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Development of the Miami-Dade County Dependency Drug Court

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DEVELOPMENT OF THE MIAMI-DADE COUNTY DEPENDENCY DRUG COURT

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Since the mid-1980s, the nation has seen a marked increase in cases involving child abuse and neglect. These cases have overwhelmed our nation's dependency courts and child welfare systems. In September of 2000, the foster care system held approximately 556,000 children.[1] There are many factors which have contributed to the increase in dependency cases, but the primary cause has been identified as parental substance abuse. According to *Linking Child Welfare and Substance Abuse Treatment: A Guide for Legislators*, National Conference of State Legislatures, August 2000, "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."[2]

Adult Drug Court

Although specialized drug courts operated in the 1950s and 1970s in Chicago and New York City as "Narcotics Courts," they provided limited access to drug treatment for offenders. The criminal justice system continued to be overwhelmed and overburdened with criminal cases involving substances. During the 1980s, it became apparent that the criminal justice system needed to be re-examined and processing of cases dealing with substance abuse had to be dealt with differently. Thus, the criminal justice system took an in-depth look at the relationship between substance abuse and criminal activity and realized that treatment was a necessary and vital component in treating offenders and in reducing the crimes related to substance abuse.

In response to this need, Miami-Dade County, Florida opened the nation's first modern drug court in 1989 and became a pioneer in the national drug court movement of today. Its success provided a model for courts across the nation to implement an adult drug court in their jurisdictions. The ultimate goal of drug courts is "to achieve a fundamental change in the lifestyle of the litigants that will...substantially reduce the likelihood of their further involvement with the justice system, increase public safety, and significantly enhance the likelihood that the parties and their families will function as productive community members."[3]

Family Drug Court

The success of the Miami-Dade adult drug court provided a concrete model and inspired those courts dealing with child abuse and neglect cases involving substance abusing parents to create a "family drug court." While the traditional adult drug court handles criminal cases, the family drug court handles domestic relations cases and child abuse and neglect or dependency cases. These cases involve the threat of loss or restriction of parental rights due to parental substance abuse. While parents are the "clients" or "participants" in the family drug court, the goal of the family drug court is to provide for the safety and well-being of children while providing parents resources and a mechanism to become sober and responsible.

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[1] Administration for Children and Families, U.S. Department of Health and Human Services (2002). *Fact Sheets, Child Welfare*. Retrieved December 11, 2003 from www.acf.hhs.gov/news/facts/chilwelf.html.

[2] Christian, S., Edwards, K. (2000). *Linking Child Welfare and Substance Abuse Treatment: A Guide for Legislators*. National Conference of State Legislators.

[3] McGee, C.M., Parham, J., Merrigan, T. T., Smith, M. (1998). *Applying Drug Court Concepts in the Juvenile and Family Court Environment: A Primer for Judges*. C.S. Cooper (ed.). Prepared by American University for State Justice Institute. Washington, D.C.: American University.

"The family drug courts are exponentially more complex than adult drug courts because more aspects of the clients' lives and relationships are examined."[4]

A contributing factor in 80 percent of dependency cases in Miami-Dade County is alcohol and drug use by parents.[5] Despite a relatively rich treatment environment in Miami-Dade County, treatment providers and the dependency court were not sharing information about parents. Nor were they working together to provide the necessary array of integrative therapeutic services in order to ensure positive outcomes for reunifying families. Poor participation of substance abusing parents in recovery programs led to the creation of "family treatment courts" to specifically address these problems. As a key component of the family treatment court model, a Dependency Drug Court (DDC) provides a structured therapeutic approach to assist primary custodians to live a drug-free life, to assume the full responsibilities of parenthood, and to achieve reunification within statutory timeframes.

Family drug courts involve a collaborative effort among various components of justice, child welfare, and public health treatment systems which include early identification of eligible participants; assessment and evaluation; access to appropriate treatment services for parents; services for children; frequent drug testing and court appearances; judicial intervention; incentives and sanctions; and collaborative efforts among courts, child welfare agencies, treatment providers, public agencies, and community based organizations.

The Adoption and Safe Families Act

Notwithstanding the widely accepted theory that children are resilient and can bounce back from adversity, children's perception of the passage of time is different than adults. Adults can wait indefinitely for uncertain situations to resolve, but children's sense of time is immediate. In recognition of this, and to prevent children from languishing in foster care, the Adoption and Safe Families Act of 1997 (ASFA) was passed. ASFA set fourth—among other mandates—time-sensitive guidelines for the court to follow in the processing of child abuse and neglect cases.

ASFA requires that a permanency hearing to determine a child's permanent placement be held 12 months after a child is considered to have entered foster care (starting from the date of the first judicial finding of abuse or neglect, or 14 months after the date the child has entered placement, whichever is earlier). At the 12-month permanency hearing the court must determine whether the child will be:

- returned to the parent;
- placed for adoption;
- placed in a legal guardianship;
- placed in kinship care; or
- placed in another permanent living arrangement.

A Termination of Parental Rights (TPR) proceeding will be initiated under ASFA if:

- a child has been in foster care for 15 of the most recent 22 months;
- it is determined that the child has been abandoned; or
- no reasonable efforts are required to preserve or reunite the family.

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[4] *Ibid.*

[5] Dependency Drug Court Protocol—Miami, Florida.

Exceptions to the TPR requirements are:

- the child is in relative care;
- compelling reasons have been documented that TPR is not in the child's best interest; or
- the agency has not provided the necessary services as outlined in the case plan if reasonable efforts are required.

Definition and Goals of Family Drug Court

In a family or dependency drug court, focus is on meeting the treatment needs of the substance abusing parent, as well as meeting the safety, permanency, and well-being needs of the child.

The goals of the family drug court include:

- providing permanency planning and placement for children as outlined in the *RESOURCE GUIDELINES*[6] and the *ADOPTION AND PERMANENCY GUIDELINES;*[7]
- addressing intergenerational issues of abuse and neglect in families;
- providing children and parents with access to support services to assist them in becoming productive individuals;
- providing appropriate and timely treatment services;
- providing a safe nurturing environment for children to grow and flourish;
- expediting the handling of cases in order to avoid delays in case processing;
- working collaboratively with courts, child welfare, treatment, and other community agencies to address holistic needs of families (e.g., parenting skills training, housing needs, vocational training, health and mental health services); and
- working with families from a strength-based perspective.

Miami-Dade County's Dependency Drug Court

Spearheaded and conceived by Judge Jeri Beth Cohen, the Administrative Office of the Courts (AOC) of the Eleventh Judicial District implemented the Miami-Dade County Dependency Drug Court (DDC) in March 1999.[8] Initial planning for the DDC was conducted by the Planning Committee which consisted of Judge Jeri Beth Cohen; Sharon Abrams, Chief Information Officer for Miami-Dade County Juvenile Division; Paul Indelicato, Director, Juvenile Court Operations, Juvenile Justice Center; Lynne Katz, Ph.D., Program Administrator, Linda Ray Intervention Center; members of the AOC; representatives of the Department of Children and Families (DCF); community substance abuse treatment providers; and community mental health treatment providers. Judge Cohen presided over the drug court from its inception in March 1999 through January 2003. There are presently four juvenile courtrooms in the Miami-Dade juvenile division, each of which handles about 300 dependency cases a year.

Judge Cohen joined the Dependency Court system in 1996 after having spent four years in the criminal division of the court. As part of her tenure in criminal court, Judge Cohen sat in the Driving Under the Influence (DUI) division, where she began an informal DUI drug court. Based on her success with this drug court, she was able to obtain a grant from the Florida Department of Transportation for a program that monitors repeat DUI offenders. This program has now become part of DUI probation. As a result of this work, Judge Cohen developed relationships with

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[6] *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases* (1995). National Council of Juvenile and Family Court Judges, Reno, Nevada.

[7] *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases* (2000). National Council of Juvenile and Family Court Judges, Reno, Nevada.

[8] The DDC project was funded through the Office of the State Courts Administrator.

community mental health and substance abuse treatment providers. She drew on her experience over the eight years that she had presided over the DUI and dependency courts to build the foundation for the DDC program.

The DDC Program Goals

The primary goal of the DDC is to provide integrated services to primary custodians and their children, so that the parents can maintain sobriety long term and the children can improve their social, emotional, and intellectual functioning. Through intensive services, monitoring, and case work, the DDC ensures that all children remaining with custodians in drug court will experience safe and nurturing permanent homes. To achieve this goal, parents are expected to comply not only with drug-related treatment, but with mental health treatment, targeted parenting programs, vocational training, and other relevant services. A hallmark of the DDC is its provision of intensive early interventions for children, including interactive parenting protocols and regular developmental assessments. These protocols continue to be funded through the Substance Abuse and Mental Health Services Administration (SAMHSA). The interventions are provided by the Linda Ray Early Intervention Center at the University of Miami (Linda Ray Center). Equally important to the program are the therapeutic relationships fostered between specialized case workers attached to the court and the presiding judge, who interacts with parents and children on a regular basis.

Role of the Judge

The DDC judge seeks to establish a rehabilitative relationship with the parent, children, and extended family through frequent interactions during court appearances. The DDC judge supervises and reinforces treatment by reviewing reports from DDC specialists and DCF counselors and discussing treatment obstacles with parents during their frequent court appearances.[9] The DDC judge exercises a flexible and a consciously therapeutic rapport with the drug-using parent. Crucial to this approach is the presence of a representative from all agency providers at the hearings. Judge Cohen believes that, "Only a system that provides intensive monitoring and a holistic approach to services has a chance of successfully reunifying children under ASFA time lines." Although it is the parent that appears before the court, the Judge looks to the larger family unit and the needs and best interests of the child(ren). The DDC understands that participants in the program live in families and communities, not in treatment facilities and courts. Accordingly, the rehabilitative process must necessarily involve all significant family members, and the court must constantly take into account the strengths and weaknesses within the family and seek to heal the family unit as a whole.

Services Provided

The DDC's primary focus is identifying and treating the underlying issues that may have contributed to substance abuse. The Miami DDC's services not only include substance abuse counseling and intensive and interactive parenting classes, but also competent psychological and psychiatric evaluations, trauma counseling, psychotropic medication management (if required), housing, vocational training, medical services, and family planning counseling. This program also includes developmental assessments and interventions for infants and children, including substance abuse and counseling classes for older children. Women and men in the DDC are encouraged to seek family planning as part of their case plan. Furthermore, the DDC refers all adolescent girls and boys whose parents are participating in DDC to family planning and AIDS counseling. Thus, the DDC treats the entire family as a cohesive unit and seeks to address all treatment needs. As a result, parents understand that the courts expect a complete lifestyle change that promotes health

[9] DDC Protocol October 12, 2000, pg. 13.

and safety for their children. Moreover, the DDC evaluates and treats co-occurring mental health problems as well, out of a conviction that sobriety cannot be maintained in co-morbid individuals who are not simultaneously treated for substance abuse and mental health disorders. Judge Cohen strongly believes that without true collaboration, integration, and commitment among all the system players involved with the family, services and treatment are fragmented and do not contribute to the rehabilitation of the impaired family structure.

"If we have learned one thing from Dependency Drug Court, it is that substance abuse is only one aspect of the psycho-pathology that impairs families in the dependency system."[10]
-Judge Cohen

DDC Team

Due to the overwhelming number of child welfare cases that enter the system, Judge Cohen emphasizes the need for a dedicated and well trained staff to be assigned to the DDC. The ratio of parents to caseworkers must be kept low. Through the Judge's concerted efforts in negotiating with DCF, three protective services caseworkers have been dedicated to the DDC. These DCF counselors are responsible for developing and managing all aspects of the case plan. The DCF is represented by counsel who provides support and direction in the dependency case process.

Additional funding has been obtained from the Florida State Legislature to fund three positions for addiction specialists, including a program administrator. DCF also contributes funding through Temporary Assistance for Needy Families (TANF) for two additional specialists. As the legislative monies were terminated, future funding for the specialists is provided jointly through DCF and a National Institute of Health grant awarded to DDC. DDC specialists are a major factor in the success of the DDC efforts. The DDC currently employs five specialists who provide a critical link between the parent, treatment provider, and the court. DDC specialists are responsible for alcohol, drug abuse, and mental health screenings and assessments; referrals to and enrollment in treatment services; alcohol and other drug testing; progress monitoring; and crisis and therapeutic intervention. DDC specialists carry beepers, so that they can be available to parents for emergencies. They work not only with the targeted parents, but also provide therapeutic interventions for the extended family. They convene weekly staffings at the treatment facilities and at the Linda Ray Center in order to continually update and reassess the treatment plan. The specialists understand their job as not only providing case management, but also retaining and engaging the parent in the dependency court process by advocating for the parent and keeping the parent motivated in treatment and recovery. The DDC specialists receive weekly clinical supervision and therapeutic training from a consultant team from the University of Miami which enhances their service provision. This collaboration between the DDC and the University of Miami was a precursor to a National Institute of Health (NIH) grant obtained by Dr. Gayle Dakof at the University of Miami, Department of Epidemiology, to study the effects of therapeutic gender-specific case management on family reunification and permanency.

Other key participants involved in the DDC program are community substance abuse treatment and methadone providers, mental health providers, and victim services. As mentioned above, while the DDC is called a drug court, it is more appropriately a court that addresses co-occurring mental health and trauma-related pathology in conjunction with substance abuse problems. Somewhere between 75-90 percent of DDC participants, primarily women, have suffered physical

[10] "Miami's Dependency Drug Court." *Navigating the Pathways*. pg. 89.

or sexual abuse. These women also suffer from mental health problems at approximately the same rate. These percentages comport with the literature on co-occurring disorders for women.[11] DDC seeks to treat the parent in an integrated manner by emphasizing that mental health counseling and medication compliance are equally as important as sobriety. Judge Cohen believes that there can be no sustained sobriety unless all significant mental health problems are addressed simultaneously with substance abuse treatment. Moreover, therapy must be provided using gender-sensitive protocols that take into account the specialized needs of women. The court in Miami has been influential in compelling treatment facilities to provide more integrative and gender-sensitive therapies. In addition, the court has influenced traditional treatment facilities to be more receptive to methadone maintenance as a legitimate form of treatment for opiate dependency. Through an environment of trust and mutual respect, the DDC has built a strong, mutually-reinforcing collaboration between itself and treatment providers in order to provide efficient, immediate, and comprehensive services to parents.

Miami is fortunate to have an early childhood intervention center that specializes in providing case management and developmental services for substance-exposed children ages 0-3. Through a series of grants from SAMHSA, the DDC through the Linda Ray Center provides parenting skills training to DDC parents through their Nurturing and Strengthening Families curricula. In addition, all DDC children ages 0-3 are assessed at six-month intervals for developmental problems using the Ages and Stages protocol. Children with deficits are referred for further testing and services. All older children receive comprehensive psychological evaluations through the Court Evaluation Unit, funded by the Administrative Office of the Courts. Although funding has not been constant, DDC has maintained a certified family nurse practitioner on-site at the courthouse on drug court days. The nurse meets with parents individually throughout the week to provide a wide variety of health services, including family planning.

The DDC promotes a non-adversarial approach to processing cases through the system. Therefore, it is important that defense attorneys representing parents in DDC be non-adversarial and believe in the drug court mission. While defense attorneys need not be present at every review hearing, unless notified by the DDC specialist that there is a problem, they should be present at the initial stages to explain DDC protocol and assist in finalizing the case plan and to help the parent sign all DDC paperwork. Of course, no decisions are made that affect the parent's due process unless the attorney is present. While DCF attorneys are present at all reviews, the interaction is between the court, the parent, and the DDC specialist. Rarely is there a need for the attorneys to get involved, especially once all the legal and procedural aspects of the case are accomplished.

Forging Partnerships

Judge Cohen has provided leadership for the team and has played a significant role in emphasizing a need for a collaborative effort and forging partnerships among the key players in the dependency process. Substance abuse and mental health treatment providers, attorneys, the court, DCF caseworkers, and DDC specialists are all held accountable through this process. This facilitates the development of a clear policy and protocol for communication between these agencies and enables the courts to be well informed of the ongoing progress of the participants - which was greatly lacking in the past. Requiring that weekly substantive progress reports be submitted by providers has increased accountability on the part of providers and consequently led to enhanced quality of services and outcomes. Collaborative efforts have been maintained as the level and

[11] "Assessment and Treatment of Patients with Coexisting Mental Illness and Alcohol and Other Drug Abuse." *Treatment Improvement Protocol (TIP) Series 9.* (1994). U.S. Department of Health and Human Services, Center for Substance Abuse Treatment.

modality of treatment are negotiated and agreed upon with the DDC staff and no one is released from residential treatment without a discharge and safety plan approved by the court.

Referral Process

Participation in the DDC is voluntary and is at the discretion of the DDC judge. A Judicial Eligibility Checklist is completed by court staff to refer a parent for consideration.[12] The judge determines eligibility and makes referrals to DDC based on availability of space and complexity of the case. The court tries to choose the most difficult cases that will require the most intensive services and monitoring, including those cases where the mother has given birth to several drug or alcohol-exposed babies. The court will not accept a parent accused of sexual or severe physical abuse, or a parent with severe mental health issues that are not well controlled. Although rare, in appropriate circumstances, the DDC will accept a parent who has already lost one child through a TPR proceeding. Difficult cases for the court are those that involve spousal batterers with addictions. In special circumstances, the court has accepted male participants who have been accused or convicted of domestic violence.

Program Phases

The length of the DDC program is one year commencing with the parents' voluntary agreement to participate. The court intensively monitors parents though five phases during which time they appear before the court on a regular basis. Random and/or tri-weekly urine tests are a part of the monitoring. Judge Cohen believes that it is essential to have on-site urine screening at the court in order to develop a relationship of trust with the screener and prevent urine tampering. A final "self-reliance" phase was added to break the codependency that can develop between the client and the court and to prevent a relapse immediately before graduation.

Recently, the DDC formed a partnership with "Project Safe" though the Children's Home Society. Project Safe has agreed to monitor DDC graduates for up to one year to ensure continued sobriety and safety for the children, as well as to assist with additional services. In addition, the DDC ensures that all graduating parents have a close tie to an Alcoholic Anonymous or Narcotics Anonymous (AA/NA) "home" group and sponsor. In addition, in most cases, steady employment is required. The DDC encourages graduating parents who stay clean for at least six months to become mentors and sponsors for other parents in the program. An additional safeguard for parents is placement at a transitional facility run by Camillus House (the Homeless Trust). This facility, "Sommerville," offers housing for up to two years for parents and their children, and is largely populated by DDC families. The facility provides parenting, childcare, and AA/NA meetings on site. DDC is collaborating with Camillus House to build transitional housing for DDC families with on-site comprehensive services.

Incentives and Sanctions

The court seeks safe permanent homes for children who do not remain with parents in residential treatment or at home as soon as they enter the DDC system. It should be stressed that Judge Cohen believes, and the literature supports, that parents do best in recovery when they remain with their children. Although the court recognizes that addiction is a relapsing disease, the court is diligent and applies a graded system of rewards such as decreased court appearances and urinalysis, increased unsupervised visitation with children, phase advancement for compliance, and reunification with children.

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[12] DDC Protocol October 12, 2000, pg. 13.

The court implements sanctions for non-compliance with the program or case plan (e.g., missed hearings, counseling sessions, and drug tests). The sanctions are specifically enumerated in the DDC protocol and in the contract that the parents sign prior to entering drug court. Sanctions are immediate, certain, graduated, and designed to fit the infraction. The DDC has incorporated the research on the efficacy of rewards and sanctions in designing its approach. These sanctions include increased court appearances, more frequent urine tests, community service hours at a homeless center or thrift shop catering to recovering addicts, phase demotion, short periods of incarceration (usually on the weekends), and ultimately, termination of parental rights. Judge Cohen used the jail sanction only 5 percent of the time in the last year in which she presided over the DDC and only in situations where the court had already tried less severe sanctions. The jail sanction has never been used as a punishment, but only as a method to change behavior. Interestingly, the sanction has succeeded in changing non-compliant behavior in only one instance.[13] Although the court is aware that the statutory 12-15 months to permanency provided for in ASFA and Florida law is not always an adequate amount of time for rehabilitation from addiction, the need to achieve permanency within that timeframe has mandated that DDC's time line be designed to serve the best interests of the child(ren) and not the adult(s).

Some DDC Statistics

During the first year (1999) the DDC referred 92 parents. Of the 92 referrals to DDC, 15 refused to participate. Seventy-seven parents agreed to participate in the DDC and of the 77 that agreed, 10 dropped out and their cases went to TPR. The remaining 67 cases involved 212 children, with 84 of the children under the age of four.

Table 1: Number of People Accepted into the DDC by Year

Year	Number Accepted into the Program
1999	67
2000	23
2001	36
2002	40
2003 (through 10/31/03)	28

About 80 percent of the cases referred to DDC were women. Miami DDC program specialists' experience has shown that it is difficult to engage men in the DDC process. Unless they are significantly bonded to a woman participating in DDC or a woman who is not a substance abuser and have extremely strong family support, men do not tend to participate in DDC

In May 2000, DDC graduated its first class. Of the 13 graduates, one was male. As of October 31, 2003, 72 people with 234 children have graduated from the DDC. The case outcomes of the people entering the program but not graduating are not specifically tracked. However, these cases most likely proceed to TPR, a custodial agreement, custody with a relative, surrender, etc.

DDC Success

Graduation is not the only measure of success in the family drug court. Success is also measured by achieving permanency for the children. Judge Cohen points out that "failure to comply with DDC is also a success, if lack of commitment and dedication is determined early then children can be moved to permanency expeditiously."

[13] "Miami's Dependency Drug Court." *Navigating the Pathways*. pg. 92.

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