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**GUEST EDITORS' INTRODUCTION TO SPECIAL ISSUE ON
SUBSTANCE ABUSE AND ADDICTION IN FAMILY COURTS**

Barbara Babb, Gloria Danziger, and Judith Moran

It is perhaps surprising, given the pervasiveness of addictive disorders among cases in juvenile and family courts,¹ that many family justice systems have not devoted attention or resources to address substance abuse and addiction among the children and families who find themselves in family court. The prevalence of substance abuse and addiction in the criminal justice system is well-documented, and drug court programs have proliferated in response to the widespread drug abuse among the criminal justice population. In the past decade alone, the number of drug court programs has increased from 230 in 1997 to 2147 in 2007.²

Recognizing that family courts increasingly face issues of substance abuse and addiction among families and children, the University of Baltimore School of Law Center for Families, Children and the Courts (CFCC) has undertaken several initiatives to promote a greater awareness of and better understanding about the impact of substance abuse and addiction among families and children involved in family legal proceedings.

In 2005, the CFCC, in partnership with the Maryland Administrative Office of the Courts and the Open Society Institute-Baltimore, held a conference on addiction and substance abuse devoted to topics such as recent developments in addiction research, the effects of addiction and substance abuse on families, and updates on drug courts and family treatment courts, among others. The conference attendees included representatives from the Maryland judiciary, family law attorneys, social workers, mental health professionals, and court personnel.

In a survey of Maryland circuit court judges and masters conducted by the CFCC prior to the conference to determine the perceptions and information needs of family courts, nearly all of the respondents indicated that substance abuse and addiction were factors in a significant number of their cases. Nearly sixty percent of the judges and masters in the Baltimore City Circuit Court said that over half of the child abuse and neglect cases involved parental alcohol and/or substance abuse. Almost fifty percent of the judges and masters throughout the state reported that abuse of alcohol and other drugs was a significant factor in over half of domestic violence cases. Twenty-five percent indicated that the abuse of alcohol and other drugs was a factor in over half of delinquency cases. The underlying message in all of the responses to the questions was the same: substance abuse and addiction are major factors in many, if not most, of the cases in family court.

The prevalence of addiction and substance abuse issues in family law cases, particularly delinquency, dependency, and domestic violence cases, is not unique to Maryland. Research indicates that adults with histories of child abuse and neglect are at high risk for

developing substance abuse disorders.³ It is even more critical to a family's welfare that an individual who has a history of child abuse and neglect often has less likelihood of recovering from addiction than those without such a history. At the same time, parents with substance abuse problems have a greater likelihood of repeating the vicious cycle of abusing their own children. By most accounts, substance abuse contributes to almost three-fourths of the incidents of child abuse or neglect for children in foster care.⁴

It is not unexpected that substance abuse and addiction frequently are associated with the neglect and abuse of children. Parents battling substance abuse often put the needs created by their own alcohol or drug dependency ahead of the welfare of their families. At the same time, they and their children commonly have complicating physical and/or mental health problems. Often unable to maintain employment or provide a stable and nurturing home environment, they are incapable of caring for their children.

Given the inextricable connection between substance abuse and issues such as child abuse and neglect, family court judges and court staff believe it is their responsibility to address the problems of substance abuse and addiction among litigants. Eighty-five percent of the respondents in the CFCC's preconference survey agree that the family courts should identify the abuse of alcohol and other drugs and refer those cases for assessment and/or treatment. Yet the sheer numbers of dependency, domestic violence, and delinquency cases that directly involve addiction or substance abuse as central issues pose an immense challenge for family courts. With the burgeoning number of parents and children in need of treatment, courts and treatment providers are strained to capacity. Without a coordinated effort among them, these systems are not equipped to handle the specialized issues that permeate cases of child abuse and neglect that stem from parental substance abuse. As a result, parents are likely to continue their addiction, and their children, unable to return home, languish in foster care.

Recognizing that the complex web of substance abuse problems affecting families is addressed adequately only through a coordinated approach to break the cycle of substance abuse and child maltreatment, a number of practitioners in juvenile dependency courts, child protective services, and substance abuse treatment systems have begun to experiment with a more holistic approach to intervention. The family dependency treatment court model has developed as a cooperative effort in which court, treatment, and child welfare practitioners collaborate in a nonadversarial setting to conduct comprehensive child and parent needs assessments. With these assessments as a base, the family dependency treatment court team constructs workable case plans that give parents a viable chance to achieve sobriety, provide a safe nurturing home, assume responsibility for themselves and their children, and sustain their families.

As the family dependency treatment court model has gained popularity, family court judges, attorneys, and staff have realized that the family justice system in general can contribute significantly to improve the lives of families struggling with problems of addiction. The oversight of a specially trained and interested judge, along with a team of court services providers who have necessary expertise, has proven to be a successful intervention to promote recovery for the addicted family member and stability for the children.

The authors of the first article in this special issue, Dr. Deborah Chase and the Honorable Peggy Fulton Hora, conducted a survey of 355 judges in which they queried them on issues related to judicial satisfaction, including the degree to which judges felt they were helpful to litigants/defendants, their overall attitude toward litigants, and the positive effects realized from their assignments. The cohort surveyed was subdivided into three groups: judges assigned to drug courts, judges assigned to traditional criminal courts, and judges

assigned to unified family courts (UFCs). Dr. Chase and Judge Hora found that courts with a problem-solving focus informed by therapeutic jurisprudence, such as drug courts and UFCs, were the environments most favorable to a high degree of judicial satisfaction. Although judges assigned to UFCs reported high levels of satisfaction across the measures surveyed, the judges who presided in drug courts represented the most satisfied of all the survey participants on all measures.

The authors conclude that courts based on the problem-solving model generally and drug courts in particular are more advantageous to litigants and to judges. Beyond high individual satisfaction quotients, the drug court model yields overall benefits for the justice system as well. The authors note the relationship between job satisfaction and efficacy, which is exemplified by the documented accomplishments of drug courts in achieving their goals. They explain that productive and positive judges generate positive attitudes among attorneys and court staff. Ultimately, these positive feelings are communicated to litigants, whose own level of satisfaction with the courts is enhanced, translating into higher degrees of trust and confidence in the justice system.

Family court judges, practitioners, and staff long have recognized that addiction and substance abuse are family problems that not only involve every family member but also affect generations. Health care specialists often speak about addiction as a "family disease." Family court judges frequently see entire families whose members suffer from addiction. Even in cases where there is only one family member who abuses alcohol and/or other drugs, addiction professionals consider treatment of the family to be part of the treatment of addiction.

Many family members begin abusing alcohol and other drugs when they are adolescents. In fact, studies suggest that the age at which adolescents begin using drugs often determines the likelihood that a substance use disorder develops later in that child's life. In her article, Caroline Cooper examines the court's response to adolescent substance abuse, focusing on the significant number of youth and young adults who use drugs, but whose drug and/or alcohol abuse is virtually ignored by the courts until it has become a criminal matter. She documents research indicating that nearly all young inmates who suffer from addiction have previous involvement with the courts. She views this phenomenon as one that highlights missed opportunities for courts to intervene in the lives of these young criminals before their drug use becomes seriously problematic.

Ms. Cooper suggests that courts can serve as an antidote to the consequences of adolescent drug use that may lead young offenders to a life of crime. She notes that juvenile drug courts have demonstrated that the court system can play a significant role in solving the problem. Ms. Cooper offers six suggestions for changing the way adolescent substance abuse is handled by the courts:

- Screen all adolescents for substance abuse during the juvenile justice system intake process.
- Screen for factors that are likely, if strengthened, to protect the adolescent from resorting to more serious criminal activity.
- Increase the number of juvenile drug courts and ensure that they are based on developmentally appropriate court interventions.
- Create case management protocols within the adult system that address the needs of youth involved in adult criminal matters.
- Consider expanding the drug court model to include youth who engage in experimental or less serious drug use.
- Train criminal justice system personnel in matters related to adolescent development and its implications for the court process.

Howard Davidson provides a comprehensive analysis of the steps that parents and lawyers can take if they discover that an adolescent is abusing alcohol and/or other drugs. Mr. Davidson notes that many parents who find out that their child is engaging in substance abuse do not know key legal and other information about how to find help for their child. He offers a series of options and their pros and cons for these parents, including the use of an emergency civil commitment order, substance abuse evaluations, placement in a treatment program, and home drug testing, among others.

Mr. Davidson's article announces a new American Bar Association (ABA) initiative to develop materials for attorneys and a short continuing legal education program for family law and/or juvenile court attorneys on issues, strategies, and best practices in providing legal advice and assistance to substance-abusing youth or their parents. In addition, he discusses the possibility of drafting, for the first time in over twenty years, a new ABA policy promoting greater access to substance abuse treatment services for all youth. This initiative builds upon the 1985 ABA-approved *Youth Alcohol and Drug Abuse Recommendations* that have urged access to treatment for both adjudicated and pretrial detained juveniles with a substance abuse problem.

While this special issue of the *Family Court Review* focuses on substance abuse and addiction in the context of families and children involved in the family justice system, it is critical for all stakeholders to understand the science of addiction. Dr. Barry Stimmel's article on the science of addiction can serve as a resource for judges, lawyers, court personnel, and service providers who encounter addicted individuals among the family court litigant population. Dr. Stimmel notes that basic science research has provided a clearer understanding of the role of the parts of the brain—neurotransmitters and neuroreceptors—linked to the actions of the most commonly used mood-altering chemicals. This knowledge has facilitated the development of multiple treatment options, particularly the use of medicines that block the access of addictive substances to the brain's neuroreceptors. Although these new treatment interventions have enlarged the scope of therapeutic options, Dr. Stimmel advises that the success rate for drug treatment remains largely unchanged.

Dr. Stimmel's article includes a discussion of the reasons why people use drugs, and he describes basic patterns of drug use, while distinguishing among use, misuse, abuse, dependence, and addiction. The article discusses the many treatment options available for addiction, recommending a holistic approach to treating the addicted patient. The article includes a user-friendly table providing information on the various categories of dependence-producing drugs, the reasons why people continue to use drugs, and factors affecting use, among others.

All of the authors in this special issue agree that treatment for addiction works and should be available for people who need it. While recent federal legislation mandates insurance parity for addiction, Dr. David Rosenbloom and Roberta Leis make it clear in their article that there are still many forms of discrimination against individuals who are recovering from addiction. Their article is derived from a Boston University School of Public Health Join Together project that convened a panel to discuss discrimination against people in recovery and make recommendations for policy changes. The areas they discuss include resource allocation for treatment, access to treatment programs, terms of hiring and employment, public benefits eligibility, and insurance coverage for treatment.

The Join Together panel's recommendations are based upon two principles: (1) addiction is a chronic disease and a public health issue and (2) treatment should be as accessible for addictive illnesses as it is for other chronic diseases. Using these principles as a springboard for discussion, the panel has issued a series of recommendations, including the following:

- Treatment ought to be individualized according to the patient's needs, based upon reliable and valid research and according to prescribed standards of care.
- Employees who seek treatment for alcohol or other drug use should not be subject to discriminatory actions or dismissal.
- Individuals with drug convictions but no current drug use should not be prevented, based on their past drug use, from obtaining student loans, grants, scholarships, or access to government training programs.
- Individuals with nonviolent drug convictions but no current drug use should not be subject to bans on receiving cash assistance and food stamps.

The wide range of subjects covered by the articles in this special issue of the *Family Court Review* reflects the complexity of addiction. In turn, the diversity of the authors' professional expertise reflects the need for a multidisciplinary approach to address the problem. Family courts, family law practitioners, service providers, and court staff confront families and children struggling with the disease of addiction every day. We hope the articles in this special issue provide a useful resource for these and other professionals to gain a deeper understanding of addiction and substance abuse and to inspire innovative solutions to treat this pervasive chronic illness. We are honored to be the guest editors.

NOTES

1. For example, four of every five children and teens (78.4%) in juvenile justice systems are under the influence of alcohol or drugs while committing their crime, test positive for drugs, are arrested for committing an alcohol or drug offense, admit having substance abuse and addiction problems, or share some combination of these characteristics. Drug and alcohol abuse are implicated in a significant percentage of juvenile crimes: 69.3% of juveniles arrested for violent offenses were substance involved, as were 72% of juveniles arrested for property offenses and 81.2% of juveniles arrested for other offenses such as assaults, vandalism, and disorderly conduct. See THE NATIONAL CENTER ON ADDICTION AND SUBSTANCE ABUSE AT COLUMBIA UNIVERSITY, CRIMINAL NEGLIGENCE: SUBSTANCE ABUSE, JUVENILE JUSTICE AND THE CHILDREN LEFT BEHIND (October 2004) at i-ii, available at <http://www.casacolumbia.org/absolutenm/articlefiles/379-Criminal%20Neglect.pdf>. While substance abuse does not cause domestic violence, there is a statistical correlation between the two issues. The U.S. Department of Justice found that 61% of domestic violence offenders also have substance abuse problems. See James J. Collins & Donna L. Spencer, *Linkage of Domestic Violence and Substance Abuse Services, Research in Brief, Executive Summary*, U.S. Department of Justice (2002), as quoted in *Domestic Violence and Substance Abuse* (National Coalition Against Domestic Violence Web site, available at <http://www.ncadv.org/files/SubstanceAbuse.pdf>).

2. C. WEST HUDDLESTON III *ET AL.*, PAINTING THE CURRENT PICTURE: A NATIONAL REPORT CARD 1 (National Drug Court Institute, May 2008).

3. SUBSTANCE ABUSE TREATMENT FOR PERSONS WITH CHILD ABUSE AND NEGLECT ISSUES, TREATMENT IMPROVEMENT PROTOCOL SERIES 36 (U.S. Department of Health and Human Services, 2000), available at <http://ncadi.samhsa.gov/govpubs/BKD343/36c.aspx>.

4. *Id.*

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