

## **Family Drug Courts: The Solution**

**By Judge Katherine Lucero**

The first Drug Court was in Miami-Dade County, Florida in 1989. Tired of the same faces and the same cases repeatedly appearing before the court, a **visionary group of justice professionals decided that the system as it existed was broken and there had to be a better way.**

They found a solution by combining drug treatment with the structure and authority of the judge. Working as a team, they were able to effect lasting change in the lifestyle and behavior of Drug Court participants.

The Miami-Dade Drug Court sparked a national revolution that has forever changed our justice system. Ten years after the first Drug Court was founded, 492 Drug Courts existed. By June 30, 2010 2,559 Drug Courts were operating in every U.S. state and territory.

Because of Drug Court millions of lives have been transformed. Today, the Drug Court movement continues to spread throughout the country and the world.

This success has spawned a new generation of problem-solving court programs that are successfully confronting emerging issues for our nation. For example, Veteran's Treatment Courts are adapting to the needs of our heroes from the armed services, who sometimes have difficulty adjusting to life at home or coping with combat-related stress, and may become involved in the justice system. Rather than ignore their plight, Veteran's Treatment courts provide the treatment and structure they need to resume productive lives. And Reentry Drug Courts are assisting individuals leaving our nation's jails and prisons to succeed on parole and avoid a recurrence of crime and drug abuse.

<http://www.nadcp.org/learn/what-are-drug-courts/history>

There are 10 key components to a successful drug court. The child welfare drug courts have embraced those components and created a template for success when working with the entire family. The 10 key Drug Court Components are as follows:

**Key Component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing.**

**Key Component #2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.**

**Key Component #3: Eligible participants are identified early and promptly placed in the drug court program.**

**Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.**

**Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.**

**Key Component #6: A coordinated strategy governs drug court responses to participants' compliance.**

**Key Component #7: Ongoing judicial interaction with each drug court participant is essential.**

**Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.**

**Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.**

**Key Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.**

**Applying the Drug Court Principles to Family and Children Courts**

**Key Component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing**

**Key Component #1 Revision:**

*Family Drug Courts must closely partner with the jurisdiction's alcohol and drug treatment agency in order to share confidential background information that is generally not available from one discipline to the other and partner in an integrative model which allows for cross training and cross assessments.*

Drug and Alcohol Services should not just be a part of your team. They should be connected at the hip to the child welfare agency if at all possible. This key component takes the child welfare case to the next treatment intervention level. If there is no alcohol and drug treatment partner who is willing to sit with the team and go over each case for assessment, case planning, and referrals and follow up, the model is lost. This is the most critical partner after the social worker. It is highly likely that the parent in the case is receiving or has received drug treatment services in your jurisdiction in the past. Having the participation of the Drug and Alcohol Agency allows for informed decisions often based on data they have in their own systems as well. We actually have the Drug and Alcohol Assessors collocated at the courthouse. They have access to our court files upon the individual consent of the parent. The Drug Assessor will generally sit with the parent and have in front of them, the Dependency petition and any social studies that have been written to support the allegations of abuse and neglect as well as the drug and alcohol treatment history, *prior to making a decision about the level of treatment needed.*

We have developed protocols and consents for information sharing that allows all professionals to trust the indicated treatment intervention assessed by the drug and alcohol specialist. In the past, when the specialist did not have the child welfare file, the assessments were not readily accepted by all the attorneys and child advocates. Due to the close working relationships that we now have with the drug and alcohol specialist, and the exchange of critical information which impacts the child, the assessments are tailored and effective.

Our drug and alcohol assessors have also perform child safety assessments and mental health screenings. Much is learned at this initial contact which generally happens within the first two weeks of the new child welfare case being petitioned. All of this

information is passed along to the social worker and together the professionals discuss the next logical steps of the case.

**Key Component #2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.**

**Key Component #2 Revision:** Using a nonadversarial approach, attorneys for parents, the state and the child promote child safety while first keeping the child at home with the parent in treatment and if unable to keep the child with the parent, they work together to get the child home at the earliest possible time while setting up services to preserve the parent/child bond and at the same time protecting each party's due process rights.

Dependency Court is the original problem solving court. If there is a way to keep children at home safely, it is the law to do so. Taking a child from the home is the last resort. For the parent afflicted with substance abuse and in need of treatment, the need for collaboration is even more urgent. Significantly, these are not bad people trying to get good, these are parents who have an allergy to alcohol and/or drugs (many with mental health diagnosis) who are in need of a way to get well. Resources are always the key. True, some parents will not be in a stage of mental health illness of drug addiction that they are ready to get the help they need, but many, many will be after they have lost their children.

It is critical that the entire court case be driven by the desire to protect children and at the same time heal families. This can only be done when the entire court stakeholder team agrees on common values and does everything possible to address the issues in both the legal and resource forum. The child should remain with the parent if at all possible in residential treatment. The child who must be taken from the home should be placed in a concurrent relative foster care home first, and if not in a nonrelative foster home. In the meanwhile all of our resource energy must be focused on the treatment services and the parent/child bond.

**Key Component #3: Eligible participants are identified early and promptly placed in the drug court program.**

**Key Component #3 Revision:**

All parents who have come to the attention of the Child Welfare Court System primarily due to substance abuse shall be directed into the Family Treatment Court model on the first day of court.

If the parent has lost their child due to substance abuse, they should automatically be placed in Family Treatment Court. The same day of the initial hearing after the child has been removed, the parent should be able to sign up and/or receive a drug/alcohol

assessment to determine what level of intervention is necessary, including the ability to go into treatment with their children. The treatment services should be available to that parent that day or shortly thereafter. Prioritizing the child welfare population in your jurisdiction in this regard is critical. A drug addict without children in the system, who is waiting for a bed out of criminal court will not lose a child to adoption within as little as 10 to 16 months if they do not get treatment. This population of citizens will have their parental rights terminated if the system does not move fast enough to help them access services.

The parent with a young child simply has no time to lose. If the parent and child are separated, the Adoptions and Safe Families Act (AFSA) kicks in and the parent is now on a very strict legal timeline to get better. The AFSA timelines and the addiction treatment timelines are different. However, the best hope for a parent to begin the process of recovery and family reunification is when they have same day assessments and prompt treatment services delivery. Nothing except the most egregious of system negligence, will toll these timelines.

**Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services**

**Key Component #4 Revision:**

Family Drug Courts provide access to a continuum of family centered and trauma informed resources including alcohol, drugs and other related treatment rehabilitation services as well as mental health, family violence and other family centered services.

The success of healing an entire family is different than that of rehabilitating one individual. In the Child Welfare Court Systems we are tasked with healing an entire family. Every family is different, but I am sure that we can agree in most cases there is at least one parent and one child involved and each person in the family has very distinct needs. Therefore, the Family Treatment Court must also have components like substance abuse parenting informed classes, domestic violence services, mental health counseling and assessments for each member of the family and even services like housing and transportation as well as job placement and educational opportunities in order to help create long term success.

The goals of these family treatment courts is to help the parent get clean and sober, help the child understand it is not their fault and that they may be at risk for addiction in the future, and to set the family on a trajectory of growth and continues healing. The best programming offers after care in all spheres, from mental health, physical health, housing and addiction.

We have the FIRST 5 of Santa Clara County programming which follows the case for up to six months after case dismissal and we also recently obtained and Aftercare Grant which follows the family for up to one year to make sure that they have all the support that they need and will develop a robust Family Treatment Court Alumni program so

that folks can stay in touch with one other and continue to benefit from meaningful relationships that were developed as a result of the Court Team intervention. Our drug and alcohol services do not end as the parent can always call the treatment program that they graduated from and receive one on one counseling if necessary. We also bridge our families to a community health clinic where they can continue to get mental health intervention and counseling to maintain mental health interventions after their case is dismissed.

**Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.**

**Key Component #5 *Revision:***

A drug and alcohol free lifestyle is monitored by frequent alcohol and other drug testing and *court reviews* to make sure that the parent is also in compliance with their substance abuse focused child welfare case plan.

Each parent has court ordered weekly random drug testing. Most parents are also drug testing for another public agency, like probation, parole or the drug treatment program. Whenever possible we try to develop protocols to share test results. Another indicator of clean and sober living is when the parent is making their other commitments. Their attendance at 12 step meetings, their meetings with social workers, sponsors, other service providers and their visits with their kids is all part of the clean and sober picture.

It is wonderful if we can prevent use of drugs and alcohol, it is even more wonderful however, if we can see that the parent is engaging in the process of **RECOVERY**. We all know that a person who is not invested in changing old behavior will go back to it when out of the limelight. Some folks to wait it out and fake us out and they are back again in short order. We can easily spot those people. What is more remarkable is when we can see the sparkle come back into someone's eye and they begin to transform in front of us. When they are engaged in their own recovery we see long-term changes.

We not only believe that it is crucial to monitor sobriety with frequent random testing, but we also believe it is crucial to review case compliance and changes in behavior.

**Key Component #6: A coordinated strategy governs drug court responses to participants' compliance**

**Key Component #6 *Revision:***

It is critical that the court team work together to develop a coordinated response to a parent's compliance with the case plan and the treatment mandates.

Parents who live in the Transitional Housing Units and the Residential Treatment facilities get a case conference which occurs outside the Family Drug Court setting. These are vital to the oversight and coordination of the parent/child case. Drug and alcohol treatment experts meet on a quarterly basis with the social workers and clients to make sure that the parent is on track in both domains: treatment and case plans. The goal is for the client who is living in the THU or residential program to keep up with milestones for transition and self support within a six month to nine month period of time. The social worker and the treatment experts confer on issue such as housing and job search, educational opportunities, mental and medical health interventions, child care, etc. The routine case plan also allows for the team to work together to ensure that the parent is in compliance with treatment and the case plan.

Similarly each time the parent has a court appearance the team “staffs” the parent’s case before the actual review occurs. At this staffing is the Drug Court Coordinator, the Social Worker or a representative of the social workers, the attorney for the social worker, FIRST 5 representative, the CalWorks Eligibility Worker, the Mental Health Specialist, the Domestic Violence Specialist, the Child Advocate’s office, the parent’s attorney, the minor’s attorney, the judge, the Drug and Alcohol Specialist and the Resource Coordinator. Other people are present as necessary. This “staffing” allows for up to the minute information on drug testing results, case compliance and progress of the parent. The team develops a strategy to address issues that may be present or to simply praise the parent who is on track and doing well.

**Key Component #7: Ongoing judicial interaction with each drug court participant is essential**

**Key Component #7 Revision:**

Ongoing judicial interaction with each drug court participant is essential with a judge who is well trained on trauma informed treatment modalities and makes at least a three year commitment to stay in the Family Drug Court assignment.

Enough cannot be said about the training and commitment of the assigned treatment court judge. Studies confirm that the parents are often as traumatized as the child that has come before the court. This is not to minimize the negligent actions that have brought the case before the court, but to urge that a trauma informed lens be the adopted as the chief perspective of any judicial officer working with parents in the child welfare courts.

It is also imperative that the judge desire to be assigned to this special court and that the judge makes a three to five year commitment. The average child welfare case is most likely going to be in the court for as long as three years. The continuity of the judge is part of the magic of the success of the child welfare drug treatment court.

**Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness**

**Key Component #8 *Revision*:**

Monitoring and evaluation measure the achievement of program goals and tracks reentry rates into foster care, reasons for reentry if any, and commitment to problem solving and self correction of systems in order to reduce family instability.

The monitoring and evaluation is critical to make sure that the interventions are working. Drug courts work. We have plenty of data to show that given the opportunity, people do well in the drug court setting. What seems to be even more critical in the child welfare setting is looking at why a family may come back into the systems after they have successfully completed a drug court program. Again, because we are looking at family units vs. one person, we must be cognizant of the need to promote family stability and not just keep one person clean and sober. To that end, life skills, parenting clean and sober, housing, aftercare and building independence are critical parts to the family drug court equation.

**Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.**

**Key Component #9 *Revision*:**

Continuing interdisciplinary education promotes effective drug court planning, implementation and operations and promotes team building for better services to the parent and child.

In the nonadversarial setting of the child welfare court, it is especially important that state of the art interventions, research and evidence based practices be shared and implemented. These teams need to hold themselves accountable by being vigilant about a variety of topics such as child development, trauma, mental health, domestic violence and addiction. Having annual educational retreats is suggested, however, quarterly presentations from community experts are also a way to keep informed and to educate the team on current issues and practices.

Regular team meetings with an agenda that seeks to solve systemic obstacles and educate on current topics are critical to the growing and changing system responses that are vital in the child welfare court setting.



**Key Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.**

**Key Component #10 *Revision*:**

Forging partnerships with criminal drug courts, public agencies, and community based organizations generates local, statewide and federal support which guarantees the sustainability of the collaboration and leads to structural changes that improve systems and service delivery to child welfare court families.

The Criminal Courts have access to resources that can often be shared with parents in the child welfare courts, because we have found that there is up to a 50% overlap in parent/defendant population. By partnering with your local criminal drug court you and the other judges can work together to streamline court dates, court orders and encourage agencies to share information and not duplicate efforts. Other public agencies such as Drug and Alcohol Services, Mental Health, Housing Agencies, Transportation agencies, Public Health and Medical Services will bring vital resources and organizational streamlining of services to families that each agency has in common. Community based organizations will have a rich population of families in need to fulfill their grant and contract obligations and will build a bridge to community services that can be utilized long after the court case has been dismissed. Governing bodies such as local policy makers, state and federal legislators will bring much needed political support during these trying budget times and may think twice before cutting services that impact programs that you have let them know are benefiting hundreds of citizens and saving county dollars.