

To: Pam Batson & Hon. Margaret Hayden
From: Nicolette M. Pach, NCSACW Judicial Consultant
Re: Summary of and feedback from the Essex County Walk Through and Rapid Change Discussion
Date: May 16, 2010

Formalities: Policy and Procedure Manual, Memoranda of Understanding

There comes a time as FDCs mature that a top to bottom review of the manual and FDC practices are called for. This could be that time for Essex County. Members of the team indicate that the Policy and Procedure Manual (revised in 2007) does not represent current practice in FDC. This is a symptom of “model drift”, a lack of consensus about policies and procedures or both. To sustain the FDC expectations must be clear. Revising the Policy and Procedure Manual takes energy and commitment and requires a concerted effort by the entire team both in full team meetings and subcommittees constituted according to their team member’s expertise and role. It is essential to have defense counsel on the team and (with the dual process for level of care determination and facilitated entry to treatment) SAI and CPSAI at the table. Revisions of the policy and memoranda of understanding can be developed to clarify the various obligations of institutional team members and participants. This will help sustain the FDC program through changes of personnel and administrations.

Below is a discussion of information gleaned from the meetings of the Essex County FDC in March and April 2010. These meetings were facilitated by NCSACW consultants Pam Batson and Nicolette M. Pach. The stated goal going into the discussions was maintaining and increasing the FDC population. Each of these topics raised by the team was viewed as impacting on that goal. As they are addressed by the FDC team they will inform the revision of the Policy and Procedure Manual. Revision is likely to continue topic by topic, section by section over several months, since the team and the agencies they represent will have to allot time out of their busy schedules to make this happen. Meetings of the whole and of subcommittees must be regularly scheduled at consistent times. Task and time lines (work plans) should spell out next steps, responsible parties and due dates. The NIATx process suggests that teams make small changes one at a time so the effectiveness of each change can be evaluated.

Case Identification

The Essex County FDC team identified early case identification as critical to introducing the FTC concept to potential participants in a way that will engage them. It will give their attorneys sufficient time to discuss this option at the initiation of court involvement. The team agrees that training by an expert in the identification of AOD issues is a necessary component. It must be accompanied by practice protocols to support the training. Training should include DYFS workers, DAGs, parent’s attorneys, children’s attorney, Judges and litigation specialists.

Questions Raised

Pre-filing

Is there any pre-filing case identification by DYFS of potentially FDC eligible parents? How is substance use/abuse recorded as a factor in a DYFS child protective case and communicated to subsequent workers?

Upon Filing

Are petitions flagged by the DAG or DYFS as potential FDC participants? Is there a systematized protocol for petition review once the case has been filed? Who is responsible for it? Are all team members and court personnel aware of it? If AOD is alleged in a petition how is the case flagged to notify the court and counsel of the potential FDC involvement?

Referral Process/"marketing"/information available

Case Referral Protocol

The team overwhelmingly identified the need to provide information about the FDC and the referral and entry process on a regular and ongoing basis to non FDC personnel who may come in contact with potential FDC participants. DYFS staff was viewed as a potentially helpful in informing parents early in the process about FDC. Since DAGs, Judges and litigation specialists are in early contact with potential FDC participants a strategy for periodic reminders of the criteria for admission and protocols for referral should be given.

Questions Raised

- When a case is identified as a potential FDC case can it be directed to the FDC judge from the clerk's office for the first appearance (with some other protocol for emergency intakes)?
- Is there a location in the public portion of the courthouse where parents and their attorneys can go or be sent if cases are potentially eligible for FDC?
- If DYFS workers, DAGs, parent's attorneys, children's attorney, Judges and litigation specialists identify AOD issues in a case do they know the protocol for referring it to the FDC judge? Has it been made as simple as possible for the other judges and court personnel? What is the protocol for case calendaring once the referral is made?
- Since respondent's attorneys are likely to be able to identify AOD issues in a case even where it is not contained in the pleadings, what is being done to assist them and give them an incentive to refer the parent to FDC?
- Is there a continuing process of "marketing" FDC to those who are in a position to make a referral?

(The fact that the child protective case is continuing before another judge while the parent is trying to qualify for FDC was identified as a barrier to entry.)

ENGAGEMENT

Parent Engagement

The team identified the need for improved client engagement and strongly favored the use of recovery specialists which the FDC is pursuing through a pending grant application. They identified the need for prompt access to detox as the first step in engaging parents. Linkage to treatment must be seamless after detox or the client may get back out and relapse, thus creating a revolving door for detox and a less than ideal use of resources. They also noted the importance of how parents are approached and dealt with by FDC team members noting the benefit that would be gained from Motivational Interview training and an examination of attitudes toward FTC participants (see Values Clarification).

Questions Raised

Whose job is it to introduce the option of FDC to the parent and her attorney? When and where does this take place? Is there a program brochure to explain the FDC, its benefits and how to qualify for admission? Is there a consistent method of parent engagement? Is there a requirement that the attorney be present when FDC is being discussed with the parent? What is the process for parent engagement if the parent is incarcerated at the time the case is filed? Is there a sign indicating the location of FDC and its offices in the courthouse?

Parent Attorney Engagement

The team recognizes that parents' attorneys are critical to the success of any FDC and can encourage or discourage participation. They can only do this if they are able to tell a parent the benefit of participating and they must be convinced it is more beneficial to the parent to participate than to remain in traditional case processing.

Questions Raised

What data is available to show the efficacy of the FDC? Is it publically available? How are parents' attorneys included in developing or revising protocols? What is the source of their information about the FDC? Are parent's attorneys considered members of the FDC team? And do they consider themselves members? Do FDC staff and the judge hold regular meetings of the FDC team and include parents' attorneys. What materials about FDC are distributed to parent's attorneys? Do they participate in FDC cross training?

FDC Case Management

While the team did not raise the issue of case management directly, however other concerns demonstrate that attention should be given to this function. With an individual case manager the participant has a specific person to go to when difficulties arise. The case manager can assist the

participant to negotiate across all the systems: SAI, CPSAI, DYFS, the treatment provider, parenting programs and other ancillary services. The case manager can assure collaboration across all these systems so parent's case plans in each system are coordinated and do not create conflicting demands or overwhelm parents. Assigned case managers also assure that progress is tracked and recognized. Given the differences in SAI and CPSAI case management and the fact that the goals of each program are different and not necessarily aligned with the FDC philosophy, there would be a significant benefit to having FDC staff assigned to specific FDC participants as their case managers. Most FDCs have individual case managers or recovery specialists to fill that role. If the Essex County FDC is successful in their grant application, then recovery specialists could be enlisted to fill this function. However, individual case management cannot wait for grant money.

I strongly recommend that the FDC team review *Drug Court Case Management: Role, Function, and Utility* by the National Drug Court Institute.

http://www.ojp.usdoj.gov/BJA/pdf/Drug_Court_Case_Management.pdf

The key to success in FDC is engaging the parent. As this publication states (@ p. 25)

While performance of each of the case management functions is essential to the success of a drug court, the fulfillment of each function is inextricably tied to the extent to which the participant is engaged in and remains committed to the recovery process. Engaging the participant in a recovery plan and sustaining his or her commitment to the corresponding recovery program is a challenge that overlays all case management functions.

The recommended practice (@ p. 9) is as follows:

All models of case management share a core group of five functions, comprised of assessment, planning, linking, monitoring, and advocacy. These functions are linked to one another and incorporate the information gathered at every stage of the drug court process. Within each function are several tasks, which may be provided by a designated case manager or shared by several service providers. Although various drug court team members may perform certain case management functions, the responsibility for coordinating the case management process for a caseload should fall to a designated primary case manager.

Questions Raised

Who provides case management for individual participants throughout the course of their FDC participation? Do FDC staff members have participants specifically assigned to their caseload? Who is responsible for entering data concerning a participant's progress? What is the process for case review outside of staffing to determine eligibility for advancement or graduation? Who from FDC engages with the treatment providers on behalf of participants and the overall program?

ENTRY PROCESS

The team discussed the entry process. It is lengthy, has numerous steps and may in itself be a barrier to participation.

Time Frame Targets for FDC Process

There was consensus that the process should be streamlined. The team agreed one of the subcommittees should concentrate on developing time frame targets for entry (and eventually the whole process). In developing time frames the team will necessarily have to review the appropriateness of the elements of the process itself.

Questions Raised

Does the FDC have targets for the number of days that may elapse from filing to:

- Initial discussion with parent
- Indication of interest and/or commitment to enter by parent
- LOC assessment
- Stipulation/admission into FDC
- Disposition order that includes participation in FDC
- Entry into treatment

Similarly does the FDC have time frames for moving through FDC phases? For example how many days must a participant regularly attend treatment or have negative tests to qualify for the next phase of FDC?

Application Process

The team was clear that the application process is extended. Additionally the case walk through demonstrated that this extended time may be a barrier to entry. The time frame subcommittee should list all the activities or obligations the parent must complete while applying, identify the barriers to completing them, determine if concrete assistance can be offered to overcome them and determine which of these activities or obligations could be completed after admission to the FDC.

Questions Raised

What does a parent have to do to be considered for FDC? What documents must the parent provide for the application? How are parent's health needs addressed so they qualify to enter treatment? Who is available to assist them in meeting these requirements? Do parents sign releases for confidential treatment information? What are the protocols around the use of information learned in the application process in future child protective investigations or proceedings? Is this a barrier? Does the parent make any commitment to participate before the

level of care assessment? Must the parent observe FDC before entering? How complex is the process? Can it be streamlined?

Level of care Assessment

In some FDC models the LOC assessment is done prior to admission to FDC, in others it is completed after the parent enters the program. Since the Essex FDC does the LOC before entry it is being addressed in the Entry Process section. Consideration might be given to the pros and cons of admission to FDC prior to the LOC assessment. In order to assure the LOC assessment is well informed some members of the team support supplying relevant portions of the parent's DYFS history to the CADDC who is doing the assessment. There was also support for assuring the LOC assessment takes place promptly, the day the parent indicates an interest in FDC or the next day.

Questions raised

When in the course of the child protective case does the level of care assessment occur? Is there a relationship between that event and the FDC or not necessarily? Do SAI and CPSAI workers refer parents to FDC are doing an assessment in cases where a child protective case has been filed in court? Is there a way that a level of care assessment by SAI and CPSAI could be automatically accepted by the other without the necessity of repeating the LOC assessment.

Values Clarification

During the meetings in March and April, discrepancies as to team member's underlying values about addiction and recovery were evident. These attitudes impact on team members' interaction with participants and parent engagement. A second issue raised the question of the appropriate limits of FDC intervention; how far should the FDC go in enforcing a court order requiring abstinence. At what point is it more appropriate to simply adopt a goal other than reunification rather than continue to require compliance with FDC participation. Included in this question is whether incarceration should be used in a family court and whether, even if it is rarely used, it deters parents from participating. The NCSACW's Collaborative Capacity Instrument and/or Collaborative Values Inventory which has been completed through the IDTA process should inform the values discussion.

To accomplish this, a meeting of the entire team is recommended to create or revisit the FDC's mission statement and a statement of shared goals and outcomes. This will provide an opportunity to address basic FDC values. Cross training on the perspectives of each discipline at the table might also alleviate the tension created by differing value systems.

Role Clarification

There has been an almost complete turnover of the FDC staff since its inception. As is often the case with turnover there is a need to revisit team members' roles and responsibilities for the

benefit of all the members. Understanding each other's ethical obligations as a professional goes hand in hand with role clarification. The most obvious example is the role of the defense attorney whose obligations to zealously represent the parent are often misunderstood as a failure to cooperate with the team. But equally treatment and child welfare often misunderstand the motivations of the other due their differing views on who the client is. Exploring this through cross training is an option, as is the use of informal gatherings like brown bag lunches where each is given the opportunity to explain their obligations to the team. This is a discussion that should occur with the whole team present.

A starting point might be to have each discipline on the team explain its job to the other team members. Often, people assume each knows the other's job. Even when colleagues have been working together for years they are often unaware of each other's role responsibilities and ethical obligations. Having the role explained from that discipline's perspective reveals the rationale for positions team members may take in FDC staffings and the burden of tasks not obvious to others. If the discussion includes enumerating tasks to be accomplished by the FDC duplication of efforts may come to light and be eliminated. In this discussion, the duties and expectations for SAI and CPSAI workers would be clarified yielding methods to bridge the transition between the two and eliminate duplication of efforts. The discussion may also identify case management gaps which should be addressed and assigned to a team member.

Community Linkages

During the discussion it was clear that some team members were familiar with certain community resources that others were not. Some of the resources mentioned were Delany Hall, domestic violence services, medical providers (especially for post partum evaluations) and housing options. A recurring obstacle was securing post partum physicals for mothers who wanted to enter FDC. When this was raised members of the core team shared information on resource availability that was previously unknown to the team.

The team can map existing community resources and identify gaps in services. The team members would then be in a position to direct families to appropriate resources as the situation dictates. The process will demonstrate where more effective linkages are required and where gaps exist. A member of the team, usually the coordinator, should be designated to go out into the community to visit treatment and other service providers to introduce the FDC, to assess the providers for their suitability for FDC clients and to create linkages with them. Identifying the gaps permits the leadership of the FDC to advocate for needed services.

Phase System in FDC

While we did not discuss the phase advancement system and graduation criteria directly, references made to it raised the question as to whether the criteria were concrete, measurable, doable and whether the timeframe for each phase was appropriate or overly long.

Data

Data collection for individual case progress and outcomes as well as programmatic outcomes should be made available to all and tracked through a consistent process. The Judge clearly indicated that data is available and is being used in a current grant application. However the data was not generally known to the team. Generally speaking data collection and dissemination is the responsibility of case managers and the FDC coordinator. Depending on the ability of data systems to communicate, data may have to be tracked in each system and then shared. During the discussion of values the team should agree on what outcomes measures are important to each system represented on the team and a means to securing that information. Data should enable the FDC to track individual participant progress and whether the program is meeting its own procedural requirements and its overall effectiveness.

The SAI CPSAI relationship

The Essex County FDC is both blessed and challenged by the availability of SAI and CPSAI to assist FDC participants to access AOD treatment. They offer access to services and funding for services. This is a great benefit. However their differing purposes and management structures may lead to circumstances where in some cases they are working at crossed purposes with the FDC and each other.

Questions Raised

- Can SAI and CPSAI find a way through the FDC structure to collaborate on a smooth transition from one system to the other so that FDC participants continue to engage in treatment during that time period?
- Do SAI and CPSAI refer parents to the same or different treatment providers? Could they be encouraged to utilize the same providers in FDC cases so if a transition is required it would involve only a change in funding streams, not a disruption of AOD treatment? What are the barriers to this?
- Given the different case management protocols in SAI and CPSAI, how can FDC bridge the case management gap? (see Case Management above)