address many problems. For example, some of our clients relapse. They relapse during the drug court treatment process, they relapse after they have had their children returned to their care, and they relapse after they have graduated from FDTC and have had their dependency cases dismissed from court jurisdiction. Substance abuse experts state that relapse is sometimes a part of the recovery process, but relapses are nevertheless significant disappointments for the clients and for all members of the FDTC Team. Their occurrence has led us to examine the issues of relapse and sustaining recovery and to start to make changes in our operations to address these issues.

We know that after the case has been dismissed, relapse can occur in many circumstances, but that several situations reoccur more frequently. Some mothers find themselves isolated and alone (albeit with their children) after the intensive support provided by the FDTC has been removed. Some of these mothers become depressed and turn to drugs for self-medication and their lives begin to deteriorate. Some mothers return to boyfriends or to the fathers of their children, and these relationships do not support their recovery. The boyfriend/father is sometimes using drugs, may be violent toward the mother and children, or, at times, creates such significant problems in the lives of the mother and children that the mother cannot maintain her sobriety or the lifestyle she developed during her recovery.

The FDTC response in Santa Clara County has been to try to create connections for drug court clients that will last even after the court case is dismissed. This is not an easy task as the court loses jurisdiction over the child once it dismisses the case, and there are no legal means of holding the parent accountable for his or her behavior. The first step we took was to utilize our Mentor Moms as contact persons for FDTC graduates.<sup>131</sup> Part of the Mentor Moms' responsibilities is to keep track of graduates and offer themselves as supports and contacts should the graduate want help of any kind. The fact that many clients have developed a good relationship with the Mentor has made this a successful effort.

The second step has been to create a number of events during the year to which graduates are invited to attend. The FDTC sponsors a summer picnic and a Thanksgiving dinner. Both have been well attended by

clients, their children, and by members of the Team. Many graduates also attend. Additional annual events include a Winter Holiday dinner sponsored by Rainbow House, a network of homes providing a sober living environment (SLEs).<sup>132</sup> With the assistance of an enhancement grant, the leadership at Rainbow House is also starting a weekly movie night to attract clients and graduates to meet in an enjoyable setting. The FDTC is now creating a calendar of events to identify activities throughout the year for clients and graduates. The purpose is to provide opportunities for clients and graduates to meet on a regular basis throughout the year in a safe and supportive environment. The FDTC Team believes that by forming positive new relationships with women, FDTC clients will have greater success in recovery in the years to come.

The third step has been to identify treatment programs that last beyond graduation from the FDTC and dependency court. At first, we relied upon Alcoholics Anonymous and Narcotics Anonymous as the foundation for lifetime sobriety.<sup>133</sup> After time we realized that more supports in the community would increase the opportunities for positive connections for clients. As a result, we worked to create some AA/NA groups that were comprised of FDTC clients and graduates. Additionally, the FDTC has identified statewide AA/NA conferences and provided scholarships for clients and graduates to attend these conferences.

Finally, at graduation the judge invites the graduates to return to the FDTC at any time to meet with the Team and to keep in contact. In some cases the judge orders the graduate to return as a part of the graduation process. This happens only in cases with special issues where the Team is concerned about the client following through with a specific task. Other FDTCs around the country have structured post-graduation contacts with the court.<sup>134</sup> Their existence reflects an acknowledged need for client support after the formal drug court process has officially ended.

In Lucas County, the population is small enough that those in recovery and those who have graduated from the FDTC get to know each other. They see each other in their daily lives and participate in meetings together. The court also invites them to return to the FDTC at any time. The result is that community contacts support recovery even after commencement.

Sustaining sobriety in our jurisdictions is a work in progress, but there is hope that these strategies will be successful. At graduation and dismissal, our clients are doing better in their lives than they have for many years. They are highly motivated, are focused on the well-being of their children, and have opportunities for successful lives. We believe that our efforts to provide supports for them in the community and in connection with continued drug court activities will increase their chances of lifetime success.

## VII. EVALUATION OF FAMILY DRUG TREATMENT COURTS

### A. Evaluation of Results

The evaluative data confirms that drug addiction treatment is worth its cost.<sup>135</sup> Both of our sites have been involved in evaluation of the effectiveness of our FDTCs. One of our sites (Santa Clara County) is a part of the national study of the effectiveness of FDTCs being conducted by NPC Research.<sup>136</sup> There are many positive findings from this research, including the conclusion that FDTCs are having considerable success in supporting parents to enter and remain in substance abuse treatment.<sup>137</sup> The evaluation confirms that parents in FDTCs are significantly more likely to have at least one treatment entry and have significantly more treatment entries than comparison parents. FDTC parents enter treatment earlier and spend more days in treatment than non-FDTC parents.<sup>138</sup> Additionally, FDTC parents reunified faster than comparison group parents, and FDTC cases reached permanency sooner than the comparison group cases.<sup>139</sup>

Other evaluations are equally positive. From a national perspective, all FDTCs report a very significant decrease in drug use by participants once they enter the program.<sup>140</sup> Additionally, almost all persons completing the FDTC have been able to improve their legal relationships with their child or children; approximately one half of the participants have been able to retain or obtain employment, almost 90% receive treatment for mental health, and approximately one half have developed alumni groups.<sup>141</sup> As pointed out above, studies have demonstrated that FDTCs can save substantial foster care dollars by reaching permanency sooner.<sup>142</sup> Research has also demonstrated that drug courts have increased the number of drug-free babies born to FDTC

mothers. We know that many of the mothers who enter the FDTC will have additional children. The FDTC increases the probability that these babies will be born drug free.<sup>143</sup>

One difficulty with the evaluative efforts has been the fact that FDTCs are evolving—they are moving targets. Each of our courts has discovered new and better ways of treating substance-abusing parents, and these changes have been incorporated into our courts. Our FDTCs operate better today than ever before and they continue to improve. As FDTCs expand across the country and as judges and other team members exchange ideas, improvements in court operations should continue to accelerate.

An additional challenge for evaluators has been to identify a control group that can be compared to participants in the FDTC. The judge and other members of the Team are understandably reluctant to permit random assignments of services to different clients in the same court system in order to determine whether one strategy works better than another. Evaluations are currently underway to compare similarly sized juvenile court jurisdictions where one juvenile court utilizes an FDTC and the other does not.<sup>144</sup> Such evaluations should give further insight into the effectiveness of FDTCs.

We recommend that any new FDTC integrate evaluation from the outset. Each of our courts can provide technical assistance on the steps to take for evaluation of FDTC outcomes, just as the resources mentioned earlier can assist.<sup>145</sup>

### **B. Judicial Satisfaction**

Judges gain great personal and professional satisfaction from their participation in all drug courts and from FDTCs in particular. As we wrote above, drug courts have grown very rapidly over the past 15 years.<sup>146</sup> One reason for this growth has been the sharing of satisfactory results among judges around the country. Just as we learned about the possibilities of greater success for families in the dependency court from reading about and then visiting other FDTCs, so have hundreds of colleagues taken similar steps.

When visitors from other jurisdictions come to visit our courts, they can see that the FDTC environment is conducive to change, and that parents are fully engaged in recovery. As one teenager said in the Santa

Clara County Drug Court Video, “Some people say this is about mothers getting their kids back. I think it’s more about kids getting their mothers back.”<sup>147</sup> We can testify that working in our respective FDTCs has been the most positive professional experience of our careers. Indeed, we believe that the FDTC process we have described offers an example of the juvenile court at its best.

## **VIII. THE FUTURE OF FAMILY DRUG TREATMENT COURTS**

For several reasons, we predict that FDTCs will continue to grow and flourish.<sup>148</sup> First, FDTCs work. The evaluations demonstrate that substance-abusing parents engage in treatment earlier, they participate in more treatment events, and they sustain their sobriety longer than any other treatment model we have used. Second, juvenile and family court judges across the country are actively engaged in court improvement efforts, and the FDTC is an innovation that will continue to attract more and more attention. Third, the FDTC’s holistic approach is well suited to the juvenile and family courts, where judges are concerned about each client’s success and well-being of the entire family. The FDTC problem-solving style ensures that all issues facing the client and the family will be addressed. Fourth, it is clear that investing in recovery for women benefits not only the women themselves, but also the children they have and will be caring for. This investment also benefits families and the community as a whole.<sup>149</sup> Fifth, the FDTC team approach maximizes collaboration among service providers, which ensures that all of the necessary persons will be able to participate in creating solutions. Sixth, the FDTC model seeks to engage the community in efforts to sustain success after the court case is dismissed. Seventh, technical assistance for creating and expanding FDTCs is readily available for all jurisdictions, and eighth, FDTC results will continue to bring great personal and professional satisfaction to the judges and all members of the Team.

America’s juvenile and family courts address the problems facing our most vulnerable children and their families. Substance abuse may be the most pervasive of these problems, but in reality, each of these families faces many complex issues regarding numerous aspects of their lives. Hundreds of families come before our juvenile and family courts each day with a

## Family Drug Treatment Courts

myriad of problems.<sup>150</sup> Successful resolution of these problems will turn on the creative models our courts design for their responses, the collaboration they maintain with service providers, and the positive connections they can encourage between family members and others who share the desire to live healthy, sober, productive lives.

Our nation's juvenile and family courts weave the fabric of our society, giving protection, hope and opportunities to our most at-risk families, while at the same time holding them accountable for their behaviors. To the extent that juvenile and family courts can effec-

tively address the problems facing substance-abusing families by turning to the FDTC process, these courts will continue to create and expand FDTCs. Given the stringent time limits required by federal law, FDTCs offer the possibility that substance-abusing parents can successfully address their treatment issues and have their children returned to their care within statutory time limits. FDTCs have become the most effective process available to the juvenile dependency court to achieve success in cases involving parental substance abuse. We urge our judicial colleagues to consider creating an FDTC in their jurisdiction.

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END NOTES

- 1 In this article, an FDTC does not include all civil drug courts, but only those that operate in the juvenile dependency court. Thus, a drug court in the Domestic Relations Court would not be considered an FDTC.
- 2 A Family Drug Treatment Court has been defined as “a drug court that deals with cases involving parental rights, in which an adult is the party litigant, which come before the court through either the criminal or civil process, and which arise out of the substance abuse of a parent.” *Juvenile and Family Drug Courts: An Overview*, Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project. (1998), available at <http://www.ncjrs.org/html/bja/jfcdcoview/dcpojuv.pdf> [hereinafter *Juvenile and Family Drug Courts*]; “A family dependency treatment court is a collaborative effort in which court, treatment and child welfare practitioners come together in a non-adversarial setting to conduct comprehensive child and parent needs assessments. With these assessments as a base, the team builds workable case plans that give parents a viable chance to achieve sobriety, provide a safe nurturing home, become responsible for themselves and their children, and hold their families together.” *Family Dependency Treatment Courts: Addressing Child Abuse and Neglect Cases Using the Drug Court Model*, Bureau of Justice Assistance, December 2004, at 4 [hereinafter BJA-2004].
- 3 There are 132 FDTCs in the United States according to the most recent data. *Drug Court Activity Update*, Jan. 1, 2005, OJP Drug Court Clearinghouse, BJA Drug Court Clearinghouse, Justice Programs Office, School of Public Affairs, American University [hereinafter *Drug Court Activity*].
- 4 For information on the creation of the first FDTC, see Judge Charles M. McGee, *Another Permanency Perspective*, 48 JUVENILE AND FAMILY COURT JOURNAL 4, at 65-68, (1997).
- 5 *Drug Court Activity*, *supra* note 3.
- 6 In the preparation of this article, we consulted with other judges who operate FDTCs, but the opinions expressed herein are our own. We must confess that we and all judges operating these courts owe an enormous debt of gratitude to Judge Charles McGee (ret.) who created one of the first FDTCs, has written extensively about these courts, and inspired many others to start their own.
- 7 These courts are also referred to as Family Courts, Children’s Courts, Child Protection Courts, and Abuse and Neglect Courts. We will use the term juvenile dependency courts throughout.
- 8 According to federal statutes, there are five possible permanent plans for children: return to a parent, adoption, guardianship, permanent placement with a fit and willing relative, or placement in another planned permanent living arrangement (in a foster home or in a group home). Return to a parent and adoption are the preferred permanent placements, while placement in another planned permanent living arrangement is an option only to be taken when the agency has documented a compelling reason that none of the other options would be in the child’s best interest. The Adoption and Safe Families Act of 1997, 42 U.S.C.A. sections 675(5)(C) and 1305 [hereinafter ASFA].
- 9 The federal laws include the Child Abuse Prevention and Treatment Act of 1974 (CAPTA), 42 U.S.C. section 5103(b)(2)(G), The Adoption Assistance and Child Welfare Act of 1980 (AACWA), 42 U.S.C. section 670 et. seq., ASFA, Pub. L. No. 105-89, Sec. 103 Stat. 2115 (codified as amended in scattered sections of 42 U.S.C.), and the Indian Child Welfare Act (ICWA) Title 25, U.S.C. sections 1901-1963. Each state has its own statutes that implement the federal law and integrate it into existing state statutory schemes.
- 10 ASFA, *supra* note 8. In some states, the time for family reunification has been reduced to six months for children under three years of age at the time of the filing of legal proceedings. California Welfare and Institutions Code section 361.21(d), (West, St. Paul, 2005).
- 11 David Arredondo & Leonard Edwards, *Attachment, Bonding and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court*, 2 JOURNAL OF THE CENTER FOR FAMILIES, CHILDREN & THE COURTS, at 109-127, 113-114 (2000); Terry M. Levy & Michael Orlans, ATTACHMENT, TRAUMA, AND HEALING: UNDERSTANDING AND TREATING ATTACHMENT DISORDER IN CHILDREN AND FAMILIES 1 (Child Welfare League of America, 1998).
- 12 Foster care drift describes the situation of children lost in the child welfare system who move from foster home to foster home, from placement to placement, without ever achieving permanency. See Marsha Garrison, *Why Terminate Parental Rights?* 35 STANFORD LAW REVIEW 423 (1983).
- 13 This is no small task. There are over 3,000,000 reports of child abuse and neglect each year. NO SAFE HAVEN: CHILDREN OF SUBSTANCE ABUSING PARENTS 1 (National Center on Addiction and Substance Abuse, Columbia University, NY, 1999) [hereinafter NO SAFE HAVEN].
- 14 *Aggravated circumstances*, (National Conference of State Legislatures, August 1999), Retrieved Feb. 2, 2004 from <http://www.ncsl.org/programs/cyf/aggravat.htm>; California Welfare and Institutions Code section 361.5 (West, St. Paul, 2005).
- 15 For a more thorough description of the juvenile dependency process, refer to RESOURCE GUIDELINES: IMPROVING COURT PRACTICE IN CHILD ABUSE & NEGLECT CASES (National

END NOTES

Council of Juvenile and Family Court Judges, 1995) [hereinafter RESOURCE GUIDELINES].

- 16 “...a large percentage of parents who abuse, neglect, or abandon their children have drug and alcohol problems.... Although national data are incomplete, it is estimated that substance abuse is a factor in three-fourths of all foster care placements.” LINKING CHILD WELFARE AND SUBSTANCE ABUSE TREATMENT: A GUIDE FOR LEGISLATORS (National Conference of State Legislatures, 2000); Laura Feig, DRUG-EXPOSED INFANTS AND CHILDREN: SERVICE NEEDS AND POLICY QUESTIONS (U.S. Department of Health and Human Services, 1990); Kelly Kelleher et al., *Alcohol and Drug Disorders Among Physically Abusive and Neglectful Parents in a Community Based Sample*, 84 AMERICAN JOURNAL OF PUBLIC HEALTH, 1999, at 1586, 1588; Alcohol and Other Drugs Division, National Council of Juvenile and Family Court Judges, available at <http://www.ncjfcj.org/content/view/256/352/>; Norah Lovato & Kelly Mack, *Courts That Heal*, CHILDREN’S VOICE (Child Welfare League of America, 2003) available at <http://cwla.org/articles/cv0303courts.htm> at 1 [hereinafter *Courts That Heal*]; NO SAFE HAVEN, *supra* note 13, at 2; *Alcohol and Other Drug Survey of State Child Welfare Agencies*, (CWLA, 1997) available at [www.cwla.org/programs/bhd/1997stateaodsurvey.htm](http://www.cwla.org/programs/bhd/1997stateaodsurvey.htm) [hereinafter *AOD Survey*]; José Ashford, *Treating Substance-Abusing Parents: A Study of the Pima County Family Drug Court Approach*, 55 JUVENILE AND FAMILY COURT JOURNAL, Fall 2004, at 27-37, 28.
- 17 “The national incidence for fetal alcohol syndrome is 1.9 per 1000 births. Each year, at least 1 in 10 or 375,000 babies born in the United States have been exposed to illegal drugs taken by their mother during pregnancy.” Child Abuse and Neglect Statistics from the National Committee to Prevent Child Abuse, 1995, at 2; and see *FACTS: Substance Abuse and Child Welfare*, New York State Office of Alcoholism & Substance Abuse Services, available at <http://www.oasas.state.ny.us/pio/publications/fs22.htm>; Peter Boylan, *Court Asked to Overturn Ruling*, HONOLULU ADVERTISER, July 6, 2005.
- 18 “Any judge, warden or other person involved in the criminal justice system will tell you the primary underlying reason for the incarceration of a majority of people is involvement with drugs or alcohol.” McGee, *supra* note 4, at 65.
- 19 The Santa Clara County FDTIC has been keeping data on its clientele for several years. These data show that 69.6% of the clients have domestic violence issues, 34.5% have mental health issues, and 58.5% have housing issues. On occasion, the FDTIC team will conclude that “this is not a substance abuse case—this is all about domestic violence.” Data on these and other issues relating to the client profiles are available from the authors.
- 20 We knew that we were not alone. National data reveal that most state child welfare agencies do not make it standard procedure to determine if substance abuse is present when investigating child maltreatment cases. NO SAFE HAVEN, *supra* note 13 at 2, 5, 31. We also knew that parents in these cases did not normally receive referrals for substance abuse treatment. NO SAFE HAVEN, *supra* note 13 at 5, 31; *AOD Survey*, *supra* note 16.
- 21 The ASFA timelines can be “an insurmountable barrier for addicted parents unable to enter treatment due to waiting lists, or for parents in treatment who relapse.” *Family Drug Courts: An alternative approach to processing child abuse & neglect cases*, (Family Drug Practitioner Fact Sheet of the National Drug Court Institute, 1999).
- 22 “The first step is to ensure that all parents with allegations of alcohol/drug use receive a thorough standardized assessment (preferably onsite at the court ASAP).” Kathleen West, *Substance Abuse and Permanency Planning: Implementing ASFA When Parental Substance Abuse is a Factor*, 21-22, THE JUDGE’S PAGE, February 2005, available at [http://www.nationalcasa.org/download/Judges\\_Page/0502\\_newsletter\\_0036.pdf](http://www.nationalcasa.org/download/Judges_Page/0502_newsletter_0036.pdf); *Substance Abuse Treatment for Persons With Child Abuse and Neglect Issues, Treatment Improvement Protocol (TIP) Series*, (Center for Substance Abuse Treatment, U.S. Department of Health and Human Services, 2004), at xvii [hereinafter *Substance Abuse Treatment*].
- 23 This is often referred to as the Shelter Care Hearing or the Preliminary Protective Hearing. It usually takes place one or two days after removal of the child from parental care. See RESOURCE GUIDELINES, *supra* note 15, at 29-44. In some FDTICs, the court accepts clients whose children have not been the subject of formal state intervention; conversation with Judge John Beliveau from Lewiston, Maine. Clearly, the difficulties with ASFA would not occur in cases in which no legal proceedings have been initiated.
- 24 Each of our FDTICs has written a Mission Statement. They are available from the authors. Other Mission Statements are available from the NCJFCJ where the Permanency Planning for Children Department has created a clearinghouse of information concerning FDTICs. Contact the NCJFCJ’s PPCD at (775) 784-5300 or the Alcohol and Other Drugs Division at (775) 784-8078.
- 25 “I believe that implementation of a redemptive type of justice system for drug addicts who are parents has staggering potential.” McGee, *supra* note 4 at 65; “Goals of family drug courts... include helping the parent to become emotionally, financially, and personally self-sufficient and to develop parenting and ‘coping’ skills adequate for serving as an effective parent on a day-to-day basis.” *Juvenile and Family Drug Courts*, *supra* note 2, at 5.
- 26 As late as 2001, the average length of time a child remained in foster care was 33 months. THE AFCARS REPORT, (Children’s Bureau, U.S. Department of Health & Human Services 2003), available at [www.acf.hhs.gov/programs/](http://www.acf.hhs.gov/programs/)

END NOTES

- cb/publications/afcars/report8.htm; M. Corrigan, *Delays Deny Justice to Foster Care Kids*, DETROIT FREE PRESS, May 25, 2005; *Foster Care National Statistics*, at 4 (National Clearinghouse on Child Abuse and Neglect Information, National Adoption Information Clearinghouse, June 2003); FOSTERING THE FUTURE: SAFETY, PERMANENCE AND WELL-BEING FOR CHILDREN IN FOSTER CARE, at 12 (The Pew Commission on Children in Foster Care, 2004).
- 27 James Milliken & Gina Rippel, *Dealing With Our #1 Problem in Dependency Cases: Parental Substance Abuse*, (2005, available from authors); James Milliken, *The Dependency Court Recovery Project—A Joint Project of the Superior Court and the County of San Diego*, (March 2001—copy on file with the San Diego Juvenile Court and available from the authors); and see, generally, Ashford, *supra* note 16.
- 28 C.W. Huddleston, K. Freeman-Wilson, & D. Boone, *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*, May 2004, at 2 (National Drug Court Institute); ADULT DRUG COURTS: EVIDENCE INDICATES RECIDIVISM REDUCTIONS AND MIXED RESULTS FOR OTHER OUTCOMES, (U.S. Government Accountability Office, February 2005), available at [www.gao.gov/new.items/d05219.pdf](http://www.gao.gov/new.items/d05219.pdf); S. Belenko, N. Patapis, & M. French, *Economic Benefits of Drug Treatment: A Critical Review of the Evidence for Policy Makers*, (Treatment Research Institute, University of Pennsylvania, February 2005); *California Drug Courts Save Millions*, GUARDIAN UNLIMITED, April 16, 2003.
- 29 For an analysis of foster care savings resulting from reducing a child's time in foster care by implementing improved court procedures and policies, see Gregory Halemba, Gene Siegel, Rachael Gunn, & Susanna Zawacki, *The Impact of Model Court Reform in Arizona on the Processing of Child Abuse and Neglect Cases*, 53 JUVENILE & FAMILY COURT JOURNAL, Summer 2002, at 1-20, 17.
- 30 James R. Milliken, *Healing Dysfunctional Dependency Courts: An Overview*, (copy available from the author). In San Diego County, for example, from April 1998 to July 2002, the average time from the assumption of jurisdiction to a permanent placement plan was 16.2 months and the average time to reunification was 8.8 months. These figures compared favorably to the previous time of 45.7 months to permanency prior to the Project. James Milliken & Gina Rippel, *Effective Management of Parental Substance Abuse in Dependency Cases*, 5 JOURNAL OF THE CENTER FOR FAMILIES, CHILDREN & THE COURTS, 2004, at 95-107.
- 31 D. Crumpton, S. Worcel, & M. Finigan, *Analysis of Foster Care Costs from the Family Treatment Drug Court Retrospective Study - San Diego County, California* (NPC Research, 2003). Available from the San Diego County Juvenile Court and from the authors. See also Milliken & Rippel, *id.*
- 32 See Section VII of this article, page 16.
- 33 As of December 2003, there were 1,667 problem-solving courts including 666 adult drug courts, 268 juvenile drug courts, and 112 FDTCs. Huddleston et al., *supra* note 28 at 9. For a full description of problem-solving courts, see G. Berman & J. Feinblatt, *GOOD COURTS*, (The New Press, 2005).
- 34 Court Improvement programs were started as a result of federal legislation. The Family Preservation and Support Act (Omnibus Budget Reconciliation Act of 1993, P.L. 103-66) provided for limited federal monies to be distributed to each state in order to improve the operation of juvenile dependency courts. Although the grants to each state were relatively modest, court improvement efforts have resulted in remarkable changes in juvenile dependency courts across the country. See *Court Improvement Progress Report: 2004*, (American Bar Association, Child Welfare Court Improvement, National Child Welfare Resource Center on Legal and Judicial Issues, 2004).
- 35 The Model Courts Project is formally called "Improving the Juvenile and Family Courts' Handling of Child Abuse and Neglect Cases: A Model Training and Technical Assistance Program Development Project." Currently, the Model Courts Project has identified 28 courts nationwide and works with them to improve practice in juvenile dependency cases. Both Lucas and Santa Clara counties are Model Court sites. See *Model Courts: Improving Outcomes for Abused and Neglected Children and Their Families*, January 2004, (National Council of Juvenile and Family Court Judges).
- 36 On the history of criminal drug treatment courts, see P. Hora, W. Schma, & J. Rosenthal, *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America*, NOTRE DAME LAW REVIEW, January 1999, 1-85, 7.
- 37 In Santa Clara County, a visit to the criminal drug court persuaded the juvenile court judge of the necessity of a FDTC. He discovered that the criminal drug court was much slower than the juvenile court process. Two mothers who had already lost their children permanently to the child protection system were graduating from the criminal drug court. Clearly, this was not the kind of success that the justice system should applaud. See Leonard Edwards, *Santa Clara County Dependency Drug Treatment Court*, 33 JOURNAL OF PSYCHOACTIVE DRUGS, Oct.-Dec. 2001, also found in B.J. Winick & D.B. Wexler (eds.) JUDGING IN A THERAPEUTIC KEY: THERAPEUTIC JURISPRUDENCE AND THE COURTS, (Carolina Academic Press, 2003), at 39-42, and JUVENILE AND FAMILY JUSTICE TODAY, Summer 2001, at 16-17.
- 38 Huddleston et al., *supra* note 28 at 5; and see PRINCIPLES OF DRUG ADDICTION TREATMENT, National Institute on Drug Abuse, NIH Publication No. 99-4180, at first four pages [hereinafter PRINCIPLES OF DRUG ADDICTION].

## END NOTES

- 39 Judge Charles McGee & Caroline Cooper, *Shipping Oars and Going to Sails: The First Ten Years of Dependency Drug Courts*, THE JUDGES' PAGE, at 3, available at <http://www.ncjfcj.org/publications/JMdrugcourtarticle.pdf>.
- 40 *Id.*
- 41 ASFA, *supra* note 8; on whether it is possible to reunify safely with a substance-abusing parent within ASFA timelines, see J. Larsen & C. Lederman, *Drug-Exposed Infants and the Miami Criteria for Judicial Decisions in Dependency Cases*, INTERNATIONAL JOURNAL OF LAW, POLICY AND THE FAMILY, Oxford U. Press, 2000, at 86-106.
- 42 ASFA requires the judge to make reasonable efforts findings regarding the agency's actions to ensure that a child reaches timely permanency. "(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan..." ASFA, *supra* note 8, Section 101(a)(C).
- 43 Edwards, *supra* note 37.
- 44 "With the success I had seen in the general jurisdiction drug court, where the potential sanction was imprisonment, I felt there would be even greater success where the potential consequence of failure was loss of one's children. I have found this thought borne out time and time again; with appropriate support and services, most parents will do anything they can to get their children back." McGee, *supra* note 4 at 65-66.
- 45 Nationally, as of 2001, 87% of FDTC graduates were women and 13% were men. Caroline Cooper, *Viewing Family Drug Courts from a National Perspective*, JUVENILE AND FAMILY JUSTICE TODAY, Summer 2001, at 19. Some FDTCs are operated exclusively for women including the District of Columbia and Jackson County (Kansas City), Missouri. See Judge Anita Josey-Herring & Jo-Ella Brooks, *District of Columbia Family Treatment Court Partners with CASA Program*, THE JUDGES' PAGE, available at [http://www.nationalcasa.org/download/Judges\\_Page/0502\\_newsletter\\_0036.pdf](http://www.nationalcasa.org/download/Judges_Page/0502_newsletter_0036.pdf); see also BJA-2004, *supra* note 2 at 29.
- 46 D.L. Haller & D.R. Miles, *Personality Disturbances in Drug-Dependent Women: Relationship to Childhood Abuse*, 30 AMERICAN JOURNAL OF DRUG AND ALCOHOL ABUSE, 2004, at 269-86; A.S. Landheim, K. Bakken, & P. Vaglum, *Gender Differences in the Prevalence of Symptom Disorders and Personality Disorders Among Poly-Substance Abusers and Pure Alcoholics*, 9 EUROPEAN ADDICTION RES., 2003, at 8-17.
- 47 Lisa Najavits, *Numbing the Pain: The Link Between Trauma, Posttraumatic Stress Disorder, and Substance Abuse*, 5 COUNSELOR MAGAZINE, THE MAGAZINE FOR ADDICTION PROFESSIONALS, 2004, at 12-17, available at <http://www.professionalcounselor.com/pfv.asp?aid=oct04PTSDSUD.htm>; "...research indicates that up to 70 percent of drug abusing women report histories of physical and sexual abuse." NIDA InfoFacts: *Treatment Methods for Women*, available at <http://www.drugabuse.gov/Infofacts/TreatWomen.html> (National Institute on Drug Abuse); Patrick Zickler, *Childhood Sex Abuse Increases Risk for Drug Dependence in Adult Women*, 17 NIDA NOTES 1, available at [http://www.drugabuse.gov/NIDA\\_Notes/NNVol17N1/Childhood.html](http://www.drugabuse.gov/NIDA_Notes/NNVol17N1/Childhood.html).
- 48 U. S. Department of Health and Human Services (2002), *Mental Health: A Report of the Surgeon General*, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health; *Understanding Substance Abuse and Facilitating Recovery: A Guide for Child Welfare Workers*, (U.S. Department of Health and Human Services, 2005) [hereinafter *Understanding Substance Abuse*]; *Blending Perspectives and Building Common Ground: A Report to Congress on Substance Abuse and Child Protection*, (Department of Health and Human Services, April 1999), Chapter 5, 1-2 [hereinafter *Blending Perspectives*].
- 49 S.L. Martin & L.L. Kupper, *Substance Use Before and During Pregnancy: Links to Intimate Partner Violence*, 29 AMERICAN JOURNAL OF DRUG AND ALCOHOL ABUSE, August 2003, at 599-617; M. Tuten & H.E. Jones, *A Partner's Drug-Using Status Impacts Women's Drug Treatment Outcome*, 70 DRUG ALCOHOL DEPENDENCY, June 2003, at 327-330; *Parenting Issues for Women with Co-Occurring Mental Health and Substance Abuse Disorders Who Have Histories of Trauma*. (Coordinating Center, SAMHSA Women, Co-Occurring Disorders and Violence Study), available at <http://www.prainc.com/wcdvps/pdfs/Fact%20Sheets/Other%20Fact%20Sheets/Parenting%20Fact%20Sheet%20Final.pdf> [hereinafter *Parenting Issues for Women*].
- 50 Glen Hanson, *In Drug Abuse, Gender Matters*, 17 NIDA NOTES 2, 2002, available at [http://www.drugabuse.gov/NIDA\\_Notes/NNVol17N2/DirRepVol17N2.html](http://www.drugabuse.gov/NIDA_Notes/NNVol17N2/DirRepVol17N2.html); *Intensive Outpatient Treatment for Alcohol and Other Drugs Abuse, Treatment Improvement Protocol (TIP) Series 8, Chapter 5: The Treatment Needs of Special Groups*, NCADI, available at <http://www.health.org/govpubs/bkd139/8g.aspx>; NIDA InfoFacts: *Treatment Methods for Women*, NIDA, available at: <http://www.nida.nih.gov/infofacts/treatmentwomen.html>; *Substance Abuse Treatment*, *supra* note 22 at 122.
- 51 West, *supra* note 22, at 21; the discovery that women have specific treatment service needs than men is a recent development. Prior to the 1970s, research did not focus on issues specific to women. Andrea Barthwell, *Treatment of Women*, (Presentation at National Conference on Drug Addiction Treatment: From Research to Practice, National

END NOTES

- Institute on Drug Abuse), available at <http://www.drugabuse.gov/MeetSum/TX/TXinfo3.html>.
- 52 “...true recovery for a mother usually works only when it includes her children.” Norma Finkelstein, Ph.D., quoted in *Parenting Issues for Women*, *supra* note 49 at 1; R. Mathias, *NIDA Expands Its Research on Addiction and Women’s Health*, 10 NIDA NOTES 1, Jan./Feb. 1995; S. Blumenthal, *Women and Substance Abuse: A New National Focus*, (U.S. Department of Health and Human Services, Office of Women’s Health); R. Mathias, *Mental Health Problems of Addicted Mothers Linked to Infant Care Development*, 12 NIDA NOTES 1, Jan./Feb. 1997; L. Beckman & H. Amaro, *Patterns of Women’s Use of Alcohol Treatment Agencies*, in ALCOHOL PROBLEMS IN WOMEN, 319-348 (S. Wilsnack & L. Beckman, eds., Guilford Press, 1984) [hereinafter ALCOHOL PROBLEMS IN WOMEN].
- 53 S. Stocker, *Men and Women in Drug Abuse Treatment Relapse at Different Rates and for Different Reasons*, 113 NIDA NOTES 4, Nov. 1998; M. Vanicelli, *Treatment Outcome of Alcoholic Women: The State of the Art in Relation to Sex Bias and Expectancy Efforts*, in ALCOHOL PROBLEMS IN WOMEN, *supra* note 52 at 369-412; *Understanding Substance Abuse*, *supra* note 48 at 19.
- 54 As one domestic violence expert stated, “Mixing men and women in treatment groups will reduce the effectiveness of the treatment. There are several compelling reasons to have gender based interventions. In our FDTC, 75-80% of clients have been victims of domestic violence in at least one relationship. Any conjoint services prior to both parties completing domestic violence education/therapy programs potentially can increase the power and control tactics, including violence. Women who have been victims of domestic violence can be easily triggered for flashbacks and for relapse, by comments, facial expressions and voice tones of other perpetrators they have contact with even if they have no previous history with those individuals. There are also socialization differences between men and women which mixed gender groups are not able to address as effectively as gender based group.” Nancy Marshall, M.S., L.M.F.T, to one of the authors in June 2005; See also, *Understanding Substance Abuse*, *supra* note 48 at 19.
- 55 “Women in women-only drug abuse treatment programs were more than twice as likely to complete treatment as women in mixed-gender programs.” C. Grella, *UCLA Study Looks at Women in Treatment*, 14 NIDA RESEARCH FINDINGS 6, March 2000.
- 56 For example, the Santa Clara County FDTC includes a public health nurse, a mental health expert, and a domestic violence expert. See A. Somervell, C. Saylor, & C. Mao, *Public Health Interventions for Women in a Dependency Drug Court*, 22 PUBLIC HEALTH NURSING 1, at 59-64 (discussing the Santa Clara County FDTC from a public health nursing perspective). On the need for mental health participation, see R. Rawson, R. Gonzales, & P. Brethen, *Treatment of Methamphetamine Use Disorders: An Update*, 23 JOURNAL OF SUBSTANCE ABUSE TREATMENT, 2002, at 145-150, 147.
- 57 Center for Substance Abuse Treatment, U.S. Health and Human Services, *Practical Approaches to the Treatment of Women Who Abuse Alcohol and Other Drugs*, (1994); P. Budetti & M. Haack, *An Analysis of Resources to Aid Drug-Exposed Infants and their Families*, George Washington U., (1993); C.M. McGee, J. Parham, T.T. Merrigan, & M. Smith, *Applying Drug Court Concepts in the Juvenile and Family Court Environment: A Primer for Judges*, at 2, (C. S. Cooper ed., prepared by American University for State Justice Institute, Washington, D.C., 1997).
- 58 McGee & Cooper, *supra* note 39 at 4.
- 59 Leonard Edwards, *The Juvenile Court and the Role of the Juvenile Court Judge*, 43 JUVENILE AND FAMILY COURT JOURNAL 2, 1992, at 25-32; Standard of Judicial Administration 24, California Judicial Council, (West, 2005) [hereinafter SJA 24]; it has not been the traditional role of the criminal or civil court judge. See G. Berman, *What is a Traditional Judge, Anyways*, 84 JUDICATURE 2, 2000, at 78-85.
- 60 See generally, Edwards, *id.*, at 26-27; for more on problem-solving courts, see Berman & Feinblatt, *supra* note 33, at 31-58; see [http://www.ncsconline.org/D\\_Research/Problem-Solving.html](http://www.ncsconline.org/D_Research/Problem-Solving.html) and [http://www.ncsconline.org/WC/Education/KIS\\_ProSolRefLstGuide.pdf](http://www.ncsconline.org/WC/Education/KIS_ProSolRefLstGuide.pdf) and links contained therein.
- 61 “Juvenile court judges are encouraged to...[2] Investigate and determine the availability of specific prevention, intervention and treatment services in the community for at-risk children and their families; and [3] exercise their authority by statute or rule to review, order and enforce the delivery of specific services and treatment for children at risk and their families.” SJA 24, *supra* note 59 at subsection (e).
- 62 S. Inada, *How to Start A Family Drug Court: Advice From Judge James R. Milliken*, 18 CHILD LAW PRACTICE 1, at 10; D. Marlowe, D. Festinger, & P. Lee, *The Judge is a Key Component of Drug Court*, 4 DRUG COURT REVIEW 2, at 1-34, 25.
- 63 Holding these administrative meetings has been identified as a best practice. See Leonard Edwards, *Improving Implementation of the Federal Adoption Assistance and Child Welfare Act of 1980*, 45 JUVENILE AND FAMILY COURT JOURNAL 3, 1994, at 3-28, 18; M. Hardin, H.T. Rubin, & D. Baker, *A Second Court That Works: Judicial Implementation of Permanency Planning Reforms*, at 39, (ABA Center on Children and the Law, 1995); Leonard Edwards, *Improving Juvenile Dependency Courts: Twenty-Three Steps*, 48 JUVENILE AND FAMILY COURT JOURNAL 4, 1997, 1-23 at 9-10.
- 64 Judges can contact the National Center on Substance Abuse and Child Welfare, NCJFCJ’s Permanency Planning for Children Department, (775) 784-6012; also the

END NOTES

- National Institute of Drug Court Professionals or Caroline S. Cooper, Director of the BJA Drug Court Clearinghouse, Justice Programs Office, School of Public Affairs, American University (202) 885-2875, <http://spa.american.edu/justice/drugcourts.php>; National Institute on Drug Abuse (NIDA) at <http://www.nida.nih.gov>; Center for Substance Abuse Treatment (CSAT) at <http://csat.samhsa.gov/>; and the National Drug Court Institute, <http://www.ndci.org/>.
- 65 A copy of a video of the Santa Clara County FDTC is available from the authors.
- 66 *Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System*, 8 TECHNICAL ASSISTANCE BULLETIN 2, (National Council of Juvenile and Family Court Judges, April 2004) [hereinafter *Building a Better Collaboration*]; Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 LAW AND POLICY 2, 2001, also available at [www.courtinnovation.org](http://www.courtinnovation.org).
- 67 *Id.*
- 68 *Id.*, and for a detailed discussion of the role of the juvenile court judge in building a collaboration, see *Building a Better Collaboration*, *supra* note 66.
- 69 *In Support of Problem Solving Courts*, Conference of Chief Justices CCJ Resolution 22 and Conference of State Court Administrators, COSCA Resolution 4, Adopted August 3, 2000.
- 70 The Team in our jurisdictions includes the judicial officer (two in Lucas County), representatives from the Department, CASA, attorneys for parents, attorneys for the Department, attorneys/guardians *ad litem* for children, a public health nurse (Santa Clara County), a mental health expert (Santa Clara County), a domestic violence expert (Santa Clara County), an employment specialist (Lucas and Santa Clara counties), and a housing expert. Others may come and participate in the drug court activities on an as-needed basis.
- 71 Edwards, *Improving Implementation*, *supra* note 63 at 11.
- 72 *Id.*; and see BJA-2004, *supra* note 2, at 27.
- 73 “The law requires that we provide reasonable services. The Court has the authority to order services and must do so or parents will not get access to treatment and children will remain in foster care.” Judge James Milliken, in S. Inada, *How to Start a Family Drug Court*, 18 CHILD LAW PRACTICE 1, at 10-12, 11.
- 74 See the references and text at notes 45-55, *supra*.
- 75 Edwards, *Improving Juvenile Dependency Courts*, *supra* note 63 at 9-10.
- 76 *Blending Perspectives*, *supra* note 48, Introduction, at 2.
- 77 For a discussion on the “reasonable efforts” requirement, see Edwards, *Improving Implementation*, *supra* note 63 at 19-21.
- 78 Collaboration between child welfare agencies and substance abuse treatment providers has been difficult in many jurisdictions. See *Blending Perspectives*, *supra* note 48 at 4.
- 79 BJA-2004, *supra* note 2, at 24-25.
- 80 In California, Judge Stephen Manley, one of the leaders in the adult drug court movement, was instrumental in securing state funding to support the creation and expansion of FDTCs in the state. Building on the success of adult drug courts in California, Judge Manley argued persuasively to the California State Legislature that FDTCs will be as effective as adult drug courts and will save the state foster care dollars.
- 81 For example, technical assistance is available from The Drug Court Planning Initiative, *Family Dependency Treatment Court Skills-Based Training Program*, Bureau of Justice Assistance and OJJDP, OJP, U.S. Department of Justice in collaboration with the National Criminal Justice Reference Service and the National Association of Drug Court Professionals. Additional technical assistance is available from the National Council of Juvenile and Family Court Judges, [www.ncjfcj.org](http://www.ncjfcj.org); see also M. Wheeler & J. Siegerist, *Family Dependency Court Planning Initiative Training Curricula*, (National Drug Court Institute, 2003). See also the organizations and technical assistance resources mentioned in note 64.
- 82 This was a particularly challenging issue for both of our FDTCs. The confidentiality laws for substance abuse treatment providers are different from the laws governing confidentiality of child welfare agency records, and the juvenile court’s confidentiality laws are different from both of those. Additionally, the attorneys have their own confidential relationships with their clients. We worked through all of this carefully and now believe that a start-up court will be able to adopt policies and procedures that ensure the flow of necessary information without violating any of these laws. See further discussion *supra* at Section III, C 13.
- 83 Upon request, the authors can provide copies of the MOUs developed in their jurisdictions.
- 84 OJJDP and SAMHSA have offered grant funding for start-up and enhancement of FDTCs. See <http://ojjdp.ncjrs.org/funding/funding.html>.
- 85 This is a composite sketch of the workings of a “typical” FDTC. Variations exist regarding almost every structural and operational detail, but this sketch attempts to capture a general picture of the FDTC.

END NOTES

- 86 The substance abuse assessment is a critical first step. Without an accurate assessment, the treatment plan may not be sufficient to ensure recovery. Both of our jurisdictions rely on substance abuse experts and not upon social workers to complete the assessment. Additionally, the sooner the assessment is complete, the sooner the treatment can begin. For this reason, attorneys for parents often have their clients complete the assessment before the court has reached the jurisdictional stage of the legal proceedings. San Diego County uses a similar assessment protocol through the Substance Abuse Recovery Management System (SARMS). See Milliken & Rippel, *supra* note 30 at 99.
- 87 The Team usually consists of one or two judicial officers, a coordinator, substance abuse treatment providers, one or more representative from the Department, and attorneys for the parent, the social workers, and the child. See BJA-2004, *supra* note 2 at 32-34. The Santa Clara County FDTIC team has never had a coordinator. The Lucas County Team does have a coordinator as do most FDTICs we are aware of. For the other members of each team, see note 70 *supra*.
- 88 Copies of the Santa Clara and Lucas County client agreements are available from the authors.
- 89 San Diego and Santa Clara counties in California are examples of this model.
- 90 Washoe County, Nevada, is an example of this model.
- 91 Lucas County utilizes two judges to hear the FDTIC.
- 92 The District of Columbia and Jackson County, Missouri, are two examples.
- 93 See the references to “aggravated circumstances” *supra* at note 14.
- 94 Copies of the contracts for Santa Clara and Lucas counties are available from the authors.
- 95 The outpatient/inpatient treatment decision is one of the most important that the FDTIC Team must make. Research indicates that inpatient treatment may be necessary for a successful outcome particularly in clients who are methamphetamine users. Rawson et al., *supra* note 56, at 147.
- 96 A strategy that one of us has used is to invite the boyfriend to come to the FDTIC and talk with him about the situation facing the mother. The court will ask if he considers himself to be an important person in the mother’s life and in the child’s life. If he says “yes,” the court explains that he may have a significant impact on the outcome of the child welfare proceeding. The court will state that if he is using drugs or is being violent toward the mother, it is unlikely that the child would be returned to that environment. The court then asks whether he would be willing to engage in services that would demonstrate to the court that he can be a safe parent figure. The court may also explain that the court is ordering the mother to live in a sober living environment (SLE) and ask for his support of this plan. This approach has been successful in the majority of cases in which it has been employed. Judge James Milliken (ret.) has also written in a similar vein about the issue of boyfriends/girlfriends. See Inada, *supra* note 73 at 12.
- 97 In this regard, Santa Clara County adopted a modification of the San Diego model. In San Diego County, every parent with substance abuse issues is assessed by the treatment experts (SARMS), and their progress is reviewed by the judicial officer on a regular basis. If the client relapses or fails to follow the treatment plan, the case may be referred to the Presiding Judge for sanctions, including jail. For a more complete description of the San Diego Recovery Project, see the articles in notes 30, 31, and 73, *supra*.
- 98 McGee, *supra* note 4, at 66; G. Sosa-Lintner, *New York City’s Family Treatment Court*, JUVENILE AND FAMILY JUSTICE TODAY, Summer 2001, at 22; *Program Manual*, at 4, (Erie County Family Court, Family Treatment Court, 2001), available from the Erie County (New York) Family Court, or from the authors.
- 99 C. Cooper, *Use of Jail Sanctions in Family Drug Courts, Frequently Asked Questions*, (BJA Drug Court Clearinghouse, 2005); BJA-2004, *supra* note 2 at 20.
- 100 T. Maugh & D. Anglin, *Court Ordered Drug Treatment Does Work*, THE JUDGE’S JOURNAL, Winter 1994, at 10; S. Satel, *Drug Treatment: The Case for Coercion*, 3 NATIONAL DRUG COURT INSTITUTE REVIEW 1, at 1-9 (both of these articles refer to criminal drug courts).
- 101 The San Diego and San Joaquin FDTICs in California, Suffolk County in New York, Escambia County (Pensacola) and Miami-Dade in Florida, Lucas County in Ohio, and the Washoe County, Nevada, FDTICs all utilize jail as a sanction.
- 102 In re Olivia J. (2004); 124 Cal.App.4th 698, 21 Cal. Rptr.3rd 506 [The California Supreme Court has granted review in this case].
- 103 Santa Clara County, California, Manhattan Treatment Court in New York City, and Jackson County, Missouri, do not utilize jail as a sanction, and the Presiding Judge of the newly created FDTIC in Omaha, Nebraska, announced at the opening ceremony that jail will not be used as a sanction except in rare cases. (Remarks of Judge Douglas E. Johnson, Douglas County Family Drug Treatment Court, Omaha, Nebraska, May 26, 2005, available from the author and from Judge Johnson); *Nebraska’s Courts Celebrate May as National Drug Court Month With Proclamation Signing by Chief Justice at the Opening of the First Family Drug Treatment Court in Omaha*, (Office of Public Information, Nebraska Supreme Court, May 24, 2005).

END NOTES

- 104 This is the position taken in Jackson County (Kansas City), Missouri. See BJA-2004 *supra* note 2 at 20.
- 105 Ashford, *op. cit.* note 16 at 30. The list of sanctions for the parents in the Suffolk County FDTC can be found at BJA-2004, *supra* note 2 at 21.
- 106 In Santa Clara County, the judge presides over both the dependency calendar and the FDTC. However, if there is a contested issue (whether the child should be returned home or whether services should be terminated), a different judge will hear the case.
- 107 The Pima County FDTC is a separate calendar from the dependency calendar. The FDTC judge provides oversight of treatment progress, not of the dependency case. Ashford, *supra* note 16 at 29.
- 108 42 U.S.C. section 671(a)(8) (2001); Leonard Edwards, *Confidentiality and the Juvenile and Family Courts*, 55 JUVENILE AND FAMILY COURT JOURNAL, Winter 2004, at 1-25.
- 109 42 U.S.C. section 290dd-2 (2001); 42 C.F.R. section 2.1 (2001).
- 110 For a more complete discussion of the confidentiality issue in FDTCs, see C. Lu, *Family Drug Court: An Alternative Answer*, 21 CHILDREN'S LEGAL RIGHTS JOURNAL Spring 2001, at 32, 28; *Substance Abuse Treatment*, *supra* note 22 at 151-163.
- 111 "It is essential that each case plan be individualized and that all services be provided to deal with all problems facing the family." McGee, *supra* note 4 at 66.
- 112 The evaluative data show that participation in the FDTC increases the number of treatment episodes as well as the probability of successful family reunification. (see Section VII, pages 16-17).
- 113 Experiences in other disciplines confirm the conclusion that personalizing the professional-client relationship increases client compliance with professional advice. In medicine, personalizing the doctor-client relationship results in higher compliance with medical instructions. E. Sellers, H. Cappell, & J. Marshman, *Compliance in the Control of Alcohol Abuse*, in COMPLIANCE IN HEALTH CARE, chapter 14 (R.B. Haynes, D.W. Taylor, & D. Sackett eds., The Johns Hopkins University Press, 1979); D. Falvo, EFFECTIVE PATIENT EDUCATION: A GUIDE TO INCREASED COMPLIANCE, 2-3, 7, 18-22, 65, 128-134, 175-182 (Aspen, 1985). The development of a positive relationship between a social worker and a parent in treatment also results in better compliance with the program expectations and a reduction in the likelihood of future child abuse or neglect. J. Littell, *Client Participation and Outcomes of Intensive Family Preservation Services*, 25 SOCIAL WORK RESEARCH 2; J. Altman, *A Qualitative Examination of Client Participation in Agency-Initiated Services*, 84 FAMILIES IN SOCIETY: THE JOURNAL OF CONTEMPORARY HUMAN SERVICES 4, at 471-479. In the school setting, studies show students with caring and supportive relationships in the school environment report more positive academic attitudes and values and more satisfaction with school. These students also are more engaged academically. A. Klem & J. Connell, *Relationships Matter: Linking Teacher Support to Student Engagement and Achievement*, 74 JOURNAL OF SCHOOL HEALTH, Sept. 2004, at 262.
- 114 AACWA, CAPTA, and ASFA, and state laws implementing these statutes, *supra* note 9.
- 115 E. Pyle, *Addicts Can Change When Someone Cares*, *Judges Say*, THE COLUMBUS DISPATCH, June 2, 2002, News 01B.
- 116 Inger Sagatun-Edwards & Coleen Saylor, *A Coordinated Approach to Improving Outcomes for Substance-Abusing Families in Juvenile Dependency Court*, 51 JUVENILE AND FAMILY COURT JOURNAL, Fall 2000, at 1-16, 14.
- 117 "[T]eamwork' is the hallmark of the Family Drug Court," McGee, *supra* note 4 at 67.
- 118 S. Lafferty, *Experience Invaluable in Making Mothers See the Light*, THE RECORDER (San Jose, CA), Oct. 10, 2000; *'Mentor Moms' Voted Best New Model Court Idea*, JUVENILE AND FAMILY JUSTICE TODAY, Fall 2000, at 18.
- 119 For further information on Mentor Moms, contact Gary Proctor, (408) 442-0442.
- 120 *Understanding Substance Abuse*, *supra* note 48, at 19.
- 121 Charles McGee, *The Washoe County (Reno) Family Drug Court*, JUVENILE AND FAMILY JUSTICE TODAY, Summer 2001, at 21.
- 122 Judge Charles McGee, quoted in *Courts That Heal*, *supra* note 16 at 2; for further information about the Foster Grandparent Program, write to Foster Grandparent Program, 1552 C Street, Sparks, NV 89431 or call (775) 358-2768.
- 123 T. Tisch, *Celebrating Families: An Innovative Approach for Working With Substance Abusing Families*, 14 THE SOURCE 1, 6-10, (The National Abandoned Infants Assistance Resource Center). For further information, contact Rosemary Tisch, PPI Director at (408) 406-0467 or Deborah Dohse, MSW, (408) 975-5174.
- 124 *Understanding Substance Abuse*, *supra* note 48 at 14.
- 125 For further information, contact Social Worker Supervisor Joyce McEwen Crawford at Joyce.McEwen-Crawford@ssa.sccgov.org.
- 126 Leonard Edwards, Ernestine Gray, & J. Dean Lewis, *The Judicial Role in Creating and Supporting CASA/GAL*

END NOTES

- Programs*, JUVENILE AND FAMILY JUSTICE TODAY, Spring 2005 at 16-19, 17.
- 127 For a summary of some of the FDTCs that utilize CASA volunteers, see *The Impact of Parental Substance Abuse in Dependency Cases*, THE JUDGES' PAGE, February 2005, available at [http://www.nationalcasa.org/download/Judges\\_Page/0502\\_newsletter\\_0036.pdf](http://www.nationalcasa.org/download/Judges_Page/0502_newsletter_0036.pdf); "A CASA worker assigned to the participant can make the difference needed for success." McGee, *supra* note 4 at 67.
- 128 Josey-Herring & Brooks, *supra* note 45.
- 129 CASA stands for Court Appointed Special Advocate. In Santa Clara County, the CASA program is called the Child Advocate Program.
- 130 For further information about the Dependency Drug Treatment Court Pilot, contact Melissa Santos at [Melissa@cadvocates.org](mailto:Melissa@cadvocates.org).
- 131 See Mentor Moms Program, section V-A, pages 13-14.
- 132 Rainbow Houses are another model deserving attention. Working with the Santa Clara County Department of Alcohol and Drug Services (DADS), Nancy Wilson, an enterprising woman, has created a network of homes for substance-abusing women in the county. With five converted houses and a capacity of 50 beds, Rainbow Houses offer a sober living environment for FDTC clients and their children for up to one year. Typically the client will enter a Rainbow House alone, and as she progresses, her children will be returned to her care. The Rainbow Houses include a number of services for clients and graduates. For further information, contact Nancy Wilson at Rainbow Recovery Foundation, Inc, 2147 Lincoln Avenue, San Jose, CA 95125, [nwilson@rainbowrecovery.org](mailto:nwilson@rainbowrecovery.org); on the importance of housing for women, see *Substance Abuse Treatment*, *supra* note 22 at 85.
- 133 In addition to AA and NA, the clients may go to Cocaine Anonymous (CA), Marijuana Anonymous (MA) and similar groups. All use a form of the 12 steps and sponsors to address addiction. It is usually required that the client obtain and work with a sponsor. In Santa Clara County, the FDTC also accepts Health Realization as a substitute for AA/NA.
- 134 Examples include the FDTCs in Florida's Escambia County and Miami-Dade, and the Manhattan Family Treatment Court in New York City.
- 135 See *Principles of Drug Addiction Treatment*, *supra* note 38; Berman & Feinblatt, *supra* note 33 at 155-158.
- 136 There are four sites involved in this five-year study: Washoe County (Reno), Nevada; Santa Clara County (San Jose), California; San Diego, California; and Suffolk County, New York.
- 137 *Draft Interim Report—Family Treatment Drug Court Retrospective Outcome Evaluation Update II, Santa Clara County*, at p. II (NPC Research, Portland, Oregon, September 2004); Rawson et al., *supra* note 56 at 149.
- 138 *Id.*
- 139 N. Young, *Findings from the retrospective phase family drug court national cross-site evaluation*, (presented at the National Association of Drug Court Professionals 4th Annual Conference in Washington, D.C., 2003).
- 140 Cooper, *supra* note 45 at 20; see also Ashford, *supra* note 16 at 33.
- 141 Cooper, *supra* note 45.
- 142 See Section I-D, page 3.
- 143 C.W. Huddleston, K. Freeman-Wilson, D. Marlowe, & A. Roussel, *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*, May 2005, at 8-9 (National Drug Court Institute).
- 144 For further information, contact Northwest Professional Consortium, Inc., 4380 SW Macadam Ave., Suite 530, Portland, Oregon 97239.
- 145 See notes 64 and 81.
- 146 *Drug Court Activity*, *supra* note 3.
- 147 See note 65 *supra*, regarding the Santa Clara County drug court video.
- 148 There are 153 FDTCs in the United States according to the most recent data. Huddleston et al., *supra* note 143 at 3.
- 149 *Substance Abuse Treatment for Women*, November 2004, (United Nations, Office on Drugs and Crime, V.04-53297).
- 150 Leonard Edwards, *President's Message*, JUVENILE AND FAMILY JUSTICE TODAY, Summer 2003, at 3; Leonard Edwards, *Remarks of Leonard P. Edwards on the Occasion of William H. Rehnquist Awards Presentation—November 18, 2004*, 56 JUVENILE AND FAMILY COURT JOURNAL, Winter 2005, at 45-51, 46.