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2016

## Giving Parents a Voice: A Case Study of a Family Treatment Drug Court Track in Lancaster County, Nebraska

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Heideman, Roger J.; Cole-Mossman, Jennie; Hoetger, Lori; and Hazen, Katherine, "Giving Parents a Voice: A Case Study of a Family Treatment Drug Court Track in Lancaster County, Nebraska" (2016). *Court Review: The Journal of the American Judges Association*. 582.

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# Giving Parents a Voice:

## A Case Study of a Family Treatment Drug Court Track in Lancaster County, Nebraska

Roger J. Heideman, Jennie Cole-Mossman, Lori Hoetger & Katherine Hazen

Family drug courts (FDCs) were first established in 1994 as one judge's response to substance abuse in the majority of his dependency-court cases.<sup>1</sup> Since then, hundreds of similar specialized dependency courts have been established around the country. FDCs are based on an adult-drug-court model established in response to the apparent revolving door of drug offenders in criminal court. Drug courts and other problem-solving courts seek to identify the social and psychological dysfunction that brought the individuals before the court. Problem-solving-court judges adopt therapeutic jurisprudence to assess the dysfunction, prescribe appropriate services, and provide support, encouragement, and accountability. Procedural justice, characterized by judicial leadership and participant autonomy, is one of the psychological tools used to successfully adopt therapeutic jurisprudence. Successful problem-solving courts rely on judicial leadership for the network of providers and to engage with the participants. Additionally, the voluntary nature of problem-solving courts ensures participants are given autonomy and allowed to exercise voice and control in the process.

In this article, we explore the successes and struggles of one family drug court, the Family Treatment Drug Court (FTDC) Track, in Lancaster County, Nebraska. The FTDC Track developed out of a voluntary FTDC initiated by a Lancaster County juvenile-court judge with grant funding. Funding from Project Safe Start—Nebraska was used to train court personnel (including a Department of Health and Human Services case manager dedicated to the FTDC), provide Child Parent Psychotherapy to families, and ensure parents on the Track were able to get immediate treatment placement through an agreement made with a local residential treatment facility. At the termination of the grant, the Lancaster County FTDC no longer had any incentive to offer participants, and the court had difficulty enrolling parents. Judge Roger Heideman, the first author and a Lancaster County juvenile-court judge, decided to create a mandatory Family Treatment Drug Court Track. Any families with allegations of child abuse or neglect related to substance use or abuse by a parent are assigned to Judge Heideman's docket, ordered to participate in the FTDC Track in the dispositional order, and receive specialized services, more frequent

meetings, and more supervision and accountability.<sup>2</sup>

An independent evaluation, including case-file reviews and parent interviews, demonstrates that the mandatory nature of the FTDC Track has not negatively impacted perceptions of fairness. Forty-two cases have been assigned to the FTDC Track since it began in early 2014. Parents report that they feel the process of getting their children returned to them is fair and that they can be open and honest in team meetings. Additionally, parents on the FTDC Track report that they receive praise from the judge more than do families not on the Track. Though the FTDC Track is mandatory, parents on the FTDC Track indicate that they feel they have a voice in the dependency-court process.

This article will first discuss the goals and tools of problem-solving courts, specifically the role of the judge in implementing therapeutic jurisprudence through the use of procedural-justice principles. Next, it will discuss the development of family drug courts and how the FTDC Track was started and developed in Lancaster County. The goals and methods of the FTDC Track will be presented, along with the results of an ongoing evaluation of the FTDC Track. Finally, the article will conclude with an in-depth discussion of the evolution of the FTDC Track, emphasizing the issues faced, solutions implemented, and lessons learned. Though problem-solving courts are usually voluntary, the experience in the FTDC Track demonstrates that there are alternative ways to give participants voice in a mandatory program.

### PROCEDURAL JUSTICE IN PROBLEM-SOLVING COURTS

Problem-solving courts seek to identify and address the psychological and social issues that bring individuals before the court, including drug addiction, mental illness, and domestic violence. Juvenile court, first established in Illinois in 1899,<sup>3</sup> is often considered the first problem-solving court.<sup>4</sup> Each day, dependency-court judges consider issues of permanency case by case, based on the issues facing each family. Judges consider whether parents are suffering from mental illness, substance abuse, or other relevant issues and determine what will best address those needs, including treatment, vocational training, parenting classes, and other rehabilitative services. More

### Footnotes

1. José B. Ashford, *Comparing the Effects of Judicial Versus Child Protective Service Relationships on Parental Attitudes in the Juvenile Dependency Process*, 16 RES. SOC. WORK PRAC. 582 (2006).
2. The court administrator examines all petitions filed in Lancaster County Juvenile Court for allegations of child abuse and neglect that include substance abuse by a parent. This may include an allegation that the child is placed at risk of harm due to the parent's substance abuse or information included in a supporting affidavit that indicates a parent's substance abuse contributed to the allegations.
3. Marvin Ventrell, *Evolution of the Dependency Component of the Juvenile Court*, 49 JUV. & FAM. CT. J. 17, 17 (1998).
4. Cindy S. Lederman, *The Marriage of Science and the Law in Child Welfare Cases*, in PROBLEM SOLVING COURTS 23, 25 (Richard L. Wiener & Eve M. Brank eds., 2013).

recently, judges in adult court have also looked beyond the traditional legal goals of the criminal-justice system to address the revolving door of nonviolent offenses.<sup>5</sup> Drug courts,<sup>6</sup> mental-health courts,<sup>7</sup> and domestic-violence courts<sup>8</sup> seeking to address this concern have been established across the country. Specialized dependency courts have also begun to focus on the specific issues facing families, establishing family drug courts and family domestic-violence courts.

Like traditional dependency courts, problem-solving courts and specialized dependency courts should be based on the principles of therapeutic jurisprudence to address the psychological and social causes of crime.<sup>9</sup> Therapeutic jurisprudence is a change in jurisprudential practice that incorporates social science into the legal system and recognizes the (often negative) impact the law and legal actors can have on an individual.<sup>10</sup> The judge acts as a therapeutic agent by assessing the social and psychological malfunctions of the defendant, prescribing services to address those malfunctions, and providing social support through listening and accountability to promote compliance.<sup>11</sup> Therapeutic jurisprudence provides judges insight into what they need to know and do to be successful through psychological principles.

Procedural justice is among the tools and principles available for successful application of therapeutic jurisprudence.<sup>12</sup> As discussed in this article, “procedural justice” refers to the evaluation of formal decision-making procedures as fair and unbiased.<sup>13</sup> The fair-process effect demonstrates that when individuals are allowed to present their side of the story, they are more satisfied with the outcome and the experience.<sup>14</sup> Fair process has been operationalized in the research as providing participants the opportunity to express their preferences.<sup>15</sup> Through a variety of mechanisms, evaluations of fair process and satisfaction with the process predict compliance with the outcome, such as the court order.<sup>16</sup> As a tool of therapeutic

jurisprudence, judges in problem-solving courts employ the principles of procedural justice by actively listening to participants’ needs and concerns.<sup>17</sup>

Judicial leadership is key to successfully implementing problem-solving courts with therapeutic jurisprudence and procedural justice.<sup>18</sup> Participants receive signals related to procedural justice from the judge. The judge’s therapeutic actions, including active listening, oversight, and engagement, communicate to participants that their preferences and needs are heard, valued, and respected, and that someone else cares about the outcome of their case.<sup>19</sup> When judges take the time to listen to the court participants’ successes and struggles, as problem-solving-court judges do, participants experience and evaluate the whole process differently, as more just and fair. The just-and-fair evaluation increases the likelihood the participants will engage in services, comply with court orders, and be successfully discharged from the court.

Traditionally, respect for participant autonomy and expression of preferences are considered central to ensuring therapeutic jurisprudence and procedural justice. Problem-solving-court judges should seek to avoid paternalism and allow participants to decide for themselves if they want treatment and the other benefits that go along with participation or if they would rather address the charges in a traditional court.<sup>20</sup> The voluntary nature of problem-solving courts is thought to provide for self-determination and choice, which are central to psychological health.<sup>21</sup> Additionally, it allows participants to

**Judicial leadership is key to successfully implementing problem-solving courts with therapeutic jurisprudence and procedural justice.**

5. Richard L. Wiener, Bruce J. Winick, Leah Skovran Georges & Anthony Castro, *A Testable Theory of Problem Solving Courts: Avoiding Past Empirical and Legal Failures*, 33 INT’L J. L. & PSYCHIATRY 417, 419-20 (2010).

6. See Office of Justice Programs National Institute of Justice, *Drug Courts*, <http://www.nij.gov/topics/courts/drug-courts/pages/welcome.aspx>; David B. Wilson, Ojmarrah Mitchell & Doris L. Mackenzie, *A Systematic Review of Drug Court Effects on Recidivism*, 2 J. EXPERIMENTAL CRIMINOLOGY 459 (2006).

7. See THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, *MENTAL HEALTH COURT: A PRIMER FOR POLICYMAKERS AND PRACTITIONERS* (2008).

8. See Department of Justice National Institute of Justice, *Domestic Violence Courts*, <http://www.nij.gov/topics/courts/domestic-violence-courts/pages/welcome.aspx>.

9. See Bruce J. Winick, *Applying the Law Therapeutically in Domestic Violence Cases*, 69 UMKC L. REV. 33 (2000); Bruce J. Winick, *Therapeutic Jurisprudence and Problem Solving Courts*, 30 FORDHAM URB. L.J. 1055 (2003); Lederman, *supra* note 4.

10. Bruce J. Winick, *The Jurisprudence of Therapeutic Jurisprudence*, 3 PSYCHOL. PUB. POL’Y & L. 184, 185 (1997).

11. Winick, *supra* note 9, at 1066-89.

12. *Id.* at 1088-89.

13. Wiener et al., *supra* note 5, at 422.

14. John Thibaut & Laurens Walker, *A Theory of Procedure*, 66 CAL. L. REV. 541, 547-52 (1978); Tom R. Tyler & Robert Folger, *Distributional and Procedural Aspects of Satisfaction with Citizen-Police Encounters*, 1 BASIC APPL. SOC. PSYCHOL. 281 (1980).

15. Robert Folger, David Rosenfield, Janet Grove & Louise Corkran, *Effects of “Voice” and Peer Opinions on Responses to Inequity*, 37 J. PERS. SOC. PSYCHOL. 2253 (1979).

16. Norman G. Poythress, Joe Schumacher, Richard Wiener & Mary Murrin, *Procedural Justice Judgments of Alternative Procedures for Resolving Medical Malpractice Claims*, J. APPL. SOC. PSYCHOL. 1639 (1993); Norman G. Poythress, *Procedural Preferences, Perceptions of Fairness, and Compliance with Outcomes: A Study of Alternatives to the Standard Adversary Trial Procedures*, 18 LAW & HUM. BEHAV. 361 (1994).

17. Winick, *supra* note 9, at 1088-89.

18. Brian MacKenzie, *The Judge Is the Key Component: The Importance of Procedural Fairness in Drug-Treatment Courts*, 52 CT. REV. 8 (2016); Sophia I. Gatowski, Shirley A. Dobbin & Alicia Summers, *Exploring the Value-Added of Specialized Problem-Solving Court for Dependency Cases*, in PROBLEM SOLVING COURTS 33, 37-38 (Richard L. Wiener & Eve M. Brank eds., 2013).

19. See Wiener et al. *supra* note 5; Gatowski, *supra* note 18.

20. Winick, *supra* note 9, at 1071-78.

21. *Id.* at 1072.

**Problem-solving courts can help improve outcomes for vulnerable children involved in dependency cases.**

express their preferences or exercise voice and gives participants some process control, two of the central features of procedural justice. It is important for the psychosocial well-being of the participants and their perceptions of and engagement in the process that participants do not feel coerced into treatment. Problem-solving courts are thought to achieve the goals of

therapeutic jurisprudence and procedural justice in part through their voluntary nature.

Problem-solving courts generally aim to address a particular population or problem in the court system. One population that is particularly vulnerable is abused and neglected children. Problem-solving courts can help improve outcomes for vulnerable children involved in dependency cases. Family drug courts developed to address cases where children are removed from their parents' care due to substance-abuse issues.

#### **FAMILY DRUG COURTS**

Judge Charles McGee implemented the first family drug court in 1994 as a response to observing that a large majority of cases on his dependency-court docket involved substance abuse.<sup>22</sup> In the more than 20 years since then, over 300 jurisdictions have established such programs.<sup>23</sup> FDCs were adapted from the adult-criminal-drug-court model with an emphasis on individualized services and substance-abuse treatment.<sup>24</sup> The general FDC model stresses the importance of coordinating substance-abuse treatment with child protective services. Parents are presented with the option to voluntarily enroll in the FDC instead of participating in the traditional dependency-court docket. FDCs often involve more frequent hearings or meetings, escalating sanctions for infractions, and rewards for compliance and case progression.

An important aspect of FDCs is the relationship between the judge and the parents. In an FDC in Pima County, Arizona, the judge served a case-management function and was focused on providing parents with support in substance-abuse treatment. This may explain the findings that parents in the Pima County FDC perceived more trust and fairness in the judge than non-FDC parents perceived in their social worker.<sup>25</sup> These findings provide evidence that a judge highly involved in all aspects of the case can result in better perceptions of fairness by the parents.

For these reasons, Judge Linda Porter in Lancaster County, Nebraska, decided to implement an FDC with the aid of grants

from Project Safe Start—Nebraska and the Substance Abuse and Mental Health Services Administration (SAMHSA). The Project Safe Start grant, starting in 2010, intended to raise the bar for services for young children and their relationship with their parents, particularly in families with methamphetamine abuse. These grants enabled Judge Porter to establish a voluntary family-treatment drug court that followed the core tenets of family drug courts. The initial FTDC paid for Child Parent Psychotherapy, an evidence-based therapy that helps reestablish healthy parent-child relationships and was not paid for by Medicaid in Nebraska until more recently. In 2014, Judge Heideman assumed the role of the presiding judge of the FTDC. The families were provided with a specialized substance-abuse intake and a caseworker dedicated to the FTDC. In addition, families participated in monthly team meetings with the judge and more frequent review hearings than non-FTDC dependency cases.

The Lancaster County FTDC was entirely voluntary; parents who have substance abuse alleged in the petition were given the option of proceeding with the Lancaster County FTDC or with the traditional court system. Initially, the main incentive for participating in the Lancaster County FTDC was the immediate availability of treatment and payment for Child Parent Psychotherapy. A treatment provider in Lincoln, Nebraska, agreed to hold beds open for parents involved with the program. This meant that parents would be able to enter treatment immediately instead of having to be placed on a waiting list that could mean days or weeks before getting treatment. Once the grants that funded the initial Lancaster County FTDC ended, there was less incentive to participate in the additional hearings and team meetings. Very few parents chose to participate with the Lancaster County FTDC.<sup>26</sup>

Families were not asked why they refused to participate. However, one hypothesis suggested by the team in Lancaster County is that there was not enough of an incentive to participate. In adult criminal drug court, the incentives are clear and very different from those defendants can receive in adult criminal court (e.g., expungement of record). But the incentives in Lancaster County FTDC did not differ from those in traditional dependency court. Parents who comply with court orders and complete a case plan in both FTDC and traditional dependency court will work toward reunification with their children and case closure. There were no immediately obvious benefits to participating in the Lancaster County FTDC, other than potentially pleasing the judge.

In early 2014, Judge Heideman decided to change the Family Treatment Drug Court from a voluntary program to a mandatory one. The program would retain many of the other tenets of the FTDC, except parents would not be presented with the choice to participate. This raised several concerns

22. Ashford, *supra* note 1, at 582.

23. WEST HUDDLESTON & DOUGLAS B. MARLOWE, PAINTING THE CURRENT PICTURE: A NATIONAL REPORT ON DRUG COURTS AND OTHER PROBLEM SOLVING COURT PROGRAMS IN THE UNITED STATES (2011), <http://www.ndci.org/sites/default/files/nadcp/PCP%20Report%20FINAL.PDF>

24. Meghan M. Wheeler & Carson L. Fox, Jr., *Family Dependency*

*Treatment Court: Applying the Drug Court Model in Child Maltreatment Cases*, 5 DRUG CT. PRAC. FACT SHEET 1 (2006).

25. Ashford, *supra* note 1, at 588.

26. Other studies on family-treatment drug courts report a refusal rate of approximately 56%. José B. Ashford, *Treating Substance-Abusing Parents: A Study of the Pima County Family Drug Court Approach*, 55 JUV. & FAM. CT. J. 27, 31 (2004).

about the program. For one, it was possible parents would be resistant to a mandatory track that included elements additional to the traditional dependency court. Also, the team was concerned that making the FTDC mandatory would fundamentally change the effectiveness of the program. The team decided to conduct an evaluation of the new program to determine if these concerns were warranted.

### **FAMILY TREATMENT DRUG COURT TRACK**

The new program was renamed the Family Treatment Drug Court Track to reflect its mandatory nature. The FTDC Track was officially implemented in January 2014. The main goals of the FTDC Track include: establish a network of evidence-based service providers who have experience with substance abuse and can adequately serve families; provide ongoing support to parents; monitor families' growth and progress and acknowledge positive steps with praise; allow parents to assess their own strengths, weaknesses, and progress throughout the Track; and provide services for children to ensure healthy emotional and physical development through evidence-based practices. The main components of the FTDC Track are identification and selection of families, monthly team meetings, emergency team meetings as needed, 90-day review hearings, specialized trauma-informed substance-abuse and parenting services, and timely implementation of corrective measures.

#### ***Identification and Selection of Families***

As stated above, the FTDC Track is mandatory for eligible families. The primary way families are identified as eligible for the FTDC Track is if parental substance abuse is identified in the affidavit supporting the removal of the children from the parents' care. This could include individuals who were on drugs or in possession of drugs while caring for their child or whose child tested positive for drugs at birth. These families are automatically placed on Judge Heideman's docket. Families are also identified as eligible if parental substance abuse is identified in the initial investigation by Child Protective Services or if parental substance abuse is identified following adjudication. All eligible families are placed on or transferred to Judge Heideman's docket. The only exception is if the family has had a prior child-dependency-court case with a different juvenile-court judge; these families remain with their initial judge unless that judge determines the FTDC Track is a better option for the family. It is not known how many families qualify for the FTDC Track but remain with another judge.

#### ***Monthly Team Meetings and Emergency Team Meetings***

Each family participates in a monthly team meeting that includes the caseworker, parents, parents' attorneys, guardian ad litem, county attorney, and any other interested party. The judge is not present for the first part of the team meeting. The caseworker leads the team meetings but involves and engages the parents as much as possible. For example, the caseworker asks the parents to report on their own progress in the case, state their self-reported sobriety date, and inform other parties how the children are doing. If there is an issue the parties come to agreement on, such as visitation, the parties can stipulate to changes in the rehabilitative plan.

Judge Heideman joins each team meeting for the last 10

minutes. He sits at the table with the parents and does not wear his judicial robes. The judge engages the parents, asking them for updates and how they feel the case is going. Importantly, he directly asks the parents for a self-assessment of their progress.

This allows parents to express their hopes and frustrations and

allows all parties to get a sense of how the parents are feeling about their own progress. The judge directly gives the parents praise or criticism based on their report. Throughout the case, the judge ensures that the parents are aware that everyone's goal is to have the children safely reunified with their parents.

In addition, any party is able to schedule an emergency team meeting to address concerning behaviors or new situations such as a discharge from treatment or loss of housing. This provides the ability to immediately get the parent back on track. Parties can address issues as they arise instead of waiting for future hearings. This prevents parents from deteriorating quickly.

#### ***90-Day Review Hearings***

In addition to the monthly team meetings, the families have formal review hearings every 90 days (or more frequently if necessary). More frequent review hearings have been held for issues such as a change in treatment needs or reported non-compliance with the case plan. These hearings are more structured than the team meetings. Judge Heideman presides from the bench, attorneys can call witnesses and raise objections, and parties introduce exhibits into evidence. The judge issues orders following the review hearings.

#### ***Specialized Substance-Abuse Services***

Case managers dedicated to the FTDC Track have familiarity with what services are available for people with a history of substance abuse. All recommendations the case managers submit to the court incorporate best practices for families with parental substance abuse. Parents undergo recommended drug and alcohol treatment that may range from outpatient to long-term inpatient. All parents are also required to undergo random drug and alcohol testing. The preferred method of testing is a call-in method where the parent must call in to the designated line each morning to know if they are scheduled to test that day. The judge prefers this method, as it allows the parents to be accountable for their own testing.

If the family includes children under the age of five, the family also receives a Parent Child Interaction Assessment (sometimes referred to as a Safe Start Assessment) and Child Parent Psychotherapy if needed. The assessment and the therapy are designed to address any trauma or harm caused by the parental substance abuse and accompanying events that led to the removal of the child. This evidence-based therapy can help repair and enhance the parent-child relationship, promote the child's social and emotional development, and minimize the harmful developmental consequences that may have resulted from the necessity of being placed in care.

Other services that address the specific needs of this popu-

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lation include an assigned Parent Partner (a peer mentor who has had prior experience with dependency court) and parenting classes such as Circle of Security (a relationship-based parenting class designed to enhance attachment security between children and parents). The services are tailored to each family and designed to put the parents back on track to be reunited with the children.

#### **Potential Corrective Measures**

If a parent fails to participate in ordered services or otherwise

is not complying with the provisions of the case plan, the caseworker may use corrective measures. These measures are only ordered following disposition. Corrective measures include (1) paying lab costs associated with drug tests, (2) participating in structured activities, and (3) completing writing assignments. These corrective measures are designed to hold the parent accountable for his or her actions and to provide a structured schedule to give the parent less time to be tempted by drugs or alcohol.

Parents will never be terminated from the FTDC Track. The only ways parents are discharged from the Track are (1) reuniting with their children and closing the case or (2) terminating their parental rights to the children. As long as the family has an open case, the family will be on the FTDC Track.

### **EVALUATION OF THE FTDC TRACK**

As stated above, an evaluation of the FTDC Track is ongoing to ensure the mandatory nature of the Track does not impede its effectiveness or deter parents from fully engaging. Members of the evaluation team reviewed case files for information on dates of court hearings, case-closure information, and case plans. In addition, members of the evaluation team interviewed parents following family team meetings on their perceptions of the FTDC Track.

#### **Case Information**

As of October 15, 2015, 42 families have participated in the FTDC Track for a total of 69 children (average age = 2.2 years). Twenty-eight families (66.7%) identify as white, four (9.5%) identify as African-American, four (9.5%) identify as Hispanic, and three (7.1%) identify as American Indian (the race and ethnicity of the remaining families are unknown).

Eleven cases (26.2%) have closed as of October 15, 2015, due to establishment of permanency via reunification ( $N = 6$ )

or termination of parental rights and successful adoption ( $N = 5$ ). The average number of days between when the petition is filed to the date the court terminates its jurisdiction over the case is 451.1, approximately 15 months. The parents in nine cases additional to the above closed cases (21.4%) have relinquished their parental rights, and the parents in three additional cases (7.1%) have had their parental rights terminated.

Notably, it is becoming clear early in FTDC Track cases whether children can be safely reunited with their parents or whether alternative permanency options need to be pursued. Children have been reunified with a parent in 11 cases (26.2%). Anecdotally, it appears that children are reunifying with parents relatively quickly (on average, 213.8 days, or about 7 months).<sup>27</sup> Parental rights have been relinquished or terminated in 12 cases. The average number of days from the petition being filed to parents relinquishing their parental rights is 428 days, a little over 14 months. The average number of days from the petition being filed to the filing of a motion to terminate parental rights is 389.1 days, or less than 13 months. Although these data are preliminary, they indicate that the parties are able to identify whether reunification or an alternative permanency placement should be sought early in the case.

#### **Parents' Perceptions of Procedural Justice**

A member of the evaluation team conducted interviews with parents following team meetings. The interviewer explained that he or she was assisting the judge in implementing and evaluating the Track and that the judge would appreciate hearing from parents involved with the Track. The interviewer also told the parents that their individual responses would never be shared with the judge or any other person outside the evaluation team; the responses would only be aggregated and shared in summary form.

Parents who agreed to answer the questions were given a form with 11 questions about their experiences on the Track. The questions asked the parents whether they thought the process was fair and how much say they had in the process. The parents also answered questions about their relationship with Judge Heideman and their case manager. Each question was answered on a scale of 1 (*strongly disagree*) to 5 (*strongly agree*). Statements were aimed at parents' perceptions of the fairness of the court process and the degree to which they felt comfortable speaking at team meetings. Parents were allowed to skip questions if they did not feel comfortable answering and also had the opportunity to provide comments and questions about the Track at the bottom of the form.

To examine whether a difference exists between parents involved with the FTDC Track and those who were not, evaluators interviewed eight parents from five families involved in dependency cases in Judge Heideman's court who were not on

27. In 2014, the median number of months from removal to reunification in the southeastern Department of Health and Human Services service area, including Lancaster County, Nebraska, was 12 months. This is not a directly comparable sample as this includes families that do not have allegations of substance abuse, but it

provides some context for the current data. See THROUGH THE EYES OF THE CHILD INITIATIVE, CASE PROGRESSION & COURT IMPROVEMENT DATA REPORT 2014-2015: DISTRICT 3: LANCASTER COUNTY, [https://cip.nebraska.gov/sites/cip.nebraska.gov/files/files/34/2015\\_data\\_team\\_3.pdf](https://cip.nebraska.gov/sites/cip.nebraska.gov/files/files/34/2015_data_team_3.pdf).

the Track.<sup>28</sup> These families are different than FTDC Track families because they did not have allegations of substance abuse included in the petition or subsequently discovered in the initial investigation, but the parents did have children removed from their care. These comparison families only participated in traditional dependency court, and the judge did not attend their team meetings (held every three months).

Forty-three parents were interviewed in 33 separate FTDC Track cases.<sup>29</sup> Overall, parents seemed to appreciate the Track and recognized that it aims to safely return the children to the parents' care. Twenty-nine parents (65.9%) agreed that the process of getting their children back was fair, and 38 (88.4%) agreed that the goal of the FTDC Track was to get their children returned to them. Thirty-four (79.1%) reported that they had access to the services they needed to get their children returned to them. Importantly, the majority of parents (86%) stated that they knew what needed to be done to get their children returned to them. These results indicate that parents understood the FTDC Track process and viewed it as fair.

A majority of parents on the FTDC Track reported that they had voice in the process of getting their children returned to their care. Thirty-three parents (76.8%) agreed that their voice was heard at family team meetings; thirty-one (72.1%) agreed that they had a say in decisions that affected them and their children. This is important because it demonstrates that parents still felt like valuable participants in the process even though the FTDC Track is mandatory.

As discussed above, judicial leadership and parents' relationship with the judge are both important in problem-solving courts. Thirty-six parents (83.7%) reported that they received praise from the judge when they made progress toward their goals. In contrast, only 30 parents (69.8%) stated they received praise from their caseworker when they made progress. Consistent with previous research,<sup>30</sup> it appears that parents on the FTDC Track have a positive relationship with the judge.

The parents in the comparison group not on the FTDC Track perceived the dependency-court process similarly to those on the Track. The majority (87.5%) recognized that the goal of the process was to get their children returned to them, reported that they knew what needed to be done to have their children returned to their care (87.5%), and said that they had access to the services they needed (87.5%). Additionally, all of the parents indicated that they felt comfortable speaking in team meetings, but just over half (62.5%) felt that their voice was heard in team meetings. The majority (87.5%) agreed that they had a say in the decisions that affected them and their children. Five parents (62.5%) agreed that the dependency-court process was fair. Overall, there were not many differences in how parents on the Track and traditional dependency-court parents perceived the process.

Similarly, the majority of non-Track parents (75%) agreed

that they received praise from their caseworker when they made progress toward their goals. Five (62.5%) agreed that they could go to their caseworker if they had concerns about their ability to meet their goals. However, only three non-Track parents (37.5%) agreed that they received praise from the judge when they made progress toward their goals as

compared to the majority (83.7%) of Track parents. Track parents reported receiving praise significantly more than did non-Track families ( $\chi^2(4) = 19.806, p = .001$ ).

Parents on the FTDC Track may perceive more praise from the judge than similar parents not on the Track. Though the comparison group is small, preliminary analysis shows that proportionally more parents on the Track report receiving praise from the judge than parents not on the Track. This indicates that the FTDC Track may be fostering a more positive relationship between parents and the judge, a factor that may be important in improving outcomes for children.

## DISCUSSION

Judicial leadership plays a major role in problem-solving courts and can lead to better engagement among participants. Participants who are engaged in the process and perceive the process as fair are more likely to comply with the terms of the process. This can result in better outcomes for all participants, including vulnerable children in family problem-solving courts.

One potential barrier to implementing problem-solving courts and maintaining the implementation is funding. Funding is often temporary or contingent on factors external to the program itself, thus not always guaranteed for any length of time. Once a problem-solving court loses its funding, it may be difficult or impossible for the court to continue.

For family drug courts in particular, the loss of funding may mean the program can no longer support the incentives that encourage parents to participate in a voluntary program. FDCs require parents to participate in more meetings and to be subjected to more potential sanctions than traditional dependency court; there is no real incentive from FDCs themselves. Programs often include incentives for parents, such as the immediate availability of a treatment bed. But without a funding source, these incentives become more difficult to maintain.

One solution to that problem is to make the FDC mandatory for eligible parents. However, an important part of many problem-solving courts is that they give participants a voice in the process, beginning with the decision to choose to partici-

**A majority of parents . . . reported that they had voice in the process of getting their children returned to their care.**

28. Parents interviewed for the control group do not have substance abuse identified as an issue contributing to their involvement in the court. Therefore, it is not a perfect comparison group but the best one that could be constructed because it was not feasible to do a randomized control trial.

29. Parents are interviewed at multiple time points throughout the

case to evaluate changes in perception over time, but due to the small sample size, the results presented here are only for one interview from each parent. We included the parent's most recent interview in these analyses.

30. Ashford, *supra* note 1.

pate. If a program is no longer voluntary, participants could perceive the program as less fair and feel that they have less of a voice in the process.

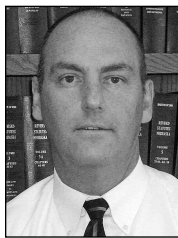
This article describes one program that was mandatory for all eligible participants. From the beginning, the program was driven by strong judicial leadership that encouraged all program participants, from caseworkers to attorneys to parents, that the program would help children safely reunify with their parents. A year and a half after implementation of the program, the mandatory FTDC Track is working well. Forty-two families have participated in the Track; eleven of these families have successfully reunified. Families appear to be either reunifying or terminating the relationship between parents and children more quickly than in other dependency cases. Children seem to be achieving permanency quickly in FTDC Track cases. In addition, the mandatory nature of the Track does not appear to hurt perceptions of procedural justice. Parents report they feel they have a voice in the process and that their voice is heard at team meetings to the same extent as in traditional dependency court. The similarity of these ratings is not surprising because traditional dependency court and the FTDC Track are both problem-solving models, seeking to address social and psychological dysfunction. Importantly, parents on the FTDC Track recognize that the judge praises them for their progress toward their goals. This indicates the relationship between parents and the judge is positive, despite the mandatory nature of the Track.

More data collected over time can help determine whether the Track successfully and safely reunifies children with their parents when there are issues with substance abuse. Such a program can be a model for other courts that wish to use a problem-solving court to address substance abuse in dependency cases but lack long-term funding to implement incentives to participate. Preliminary results indicate that judicial adoption of therapeutic jurisprudence and procedural-justice principles can have a positive impact for substance-abuse-involved parents and their children in dependency court, even if participation in the program is not voluntary.

### LESSONS LEARNED FOR OTHER COURTS

For other courts considering beginning a mandatory FDC, there are a few important lessons the Lancaster County FTDC Track has taught the authors. First, judicial leadership is vital to the success of the Track. A judge will have to devote considerable resources to the Track and convince other court personnel of the Track's importance. Part of judicial leadership is being a therapeutic agent to the parents on the Track. This includes providing support to parents in a way that may be very different than traditional dependency court. Informal interaction can help parents relate to the judge and see him or her as another support person instead of someone who is working to keep their kids away from them. Second, the mandatory nature of the Track does not necessarily take away from its impact. This may be because the informal interaction with the judge creates a relaxed, collaborative atmosphere and allows for the parents to feel they are an important part of a team. Lastly, it is very important to create buy-in to the Track early on in the process of development. Many individuals, including court personnel, Department of Health and Human

Services staff, family support agencies, and mental-health service providers, can give important insight to what is needed to help parents succeed. Whatever form a family drug court may take, it will help parents in their journey and will work toward the goal of reunifying children with their families.



Judge Roger Heideman earned his B.A. from Benedictine College in Atchison, Kansas, in 1984, then went on to complete his J.D. at the University of Nebraska—Lincoln College of Law in 1992. After serving as partner for the law firm of Morris, Titus & Heideman, Judge Heideman was appointed to the Separate Juvenile Court bench in 2006 by Governor Heineman.

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