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## Strengths Based Approaches to Practice and Family Drug Courts: Is There a Fit?

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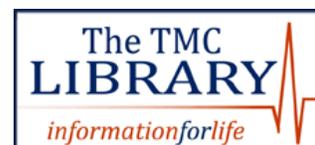
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## Introduction

When analyzing the public child welfare system, few would disagree that substance affected families have proven to be one of the most challenging service populations. The key goals of the public child welfare system are safety, permanence, and child well-being; and each of these domains provides distinct service challenges when parental substance abuse is present (United States Department of Health and Human Services, 2010). Prevalence estimates vary widely throughout the literature, likely due to reliance on different methods of calculation, various points in time of analysis, and different populations of focus (intact families, foster care involved families, abuse or neglect, and the like). Different definitions of use, abuse, and dependence further complicate cross systems analysis as well. Regardless of this variance, research continues to solidify the importance of parental substance abuse as having a major role in child welfare system. Evidence compiled by Testa and Smith (2009) suggests that substance abuse is involved in 18-24% of cases of substantiated child maltreatment, and 50-79% of children placed in foster care. Prior research indicates that these children spend more time in foster care and are less likely to reunify (Green, Rockhill & Furrer, 2007).

The role of complex factors which accompany abuse and neglect cases with parental substance use proves especially challenging to disentangle and address systematically. These challenges impact multiple areas of public service—ranging from child welfare caseloads to crowded publicly funded substance abuse treatment centers, to courtrooms. In the mid-1990s, family drug courts (FDCs) emerged as one response, based partially on the fact that criminal drug courts showed success rehabilitating criminal drug offenders (McGee, 1997). Unlike traditional dependency courts, FDCs use a team approach, focus on quick entry of parents into substance abuse treatment, provide comprehensive services to all family members, and utilize frequent court hearings to ensure compliance and timely reunification (Edwards & Ray, 2009). Since their initiation, FDCs have proliferated, and there are now over 350 such courts operating nationwide (Young, Barber, & Breitenbucher, 2013).

FDC's represent a significant departure from the typical (adversarial) nature of the judicial system. Similarly, the strengths perspective emerged in social work practice as an alternative to traditional models of intervention—which focused on deficits—toward a holistic appreciation of client growth and potential. Although there appears to be self-evident overlap between FDCs and the strengths perspective, prior literature has yet to explore that conceptual relationship. The purpose of this paper is to analyze the FDC model from the perspective of strengths

based approaches to helping. We argue that this relatively new approach to child welfare service delivery can offer a strengths-focused experience. Further, because the FDC model is a central focus, this work prompts the reader to review and consider traditional forms of jurisprudence and the impact this system has in the lives of service recipients.

In order to answer the question “what makes a family drug court?” we provide discussion of criminal drug courts as well as the legal theory underlying this alternative model of child welfare case disposition. In addition, we qualitatively organized the core characteristics of family drug courts into five hallmark features to effectuate our strengths analysis.

## **Background**

### **Family Drug Courts**

Family drug courts arose in response to the increase numbers of substance dependent parents entering the child welfare system in the early 1990s (McGee, 1997). Research shows that reunification likelihood and stability is worse for families with substance abuse (Green, et al., 2007; Brook & McDonald, 2007). The goal of family drug courts, therefore, is to utilize the drug court model to improve outcomes for substance-involved families in the child welfare system (Center for Substance Abuse Treatment, 2004). Three related influences are central to the understanding of FDCs: theories of comprehensive law, criminal drug court history, and the emergence of the FDC model.

### **Comprehensive Law**

The comprehensive law movement posits that legal and related procedural matters should optimize human well-being (as long as individual rights are not sacrificed in the process), and that judicial processes can include broader considerations such as values, resources, psychological dynamics, and other non-legal factors (Daicoff, 2006). Comprehensive law encompasses many alternative legal philosophies and practices, including collaborative law, creative problem solving, holistic justice, procedural justice, and transformative mediation (Daicoff, 2006). Frequently, scholars suggest that the philosophical underpinnings of FDCs include therapeutic jurisprudence and restorative justice—two additional “vectors in the comprehensive law movement” (Hora, 2002, p. 1472). Therapeutic jurisprudence is “the use of social science to study the extent to which a legal rule or practice promotes the psychological and physical well-being of the people it affects” (Slobogin, 1995, p. 196). Therapeutic jurisprudence recognizes that the courts are a component to the social fabric that contributes to an individual’s experience in society

and “regards the law as a social force that produces behaviors and consequences” (Wexler, *n.d.*; Hora, 2002, p.1471). Therapeutic jurisprudence asserts that a court, including its rules and procedures, is not just a neutral forum for deciding issues of law, but that it has the capacity to therapeutically affect involved parties.

Restorative justice is an approach to justice that emphasizes repairing harm that criminal behavior causes (Van Wormer, 2002). Reisig (1998) highlights both the drug court model and classic examples of restorative justice like mediation as preferable alternatives to punitive measures that often fail to reduce crime or provide restitution to victims despite their great economic and societal cost (Reisig, 1998). Justice in this context is understood as the reparation of harm, and restoration of balance between the perpetrator and the victim (Clamp & Doak, 2012). The elements and mechanisms of restorative justice are widely defined and conceptualized among legal scholars. In a child welfare case, the harm is done to a child by their parent. However the “punishment” for breaking child abuse laws (such as terminating parental rights), may also cause further psychological harm to the victim/child (Bass, Shields, & Behrman, 2004). Further, the intervention related to child welfare service receipt, while necessary for ensuring child safety, does not occur without risk of iatrogenic harm (Doyle, 2007; Friedman, 2005). Restorative justice seeks to restore balance between child and parent, and emphasizes the process by which that occurs. Unlike traditional courts, in FDCs, the parent’s process and progress through the program is closely monitored, and focused on rehabilitation and long-term recovery. In keeping with restorative justice, the ideal outcome to a FDC case is to aid the parent in achieving sobriety and then expediently restoring the child safely to their parent’s custody. The parent assumes responsibility for the harm done, and seeks to provide a safe and stable home for their child in order to repair the harm. Also in keeping with restorative justice, at a FDC this is achieved through closely supervised service provision, rather than harsh punitive measures. If carried out successfully, completing a FDC program achieves justice using the forum of the judicial system to facilitate recovery, and in turn restoring balance between the parent and child.

### **Criminal Drug Courts**

By the end of the 1980s, the collision of harsher drug policies in the US and greater availability of more addictive drugs (i.e. crack cocaine) resulted in an overburdened criminal justice system. Prison populations rose significantly as drug laws required that convicts, often drug addicted convicts, serve time (Blumstein & Beck, 1999). Upon release, and often

without treatment, the addiction prone individual would predictably return to drug use and ultimately return to the system. In 1989 in Dade County, Florida—where thousands of drug arrests were made each year—Judge Herbert M. Klein noted the flaws in the crime and punishment approach to drug offenses. He “reasoned that investing a year of comprehensive treatment coupled with close surveillance in these typical [drug] cases would pay off in the long run with reduced costs to the policy, courts, and jails as more drug users kicked the habit” (Finn & Newlyn, 1993, p. 268). That same year the first criminal drug court was implemented in Dade County based on Judge Klein’s conclusions. This drug court was unprecedented, and lacked a formal theoretical framework upon which to rely (Hora, 2002). The first drug court program called its approach a “carrot and stick”, where the opportunity to avoid incarceration through substance abuse treatment completion was held in front of the defendant (Finn & Newlyn, 1992). Other novel features of these courts were the collaborative problem-solving efforts, common sense approach, and informal milieu (Hora, 2002).

Drug courts quickly caught the attention of jurisdictions across the country and programs similar to Dade County’s arose elsewhere. The National Association of Drug Court Professionals (NADCP) was founded in 1994 and by 1999, there were 492 drug courts in the US. In mid-2012, there were 2,734 drug courts operating in every state (National Assoc. of Drug Court Professionals, *n.d.*). One of the early NADCP projects was Publication of the 10 key components of drug courts was one of the early NADCP projects. These components include the practices which differentiate criminal drug courts from traditional courts’ handling of cases, such as integrating drug treatment services with judicial system case process, and monitoring abstinence with frequent urinalysis (National Assoc. of Drug Court Professionals, 2004). Although drug courts faced some opposition, research on these courts suggests that drug courts achieve, on average, an 8-26% decrease in recidivism rates (Marlowe, 2010). According to Marlowe, the best drug courts reduce crime by 35-40% (citing Lowencamp, et al., 2005). The most effective drug courts adhere to the 10 key components and serve high-risk, high-need offenders (Marlowe, 2010).

Due to the success of drug courts with nonviolent drug offenders, the drug court model has been expanded to other populations, including juveniles and DWI offenders (Mitchell, Wilson, Eggers, & MacKenzie, 2012). Five years after the first drug court started, due to an increase in substance-involved mothers facing abuse and neglect charges, Judge

Charles M. McGee applied the drug court model to his dependency docket (McGee, 1997). The family drug court was born.

### **The FDC Model**

Family drug courts arose from the ground up, in response to increasing prevalence of drug-involved parents in the child welfare system. Because these courts are inductive, functional, and in large part geared toward the needs of the served population, few authoritative texts exist that describe the archetypal characteristics of a family drug court. Regardless of locality, however, the policy-driven goal of all family drug courts is the same: to increase the likelihood that children who are in the child welfare system because of parental substance abuse will be permanently placed in a timely manner (Center for Substance Abuse Treatment, 2004; Choi, 2012). Preference goes to reunifying the child with their sober parent, although these courts also focus on timely termination of parental rights and subsequent adoption if their parent is unable or unwilling to correct conditions (Pach, 2009). The 10 key components of criminal drug courts do provide a starting point for understanding how FDCs reach this goal. Additionally, the growing body of literature on FDCs elucidates many common elements. For the purposes of this analysis, the following includes a brief summary of frequently noted features of FDCs.

The 2004 Bureau of Justice Assistance monograph on FDCs was the first of its kind. Based on a two-day focus group with drug court professionals, the publication set forth a “model-in-progress” (Center for Substance Abuse Treatment, 2004, p. 4), as well as the mission and goals, of family drug courts. The common characteristics of the early FDCs identified in this paper include elements of criminal drug court key components, such as commitment to tracking and measurement of program outcomes. FDCs also incorporate the criminal drug court key component of striving to work as a collaborative, non-adversarial team supported by cross training. However the burgeoning FDC model incorporated additional practices which reflect the child welfare setting. These include: integrating a focus on children’s permanency, safety and well-being with the needs of the parents; promptly involving parents in comprehensive services supervised by the FDC; adopting a holistic approach to strengthening family function; utilizing individualized case planning based on comprehensive assessment; ensuring legal rights, advocacy, and confidentiality for parents and children; and operating within applicable policy mandates (Center for Substance Abuse Treatment, 2004, p. 12). These characteristics reflected the practices at the pioneering FDCs; the focus groups convened in 1999, just four years

after the first FDC was established. Still, the findings from this early work have proved enduring and further writing on these forms of alternative child welfare courts has remained largely theoretically consistent.

Judge Pach (2009) substantially contributed to the conceptual literature on FDCs. Judge Pach's work, which her own experience developing and presiding over a FDC in New York informed, reviewed operating manuals for fourteen FDCs from across the US. It addressed commonalities and divergences in FDC practices, and also articulated common operational issues such as timing of cases into court, calendaring practices, and the use of incentives and sanctions (Pach, 2009).

Important to the present analysis, Judge Pach noted the many similarities across FDCs as well. Specifically, she identified the following common features: commitment and participation from community stakeholders; utilization of interdisciplinary teams utilizing a non-adversarial approach in the courtroom; compliance with policy time constraints; use of phases, incentives and sanctions to mark client progression (or lack thereof); specialized training on the course and nature of substance abuse; extensive case management, individualized service plans that include extended family; significant linkages to comprehensive community services; and carefully monitored oversight related to parents' participation in FDC activities. Judge Pach's article toadied in furthering national understanding of family drug courts by highlighting areas of consensus, as well as the unanswered questions regarding these courts. This piece also showcased the interest in FDCs emanating from the bench up.

Despite the growing number of FDCs across the country, a federal office only recently published a subsequent manuscript regarding core components of family drug courts. The Office of Juvenile Justice Delinquency Prevention (OJJDP)'s document, "Guidance to States: Recommendations for Developing Family Drug Court Guidelines" focuses on planning, implementing and sustaining a FDC. This document extends earlier work in that it adds characteristics of family drug courts not noted in the literature cited above. Due to its complexity and length, a detailed review of the OJJDP document is beyond the scope of this paper. But as an example, two of the ten recommendations from the OJJDP are related to the importance of sharing information and knowledge across systems (Young, Breitenbucher, & Pfeifer, 2013); features that had not been emphasized in earlier FDC scholarship. On the other hand, by including recommendations that mirror prior work—for example to develop interagency partnerships, address the needs of parent and child, and

emphasize early assessment—the OJJDP document underscores those features which are viewed as critical to best practices within a FDC.

### **Hallmark features of FDCs**

From review of the two federal publications—BJA (2004) and OJJDP (2013), as well as other empirical and conceptual pieces on family drug courts as cited herein, the present authors qualitatively organized the common characteristics into five hallmark features. As noted in prior FDC manuscripts, the 10 key components of drug courts are incomplete for describing and defining family drug courts (e.g., Center for Substance Abuse Treatment, 2004; Young, Breitenbucher, & Pfeifer, 2013). Therefore, these five hallmark features are our attempt to describe the “key” elements of family drug courts. We do not intend to present these hallmark features in contradiction to the 10 key components of drug courts. Rather, in order to analyze FDCs using the strengths perspective, we felt obliged to provide greater qualitative structure to the model. With this in mind, these five hallmark features of family drug courts are:

1) Underpinnings in comprehensive law. According to Daicoff (2006), the comprehensive law approach differentiates itself from traditional jurisprudence in two ways: 1) there exists a utilitarian goal of maximizing well-being of everyone involved in a legal matter, and 2) the legal focus is expanded beyond “strict legal rights, responsibilities, duties, obligations, and entitlements” (p. 5). Family drug courts wholly comply with this two-fold prescription. For example, at a general level, the non-adversarial approach both maximizes well-being of involved parties by problem-solving rather than arguing, and expands the legal focus beyond the strict obligations of the attorneys to their clients, while operating within the mandates of child welfare policy (Center for Substance Abuse Treatment, 2004). In the child welfare context, underpinnings in comprehensive law also include the holistic approach to strengthening family functioning, as well as the legal balancing act which occurs when these courts ensure the legal rights, advocacy and confidentiality for children and parents. Furthermore, therapeutic jurisprudence specifically incorporates social science research into the picture. Family drug courts, honoring this suggestion, insist on ongoing monitoring and evaluation to measure program effectiveness (Center for Substance Abuse Treatment, 2004).

2) Interdisciplinary team approach. This incorporates interdisciplinary training to court team members; brief meetings prior to each hearing; intensive judicial and team involvement; continuing interdisciplinary education; coordinated strategy regarding a FDC

response to compliance; reliance on judicial leadership; and cross-training to enable a collaboration (Young, Breitenbucher, & Pfeifer, 2013). In a FDC, the team likely includes child welfare workers, CASA advocates, a children's attorney, and other children's service providers.

3) Higher intensity court experience. This feature includes the courts' emphasis on quickly identifying eligible participants; holding regular, frequent court hearings; explicating very clear timelines and step-wise progression through the program; using rewards and sanctions for behavior; monitoring abstinence with frequent urinalyses; and ensuring ongoing judicial interaction with each FDC participant (Young, Breitenbucher, & Pfeifer, 2013). In the child welfare context, this has implications for how quickly after case initiation a parent may be permitted to spend time with, or move toward temporary reunification with their child because frequent hearings also provides the team with insight into a parents potential deterioration of progress. The team is also well-positioned to adjust parenting interaction to ensure child safety and provide venues for support.

4) Extensive collaboration with community service providers. This means the integration of alcohol and other drug treatment with case processing; providing a continuum of substance abuse treatment and rehabilitation services, as well as immediate referral and court ordered access to substance abuse treatment; facilitating collaborative wraparound services; and forging partnerships with drug courts, public agencies, community organizations, and local support (Young, Breitenbucher, & Pfeifer, 2013). Collaboration with community resources is arguably more important in a FDC than a criminal drug court because the needs of the family are more complex (Pach, 2008), and therefore the cumulative risk within these families may be much higher than that faced by an individual. In a FDC, this collaboration may include service providers as well as foster care providers, child welfare agencies, and safety net organizations.

5) Integrated focus on the well-being and safety of the whole family (Center for Substance Abuse Treatment, 2004). This final feature most clearly sets apart criminal drug courts from family drug courts. In a criminal drug court, the client is the defendant, the treatment services are focused on the substance abusing adult, and therefore the objectives are sobriety and reduced recidivism (Center for Substance Abuse Treatment, 2004). On the other hand, in a family drug court the clients are both the parent and child, the problems to be solved are complex and interrelated, the treatment services must be directed to, and relevant for, the individuals and whole family, and proceedings are constrained by child welfare policy

timeframes (Bureau of Justice Assistance, 2004). This hallmark feature is a common element that travels throughout all aspects of a family drug court. Specifically, this encompasses the individualized case planning; integrated focus on permanency, safety, welfare of abused and neglected children with needs of parents; as well as the emphasis on weighing reunification with the developmental importance of safety and permanency.

While a court can have all of these five features, it can also operate and practice on a day-to-day basis in a manner that is different from another FDC. For example, Boles, et al. (2007) describe three FDC formats: integrated, dual track, and parallel (Boles, Young, Moore, & DiPirro-Beard, 2007). These formats generally refer to how the court functions and what aspects of case processing the FDC judge addresses. To the extent that one judge hears the dependency and substance abuse treatment components simultaneously (the “one family, one judge”, integrated model) or not falls outside the scope of the features these authors have identified. However, they are important considerations when thinking about the day-to-day operations of FDCs and how these operations work functionally and in the life of the family, as well as the multi-disciplinary professionals who must prepare and attend hearings.

## **The Strengths Perspective**

### **History**

Although there is no one originator of the strengths perspective, a review of the work of Weick, Rapp, Sullivan, & Kisthardt (1989), Saleebey (1992, 2nd ed., 1997; 3rd ed., 2002; 4th ed., 2005; 5th ed., 2009; 2006), Kisthardt (1994), Rapp (1998), and Early and Glenmayer (2000) provides the reader with a comprehensive overview of the development of the perspective and the pathways through which strengths based practices have been articulated for contemporary practice. Saleebey (1996) suggested that strengths based approaches represent a shift in how clients, and their problems, are viewed. Some argue that this is not new, and the social work profession has historically been aligned with capacity building, maximizing client strengths, and a self-determination stance, and posit that the strengths perspective, as it is presented today, simply represents a fine-tuning of old concepts (Gray, 2011; McMillen, Morris & Sherraden, 2004, Waller & Yellow Bird, 2002). Critiques such as that provided by Staudt, Howard and Drake (2001) and Gray (2011) suggest that there is also a lack of evidence in support of the perspective as it is used to conduct practice.

While a full review of the philosophical underpinnings of the perspective is outside the scope of this work, these authors suggest that those cited above carefully articulate the basic tenets of the strengths perspective. As the importance of the use of evidence informed practices continues to move the field towards outcomes measurement, these philosophical underpinnings are put to the test. The call for more research into strengths based approaches has been heard, and the practices of FDCs, regardless of the adversarial nature of the system overall, are applicable. Of additional importance is the role that strengths based approaches to practice have had in the development of multiple interventions across several disciplines. As noted in McMillen, et al (2004), active work in the strengths perspective informed the development of client centered care, solution focused practices, capacity and asset building, family team decision making, and motivational enhancement strategies. Child welfare agencies and substance abuse treatment centers also routinely employed these strategies while working with families, so their applicability to the topic at hand is notable.

### **Principles**

Among those articulating and convening thought about the strengths perspective, the works of Saleebey provide a most comprehensive and inclusive view of the model. In his baseline (1992) work and with continued refinement in subsequent editions of this work, basic assumptions of strengths oriented practices are outlined as six principles (Saleebey, 2002). First, strengths are present in every individual, group, family and community—and it is the job of the helper to help to uncover those strengths when they are not obvious, and to cultivate ways to help these strengths facilitate endurance regarding the situation at hand. Second, while it is without doubt that trauma and its correlates are impactful in an injurious way, these injuries are also sources of resilience in the face of adversity. Third, strengths based approaches hold that the upper limits of and potential for client change are unknown—and the promise of tapping into growth potential requires that the practitioner not limit the client by thinking that the client's growth can only proceed to a certain point. Fourth, collaboration, reciprocity, and shared power and expertise characterize client worker interaction. Related to the notion of shared power and expertise, the fifth tenet to strengths based approaches is the acknowledgement that all environments have resources—and something can be offered to and gained from these resources. It is this tenet that strengths based approach critics have posited “glosses over” the social inequalities and structural inequities that are very palpable

factors in the lives of many social service participants (Gray, 2011). Finally, caring, caretaking and context are driving factors in professional work and development, and essential to individual and community well-being.

While there are many parallels between the strengths perspective and the family drug court model, most notable is that the model emphasizes a collaborative, non-adversarial approach in the courtroom; integration of, and partnerships with, extensive community resources; open and direct communication between court team members and clients, including judicial interaction with clients; and acquisition of protective factors and movement toward recovery for the whole family.

### **Strengths Perspective Analysis of Family Drug Courts**

Typically the strengths perspective is a therapeutic technique and is implemented in practice, one on one, between social worker and client. For example, strengths-based case management came to the fore after its inception in work with severely mentally ill clients (Saleebey, 1996). Although the strengths perspective incorporates the notion of community work, using the strengths perspective to analyze, essentially, a new system, will require a certain amount of extrapolation based on more narrowly focused, strengths writings. For the sake of clarity, each hallmark feature of family drug courts will be analyzed separately.

### ***Underpinnings in Comprehensive Law***

The comprehensive law movement is compatible with the strengths-perspective for many reasons. Both paradigms seek to improve the well-being of involved participants. In a strengths orientation, case planning involves consideration of the goals and desires of the client, and in a family drug court, clients can be involved in their own case planning as well (Young, Breitenbucher, & Pfeifer, 2013). Additionally, comprehensive law and the strengths perspective utilize a perspective that differs from the status quo. For example, the strengths perspective directs practitioner to consider the significance resilience after trauma, rather than focus on the irreparability of such a struggle. Similarly, FDCs utilize a recovery paradigm that views relapse as part of the recovery process, and sees such as experiences as hopeful rather than negative (Young, Breitenbucher & Pfeifer, 2013).

***Interdisciplinary Team Approach*** The interdisciplinary team approach utilized in family drug courts showcases strengths principles, including the importance of collaboration. The team approach is a key component

(Center for Substance Abuse Treatment, 2004) that differentiates it from its traditional counterpart. Also unlike traditional courts, family drug courts connect the three systems most commonly involved in the case: the courts, substance abuse treatment, and child welfare. Considered central to the effectiveness of the team approach is the development of common values, or a shared mission (Young, Breitenbucher & Pfeifer, 2013). The strengths perspective suggests that outcomes improve through working with the client, rather than against them, and using a collaborative framework (Saleebey, 2002). Since shared values is integral for effective collaboration (Green, Rockhill & Burrus, 2008), this hallmark feature reflects the collaborative essence of strengths orientation.

***Higher Intensity Court Experience*** As noted earlier, FDC participants experience a more intensive courtroom environment than if a traditional child welfare court adjudicated their case. For example, FDCs require frequent court appearances and UAs; increased contact with FDC personnel; and faster entry into, and greater court monitoring of, substance abuse treatment and other services (Young, Breitenbucher & Pfeifer, 2013). These activities reflect the strengths perspective because the level of investment that the FDC puts into its clients suggests greater hope, and belief in the potential of these clients. In a traditional court setting, where the standard is reasonable efforts toward reunification (Adoption and Safe Families Act of 1997), these elements of the strengths orientation are not present. In an FDC, however, the oft-relied-upon standard in FDCs is “active efforts”—a term borrowed from rulings on the Indian Child Welfare Act which means that “the State must make an affirmative effort to offer programs and services to facilitate reunification” (Andrews, 2001, p.87). Use of active efforts suggests an elevated importance placed on successful outcomes for these families.

***Extensive Collaboration with Community Service Providers*** In order to satisfy the active efforts standard, the court must build linkages with community service providers. This hallmark feature of the FDC model is also consistent with a strengths orientation because the strengths perspective relies on tapping into resources within the community (Saleebey, 2002). Rather than viewing a locality as barren, or local service providers as incapable of solving the clients’ problem, the strengths perspective shifts focus toward the abundance of resources within a community available to aid and empower clients. Family drug courts work with substance abuse treatment providers, child welfare workers, child development and adult education programs, and community recovery

resources in order to achieve this (Young, Breitenbucher & Pfeifer, 2013). Community collaboration in FDCs may even extend beyond the typically involved social service providers. In one jurisdiction known to these authors, the FDC worked with a local beauty school to provide hair styling to clients on their FDC graduation day.

***Integrated Focus on the Well-Being and Safety of the Whole Family***

As noted previously, unlike traditional dependency courts, where the well-being of the child is the only priority, the family drug court team attends to the needs and potential of both parent and child (Center for Substance Abuse Treatment, 2004). Where a traditional court focuses on correcting the parent, while the child spends time in foster care, FDCs seek to address the needs of parents and child (Young, Breitenbucher & Pfeifer, 2013). This element is consistent with the strengths perspective because the practice enlarges the scope of each case. The strengths orientation seeks to widen the focus from the problems and deficits of an individual, to the hopes, goals, internal and external resources and potential of a whole system. In the case of FDCs, these systems include the family, court, and community.

Despite the adversarial system in which it operates, as a whole, the FDC model is strengths-based. It is imperative to note, however, that an inherent struggle related to the deficit-focused nature of the system characterizes the child welfare system. Findings of child abuse or neglect presuppose the existence of child welfare practices, policies and laws that rest on the assumption that the child needs to be protected from abuse and/or neglect because abuse and neglect harm the child. That is, a problem, or deficit of the parent, opened the case. Thus a deficit-based model exists from the beginning of the case experience. This assumption, albeit seemingly quite obvious, belies the crux of the strengths perspective, which insists upon resilience, growth, hope, resourcefulness, goals, and empowerment. Therefore when we analyze family drug courts, we must keep an eye to the fact that we are still operating within an inherently deficit-based system.

A strengths analysis suggests that the case activities should emphasize strengths or capacities. That is not difficult to do in an examination of family drug courts. In these authors experience, the essence of the strengths perspective is palpable while sitting in the courtroom during a family drug court hearing. The judge, attorneys, child welfare workers and substance abuse counselors together as a team advocate for the families by focusing on growth, potential, achievement and, even, love. The team (through sustained intense interaction and the

establishment of relationship with the court participants) conveys understanding to the participant that demonstrates that they are a unique and respected individual. The FDC team considers sobriety, stability and reunification attainable for every FDC client, regardless of education, socioeconomic status, and number of prior attempts at sobriety or state of deterioration upon entering the court. The FDC offers wraparound services to clients, utilizing resources from the community to afford the whole family the opportunity to reach their fullest potential. In sum, family drug courts exemplify the strengths perspective in the many ways outlined in this paper.

### **Empirical Support for Family Drug Courts**

Although family drug courts have existed in this country for nearly twenty years, research into their effectiveness is still developing. Much of the extant research is descriptive regarding the features of the family drug court under investigation. In addition to the hallmark characteristics, other services or program components are often offered program components, and these other services become the focus of study. Despite being a small body of work examining somewhat varying FDCs, this early research is promising and points to these strengths-based courts as superior to their traditional counterpart for handling child abuse and neglect cases involving parental substance abuse issues.

The first published study to evaluate reunification was Ashford's (2004) small scale ( $n = 120$ ) quasi-experimental evaluation of the family drug court in Pima County, Arizona. In this FDC, the family court only oversaw the parental substance abuse component. In keeping with the hallmark features, the Pima County program utilized validated substance abuse assessments, provided treatment assistance and intensive case management services to parents, held frequent hearings, used specialized case plans, structured phases with rewards and sanctions, required frequent urinalyses, and openly communicated with service providers whilst maintaining client confidentiality. This study did not find a significant difference between groups regarding reunification rate, but did find that significantly more FDC children found permanent placements within twelve months than the treatment as usual group (79% vs. 49%), and that the FDC children had a shorter road to permanency (8.4 months vs. 11.4 months) (Ashford, 2004).

The first larger study ( $n = 451$ ) was initiated a few years later by an independent research team evaluating four FDCs across the country: San Diego County, California; Santa Clara County, California; Suffolk County, New York; and Washoe County, Nevada. San Diego County offered a

two-tiered program for substance affected families in the dependency courts where only the more intractable cases enter the FDC. The first tier project also adhered to many of the hallmark FDC features, except the second tier used higher intensity and monitoring. Santa Clara County, California also convened a two-tiered FDC. In addition to the hallmark features, Santa Clara County used program graduates as mentors, and worked with a Head Start program providing services and parenting classes to FDC parents. Suffolk County, New York operated an integrated model FDC that provided a traditional family drug court experience, as well as additional support from CASA workers. The Washoe County, Nevada FDC was the first FDC that generally adhered to the hallmark features. In addition, the court worked with foster grandparents as mentors to FDC clients. Results from phase one found that the FDC participants reached permanency faster across all four sites, were more likely to reunify than comparison cases at one court, and were less likely to have parental rights terminated across all sites (Worcel, Furrer, Green, & Rhodes, 2006). The following year, the authors reported the second and final phase of their research. The researchers found that, overall, FDC children were more likely to reunify than comparison cases (43% vs. 32%). Evaluating sites separately, the researchers found that FDC children were more likely to reunify at three of the four sites, and spent less time in out of home care at two sites (Worcel, Furrer, Burrus, & Finigan, 2007).

The same researchers published findings from a large scale ( $n = 1,521$ ) quasi-experimental study of three FDCs in a refereed journal the following year (Worcel, Furrer, Green, Burrus, & Finigan, 2008). The results suggested that FDC children spent significantly less time in foster care (38 vs. 158 days), but that comparison group children reached permanency faster. Their logistic regression model suggested that FDC children were more likely to reunify with their parents than comparison children.

Despite these mixed outcomes, other studies have had more positive findings. Green, et al. (2007) published results from a quasi-experimental study evaluating four FDC sites across the country (the same four evaluated by Worcel, et al., 2006, 2007). These authors found that FDC children achieved permanent placement more quickly (360 vs. 435 days) and were more likely to reunify (57% vs. 44%). Researchers evaluating a Rhode Island FDC that focused on drug-exposed infants found that the average time to reunification was significantly faster for families in the FDC. Within the first three months, 73% of FDC infants were reunited versus 39% of comparison infants (Twomey, Caldwell,

Soave, Fontaine, & Lester, 2010). Burrus, Mackin, and Finigan (2011) have reported one of the more rigorous evaluations of FDCs, examining a family drug court located in Baltimore City, Maryland. The site aligns with the hallmark features in its use of “judicial monitoring, team support, comprehensive case management, and immediate access to substance abuse treatment” (Burrus, et al., 2011, p. 4). The study found that FDC children spent significantly less time in foster care (252 vs. 346 days) and were significantly more likely to reunify (70% vs. 45%) than a matched comparison group (Burrus, et al., 2011).

More recently, Chuang, Moore, Barrett, and Young’s (2012) rigorous study on the Hillsborough County, Florida FDC found that FDC participation significantly increased the likelihood of reunification (53% vs. 42%), and decreased the odds that the child would reenter foster care within twelve months (2% vs. 12%). The Hillsborough County FDC included the hallmark features, such as a collaborative, multidisciplinary team that “works together to provide a holistic treatment approach” (p. 1897), utilized validated assessment instruments, ordered substance abuse treatment and frequent random urinalysis, held frequent court hearings, and offered wraparound services. These authors found that after controlling for demographic and background variables, FDC parents were twice as likely to reunify with their children than comparison parents (Chuang, Moore, Barrett, & Young, 2012).

Bruns, Pullmann, Weathers, Wirschem, and Murphy (2012) reexamined a Washington State FDC that “adhered to typical components of the FTDC model as described in prior reports and research articles” (p. 220). The researchers found that FDC children spent significantly less time on out-of-home placement (476 vs. 689 days), ended involvement with the child welfare system sooner (718 vs. 813 days), and were more likely to reunify (55% vs. 29%) than a propensity score matched comparison group (Bruns, et al., 2012).

While these studies all contain certain methodological weaknesses that prevent the research from drawing causal conclusions, the continually growing number of rigorous quasi-experimental studies on family drug courts does lend support to their effectiveness. Further research needs to investigate the component parts to family drug courts, including whether adherence to the five hallmark features does improve outcomes as these findings suggest. Relevant to this strengths analysis, it is clear from this research that the strengths-oriented elements have positively impacted empirical outcomes.

## Discussion

One of the goals identified in the earliest authoritative text on family drug courts was “to respond to family issues using a strength-based approach” (Center for Substance Abuse Treatment, 2004, p. 7). The strengths orientation is present throughout the family drug court model, and results in more effective case processing. Conversely, traditional court processing frequently involves twice yearly status hearings, and non-standardized communication between case workers, treatment providers, and other community services. There is also wide variance in service experiences for child welfare clients. The worker often makes referrals to community services and then expects the client to access and utilization the service.. There is significant variance among child welfare involved families receiving services based on worker, judge, timing, and availability of resources, parental legal representation, and many other factors. Given that foster care experiences have the potential to further traumatize an already stressed child (Bass et al., 2004), and the iatrogenic nature of child welfare involvement in general (Friedman, 2005); the present authors would argue that the higher intensity, more uniform, strengths oriented family drug courts appear theoretically better equipped to handle the challenges that accompany substance affected families in the child welfare system. As was addressed in the last section, the emerging empirical evidence supports the use of family drug courts for these cases.

Further, we would argue that (since there is converging evidence in support of the use of these courts) readers consider the nature of reasonable efforts for substance abuse affected families. The notion of “reasonable efforts” directs attention to the fact that laws in all US states require that the child welfare service system make efforts to correct the conditions that led the family to the receipt of services (Child Welfare Information Gateway, 2013). Unlike some other cases of abuse and neglect, in this instance, the caregiver may be afflicted with varying degrees of a chronic condition (for which they may or may not have received adequate assessment and/or treatment) that has presumably impacted their ability to safely and adequately care for their children. It seems obvious to these authors that, if the condition does exist, and child safety and well-being are resultantly jeopardized, then reasonable efforts should include addressing the issues related to the condition, as well as the other concurrent issues that can impede progress in the child welfare arena. FDCs represent one way of satisfying this requirement and documenting reasonable efforts. Further, within the context of the court, wraparound services that are in the best long-term interest of the child are also assured. From a service provision standpoint, FDC participation

assures a certain (high) level of service involvement due to the frequency of participation. Whether or not this increased service intensity is what is leading to improved outcomes specifically, or it is some other aspect or aspects of court involvement that lead to better outcomes has yet to be determined.

### **Conclusion**

Prior literature and scholarship on family drug courts had not yet considered the compatibility between this new model for adjudicating child welfare cases and the strengths perspective. This paper sought to define the hallmark features of FDCs, and evaluate their consistency with strengths principles. By viewing the FDC through the lens of the strengths perspective, the reader can see that traditional notions and conceptions of the courtroom as an adversarial venue for punishment can be replaced with more therapeutic vision. In many ways, then, the FDC becomes the venue for reparative public service system interactions and social work practice with substance affected families.

The strengths perspective offered a paradigm shift within social work practice. Similarly, family drug courts offer a novel approach to adjudicating child welfare cases involving society's most vulnerable. Because social workers have long collaborated with family drug court teams, either through direct service on a team, or in a community service agency, ensuring compatibility between the strengths perspective and these courts is important. As evidenced from the above analysis and literature review, we may conclude that there is, in fact, a fit between the strengths based approaches to practice and family drug courts.

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