Family Dependency Treatment Courts in the United States

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International Society for Prevention of Child Abuse and Neglect (ISPCAN)
September 3-6, 2006
York, UK

AOD, Co-Morbidity and Child Maltreatment

Out of three million reports made in the United States each year[2], almost one million cases of child abuse and neglect are filed and substantiated.[3] Over one quarter of a million children are removed from their homes as a result of child abuse investigations or assessments.[4] The number of children in out-of-home placements has doubled in the last two decades.[5] The cost of maintaining the U.S. child welfare system is at least $10 billion.[6] It is consistently estimated that alcohol and other drug abuse is a factor in 80% of child maltreatment cases[7] with alcohol being the abused substance almost 90% of the time.[8] "There is no safe haven for these abused and neglected children of drug- and alcohol-abusing parents. They are the most vulnerable and endangered individuals in America."[9]

Co-occurring factors such as a serious mental illness and other mental health issues further complicate these cases. Almost 12% of mothers in the U.S. have serious mental illness (SMI)[10] and 3.2% have SMI plus substance abuse problems.[11] In one program serving vulnerable children, 95% of the parents had a co-occurring disorder.[12] Maltreatment is perpetrated by a parent 78% of the time.[13] Ninety percent of the parents whose children were abused or neglected are female.[14] Traditionally, little substantive help was given parents whose substance abuse and other mental health problems caused them to lose their families. Children were spending years in foster care and few parents were able to reunite with their offspring. Although not all children who are exposed to drugs *in utereo* or in their homes experience difficulties, half of the children in foster care in the U.S. show developmental delays, four to five times the rate found in the general population.[15]

Adoption and Safe Families Act (ASFA)[16]

Different countries take a variety of approaches to this issue. The United States Congress passed ASFA in 1997. It has very specific time lines for reunification of a family after a judicial determination to take jurisdiction over the child and remove him or her from the home. Along with these time constraints, there is a presumption favoring reunification of the family over termination of parental rights while simultaneously planning for "permanency placement" should reunification efforts concurrently. This means that while parents are working on reunification the court should also be making sure that an alternate permanent placement is identified. Sadly, even if a child is available for adoption after termination of parental rights, only 1:4 of the 126,000 children awaiting adoption are welcomed into new families.[17] One half million children wallow in foster

care going from home to home and then, when they "age out," they are turned out into the street at the age of 18 with no parental guidance into adulthood.[18]

In order to promote permanency planning, a stated goal of the legislation, courts must finalize permanent placement no later than 12 months after a child enters foster care. Additionally, if a child has been out of the home for 15 of the previous 22 months, the court is mandated to begin termination of parental rights proceedings. For parents in need of substance abuse and other mental health treatment, these timelines have been virtually impossible to meet considering the length of waiting lists for publicly-funded treatment among other factors. Moreover, it is not uncommon in traditional court settings to have the first case review six months after the original order. Should there be lack of compliance in any way, the parent(s) have only six more months to perform perfectly in order to regain custody of their children. Not surprisingly, few parents have been able to meet this challenge.

Family Dependency Treatment Courts (FDTC)

The first problem-solving court to address child dependency issues started in Reno NV in 1995. These types of courts are not mere replicas of the adult drug treatment court (DTC) model but rather a blend of DTCs with the best practices of dependency courts under the confines of ASFA. At the end of 2005, there were 198 FDTCs operational and an additional 188 were in the planning stages.[19] The standard that is employed as mandated by statute is "best interests of the child." FCTCs, like other collaborative courts, use a partnership model that includes the court, child protective services and service providers for the parents, children and families. The twin goals of FDTCs are protection of the child and family reunification by promoting parental abstinence through support, treatment and access to needed services. The interdisciplinary team develops a service and treatment plan, determines its pace and order of delivery and jointly reports to the court all the while avoiding inconsistent or conflicting requirements which are all too common in traditional dependency case processing. More than parents' substance abuse is reviewed by the FDTC team: domestic violence, parenting skills, mental and physical health, pending criminal charges, housing, child care and employment or education may also be factors that need coordination and access to services.

As in other problem-solving courts, judicial leadership is key and case reviews are as frequent as weekly. The judge focuses the team on treatment, recovery and supportive services and requires accountability from the parents and the organizational stakeholders. In the U.S., judicial officers have a powerful fiscal weapon they can bring to bear on service providers who are not making "reasonable efforts" at reunification. If judges make such findings, agencies may not receive federal funding.

If, at the end of 12 months, parents are making good progress and an end is in sight for reunification of the child with the family of origin, the plan may be extended for six more months giving parents a total of 18 months to engage in treatment and move towards a mature recovery. Can parents make such significant progress? Absolutely--with immediate entry into appropriate treatment, coordinated services and with court

supervision by a FDTC. The best hope for abused and neglected children is the treatment and recovery of their parents.[20]

Evaluations

Data from a federal cross-site study show parents participating in FCTCs are more likely to be reunified with their children and less likely to have terminations of parental rights. Case processing time appears to also be shorter thus reducing stays in foster care. Families in these courts were more likely to enter substance abuse treatment, more likely to stay in treatment and more likely to compete treatment than were parents in traditional dependency courts. The parents also had significantly less recidivism for both criminal and child protective services cases.[21] These outcomes are remarkable considering the fact that these parents, on average, had not graduated from high school, were receiving public assistance and 40% were single parents.[22] Similar results – faster reunification, early entry into and successful completion of treatment, reduced recidivism, fewer behavioral problems for the children – have also been seen in a four site study completed in 2004.[23]

One specific program, The Engaging Moms Dependency Drug Court (EMDDC) in Miami, came about because the traditional child welfare system was not working in Florida and 87% of mothers giving birth to a substance-exposed newborn (SEN) had multiple SEN deliveries.[24] Using a FCTC model, and using Intensive Case Management (ICM) as a comparison group, the Engaging Moms program has shown impressive results. About 80% of children were reunified with their families using the EMDDC program compared to 57% of those in ICM.[25] Moreover, negative urine test results stayed steady at 33% at 6, 12 and 18 months in ICM compared with 100% of the EMDDC program participants.[26]

Another program, Specialized Treatment and Recovery Services (STARS), in Sacramento CA shows similar remarkable results using a FCTC model. Of the 70-90% of cases rooted in substance abuse, more than 50% involved the synthetic stimulant methamphetamine. The reunification rate prior to the STARS program was a dismal 18-20%. That means 4:5 parents who lost their children to foster care never got them back. Now using the intensified treatment and support services model of STARS, almost 45% of parents and children are reunified. Of particular significance is the fact that parental use of methamphetamine was not a negative predictor of reunification. Only parents using marijuana were reunited at greater rates than meth-using parents. Heroin users and alcohol abusers were the most likely to lose their children.[27]

Conclusion

FCTCs are part of a larger U.S. movement toward problem-solving courts. This approach has been endorsed by the Conference of Chief Justices and is recognized as a "best practices" model.[28] The power of the court coupled with immediate placement into appropriate treatment and provision of support services is the best way to serve children who are being abused and neglected.

[1] Judge Hora recently retired from the Superior Court bench in California after 21 years of service. Her assignment in the criminal court included presiding over the adult drug treatment program. She is a former dean of California's judicial college and has been on the faculty of the National Judicial College since 1992. She is a Senior Judicial Fellow of the National Drug Court Institute.
[2] "Child Maltreatment 2004," Child Welfare Information Gateway, www.childwelfare.gov (2006)
[3] Wheeler, Meghan M., M.S. and Carson L. Fox, Fr., J.D., "Family Dependency Treatment Court: Applying the Drug Court Model in Child Maltreatment Cases," V:1 Drug Court Practitioner Fact Sheet, National Drug Court Institute (June 2006)
[4] "Child Abuse and Neglect," Child Welfare Information Gateway, *supra.*
[5] Wheeler*, supra*.
[6] This figure does not include healthcare costs, law enforcement, the judiciary and court case processing, and costs of special education that may be needed. These additional costs add up to at least another $10 billion. *No Safe Haven: Children of Substance Abusing Parents*, Center on Addiction and Substance Abuse, Columbia University, New York (1999)
[7] *Id.*
[8] *Id.*
[9] *Id.*.

[10] Serious mental illness (SMI) as defined by Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Government Department of Health and Human Services: A diagnosable mental disorder found in persons aged 18 years and older that is so long lasting and severe that it seriously interferes with a person's ability to take part in major life activities.

[11] The NSDUH Report: Mother's Serious Mental Illness and Substance Use among Youths (SAMHSA), (May 13, 2005). National Survey on Drug Use and Health is also called the "national household survey."
[12] Co-occurring or co-morbid describes the existence of a substance abuse disorder plus another mental health disorder diagnosed in the same individual. Abandoned Infant Assistance (AIA) Program, *The Source* (Spring 2001)
[13] "Perpetrators by Relationship to Victim, 2004," Administration for Children and Families, U.S. Dept. Health and Human Services,

[14] Young, Nancy K., Ph.D., "Findings From the Retrospective Phase Family Drug Treatment Court National Cross-Site Evaluation," Presented at the National Association of Drug Court Professionals 4th Annual Juvenile & Family Drug court Training Conference, Washington, D.C. (January 10, 2003)

[15] Dakof, Gayle, Ph.D., "The Engaging Moms Dependency Drug Court," Presentation at Women, Addiction and Recovery conference, Anaheim CA (July 2006)
[16] Adoption and Safe Families Act of 1997, Pub.L. No. 105-89, 111 Stat. 2115 (1997)
[17] *No Safe Haven, supra.*
[18] "*Fostering the Future: Safely, Permanency and Well-Being for Children in Foster Care*," Pew Commission on Children in Foster Care (May 2004)
[19] Huddleston, West, *et al., Painting the Current Picture:A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*, Vol. I, No. 2, National Drug Court Institute, Alexandria VA (**May 2005)**
[20] *Id.*
[21] Young, *supra.*
[22] *Id.*
[23] Cooper, Caroline, "Summary of Impact Findings Reported for Family Drug Court Programs 2000-present," American University, Washington DC (2004)
[24] Dakof, *supra.*
[25] *Id*.

[26] *Id.*
[27] Robinson, Sanford, Director STARS Program, presentation at Center for Substance Abuse Treatment Methamphetamine Conference (May 2006)
[28] *Fostering the Future, supra.*