

The Path Forward

*A Strategic Proposal for
New York's Family Treatment Courts*

2021



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EXECUTIVE SUMMARY

New York State has for years faced the challenge of how best to serve families with substance use disorder (SUD) caught at the intersection of the courts and the child welfare system. In the 1990s, the Family Treatment Court (FTC) model emerged as a promising path to meet this challenge. In 1997, Suffolk County opened New York's first FTC. The program demonstrated that outcomes for affected families could be improved by treating the underlying SUD that so frequently fueled child neglect. An FTC could promote the safety, permanency, and well-being of children through collaboration among the court, the child welfare system, and the SUD treatment community. New York built on this experiment by establishing FTCs in nearly every county in the state. Over the next two decades, the FTC field learned valuable lessons about harnessing the court's leverage to support the family, the interests of the child welfare system, and SUD treatment. This Proposal seeks to use those lessons learned to inform all family courts as they seek to develop practices to improve the response to SUD in child welfare matters.

In 2019, the New York State Unified Court System charged its Office for Justice Initiatives (OJI) and the Office of Policy and Planning (OPP)¹ to incorporate those lessons learned into FTC operations throughout the state. The OJI and the OPP looked to myriad resources to create a blueprint for strengthening and enhancing existing FTCs. They assessed the statewide FTC practice, identified relevant research, accumulated child welfare data, explored historical documents, and consulted with FTC practitioners and the Center for Children and Family Futures, a nationally recognized technical assistance organization. Early in that year, the OJI and the OPP convened two full-day focus groups of FTC stakeholders to examine New York's experience with the FTC model in the past and to formulate a strategy for the future. A smaller work group distilled the content of those two focus groups into a foundation for this strategic proposal. The work group then looked to the National Strategic Plan for Family Drug Courts and the 2019 Family Treatment Court Best Practice Standards to ground its recommendations in national research and data.

This document sets out a proposal that includes three sets of recommendations:

Ensuring fidelity to an evidence-based FTC model; expanding FTCs to meet demonstrated need, and; improving data collection and analysis. All three components presume a commitment to partnership and collaboration by the multiple systems involved in seeking to improve outcomes for children and families.

The following recommendations constitute the essential ingredients for strengthening and enhancing FTCs in New York:

1. Ensure fidelity to an evidence-based FTC model
 - a. Promote adherence to standards and principles
 - b. Encourage collaboration with partner agencies
 - c. Create a training infrastructure for FTC teams
 - d. Support the professional development of FTC judges

¹ Effective January 2021 the Office of Policy and Planning became the Division of Policy and Planning within the Office for Justice Initiatives under the leadership of Deputy Chief Administrative Judge Edwina G. Mendelson.

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2. Expand FTCs to meet demonstrated need
 - a. Use a universal, early screening protocol to identify SUDs
 - b. Engage respondents' counsel to resolve resistance to FTC participation
 - c. Develop community readiness measures for incorporating FTC practices into all family court parts where SUDs and child neglect intersect
 - d. Develop support for FTCs at key levels of government
3. Improve data collection and analysis
 - a. Build data capacity
 - b. Utilize effective cross-systems, data-driven decision making
 - c. Establish a comprehensive evaluation model for local FTCs

Throughout the process, several issues and challenges emerged that will affect implementation of the group's recommendations. First, adherence to evidence-based practices and principles demands more than a commitment by stakeholders. FTC practitioners must identify and implement a means to ensure that practice aligns with theory. Second, a meaningful training infrastructure depends on an investment of resources by all involved entities. Particularly in the current fiscal environment, securing those resources will require creativity and persistence. Third, the legitimate concerns, and indeed, wariness of parents' attorneys towards participation in an FTC must be resolved. Too often, parents' attorneys find the demands of the FTC program punitive and counterproductive to favorable outcomes for their clients and their families. Fourth, improving data collection and analysis could prove the greatest of obstacles. In order to achieve this goal, the systems that collect relevant data must identify the specific data needed to measure the effectiveness of FTC operations; they must figure out legal and ethical ways to share that data; and, they must be prepared to modify and enhance program operations based on analysis of the data.

These findings and recommendations will inform future planning and implementation of enhanced FTC operations throughout the state, but they will only succeed with multi-disciplinary collaboration and understanding. Positive outcomes for parents and their children depend on the involved systems identifying a common purpose for FTCs and working together to fulfill that goal.

INTRODUCTION

This document sets forth an ambitious proposal to enhance the operations of New York's Family Treatment Courts (FTCs). FTCs operate through a collaboration involving the court, the child welfare system, and treatment providers. FTCs provide a specialized response for matters pending in the family court when the presenting allegations or underlying issues involve substance use disorder (SUD) and allegations of child neglect.

Strategic proposals are aspirational by design. This document does not prescribe the FTC model as the only approach to serving vulnerable families; rather, it offers a roadmap for establishing and sustaining an effective FTC whenever and wherever that model is viable and appropriate. Circumstances in some localities may render the FTC model impractical or economically unviable. Yet every family court can play a central role in enhancing the system's

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response to SUD in child welfare matters. In places where an FTC is not the right approach, a locality may adopt certain practices and protocols that have proved effective in the FTCs without implementing an FTC as a standalone specialty part.

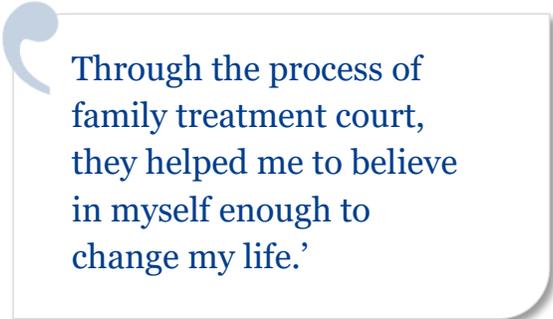
This document highlights the importance of collaboration in all cases that involve SUDs and allegations of child neglect. Successful FTCs have demonstrated the importance of courts, child welfare agencies, and SUD treatment communities working together to develop a common agenda, to define roles and responsibilities, and to share information in order to monitor both individual FTC participant progress and/or the effectiveness of the program. Effective FTCs have demonstrated that collaboration among system partners leads to better outcomes for children and families. This lesson can inform all family courts as they seek to develop practices that improve the system's response to SUD in child welfare matters.

Efforts to enhance FTCs require that family courts, child welfare agencies, and SUD treatment organizations work together to contribute time, resources, and staff to improve outcomes for families impacted by an SUD. This is universally recognized as a worthy goal, but the enormity and complexity of the effort required to achieve this goal should not be underestimated. Complicated problems cannot be solved with a simple, "one size fits all" recipe. Each locality that seeks to implement new practices or to enhance an existing project must grapple with the local conditions that will drive or restrain the success of those efforts. Accordingly, the recommendations in this proposal are not prescriptive. Rather, they represent guiding principles for implementing proven FTC practices and protocols with purpose, practicality, and vision.

It is important to note that this Strategic Proposal was in development prior to the onset of the COVID-19 pandemic, which of course had a profound impact on the State of New York, including the justice system. While courts remained open for matters deemed "essential," including Family Court matters, a transition to a virtual model for most case types occurred quickly.

The pivot to virtual proceedings included parallel responses in the child welfare and treatment realms. In some instances, remote communication offered increased opportunities for families to engage with the FTC team and with needed services. Additionally, some FTC judges have reported that virtual court has led to improved interactions with parents, likely due to reduced anxiety about coming to court, and increased responsiveness to family needs because the entire FTC team is on the virtual call.

Notwithstanding these unexpected advantages of remote communication, the pandemic exacerbated already traumatic situations for FTC involved families. With the imposition of prolonged restrictions on in-person interactions, parents and their children were isolated from their schools, their work, and their support systems. This lengthy separation distressed the healthiest individuals. For those seeking recovery, the enforced isolation could easily lead to desperation. In addition, some families living in rural or poor urban communities do not have



Through the process of family treatment court, they helped me to believe in myself enough to change my life.'

adequate internet access and/or phone coverage which severely limits communication with much needed services and support. Since addiction is a disease of isolation, this lack of connectivity creates significant challenges, highlighting the need to strengthen and enhance the court responses.

BACKGROUND

FTCs in New York and Nationally

In New York State, child protective proceedings are governed by Article 10 of the Family Court Act and FTCs operate Under Article 10. As in all family courts, the safety, permanency, and well-being of children are paramount. The FTC offers respondent parents court-supervised substance abuse treatment and other needed services designed to improve outcomes for them and their children. The hope is that treatment will enhance parental capacity to safely care for their children and to reunite children with their parents when those children have been removed from their care.

The need to address parental substance abuse is clear. Between 60% and 80% of substantiated child abuse and maltreatment cases involve substance use by a custodial parent or guardian.² SUD often does not present as a primary allegation in a child abuse or neglect petition. Rather, in many instances, an SUD is subsequently identified as a concern after agencies have begun working with the family.³ The existence of an SUD can complicate the implementation of recommended services due to reduced compliance. Not surprisingly, families affected by an SUD experience poorer outcomes than families where an SUD is not a factor.⁴ Moreover, the opioid crisis has resulted in an increasing number of children entering foster care due to parental drug abuse, creating even greater urgency for successful interventions in these cases.⁵

FTCs demonstrably improve child welfare outcomes and promote recovery.⁶ These outcomes include higher rates of participation and longer stays in substance use disorder treatment, higher rates of family reunification, and reductions in length of stay for children in out-of-home-placement.⁷

The FTC model is structured to ensure that children, parents, and other family members achieve early access to comprehensive care, increased case management, and intensive judicial

² Young, N., Boles, S., & Otero, C. (2007). *Parental substance use disorders and child maltreatment: Overlap, gaps, and opportunities*. *Child Maltreatment*, 12, 137–149.

³ Harrell, A., Goodman, A. (1999). *Review of Specialized Family Drug Courts: Key Issues in Handling Child Abuse and Neglect Cases*. The Urban Institute.

⁴ U.S. Department of Health and Human Services (1999). *How are families with SUD problems different from other child welfare clients? Blending Perspectives and Building Common Ground: A Report to Congress on Substance Abuse and Child Protection*, Chapter 4. Washington, DC: U.S. Government Printing Office, accessed at <https://aspe.hhs.gov/report/blending-perspectives-and-building-common-ground>.

⁵ Williams, S.C., DeVooght, K. (2017). *5 Things to Know About the Opioid Epidemic and Its Effect on Children*. *Child Trends*.

⁶ Green, B.L., Furrer, C., Worcel, S., Burrus, S., & Finigan, M.W. (2007). How effective are Family Treatment Drug Courts? Outcomes from a four-site national study. *Child Maltreatment* 2(1), 43-59.

⁷ National Center of Substance Abuse and Child Welfare, *Family Treatment Drug Courts*, accessed at <https://ncsacw.samhsa.gov/resources/resources-drug-courts.aspx>.

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oversight. A meta-analysis of 16 evaluations examining FTC outcomes found that families that participated in an FTC were two times more likely to reunify than families receiving conventional services.⁸

Furthermore, studies show that FTCs produce positive outcomes that include:

- Significantly higher rates of parent participation in SUD treatment;
- Longer stays in SUD treatment;
- Higher rates of family reunification;
- Less time spent in out-of-home placements for children;
- Less re-occurrence of child maltreatment; *and*
- Fewer re-entries into out-of-home care.^{9 10 11 12 13 14}

In the FTC model, a multidisciplinary team assembled by the court meets to review each case and to coordinate service plans, monitor progress and take corrective actions when necessary. Well-functioning FTCs draw information and support from all system partners to address the specific needs of a family. The team, in addition to the legal professionals, may include SUD treatment providers, child welfare caseworkers, mental health professionals, social services agency staff, child/youth service providers, and domestic violence prevention program staff. The team works with the family to identify strengths and to devise a case plan that addresses the needs of both parent(s) and child(ren).¹⁵ The team meets regularly with the parent(s) to coordinate services and assess progress, providing regular opportunities to address challenges. The team communicates information to the monitoring judge in a timely fashion.

In New York, parents voluntarily enter the program and agree to increased court participation, SUD treatment, intensive case management and, in many cases, peer support (*see pp. 13-14*). The FTC team agrees to help both parents and their children to navigate

For more information on New York State guiding principles and effective practices, see [New York State Family Treatment Courts: Effective Practices](#) (New York State Unified Court System, 2010).

⁸ Zhang S, Huang H, Wu Q, Li Y, Liu M. (2019) The impacts of family treatment drug court on child welfare core outcomes: a meta-analysis. *Child Abuse Negl.* 88:1-14.

⁹ Brook, J., Akin, B.A., Lloyd, M.H., and Yan, Y. (2015). Family Drug Court, Targeted Parent Training and Family Reunification: Did this Enhanced Service Strategy Make A Difference? *Juvenile and Family Court Journal*, 66(2): 35-52.

¹⁰ Bruns, E., Pullmann, M., Weathers, E., Wirschem, M., & Murphy, J. (2012). Effects of a multidisciplinary family treatment drug court on child and family outcomes: Results of a quasi-experimental study. *Child Maltreatment*, 17: 218–230.

¹¹ Boles, S.M., Young, N.K., Moore, T., & DiPirro-Beard, S. (2007). The Sacramento dependency drug court: Development and outcomes. *Child Maltreatment*, 12: 161-171.

¹² Green, B.L., Rockhill, A., & Furrer, C. (2007). Does substance abuse treatment make a difference for child welfare case outcomes? A statewide longitudinal analysis. *Children and Youth Services Review*, 29: 460-473.

¹³ Worcel, S.D., Green, B.L., Furrer, C.J., Burrus, S.W.M., & Finigan, M.W. (2007). *Family treatment drug court evaluation: Final Report*. Prepared for the Substance Abuse and Mental Health Administration by NPC Research.

¹⁴ Worcel, S.D., Furrer, C.J., Green, B., Burrus, S.W.M., & Finigan, M.W. (2008). Effects of family treatment drug courts on substance abuse and child welfare outcomes. *Child Abuse Review*, 17: 427-443.

¹⁵ National Center of Substance Abuse and Child Welfare, *Family Treatment Drug Courts*, accessed at <https://ncsacw.samhsa.gov/resources/resources-drug-courts.aspx>.

systemic barriers that parents face, such as securing safe housing, adequate medical care, and children and youth services. The team can also facilitate family/parenting time and promote access to evidence-based parenting services.¹⁶

Initially, case review hearings occur frequently to engage and monitor the parents. Typically, the frequency of court appearances will decrease as the parent stabilizes and engages in services. The court awards incentives to recognize achievements, reinforce desired behavior, and increase motivation. Graduated responses aim to re-engage the parent in services and may include adjustments to treatment plans.

The length of time a respondent will remain in the program depends on several factors, such as the availability of local resources, whether the child is at home or in foster care, and the needs of the parent. Ultimately, program length is informed by improvements in the parent's ability to maintain a safe environment, attend to the child's basic needs, and demonstrate sustained recovery. Typically, a participant stays in the FTC program for one to two years.

New York FTCs: The Past

New York was among the first states to implement FTCs as a strategy for improving outcomes for children and families caught at the intersection of child neglect and SUD. In 2000, then Chief Judge Judith Kaye convened a commission to study the courts' responses to ever-increasing drug-related caseloads. The commission issued its findings in a report that recommended a greatly enhanced use of SUD treatment for litigants in the criminal and family courts.¹⁷ Following the report's recommendations, the New York State Unified Court System (UCS) expanded the number of FTCs, opening an additional 51 FTCs by 2009. At that time, all but six of New York's 62 counties either had operational family treatment courts or were planning to implement them.

Notwithstanding high-level institutional support for FTCs, local courts struggled to develop and maintain significant caseloads. Hindsight suggests that there were limited infrastructures at state or local levels that could adequately and effectively support multidisciplinary collaboration. The scope of technical assistance and training provided to FTCs did not rise to the level of that provided to adult drug courts.

Even in family courts that embraced the FTC model, insufficient emphasis on multidisciplinary collaboration sometimes resulted in a lack of buy-in from critical stakeholders. Both child welfare workers and respondents' attorneys found that the FTC model did not lend itself to achieving their respective goals. As resistance to implementation emerged, referrals to FTCs stagnated.

In addition, the comprehensive case management system developed for adult drug courts (the Universal Treatment Application) did not adapt easily to FTC cases.

Additional information about federal laws and policies related to permanency can be found at <https://www.childwelfare.gov/topics/permanency/legal-court/fedlaws/>.

¹⁶ California Evidence-Based Clearinghouse for Child Welfare, <https://www.cebc4cw.org/search/results/?keyword=parenting+>.

¹⁷ New York State Commission on Drugs and the Courts (2000), *Confronting the Cycle of Addiction and Recidivism*. New York State Unified Court System.

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Research on best practices and strategies for quality assurance in FTCs had not yet evolved. The treatment court field, in general, did not appreciate the fundamental differences between the goals of the adult criminal justice system and the family court system. Efforts to replicate the adult drug court (ADC) model in the family court faltered.

In 2011, New York State experienced a fiscal crisis that resulted in a staff reduction of more than 500 court employees. FTCs were particularly hard hit. Courts were forced to reduce their staffing levels to focus on sustaining core functions. Many FTC resource coordinators and other employees lost their jobs. In some districts with modest program caseloads, the termination of the designated resource coordinator or case manager proved the catalyst for shuttering a local FTC. Eighteen FTCs ceased operations and, in counties where FTCs continued to operate, judicial and court staff changes resulted in reduced capacity. District administrators often felt they had no choice but to redeploy underutilized resource coordinators to other courts, in some cases to assignments unrelated to drug treatment.

Fundamental differences between ADCs and FTCs

The FTC focus on the family is fundamentally different from the ADC focus on the individual before the court. The two models involve different legal frameworks, overarching goals, and required milestones. Even eligibility criteria must be formulated differently. For example, in the FTC the entire family must be eligible, not just the adult participant. Specific key distinctions between FTCs and ADCs include:

- In an ADC, the legal incentive for participation is clearly defined, such as dismissal of charges, early discharge from probation, or reduction of charges. In an FTC, the court cannot offer a specific legal outcome. The court must make decisions based on the best interests of the child.
- ADCs focus on the progress of the offender before the court. FTCs must consider the interests of the child above the behavior of the parent. This holistic, family-focused approach requires greater collaboration than is needed in an ADC. While in recent years, ADCs have become more family-focused in their efforts to support the participant, the legal focus remains on the participant's progress. FTCs must partner with a wide array of service providers to promote the parent's capacity to provide for the safety and well-being of the child.
- ADCs are free to set their own timetable for completion of a court-mandated program, while FTCs are bound by strict Adoption and Safe Families Act (ASFA) timelines in cases where the child is in foster care. As a result, FTCs must engage with treatment and supportive family service providers in a more intensive and structured manner.
- Identification of an SUD is more challenging in the FTC model than in the ADC model. In adult criminal proceedings, an offender may have a clear, legal incentive to admit drug use and enter an ADC program when offered as an alternative to incarceration or other punitive sentencing options. Because there is no similar legal incentive in an FTC, and because parents fear the consequences of admitting to substance use, child welfare workers may not identify an SUD until they have spent significant time working with the parent. Such delays in initiating treatment compound the inherent conflict between the duration of successful treatment interventions and ASFA timelines.

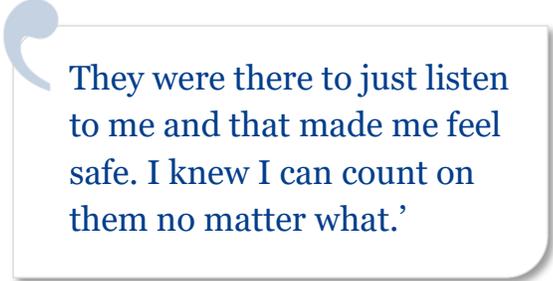
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This is not an exhaustive list, but it highlights some of the critical distinctions between the two models.

Timeline constraints for FTCs

Family Court Article 10 proceedings are subject to the requirements and time constraints of ASFA. This federal law promotes timely placement and permanency planning for children in foster care and emphasizes the importance of safety and well-being during the process.

Courts must conduct periodic permanency hearings to evaluate a parent's progress. If children are not on a timely path to return home, social services agencies are required to file for the termination of parental rights. This filing must occur when a child has been in foster care for 15 of the most recent 22 months, with some exceptions. These precise time frames are intended to promote timely permanency but often conflict with SUD treatment and realistic time frames for sustained recovery.



They were there to just listen to me and that made me feel safe. I knew I can count on them no matter what.'

The FTC model attempts to address this inherent conflict through a collaboration of child welfare agencies, the courts, and service providers. Collectively, the FTC collaborative team seeks to balance the safety, permanency, and well-being of the child with the recovery needs of the parent. At the systemic level, these partnerships serve to pave the way for an interdisciplinary, coordinated response to the complex issues facing families impacted by both SUD and involvement with child welfare agencies.¹⁸

The need for an FTC Strategic Proposal

Most parents that are affected by an SUD and face child neglect allegations do not receive adequate services to support their successful recovery.¹⁹

Stakeholders recognize that a more deliberate approach to developing and re-invigorating FTCs is needed, one that more thoroughly incorporates the respective goals and viewpoints of the multiple intersecting disciplines. A meaningful Strategic Proposal for FTCs can offer a roadmap for addressing the unique needs of parents in family court, which are markedly different from those of the adult offender in a criminal court.

Considering the proven benefits of the FTC model, localities could use a Strategic Proposal to assist them in strengthening existing FTCs or incorporating proven FTC practices into traditional family court case processing. In counties with established FTCs, teams can seek to ensure adherence to evidence-based practices, to strengthen collaboration with partner agencies, and to build capacity to reach all families in need of services. In counties without an FTC, localities can develop a cross-systems collaboration to diagnose systemic deficiencies and implement practices benchwide that enhance the capacity to address SUD effectively for all

¹⁸ National Drug Court Institute, *Family Treatment Court Planning Guide* (Center for Children and Family Futures, 2018).

¹⁹ Child Welfare Information Gateway (2014). Parental substance use and the child welfare system. Accessed at <https://www.childwelfare.gov/pubs/factsheets/parentalsubabuse/>

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families, thereby promoting the safety and well-being of affected children. (See *Better for Families* program described below.)

As history has shown, no single state system is able to sustain the FTC model. All involved programs and agencies must reinforce and coordinate their efforts through a collaborative approach. Although each system may articulate its *goals* differently, FTC team members and the systems they represent must find a unifying *vision* to produce positive outcomes for families. This cross-system collaboration served as the guiding principle of the Statewide System Improvement Program (SSIP) funded from 2014 through 2019 by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP).

For more information on the SSIP, see www.cffutures.org/ssip.

The program, known in New York as “Better for Families,” promoted change through:

- Early identification of SUD through UNCOPE Plus, an evidence-based universal screening tool coupled with motivational interviewing;
- Multidisciplinary trainings for both frontline staff and supervisory personnel in local child welfare and SUD treatment organizations, as well as training for legal professionals;
- Expansion of the use of evidence-based practices, such as increased use of Celebrating Families! - a cognitive behavioral support group for parents in the child welfare system; *and*
- The development of model court processes and protocols for serving families impacted by SUD.

The Better for Families project took an important step in helping family courts to better meet the needs of families in *both* FTC and traditional family court cases. This Strategic Proposal, however, focuses primarily on FTCs and their potential to promote parental recovery from SUD as a means of improving outcomes for children in the child welfare system.

The recent release of guiding principles and best practice standards for FTCs provides another impetus for establishing an FTC Strategic Proposal. These principles and practices are embodied in a national Strategic Plan for family drug courts²⁰ and a report on best practice standards for FTCs.²¹ The Strategic Proposal for New York State FTCs incorporates these principles and standards into FTC operations and creates protocols for ongoing monitoring of fidelity to the model.

Moreover, the current opioid crisis calls for interventions of all types and on all fronts. This Proposal will serve as a key asset in helping families experiencing substance use disorder. Since the late 1990s, widespread misuse of both prescription and non-prescription opioids has continued to rise. The U.S. Department of Health and Human Services (HHS) declared opioid

²⁰Office of Juvenile Justice and Delinquency Prevention (2017). 7 Essential Practices to Improving Child Welfare and Substance Use Disorder Treatment. *National Strategic Plan for Family Drug Courts*, p. 4.

²¹Center for Children and Family Futures and National Association of Drug Court Professionals (2019). *Family Treatment Court Best Practice Standards*, U.S. Department of Justice.

abuse a public health emergency in 2017. An estimated two million people in the United States had an opioid use disorder in 2018, with more than 47,600 fatalities due to opioid use.²²

Recent reporting highlights the impact of opioid misuse on children and families. The siloed nature of government and service organization responses can lead to a lack of communication and coordination. Current studies recommend team approaches to serving at-risk families.²³ FTC's provide a model of cross-systems intervention with SUD-impacted families. FTC teams are a repository of training and technical assistance expertise. FTCs are well-positioned to help communities maintain awareness of all substance abuse issues impacting their communities, as well as to respond quickly when any substance becomes a new or increased threat.

While the opioid crisis has appropriately put a spotlight on the need for improved responses to substance use disorders, other substances, particularly prescription and non-prescription stimulants, continue to impact many communities. The 2018 National Drug Threat Assessment stated that "the methamphetamine threat remains prevalent; the cocaine threat has rebounded; new psychoactive substances (NPS) are still challenging; and the domestic marijuana situation continues to evolve."²⁴

STRATEGIC PROPOSAL DEVELOPMENT

The effort to create an FTC Strategic Proposal originated in the New York State Unified Court System's Office for Justice Initiatives.²⁵ with the support of staff and consultants from the Office of Court Administration, Children and Family Futures, and Welfare Research, Inc. (WRI). OJI and OPP convened two full-day sessions to gather information from stakeholders, one involving court staff and leadership and a second bringing together cross-systems representatives from child protective services and SUD treatment providers. In the facilitated sessions, stakeholders were asked to consider:

- What actions are needed to support FTCs at the local and state levels?
- Which agencies/stakeholders are best positioned to support and strengthen FTCs?
- How to enhance buy-in by stakeholders?
- What strategies will best support the promulgation of evidence-based practices?
- How can fidelity to the model be promoted?
- What data is needed to demonstrate the effectiveness of FTCs?
- How can the different systems work together to share data and establish a data-informed approach to FTCs?

²² U.S. Department of Health and Human Services, *What is the U.S. Opioid Epidemic?*, accessed at <https://www.hhs.gov/opioids/about-the-epidemic/index.html>.

²³ Brundage, S. & Levine, C. (2019). *The Ripple Effect: The Impact of the Opioid Epidemic on Children and Families*, United Hospital Fund and Milbank Memorial Fund.

²⁴ <https://www.dea.gov/documents/2018/10/02/2018-national-drug-threat-assessment-ndta>.

²⁵ The Office for Justice Initiatives includes the former Office of Policy and Planning, now the Division of Policy and Planning, as well as the Child Welfare Court Improvement Project.

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- How to expand the reach and capacity of FTCs?
- What type of training efforts will promote the goals of FTCs?

In addition to input from these focus groups, the proposal's development was informed by court and child welfare data, individual conversations, historic documents, the *National Strategic Plan for Family Drug Courts*,²⁶ and the *Family Treatment Court Best Practice Standards*.²⁷

A STRATEGIC PROPOSAL FOR NEW YORK'S FAMILY TREATMENT COURTS

The proposal includes three components: ensuring fidelity to an evidence-based FTC model, strengthening FTCs to meet demonstrated need, and improving data collection and analysis. Implementing the plan will increase the number of families benefiting from FTC services, measure outcomes regarding child welfare and recovery, and provide a mechanism for continuous quality improvement.

I. Ensuring fidelity to an evidence-based FTC model

The *Family Treatment Court Best Practice Standards* (FTC Standards), issued in 2019 by the Center for Children and Family Futures and the National Association of Drug Court Professionals, marked the culmination of 20 years of research in and practice with the FTC model.^{28, 29, 30, 31, 32} This Strategic Proposal recommends that New York's FTCs adhere to these standards.

These best practice standards address court organization and structure, the role of the judge and responsibilities of multidisciplinary partners. The standards offer strategies and recommendations for early identification and assessment of parents facing neglect allegations. They outline a roadmap for ensuring equity and inclusion. Finally, the standards provide guidance on practical issues relating to SUD treatment, case management, and therapeutic practices. The national standards include the following elements:

- Guiding principles of family-centered and trauma-informed services
- Components of the pre-court staffing and court review hearing

²⁶ Office of Juvenile Justice and Delinquency Prevention (2017). *National Strategic Plan for Family Drug Courts*, U.S. Department of Justice.

²⁷ Center for Children and Family Futures and National Association of Drug Court Professionals (2019). *Family Treatment Court Best Practice Standards*, U.S. Department of Justice.

²⁸ Center for Children and Family Futures and National Association of Drug Court Professionals (2019). *Treatment Court Best Practice Standards*. Supported by Grant #2016-DC-BX-K003 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Accessed at <https://www.cffutures.org/fdc-tta/ftc-best-practice-standards-2019/>.

²⁹ Young, N.K., Wong, M., Adkins, T., Simpson, S. (2003). Family Drug Treatment Courts: Process Documentation and Retrospective Outcome Evaluation, Children and Family Futures.

³⁰ Rodi, M.S., Killian, C.M., Breitenbucher, P., Young, N.K., Amatetti, S., Bermejo, R., et al. (2015). New approaches for working with children and families involved in family treatment drug courts: Findings from the children affected by methamphetamine program. *Child Welfare* 94(4): 205-232.

³¹ Worcel, S.D., Furrer, C.J., Green, B.L., Burrus, S.W.M., Finigan, M.W. (2008). Effects of family treatment drug courts on substance abuse and child welfare outcomes, *Child Abuse Review* 17(6): 427-443.

³² Cosden, M. & Koch, L. (2015). *Evaluation of Family Treatment Drug Court for Children Affected by Methamphetamine*, Final Evaluation Report to Substance Abuse and Mental Health Services Administration.

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- Recommendations regarding a judge’s convening power, decision-making process, interaction with participants, and length of tenure
- Strategies for ensuring equitable admission practices and equality in treatment and responses to participant behavior
- Objective and standardized criteria for eligibility, referral, screening, and assessment
- The use of valid and reliable screening and assessment tools
- Guidance on the types and quality of substance use disorder treatment and effective drug testing protocols
- Components of a family-centered and trauma-informed approach to case management and the delivery of supportive services
- The importance of a therapeutic response to behavior that is designed to engage rather than punish a parent
- Advocacy of electronic collection of data, a system for evaluating child welfare outcomes, parents’ recovery, adherence to best practices, and rigorous program evaluation

A. Promote adherence to standards and principles

A fidelity review model promotes adherence to established standards and principles for courts working within the FTC framework. Three different models are available to support fidelity to the FTC Standards by New York’s FTCs. In all these models, recurring program review will support ongoing fidelity. The three models are:

1. *Peer review model.* This model utilizes trained peer teams to provide support and quality assurance to local courts. With guidance from successful models in other states, the OJI-Division of Policy and Planning (OJI-DPP) would assist in identifying, training, and supporting cross-system teams to conduct regular reviews of local FTCs that would focus on the FTC’s adherence to best practices. DPP would support training and technical assistance to address any identified deficits. The “peer review model” is separate and distinct from the “family peer advocate,” discussed in the next section.
2. *Certification model.* DPP would develop a state certification procedure for FTCs, incentivizing adherence to the national family treatment court standards. The procedure would detail criteria used to certify local FTCs, timelines for qualifying for certification or coming back into compliance, and ramifications for failure to comply. As with the other models, DPP would provide training and technical assistance where indicated.
3. *Structured site visits by DPP staff.* To support adherence to best practices and local FTC sustainability, DPP would develop a schedule for regular site visits to assess fidelity to best practices. DPP staff would create a template for these visits that may include:
 - a. A pre-site visit survey of the FTC’s policies, procedures, and program related data;
 - b. Review of program documents;
 - c. Structured observation of the staffing and status hearing;

- d. Interviews with select FTC staff; *and*
- e. A written report to the team that provides feedback regarding the FTC's adherence to best practices.

The Office for Justice Initiatives along with court leadership in each judicial district is well-positioned to determine which model best suits the needs and resources of New York's FTCs.

B. Encourage collaboration with partner agencies

Partner agencies help integrate evidence-based practices into all stages of the FTC process, from early, universal screening to treatment and supportive services. The Strategic Proposal envisions strong collaboration to expand access to FTCs that follow established best practices:

1. *Incorporate an evidence-based screening tool for identification of SUDs.* Widespread evidence demonstrates that prevalence of SUDs in child welfare cases is under-identified. The Better for Families project advocated for use of the UNCOPE Plus screening tool in all cases and provided training to counties involved in the project. In cases involving substance use, the process of clearly identifying an SUD and the most appropriate treatment can prove slow and convoluted. The use of a uniform, evidence-based screening tool such as UNCOPE Plus at the outset of a case can provide clarity and expediency. Early identification of an SUD promotes both timely placement in treatment and compliance with ASFA timelines.

Training must emphasize that screening results are only one factor in assessing the presence of an SUD. Child welfare staff should include other factors in their assessments, *i.e.*, real-time observations, input from family and friends, drug screen results, corroborating reports from outside professionals, and their own professional judgment.

Whichever screening tool is employed, case workers benefit from training in motivational interviewing. This counseling approach has proven effective in eliciting more reliable information when case workers conduct an initial investigation of neglect.

2. *Identify any barriers in the delivery of medication-assisted treatment to individuals who might benefit from their use.* Medication can be an effective means of assisting parents in recovery from SUDs, but policy, culture, stigma, access, and funding barriers can limit its use.³³ On both the state and the local levels, FTCs need to explore these obstacles and work across systems to overcome them and to improve access and immediacy. Targeted training will promote more widespread acceptance of the benefits offered by appropriate use of medication-assisted treatment.
3. *Assess the use of evidence-based and manualized treatment interventions with the FTC population and promote their use in treatment planning.* FTC professionals should identify and advocate for treatments that are evidence-based, trauma-informed, and meet the multiple and complex needs of FTC participants.³⁴

³³Knudsen, H., Abraham, A., Oser, C.B. (2011). Barriers to the implementation of medication-assisted treatment for substance abuse disorders: The importance of funding policies and medical infrastructure. *Evaluation Program Planning* 34(4): 375-381.

³⁴Kushins, H., Butner, J., Wilson, T. (2017). Seven common ingredients for family treatment courts. *Child Law Practice Today* 36(3): 73.

4. *Incorporate family peer advocates into the FTC program.* Research has shown that strength-based peer support can play a critical role in parents' recovery. A peer serves both as a confidante and an advocate for the FTC participant. A peer may model important parent-professional relationship development. Peer involvement can help the parent to engage more fully in services and can reduce negative attitudes among agencies and community partners toward parents with SUDs.³⁵ Individual FTCs should partner with a local agency that employs peer advocates who are trained, certified, reimbursed, and supported in their work. Peer advocates should be supervised by a mental health professional. Supervision helps peer advocates avoid secondary trauma, promotes self-care, and is required for reimbursement by Medicaid.
5. Develop strategies to address the fear, stigma, and shame commonly experienced by parents who are facing allegations of neglect stemming from their SUD. Stakeholders in FTCs must fully grasp the compounded impact of a child neglect allegation coupled with a diagnosis of SUD. FTC participants can experience familial, societal, and self-imposed shaming that impede their recovery. Treatment providers, caseworkers, attorneys, and judges need strategies to combat this bias and to practice empowering empathetic approaches themselves.^{36, 37}

C. Create a training infrastructure for FTC Teams

Effective FTCs will not develop and thrive in New York State without a comprehensive training plan. To ensure a successful training strategy, the Office for Justice Initiatives will create a training plan in collaboration with our child welfare and treatment partners at the Office of Children and Family Services (OCFS) and the Office of Addiction Services and Supports (OASAS). To promote local ownership and to accommodate regional differences, training should be implemented through existing judicial district administrative structures.

The Strategic Proposal envisions a training structure and implementation plan that will:

1. *Conduct regional trainings for family treatment court teams.* At the Judicial District level, regular trainings should be offered to explore best practices, share developments in the field, promote team building, and facilitate networking opportunities for local FTCs.
2. *Establish judicial training requirements.* A judge should meet essential training requirements before presiding in an FTC. Training should include the pathology of SUDs and impact on the family, co-occurring mental disorders, trauma-informed care practices and solution-focused language. Effective engagement strategies with parents

The New York State Family Peer Advocate Credential is administered by Families Together in New York State, Inc. (<https://www.ftnys.org/training-credentialing/family-peer-advocate-credential/>).

³⁵ National Center on Substance Abuse and Child Welfare (2018). *The Use of Peers and Recovery Specialists in Child Welfare Settings*. U.S. Department of Health and Human Services.

³⁶ Committee on the Science of Changing Behavioral Health Social Norms (2016). *Ending Discrimination Against People with Mental and Substance Use Disorders: The Evidence for Stigma Change*. National Academies Press.

³⁷ Reynolds, J. (2018). Substance abuse: Increasing empathy, reducing stigma matters, *Psychology Today Online*. Accessed at <https://www.psychologytoday.com/us/blog/human-kind/201806/substance-abuse-increasing-empathy-reducing-stigma-matters>.

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are as important as procedural and legal aspects. Regular family court judicial trainings offer the most accessible mechanism for implementing this training requirement. Such yearly events would allow judges to access specialized training prior to FTC assignment and to remain current on best practices. As a positive collateral consequence, this training would reach all family court judges, enabling recognition of SUDs in the cases before them and referral to an FTC when appropriate.

3. *Establish training and orientation requirements for new non-judicial FTC team members.* As part of the collaborative process, each of the involved systems should assume responsibility for identifying the training criteria specific to their representative on an FTC team. Training of all FTC team members will promote adherence to best practice standards. Training should occur prior to FTC assignment as well as annually and include trauma-informed, solution-focused, and culturally competent approaches to FTC participants. In addition, each FTC should develop an orientation template that explains how its specific FTC works, including eligibility criteria, screening process, legal structure, and community resources.
4. *Provide role-focused training on professional ethics and boundaries for all FTC team members.* Awareness of both the authority and restrictions of each role is critical to the effective implementation of an FTC. The Better for Families project required each involved county to participate in a “Roles and Responsibilities” training to help legal and non-legal representatives better understand their legal and ethical boundaries, as well as the perspectives of all stakeholders. A similar training should be provided to FTCs in districts that did not participate in the Best for Families training, with ongoing opportunities offered as staff turnover occurs.
5. *Facilitate participation in conferences for drug treatment court professionals.* Support attendance of FTC practitioners at the annual conference conducted by the New York Association of Treatment Court Professionals and, where financially feasible, at the annual conference conducted by the National Association of Drug Court Professionals.
6. *Encourage participation in online webinars and other web-based resources to keep abreast of emerging best and promising practices.* When in-person training is not feasible, FTC team members can access alternative forms of training, including distance and self-paced learning. Barriers such as distance, scheduling, and court staffing requirements can make it difficult for judges to attend in-person training sessions before they transition to their FTC assignment. In such cases, judges can utilize training resources available online, such as training videos, webinars, and publications. The content of all such training materials should be reviewed and approved by the DPP.
7. *Facilitate onsite observation of other FTCs.* At an onsite visit, judges can learn different strategies and practices that will enhance their own FTC operation. When feasible, other FTC team members also can benefit from onsite observation of a different FTC.



The judge let me know that she cared, and that made a big, huge difference.’

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8. *Encourage periodic video or telephone calls with FTC peers.* Onsite visits are frequently not feasible, but FTC professionals can gain similar benefits by remotely sharing effective strategies and practices. Regular peer communication can also build a sense of community and even promote wellness.
9. *Identify funding support for training.* Cost should not be a barrier to critical stakeholder training. All state and local funding entities should ensure that FTCs are current with established and emerging best practices. Activities to build funding levels could include:
 - a. Exploring federal, state, and local grant options. Grants should be coordinated by NYS UCS Office of Grants and Program Development to maximize opportunities and avoid local FTCs from competing against one another.
 - b. Planning for training in the annual DPP budget and in other court and child welfare programs, as allowable.
 - c. Working with partner systems to coordinate access to training events offered across systems. With training as a priority, work with partner systems to coordinate staff access to training and stakeholder convenings. Incentives such as Continuing Legal Education (CLE) Units for attorneys, Credentialed Alcoholism & Substance Abuse Counselor (CASAC) hours for treatment counselors, and Continuing Education Units (CEUs) for social workers should be pursued.

D. Support the professional development of FTC Judges

The following strategies would support the development of skills and knowledge among FTC judges:

1. *Strive for bench consistency in FTCs.* A study of approximately 70 drug courts found nearly three times greater cost savings and significantly lower recidivism when judges presided over drug courts for at least two consecutive years.³⁸ Researchers also found significantly greater reductions in crime among litigants when judges were assigned to drug courts on a voluntary basis and their term on the drug court bench was indefinite in duration.³⁹ Presumably, for judges, like most professionals, time and experience increases their ability to perform their jobs effectively. For this reason, annually rotating assignments appears to be contraindicated for judges in drug courts. Although this research focused on criminal drug courts, there is no reason to believe the findings would not apply in the FTC setting. In fact, the FTC Standards have adopted this finding regarding judicial consistency.⁴⁰
2. *Develop a plan for succession within the FTC, particularly for the judge.* In many communities, the success of the FTC is driven largely by the personality of the key players,

³⁸Carey, S.M., Finigan, M.W., & Pukstas, K. (2008). Exploring the key components of drug courts: A comparative study of 18 adult drug courts on practices, outcomes and costs. Portland, OR: NPC Research. Available at http://www.npresearch.com/Files/NIJ_Cross-site_Final_Report_0308.pdf.

³⁹Carey, S.M., Mackin, J.R., & Finigan, M.W. (2012). What works? The ten key components of drug court: Research-based best practices. *Drug Court Review*, 8(1), 6-42.

⁴⁰ FTC Standard 2F, *Length of Judicial Assignment to the FTC*. https://www.nadcp.org/wp-content/uploads/2019/09/Family-Treatment-Court-Best-Practice-Standards_Final2.pdf.

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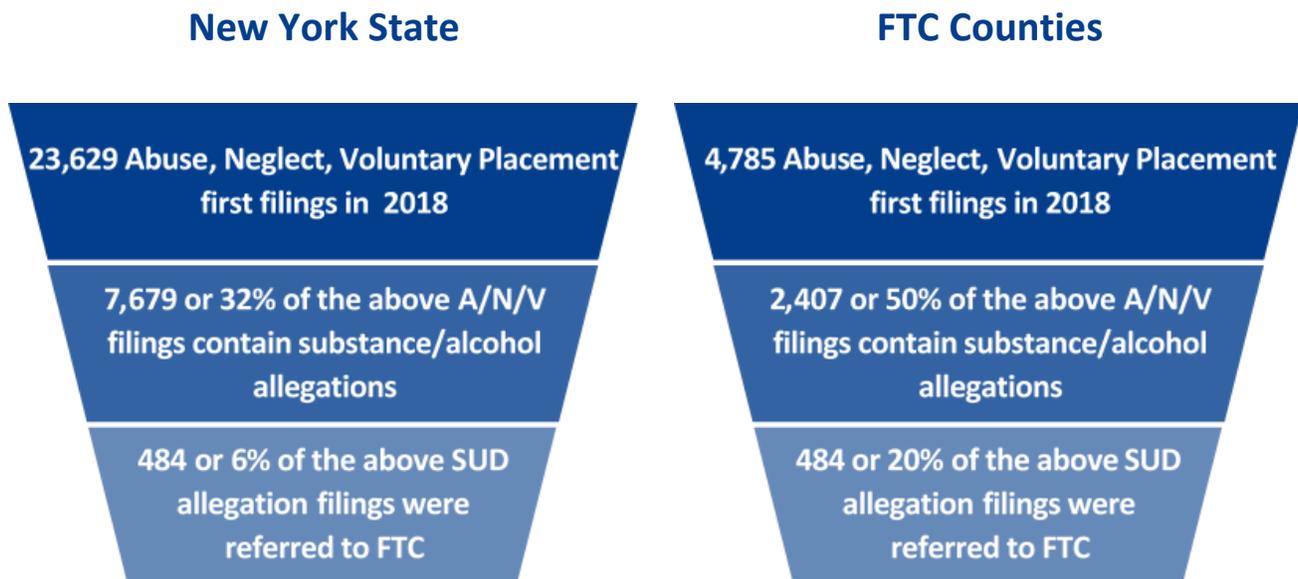
especially the judge. Collaboration among stakeholders grows out of individual relationships. With the departure of any of these individuals, support for the model can wane. The departure of an FTC judge can cause an even greater impact on the program. The transition can result in a lag in referrals to the court and reduced support from local entities until the new team member has developed the necessary relationships. FTCs must plan for succession prior to the judge’s departure. The plan should include thorough training of the new judge, as well as a meaningful orientation to community partnerships.

II. Strengthening FTCs to meet demonstrated need

The presence of SUDs in family court cases is often under-identified or identified late in the legal process. As the charts below demonstrate, where there is an existing FTC within a jurisdiction, SUD is more likely to be identified. The first chart shows the statewide 2018 first filings overall and the second shows those same filing in counties where there is an FTC.

As demonstrated, only 32% of abuse, neglect, and voluntary placement first filings statewide included allegations around SUD, far below the 60-80 percent approximation of national research. Of those identified filings, only 6% were referred to FTCs. Contrast those percentages to the counties where there are existing FTCs. In those counties, 50% of first filings of abuse, neglect, and voluntary placement contained SUD allegations, and 20% of those cases were referred to FTCs.

Substance Use Disorder and Family Treatment Court Usage⁴¹



⁴¹ Source: NYS Unified Court System, Universal Case Management System, Treatment Service Module and Universal Treatment Application, CWCIP Data Metrics.

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A strategic, targeted approach to identifying and addressing SUDs, and providing for a collaborative response, clearly could reduce the number of families slipping through the cracks of the various systems designed to support them.

A. Use a universal, early screening protocol to identify SUDs

The Substance Abuse and Mental Health Services (SAMHSA) Center for Integrated Health Solutions (CIHS) recommends screening and assessment for conditions such as risky, harmful, or dependent use of substances; cognitive impairment; mental health problems; behaviors that compromise health; harm to self or others; and abuse, neglect, and domestic violence.⁴²

After reviewing available evidence-based practices, a committee of the SSIP Better for Families project recommended the use of the UNCOPE Plus tool, which can be viewed at http://www.evinceassessment.com/PDF/UNCOPE_Plus.pdf. Its questions were derived from 40,000 clients in SUD treatment programs around the country, with wording validated in a study of recent arrestees, state prison inmates, and adolescents in juvenile justice settings.⁴³ Training of child welfare staff on the use of the UNCOPE Plus tool or another identified universal screening device in coordination with motivational interviewing will promote engagement of parents in an accurate self-report of substance use and increase the likelihood that SUDs will be identified early in family court cases.

As noted earlier, any screening protocol should not be limited to results from the screening tool. Rather, the protocol must include real-time observations, input from family and friends, drug screen results, corroborating reports from outside professionals, and the case worker's professional judgment.

B. Engage respondent's counsel to encourage FTC participation

Parents in family court proceedings have the right to counsel assigned by the court in any case where the client is financially unable to obtain the same.⁴⁴ Under the rules of professional conduct, counsel assumes several roles in representing the client: advisor, advocate, negotiator, and evaluator. Key to the lawyer-client relationship is the lawyer's obligation to assert the client's position under the rules of the adversarial system.⁴⁵

While FTCs are implemented within the adversarial family court process, these programs focus on collaboration and problem-solving. Parents' attorneys may view collaboration with the FTC as compromising their clients' legal interests. Children's attorneys may be concerned that FTCs focus on parents' recovery to the detriment of the best interests of children. Child welfare representatives may support an early admission because it promotes more immediate access to treatment and allows the parties to focus on parents' progress without time-consuming litigation.

FTC policies and procedures must attempt to resolve attorneys' resistance to participation. At the local level, project planners must consider concerns raised by legal representatives and

⁴² SAMHSA-HRSA Center for Integrated Health Solutions. *Screening and Assessment*. Accessed at <https://www.integration.samhsa.gov/workforce/screening-and-assessment>.

⁴³ Hoffman, N. (2012). *UNCOPE Screening Tool* webinar presentation. Children and Family Futures. Accessed at http://www.cffutures.org/files/webinar-handouts/UNCOPE_PPT.pdf.

⁴⁴ New York State Rules of the Chief Administrative Judge, Part 127.

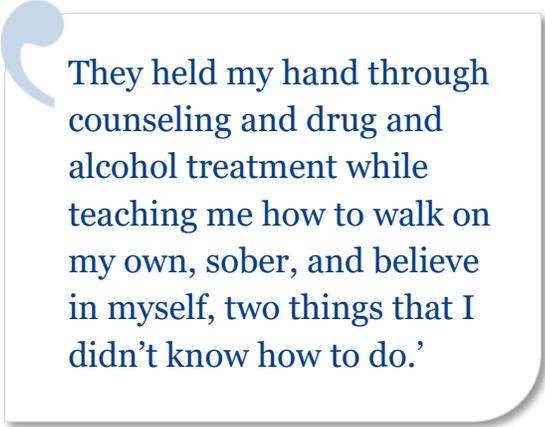
⁴⁵ New York State Bar Association. New York Rules of Professional Conduct Preamble, Sections [1] and [2].

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formulate policies that address those concerns. On the state level, senior representatives from related agencies and organizations (*e.g.*, OCA, OASAS, OCFS, statewide professional organizations for parent and child attorneys) should convene to address policies and practices that discourage participation in an FTC.

Recommendations to increase support include:

1. *Set aside or delay requirement for admission of neglect.* Many, if not most, FTCs condition participation on a parent's admission of neglect. This requirement poses the single most significant barrier for parents' attorneys who are considering referral to an FTC. An admission is not a legal requirement – it is a policy decision. Local FTCs should consider the following alternative strategies:
 - a. *Agree to set aside the admission requirement.* FTCs could set aside admission requirements and proceed to fact-finding and disposition according to best practice time frames, fact-finding within 60 days and disposition within 90 days.
 - b. *Seek an agreement to use suspended judgment [FCA §1052(a)(i), §1053] or an adjournment in contemplation of dismissal (ACD) [FCA §1039]* If the child can safely remain at home while the parent participates in the FTC. Please note, Section 1052 of the Family Court Act prohibits these options when the court orders placement of the child.
 - c. *Permit a parent to make an admission later in the process.* Requiring an admission of neglect upon filing of a petition places undue pressure on the parent who must waive numerous fundamental rights to participate in an FTC. The parties could agree to refer the parent to an FTC at a later stage of the proceeding. For example, the court could refer to an FTC after a Section 1028 hearing (application for return of the child to the parent after temporary removal), after a fact-finding hearing, or even post-disposition. In cases where the child is in out-of-home placement, a delay in the admission would require strict time frames, *i.e.*, fact-finding within 60 days and disposition within 90 days. Without specified time frames, compliance with ASFA requirements could be jeopardized.
 - d. *Following successful completion of FTC, setting aside or vacating an order.* The Family Court Act provides for staying, modifying, setting aside, or vacating an order: “For good cause shown and after due notice, the court on its own motion, on motion of the corporation counsel, county attorney, or district attorney or on motion of the petitioner, or on motion of the child or on his behalf, or on motion of the parent or other person responsible for the child’s care may stay execution, of arrest, set aside, modify or vacate any order issued in the course of a proceeding under this article.” [FCA §1061]



They held my hand through counseling and drug and alcohol treatment while teaching me how to walk on my own, sober, and believe in myself, two things that I didn't know how to do.'

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2. *Allow attorneys to seek a hearing to modify the temporary removal order.* Many FTCs permit children to return to their parents only upon consent of all parties. Even when the parent has admitted to neglect, a parent or child's attorney may seek to litigate a child's return to the home over the objection of one of the parties (typically, Child Protective Services). There is no legal requirement for waiver of a hearing and there is little reason to believe that permitting such a hearing would impact the integrity of the FTC model.

Alternatively, FTCs that have a policy of waiving admissions could provide for exceptions to a waiver of hearings in individual cases where litigation is deemed appropriate.

3. *Further, practical considerations support modification of this waiver.* FTCs provide enhanced access to needed services that promote recovery and family well-being. When parents' attorneys find this waiver to be a barrier to participation in an FTC, parents do not receive the critical support offered by these courts.
4. *Ensure that children's needs are met.* FTCs run the risk of emphasizing parents' progress in recovery as the key milestone of success. FTCs should ensure that the needs of the children are reviewed and met by specifying frequency of visitation, counseling, prevention education, and screening for developmental delays. FTCs should encourage the use of service providers that focus on evidence-based family counseling, parenting components, and treatment that involves the child where appropriate.
5. *Convert a disposition to a suspended judgment.* In a removal case, the court could require an admission prior to participation. When child welfare files to modify the plan for a discharge home, it simultaneously moves to convert the disposition to a suspended judgment, an outcome not otherwise permitted in a removal case. Upon successful completion of the program, child welfare need not oppose a motion to dismiss the entire proceeding.
6. *Study impact of changed policies at local levels in New York and in other states.* Implementation of FTCs in New York State has sometimes been slowed by parents' attorneys' opposition to the requirement for an admission of neglect and the waiver of critical hearings for their clients' participation in an FTC. A handful of FTCs have successfully experimented with modifying or eliminating these requirements. OJI will study the impact of these changed policies on the integrity of the FTC model and on the practical outcomes of affected cases. The results of such a study will help inform the viability of broader application of reformulated FTC policies and practices.

C. Develop elements of community support

The FTC model is unlikely to reach its potential without a comprehensive assessment of community support and appropriate buy-in from all stakeholders. The Wilder Research Foundation developed five key dimensions to community support for SUD programs for the Minnesota Department of Human Services.⁴⁶ The areas for consideration include:

⁴⁶ https://www.wilder.org/sites/default/files/imports/ATOD_CommunityNeedsAssessment_Toolkit_8-11.pdf.

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1. *Community knowledge of the issue:* Data collection and the sharing among all stakeholders can ground a community's understanding of the nature and scope of the problem. Localities should assess the number of child welfare cases involving SUD and neglect, assess how those case outcomes are trending, and inform key stakeholders of this data.
2. *Community knowledge of efforts:* Communities need to be aware of available treatment for SUDs, barriers to that treatment, and share a common understanding of the work of FTCs.
3. *Climate of collaboration:* Stakeholders should examine why prior cross-systems work has succeeded or stalled. All parties should then apply lessons learned from their experience towards creating more effective collaboration.
4. *Leadership:* Judicial leadership arguably constitutes the single most important force in developing and sustaining an effective FTC. Accordingly, FTCs must engage in meaningful succession planning to ensure a smooth and stable transition of judicial leadership. The need for succession planning also applies to leadership from the child welfare system and treatment community. A local FTC Advisory Committee is an ideal forum for convening key stakeholders from all three systems, as well as interested community representatives, and can play an important role in not only smooth transitions among leadership, but in the FTC's overall sustainability.
5. *Resources:* Adequate funding for FTC's, including training and substance use testing, is a predictor of FTC sustainability. A diverse blend of funding streams helps to ensure sufficient and lasting resources for FTC operations. Many counties have had success with local fundraising efforts, even creating a not-for-profit affiliated with the FTC for the purpose of identifying appropriate private and government funding. In some instances, federal and state dollars targeted to address the opioid crisis can be sources of grant funding for non-personnel FTC expenses.

D. Develop support for FTCs at all key levels of government

Local FTCs should identify leadership from all systems involved in the FTC and convene them regularly as an advisory board to monitor operations and to address any gaps in services. This local advisory board should address substantive local challenges for stakeholders and brainstorm solutions.

At the state level, the OJI-Division of Policy and Planning (DPP) will convene a standing, multi-disciplinary steering committee that would meet biannually to assess challenges and progress in implementing this Strategic Proposal. DPP staff will produce and disseminate annual reports on FTC activity, court practices, emerging trends, and implementation of evidence-based practices. Ongoing communication among stakeholders will promote understanding of the FTC model, help identify statewide training needs, and support an enhanced allocation of resources across multiple systems.

Local FTCs may consider full-day retreats to revisit their policies and procedures, ensure that their practices are operating with fidelity to the FTC Standards, and address any personnel or other conflicts that may be negatively impacting their program.

III. Improving data collection and analysis

Effective and sustainable FTCs depend on reliable data collection and analysis that can measure whether the programs are achieving the desired outcomes. This data can be used to build capacity, assess outcomes, and enhance program operations.

While precise statistical data across systems is critical to assessing the efficacy of FTCs, personal and anecdotal reports of success stories put a human face on data analysis. For example, attending a graduation can be a transformative experience. Reading a grateful testimonial from an FTC participant can inspire meaning within the data. Sharing personal achievements engages all players in the model and promotes continued buy-in from key stakeholders.

New York faces numerous challenges to achieving the goal of reliable data collection and analysis in New York State:

1. FTCs involve multiple systems: the courts, child welfare agencies, and SUD treatment providers, at a minimum. Each system independently tracks the data points that are relevant to its operation and performance measures but may not be directly relevant to the measurement of outcomes for FTCs. While the data points frequently overlap across systems, uniform data collection may be neither feasible nor desirable. Identifying the specific, cross-system data points that inform the effectiveness of FTCs requires a collaborative effort.
2. The three systems, at both local and state levels, need to agree on what set of data points will reflect the effectiveness of FTCs. A shared understanding of what is being measured and what defines success is critical to meaningful data collection and evaluation of FTCs. FTCs sometimes focus on data such as graduation rates, drug test results, completion of substance abuse treatment, and other factors related to parents' compliance with the FTC mandate. Performance measurements instead must include data that reflects a family-centered approach with the goal of assessing changes in behavior that lead to the stability of the family. The focus must be on both the parent and the child by collecting key information related to permanency outcomes and the safety and well-being of the child. A family-centered approach would also include data that measures the impact of mental health, parenting, and other critical family services and not just completion of a recommended number of sessions.
3. Any effort to identify paths for sharing data across systems will face significant bureaucratic, technological, and legal hurdles. Meeting these challenges requires collaboration, commitment, leadership, and resources. Without these essential elements, it is impossible to know whether FTCs are producing positive outcomes for families and how to improve outcomes in the future.
4. The lack of a robust cross-systems data approach can negatively impact funding for FTCs from federal, state, and local sources. Potential losses might include both direct funding and in-kind resources, especially at the local level.

Agencies at both state and national levels have made significant strides in creating a data-driven FTC model, but much remains to be accomplished.

National efforts

The Family Treatment Court Best Practices Standards published in 2019 offer a framework for robust monitoring and evaluation.⁴⁷ Broadly, Standard #8 recommends that FTCs collect and review data to monitor participant progress, engage in a process of continuous quality improvement, monitor adherence to best practice standards, and evaluate outcomes using scientifically reliable and valid procedures. This set of standards serves as a guide to implementation of a data collection system that will measure the effectiveness of FTCs and create a roadmap for improving and enhancing their operation. Specifically, the FTC Standards makes the following recommendations:

1. *Maintain data electronically.* The FTC uses an electronic database to collect and store information about:
 - a. Participant demographics;
 - b. The services provided to parents and families;
 - c. Participant progress in the FTC; *and*
 - d. FTC actions and processes.
2. *Engage in a process of Continuous Quality Improvement (CQI).* The FTC promotes practices that support an environment in which all partners collaborate to continuously improve processes and outcomes. This is the purpose of CQI - to regularly evaluate our methods and make adjustments where necessary. The FTC engages in an annual evaluation of its policies, procedures, and outcomes and develops an action plan to address challenges, incorporate best practices, and improve outcomes.
3. *Evaluate adherence to best practices.* The FTC adheres to best practice standards as defined by research on FTCs and in the related areas of child welfare, dependency court, the treatment court model, SUD and mental health treatment, children’s developmental services and related health, educational, and social services for children, parents, and family well-being.
4. *Use rigorous evaluation methods.* The FTC ensures evaluations that use the most rigorous methodology available that is both feasible and appropriate to address the pertinent evaluation questions.

Available best practices can be found on websites such as those maintained by the California Evidence-Based Clearinghouse (<https://www.cebc4cw.org/>) and the Title IV-E Prevention Services Clearinghouse (<https://preventionservices.abtsites.com/>).

⁴⁷ Center for Children and Family Futures and National Association of Drug Court Professionals (2019). *Op cit.*

New York State efforts

Electronic collection of data

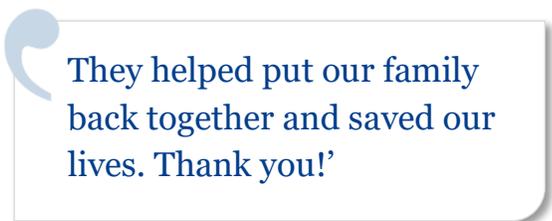
In recent years, New York has taken meaningful steps toward implementing monitoring and evaluation in the FTC environment (Standard #8). New York's FTCs currently can access two primary electronic court data sources to inform a CQI effort. In addition, the Office for Justice Initiatives has developed an FTC dashboard that combines child welfare data metrics with information from the FTC treatment module, allowing FTC staff to view both sets of data together.

FTC Treatment Services Module: The Treatment Services Module (TSM) used by all FTCs generates monthly reports that are readily available to FTC staff. These reports provide informative data about timeliness of referral to an FTC; assessment results; delivery of treatment, family, and children's services; and, the compliance status of parents. The TSM also provides aggregate data to statewide administrators regarding trends and outcomes in New York's FTCs.

Child Welfare Court Data Metrics: The Office for Justice Initiative's Child Welfare Court Improvement Project (CWCIP) produces metrics designed to provide meaningful data in a consistent format to assist all family courts in achieving the best possible outcomes for children and families in child welfare proceedings. Annual reports can be accessed at nycourts.gov/ip/cwcip.

New York has established nine court-based measures:

1. *Achievement of permanency:* Among children who enter out-of-home care for the first time in a given period for reasons of abuse/neglect or voluntary placement, the proportion of children who achieve permanency by reunification, permanent custody or guardianship with a fit and willing relative or suitable person or adoption.
2. *Time from entry into out-of-home care to permanency achieved:* Among children who enter out-of-home care for the first time in a given period for reasons of abuse/neglect or voluntary placement, the time from entering out-of-home care to permanency achieved by reunification or permanent custody or guardianship with a fit and willing relative or suitable person or adoption.
3. *Time from abuse/neglect petition filing to adjudication:* Among children for whom an original abuse/neglect petition is filed during a given period, the time from petition filing to adjudication.
4. *Time from abuse/neglect petition filing to disposition:* Among children for whom an original abuse/neglect petition is filed during a given period and the court makes a finding of abuse/neglect or the respondent admits or consents to the jurisdiction of the court, the time from petition filing to the entry of a dispositional order.
5. *Time from entry into out-of-home care to completion of initial permanency hearing:* Among children who enter out-of-home care for the first time in a given period for



They helped put our family back together and saved our lives. Thank you!

reasons of abuse/neglect or voluntary placement, the time from entering out-of-home care to the completion of the initial permanency hearing.

6. *Time from entry into out-of-home care to Termination of Parental Rights (TPR) petition filing:* Among children for whom a first TPR petition has been filed within a given period, the time from entering out-of-home care to the time of the TPR filing.
7. *Time from TPR petition filing to adjudication:* Among children for whom a TPR petition is filed in a given period, the time from petition filing to adjudication of the TPR.
8. *Time from TPR petition filing to disposition:* Among children for whom a TPR petition is filed in a given period and one or more grounds for termination is established, the time from TPR petition filing to disposition.
9. *Subsequent abuse/neglect filings after the initial period of court jurisdiction ends:* For children whose period of court jurisdiction ends, the proportion of children who are the subject of a subsequent petition alleging abuse/neglect filed within a given period.

Notably, many of these measures are used in federal reviews of state child welfare programs. The Child and Family Services Review (CFSR) is a process through which the Children's Bureau monitors state child welfare programs and compliance with federal regulations. Title IV-E reviews are conducted to determine compliance with Title-E of the Social Security Act (42 U.S.C. §§ 671-679b), an important funding stream for foster care costs.

Other components for effective data collection and analysis

Although the New York State court system has made advances in electronic data collection of its child welfare data, implementation of the three other components in Standard #8 continues to pose challenges at both the local and state levels. For the most part, the three key systems involved in the FTC model have not yet collaborated consistently to share data, regularly convened to assess program outcomes, or formulated strategies for enhancing and improving FTC operations in New York. There are no established statewide protocols for monitoring adherence to best practice standards. In addition, for the most part FTCs in New York have not benefited from rigorous evaluation methods that can build both community and funding support for these courts.

Sharing of child welfare data

Federal reporting requirements on child welfare data are far too complex for the purposes of this document. However, New York's system for the collection and submission of child welfare data required by the federal government is worth noting. The federal Statewide Automated Child Welfare Information System (SACWIS) requires all states to submit comprehensive data on child protective, preventive, foster care, and adoption services to the Office of the Administration for Children & Families (ACF).

New York's child welfare database, CONNECTIONS, provides for the electronic documentation of information about families and children in the child welfare system throughout the state. Caseworkers enter data into CONNECTIONS, which is forwarded to the NYS Office of Children and Family Services (OCFS). OCFS then submits the information to ACF on a quarterly basis. ACF uses the data for an annual report on child welfare trends and a yearly evaluation of each state's system.

While the data collected in CONNECTIONS is vital for measuring FTC outcomes, there are barriers to other agencies accessing this information. The most obvious obstacle is the legal constraints regarding confidential information. Another fundamental problem involves the inability to isolate FTC from non-FTC cases. Data sharing agreements at the local level may be the only path to identifying families that are participating in an FTC and accessing child welfare data associated with those families. At a minimum, this effort would necessitate strong cross-system partnerships, a high level of mutual trust, and consents from FTC participants for the release of confidential case information.

Creating a data-driven FTC model

Although there is no one path forward, either statewide or locally, to achieve a data-driven model, one promising initiative can provide guidance. The Prevention and Family Recovery (PFR) initiative sought to improve outcomes for families in FTCs, in part by building their performance and evaluation capacity.⁴⁸ Specifically, the project supported four diverse FTCs across the country to foster a family-centered approach through cross-systems collaboration and adherence to best practices. One of the FTCs is the Tompkins County Family Treatment Court, which has served as a national model for implementation of an FTC.

From 2014 to 2017, these four jurisdictions received considerable funding from the Doris Duke Foundation and technical assistance from Children and Family Futures. At the end of the project period, CFF produced a series of briefs that offered lessons learned from the four FTCs, including the critical role of performance monitoring and evaluation capacity in building a sustainable FTC model.⁴⁹ These key findings might help to provide a roadmap for FTC leadership in New York to examine. They include:

A. Build data capacity

- Create structured opportunities to engage partners in regular review and discussion of data;
- Assign dedicated staff or liaisons to improve tracking of parent and child services;
- Develop an FTC database;
- Enhance existing data systems; and
- Use interim data points to initiate conversations.

Local FTCs can improve their data capacity by forming workgroups that meet regularly, e.g., monthly, to focus on gaps in data collection and strategies to improve cross-system data sharing. One staff person should monitor delivery of services to parents and children. The Office of Court Administration (OCA) Treatment Services Module (TSM) offers comprehensive information on FTC participants' demographics, service delivery, and compliance with court orders. The TSM reporting functions should be used to inform the staff person's work and

⁴⁸ Children and Family Futures. *The Prevention and Family Recovery Initiative*. Accessed at <https://www.cffutures.org/pfr/>.

⁴⁹ Children and Family Futures. *Prevention and Family Recovery Briefs and Case Studies*. Accessed at <https://www.cffutures.org/report/prevention-and-family-recovery-brief/>.

measure the effectiveness of the FTC's policies and practices as they relate to New York's nine court-based measures (*see pp. 26 – 27*).

B. Utilize effective cross-systems, data-driven decision making

Effective FTCs feature the following components:

- Broad-based collaboration, leadership and buy-in;
- Resources and infrastructure; *and*
- Data utility and value.

At both the local and state levels, steering committees should be created that include all key players in the FTC model. The committees should meet regularly to build consensus on the goals of the FTC and to build interagency trust and commitment to shared goals. Data collection and analysis must play a central role in the committees' determination of FTC effectiveness. At the local level, all staff must be informed of the FTC's effectiveness, as indicated by the data. At the state level, leadership of all systems should focus on data outcomes and protocols for enhanced sharing of data across systems.

C. Establish a comprehensive evaluation model for local FTCs

Evaluation models provide opportunities for assessing and strengthening performance monitoring and evaluation capacity. These opportunities include:

- Identifying priority outcomes;
- Knowing baselines and targets;
- Determining current and desired penetration rate;
- Conducting data systems walkthroughs;
- Assessing current data-sharing agreements; *and*
- Identifying data dissemination and discussion venues.

Statewide leadership should develop a comprehensive evaluation model that can be conducted by individual FTCs. New York has agreed on its priority outcomes as reflected in its nine court-based measures. Comparison groups are needed to evaluate FTC effectiveness as measured against traditional child welfare case processing.

At the local level, FTC staff should determine the number of families affected by SUD in need of services compared to those families being served by the FTC. Where more capacity is indicated, local leadership of all three systems should formulate strategies for serving more families in need. Finally, development of a rigorous evaluation model will include a comprehensive review of all deficits in data collection and strategies to overcome those deficits with improved data sharing across systems.

CONCLUSION: A CALL TO ACTION

The recommendations in this Strategic Proposal for Family Treatment Courts currently represent the best thinking and practices in the field, synthesized into a systemic response to families impacted by substance abuse.

Collaboration and cooperation appear repeatedly as themes, but as experience has shown, cooperation across a broad spectrum of participants presents inherent challenges. Stakeholders reviewing this Proposal must be sensitive to its essential message of cross-system collaboration, arrive at shared goals backed up with data, commitment, and implementation of mutually reinforcing activities. All must come to the table prepared to share concerns and perceived obstacles, and then develop thoughtful cooperative processes for implementation. FTCs can achieve better outcomes for families only when all partners are willing to collaborate, respect varying perspectives, and continually seek solutions to the struggles facing these families.

Designing systems to support families served by FTCs will entail complex problem-solving and getting over multiple hurdles to reach a better future.

Where cooperation prevails and success is achieved, the shared celebrations that follow will encourage New York's FTCs to continue to improve.



They want you to succeed.'

Quotes from participants in call out boxes. Source: [Drug Courts, personal stories and narratives from across New York State](#) (print and video versions).

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