



A Day in Family Dependency Treatment Court

Ocmulgee Circuit aims to restore parents' connections to work, family

By Rachel Davidson

"Don't forget to get something out of the basket!"

This became a chorus sung by the Family Treatment Court team of the Ocmulgee Judicial Circuit as they celebrated participants' achievements. Praised for her persistence in finding a job, one participant was overjoyed to be given permission to pick something out of the reward basket. Giddy with excitement, she selected a bottle of shower gel.

Family Treatment Courts (FTCs) currently exist in 17 (almost 19) of Georgia's 49 judicial circuits. The Ocmulgee Judicial Circuit will soon be celebrating the 5th anniversary of the establishment of its FTC. The Office of the Child Advocate was able to spend a day with Judge Spivey and the circuit's FTC team to witness the process in action.

The goals of a Family Treatment Court are to:

- Reduce alcohol or drug abuse and addiction for respondents in dependency proceedings;

- Improve permanency outcomes for families when dependency is based in part on alcohol or drug use and addiction;
- Increase the personal, familial, and societal accountability of respondents in dependency proceedings; and
- Promote effective intervention and use of resources among child welfare personnel, law enforcement agencies, treatment providers, community agencies, and the courts.

An FTC court day begins with a staffing involving all team members - the judge, FTC coordinator, DFCS staff (county directors and FTC case manager), SAAGs, parent attorneys/advocates, child attorneys, CASA, treatment providers, and the panel coordinator. During the staffing, the team discusses the levels of compliance and progress of each participant; which participants have achievements to celebrate; and what sanctions may be appropriate for those participants who have been non-compliant.

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Q & A with Judge Spivey

Q: What prompted you to establish a Family Treatment Court in your circuit?

A: I was terminating parents' rights on a lot of drug cases. Judge Steadman had established one in Cobb County and her enthusiasm was contagious. Family Treatment Court seemed like a good alternative.

Q: What is the biggest challenge?

A: When establishing the program, getting lawyers on board was the hardest thing because people aren't used to thinking like this. Parents have to waive their 4th Amendment rights to get into the program, which is difficult for lawyers. For parents in the program, finding and maintaining appropriate housing is the biggest issue we encounter.

Q: Why are you so passionate about FTC?

A: The model has proven worth it to me - even given the time, effort, and money that goes into it.

Q: What would you tell a judge considering establishing their own family treatment court?

A: Don't think you're going to do it if you're within 6 months of the grant cycle. You need to plan for at least a year. Hold



Judge Philip B. Spivey presides over the Ocmulgee FTC

stakeholder meetings to get everyone used to the concept of the model and iron out the wrinkles. Ask questions of the Council of Accountability Court Judges (CACJ) and other FTC judges. Visit established FTCs and collaborate with other accountability courts. Don't reinvent the wheel; get forms that already exist, such as waivers, contracts, and protective orders. Attend at least one training before starting. Get the coordinator and as much staff as possible trained in advance.

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Editorial: Where's the Harm in That?

By Tom C. Rawlings
State Child Advocate

For many years, Georgia's termination of parental rights law has provided the courts with a four-step process for determining whether the bond between a parent and an abused or neglected child should be permanently severed. To convert a parent and child into legal strangers — a step necessary for the child to be adopted — requires the State to prove by clear and convincing evidence that (1) the child is not receiving proper care and is "dependent"; (2) it is the parent's bad actions or lack of capacity that are responsible; (3) this situation is not going to be fixed anytime soon; and (4) "the continued dependency will cause or is likely to cause serious physical, mental, emotional, or moral harm" to the child. OCGA 15-11-310 (a)(5).

It is this last factor: the need to prove "harm" — that has caused both juvenile and appellate courts the most heartburn over the years. As far back as the early 2000s, when I was a rookie on the juvenile court bench, we were reminded by appellate court decisions that to terminate a parent-child bond required evidence of harm. We could not just assume that letting the child linger in foster care would necessarily cause the child harm, even though that's what the social science generally told us.

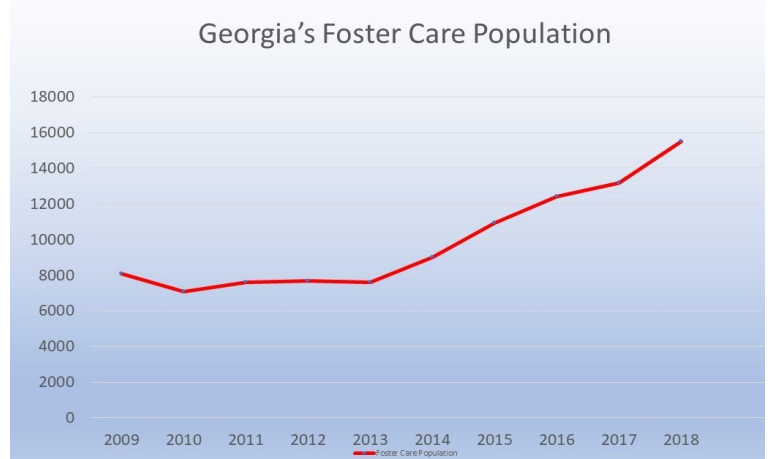
See [Editorial](#), p. 5

OCA Data Points:

Using Reasonable Efforts to Prevent Foster Care Overload

Foster care populations are rising nationwide, and Georgia is not immune to this increase. Perhaps due to a combination of greater public awareness of child abuse and the long-term damage that drugs such as methamphetamine and opioids have done to Georgia's families, our state's foster care population has risen dramatically over the past several years.

Although the purpose of foster care is to keep children safe from serious harm when their own families cannot protect them, foster care itself can present dangers for children, and a significant spike in the foster care population can itself create problems for the state's child welfare system. Children who are placed in foster care experience the trauma of being pulled from their parents and placed with people they don't know. If not returned home or placed in a permanent home quickly, children in foster care may experience developmental delays and develop behavioral issues or developmental disorders. Ex-



Children in Georgia foster care, 2009-early 2018.

perts consistently regard foster care as a tool to be used sparingly.

Fortunately, Georgia and federal law already provide tools that, when used properly, ensure both that children are safe and that children who need the protection of foster care can receive it. One important tool is the "reasonable efforts" requirement.

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Court Improvement Initiative Teams Gathered in Savannah March 1-2, 2018

The **Court Improvement Initiative (CII)** is sponsored by the Supreme Court of Georgia's Committee on Justice for Children through the Court Improvement Program grant and is modeled after the National Council of Juvenile and Family Court Judges' Model Courts Program. Juvenile court judges from more than 15 jurisdictions across the state voluntarily joined CII to improve how courts handle child abuse and neglect cases.

CII courts gather twice a year to share practices, attend workshops on emerging best practices, and develop protocols or standards for CII courts to initiate in their jurisdictions. These meetings provide a forum for vigorous discussion and shared learning.

During the March 2018 meeting, each jurisdiction reported out on their ongoing improvement efforts. Additionally, there were presentations from Amerigroup, DFCS' Safety and Permanency Directors, CPRS, the Visitation Protocol, and the cross-section between the ADA and child welfare.

The continual review of child welfare data is an important aspect of CII, giving judges insights into broader trends statewide and informing judicial decision-making. A primary resource for this data is fosteringcourtimprovement.org. If your jurisdiction is interested in becoming a part of CII, contact Jerry Bruce at Jerry.Bruce@georgiacourts.gov.



George Li speaks with CII judges and participants about the Court Process Reporting System



DFCS' Tammy Reed



Judge Michael Key and OCA's Tom Rawlings



FTC, continued....

While the judge maintains ultimate decision-making authority, this staffing is truly a collaborative team effort. The team shares information with the judge that he may not receive in a typical court proceeding, but which provides valuable insight into the progress a parent is – or isn't – making. For example, one parent was identified as having achieved a leadership role as part of the treatment program, while concerns about another parent surfaced that he came to a visit smelling strongly of alcohol. The team are also comfortable voicing their opinions and advocating accordingly during the staffing. Because the judge has confidence in the team and the fairness under which they operate, he takes all of this information into account when deciding how to proceed in court.

Following the staffing, all team members entered the courtroom where the court met with 28 FTC participants. All participants remain in the courtroom for the duration unless they are otherwise excused, allowing newer participants to develop hope for their own progress by witnessing the progress that more senior participants have made. Each participant had a one-on-one discussion with the judge, during which time the judge asked detailed questions about the participant's child(ren) and events occurring in the participant's life. The participants were given the opportunity to ask the judge any questions or tell him anything they wanted. The judge also asked each participant a question to reinforce what he or she has been learning in treatment. And the judge took the time to truly listen and engage with the participants.

Participants were able to share directly with the judge their ups and downs, such as:

Skills they have been using:

- One mom was frustrated that the father of her children had been telling them he would be out of jail soon, which was not accurate. She is working on ensuring she is calm before discussing the reality of the situation with her children.
- One dad uses positive self-talk, considers others' feelings, and regularly calls a support person to ensure he avoids relapse. Each time he talks with a support person, he notices that he feels better and more positive by the end of the conversation.
- One mom was overwhelmed when she recently learned of the trauma her child previously endured. She is using breathing techniques and reaching out to sponsors. She said, "God wouldn't have put this on me right now if I couldn't deal with it. I thank God for this program so I could learn how to better handle it."

Struggles they have encountered:

- One mom is struggling with enforcing boundaries and discipline with her child due to the limited amount of time she spends with him each week. However, she is working hard on it and understands she has "to be a mommy and not just a playdate."
- One dad who received a sanction for positive drug screens is early on in the program but recognized he has to get back up.
- One mom who recently used marijuana, recognized that temptation won. The judge encouraged her that as she progresses through treatment and gets more traction, she won't be putting herself in the type of situations where temptation exists.
- One mom wants to start repairing her damaged relationship with her sister but is hesitant because she is scared her sister might reject her. The judge encouraged her to make the call.

Lessons they have learned:

- "Recovery is hard work. But I learned I can do anything I put my mind to. There is life after recovery."
- "Drugs don't work [to numb the pain of domestic violence]. They're just a band aid and when it falls off, the wound is still there."
- "I used to think doing drugs wasn't a big deal because I wasn't hurting anyone else, just myself. [Treatment] has given me a broader perspective on how I've been hurting other people and not just myself. I have also learned techniques to use."
- "I'm a new [me] but am still cleaning up the mess from the old [me]. [Treatment] has helped me stop and think and understand that not everything deserves an immediate reaction."

Family Treatment Court is about changing negative behaviors. Although it is easy for the team members to become jaded by seeing the same behaviors and patterns over and over again, they remain committed because there is hope. A casual observer can recognize the pride with which a sober parent speaks about her children. A DFCS director can recognize that a mom's children have a new found trust in their mom because of the program. And a mom can recognize, "If it wasn't for FTC, I don't know where I'd be."

Perhaps Family Treatment Court is an important tool to use in breaking the cycle for a family and preventing additional abuse and neglect.



Editorial, continued...

Most judges responded to these appellate directives by ensuring that, before terminating a parent-child relationship, they heard sufficient expert evidence from social workers or bonding assessors who could explain how lingering in foster care without a permanent adoptive home would harm the child.

Especially during the past two years, however, Georgia's appellate courts have continued to express concern over juvenile TPR cases in which inadequate proof of the "harm" element was presented. In the recent case of [In re: RST \(Ga. Ct. Apps, A17A1595, March 16, 2018\)](#), the Court of Appeals again re-emphasized that harm must be shown before the State can permanently interfere with the fundamental family relationship. RST requires that the State prove both:

- (1) "the likelihood of harm if the child returns to the custody of his parent, notwithstanding that the deprivation persists" and
- (2) "[that] a child currently in foster care is likely to suffer serious harm as a result of continued dependency if the child remains indefinitely in foster care."

(Slip op. at 19).

In response to this heavy burden, the General Assembly this session passed [Senate Bill 131](#), which changes the "harm" requirement to an "either/or" calculus: Harm can be proved by showing that either:

- (A) Returning such child to his or her parent is likely to cause serious physical, mental, moral, or emotional harm to such child or threaten the physical safety or well-being of such child; **or**
- (B) Continuation of the parent and child relationship will cause or is likely to cause serious physical, mental, moral, or emotional harm to such child."

OCA supports the Legislature's intent to provide a clear, consistent guide for the State and the courts who must determine the best path forward for a child in need of a permanent home. Our courts should recognize that for a child lingering in foster care with no hope of returning home and no ability to find an adoptive family, continuing the parent-child relationship is harmful. At the same time, we hope that judges will continue to honor the principles that family is fundamental and that termination of parental rights should be a last resort when other options have failed to maintain the family and the child's safety and well-being.

Goodbye to a good friend!



Chuck Pittman, who has served as our senior OCA investigator since 2007, retired after 34 years with the State of Georgia. We'll miss him!

April is Prevent Child Abuse Month!
Click on the logo to learn more about the work of our colleagues at Prevent Child Abuse Georgia!



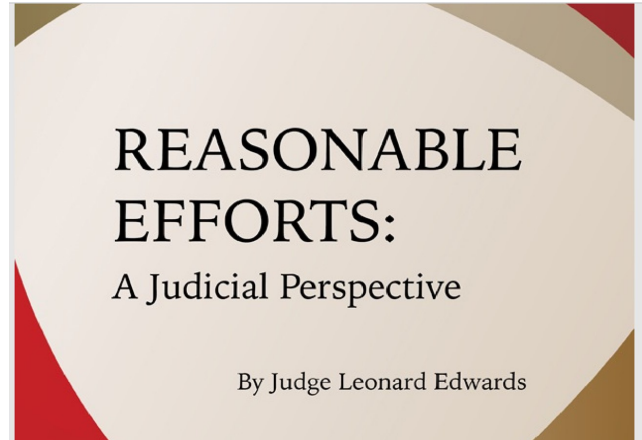


Data Points, continued....

While many in our child protection community are familiar with the idea of reasonable efforts, we should also remember that DFCS must use reasonable efforts to keep families together and, before seeking to place a child in foster care, must demonstrate to the court why those efforts have not worked or were not appropriate.

Reasonable efforts to prevent removal of a child can come in many forms. They may consist of those with which agency case managers are very familiar, such as family preservation programs, safety plans and safety resource placements, and the use of PUP and similar funds to allow a family to remain together.

During the coming months, OCA will be working with DFCS to focus on how the juvenile courts themselves can provide resources and tools to keep families together. For example, if a family has not done the things they have been asked by the Division and workers have continued concerns for the child's safety, a protective order or court-ordered case plan may add "teeth" to the agency's efforts without requiring that the child be placed in foster care. Similarly, while a "promise" by a parent to keep a violent or substance-addicted person out of the home may be considered insufficient by the agency, the courts have the ability to order such compliance and to



Click on the pic!

back up those orders with the threat of incarceration. Additionally, judges and juvenile intake officers who are asked to remove a child to foster care should specifically ask

Retired Judge Leonard Edwards has written an excellent book outlining many ways that courts and agencies can use the "reasonable efforts" requirements not only to help children achieve permanency but also to avoid their having to be removed from family. Click on the pic above for a link to an online version of the book.

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Q&A, continued.....

Q: What else is necessary?

A: You need to have buy-in from the court, DFCS, and treatment provider(s). Other important team members include the parent attorney(s)/advocate(s), child advocate(s), CASA, and panel coordinator. It's also important for participants to buy into the recovery culture - "drink the kool-aid", if you will. It's harder when participants are in other programs surrounded by people who haven't bought into the recovery culture because those people are encouraging them not to buy-in and are giving them advice on how to skate through.

10 Key Components of Drug Courts

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights
3. Eligible participants are identified early and promptly placed in the drug court program
4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services
5. Abstinence is monitored by frequent alcohol and other drug testing
6. A coordinated strategy governs drug court responses to participants' compliance
7. Ongoing judicial interaction with each drug court participant is essential
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness