The Opioid Epidemic
and the
RESPONSE OF STATE COURTS

Deborah Taylor Tate, Co-Chair - National Judicial Opioid Task Force
Child Welfare Summit – Minneapolis
September 25, 2019

Not Just a Criminal Justice Issue:
Every Part of the Court System is Impacted

- Removal of thousands of children/foster care caseloads
- Guardianship/conservatorships/property cases
- Criminal offenses/felonies/property crimes/traffic offense
- Bankruptcy/financial issues impact a range of cases
- Business and commercial transactions
- Workers compensation
- Insurance issues
- Divorce/custody
- Probation and parole management

A 2017 survey of Chief Justices and State Court Administrators showed that 55% ranked the opioid epidemic’s impact on the state court system as severe.
Special Impacts on Children and Families

- Child welfare workers report that the overwhelming majority of children placed in foster care have a parent with alcohol or substance use disorder.
- Parent alcohol/drug use as a contributing factor in child removal decisions increased 16.8% in the last 16 years.

Prevalence of Parental Alcohol or Other Drug Use as a Contributing Factor for Reason for Removal in the United States, 2000 to 2016

In Tennessee: 9,651 children in foster care in August 2019

Drug Mortality and Foster Care Entry Rates: 2016

Impact of Opioid Abuse on Infants & Children

Opioid abuse by women impacts every phase of their children’s lives – from prenatal to birth and beyond.

Neonatal Abstinence Syndrome (NAS)

Short-term impact
- Birth anomalies
- Fetal growth
- Neurobehavioral withdrawal

Inequality – women wait significantly longer than men to move from jail to residential treatment facilities because there are less beds available.

Governor Lee has funded a new residential recovery court for women ($285,000).


Fewer treatment facilities for women.... We need more!

Recovery Cabin (E. TN)
  – Judge Duane Slone

Renewal House (Nashville)
  – renewalhouse.org
  – Pamela Sessions
  – Deborah Taylor Tate

The Next Door (Nashville)
  – thenextdoor.org
  – Linda Leathers

Magdalene House (Nashville)
  – thistlefarms.org
  – Becca Stephens

Susannah’s House (Knoxville)
  – susannahshouse.org
  – Rebeka Fetzer

Mending Hearts (Nashville)
  – mendingheartsinc.org
  – Trina Frierson

Serenity Recovery Services (Memphis)
  – Serenityrecovery.org
  – Paula Hopper

THISTLE FARMS
PART II.
The National Judicial Opioid Task Force;
New tools and resources

Opioid Resource Center for Courts

www.ncsc.org/opioids
Children and Families

**NJOTF Tools and Resources for Courts**

- **Prenatal Substance Exposure: Improving Outcomes for Women and Infants** Information and guidance regarding how courts can help to improve outcomes for substance-exposed infants and their families.

- **New Federal Funding Source for Court-Appointed Counsel in Child Protection Cases** Discusses how the new policy for Title IV-E funds promotes quality legal representation for parents and children in child welfare dependency cases.

- **Treating Pregnant Women with Opioid Use Disorder** Highlights the important evidence-based practices recommended in the Substance Abuse and Mental Health Services Administration’s (SAMHSA) latest and most comprehensive guidance regarding pregnant women with opioid use disorders.

- **Trauma, Substance Use, and Justice System Involved Children** Raises awareness of the impact the opioid epidemic has on children and families and shares examples of strategies courts have adopted to become more trauma-informed and trauma-responsive to youth and their families.

- **The Court’s Role in Reshaping the Child Welfare System to Focus on Prevention** Takeaways from a National Judicial Opioid Task Force webinar featuring Jerry Miner and David Kelly from the Children’s Bureau of the Administration for Children and Families.

- **Parent Partner Programs – Promising Practice to Keep Families Struggling with Substance Use Disorder Together** Discusses how some states are using parent partner programs to improve reunification outcomes and foster increased trust and confidence in the child welfare and juvenile court systems.

- **Medication-Assisted Treatment for Adolescents** Resource to educate justice system professionals about opioid use disorder, key issues surrounding medication-assisted treatment, the evidence that underlies treatment types, best practices, and legal implications.

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**Civil and Criminal Justice**

**NJOTF Tools and Resources for Courts**

- **Understanding the Basics of Addiction** Provides the basics of addiction including contributing factors, treatment, and innovative court programs being used to combat the opioid crisis.

- **Judicial Leadership in Creating and Leading a Multidisciplinary Team to Address Substance Use Disorders** Discusses how judges can bring otherwise disconnected stakeholders together to form partnerships, through multidisciplinary teams (MDTs), that work to achieve successful outcomes.

- **Treatment of Opioid Use Disorder** Discusses key issues surrounding medication-assisted treatment (MAT), the evidence that underlies treatment types for opioid use disorder, best practices, and legal implications.

- **Involuntary Commitment and Guardianship Laws for Persons with a Substance Use Disorder** List of states that have enacted involuntary commitment and guardianship laws for those suffering from alcoholism and/or substance use disorders.

- **Fentanyl, Carfentanil, and their Analogs in the Courthouse** Information on Fentanyl, carfentanil, and their analogs; and precautionary measures implemented by courts.

- **Naloxone Use in the Courthouse – A Judicial Bench Card** Describes the signs of overdose, what to do if one occurs, how naloxone can be used to reverse the toxic effects of an overdose, and suggestions for a naloxone policy.

- **The Fundamentals of Screening and Assessment in the Justice System** Describes the purpose of substance use disorder screening and assessment, available tools, and examples of its successful use in courts.

- **Promising Strategies in Providing Opioid Use Disorder Treatment to Rural, Frontier, and other Underserved Communities** Information on barriers to treatment for Opioid Use Disorder in rural areas and what some states are doing to overcome those barriers.
Collaboration and Education

NJOTF Tools and Resources for Courts

The Court’s Role in Combating the Opioid Crisis: Using the Sequential Intercept Model (SIM) as a Place to Start Using the SIM as a foundational framework toward the goal of improved outcomes for people with opioid use disorders.

Tribal-State Court Forums: Addressing the Opioid Crisis Collaboration between state and tribal courts regarding the opioid crisis.

Sample Court Transfer Agreement - State and Tribal Courts Designed and recommended for use in jurisdictions where state court judges – especially those who preside over adult drug court programs – operate in proximity to the location of a Tribal Healing to Wellness Court.

Tribal Cultural Competency Information for Judges Provides basic information to state judges and court employees who interact with members of American Indian/Alaska Native (AI/AN) communities in their courts.

www.ncsc.org/opioids

The Court’s Role in Reshaping the Child Welfare System to Focus on Prevention

Takeaways from a NJOTF webinar featuring Jerry Milner and David Kelly from the Children’s Bureau of the Administration for Children and Families

The Court’s Role in Reshaping the Child Welfare System to Focus on Prevention

National Judicial Opioid Task Force

The Court’s Role in Reshaping the Child Welfare System to Focus on Prevention

There is a need to reframe Child Welfare in the United States to focus on strengthening families to prevent child maltreatment. Currently, child welfare is a reactive system that works almost exclusively with families in response to a report of abuse or neglect. We are seeking increasing reports of maltreatment and increasing numbers of children entering foster care but doing very little to prevent maltreatment and the need for foster care. This paradigm of increased trauma to children and families as a result of family separation, increasing numbers for incarcerated and social workers, perpetuating poor outcomes.

While foster care will always be necessary for some children, that need can be reduced. A better solution would be to offer families support to help them care for their children in safe and healthy ways so that they do not need maltreatment assistance need for court interventions and foster care. When faced with a choice between single parent adoption, effects of child welfare system reactively are seen more clearly. Outlined below are ways the judiciary can help support this new vision of strengthening families. Taken from a National Judicial Opioid Task Force webinar featuring Jerry Milner and David Kelly from the Children’s Bureau (CB) of the Administration for Children and Families, a division of the U.S. Department of Health and Human Services.

Creating a Local or Regional Judicial Opioid Task Force Provides an outline for starting a regional or local judicial opioid task force.

SUD Dictionary for State Courts Resource for judges and court staff involved with substance use disorder (SUD) issues. Includes technical terms, acronyms, and references used by medical and treatment professionals.

Words Matter – Judicial Language and Substance Use Disorders Research-based recommendations of specific language and phrases judges can use to effectively communicate with individuals with substance use disorder.

Sample Court Transfer Agreement - State and Federal Courts Document designed and recommended for use in jurisdictions where state court judges – especially those who preside over adult drug court programs – operate in proximity to the location of a federal district court.

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- Jerry Milner

The Vision of Strengthening Families

The vision of strengthening families and move beyond the current paradigm of reactively. Every practice has been identified by the NJOTF. The vision is to focus on preventing child abuse and neglect from happening in the first place. A prevention-focused needs to have the funding, flexibility, policies, program, and commitment to support families across the communities where they live. The second priority involves shifting a balance between preventing child abuse and neglect and taking care of abused and neglected children through the more formal child welfare system. Currently, the role of primary prevention is small compared to attention given to foster care, and the legal community can play a critical role in reshaping parent and child interaction. The third priority focuses on the overall welfare of a child and not just physical safety. Although the foster care system has done a good job of protecting kids, it does not adequately address essential aspects such as psychosocial, social, and emotional well-being. The fourth priority involves primary prevention happening at the community level. Serious efforts of prevention will have resources located in families’ communities. The third priority involves having a healthy and resilient child welfare workforce. This workforce includes court personnel, parents, and agencies that collectively impact children’s lives.

The Role of the Judiciary

In prevention, there is the role of the judge within the community, and within the courtroom. In this community, the judge can encourage primary prevention in the courtroom itself. Judges can encourage primary prevention by modeling practices that reduce the number of children who enter the child welfare system. Judges and attorneys to adopt a prevention mindset. Judges can support and give visibility to child welfare agencies and partners when prevention is the right path for a child. In addition, judges can take active steps to provide support to children and families.
Trauma, Substance Use, and Justice System-Involved Youth

 Raises awareness of the impact the opioid epidemic has on children and families and shares examples of strategies courts have adopted to become more trauma-informed and trauma-responsive to youth and their families.

Prenatal Substance Exposure: Improving Outcomes for Women and Infants

Information and guidance regarding how courts can help to improve outcomes for substance exposed infants and their families.

Florida's Early Childhood Courts

- Creation of specialized dockets that focus on the needs of infants and toddlers and their families
- Courts facilitate monthly reviews, child-parent psychotherapy, frequent child-parent contact, and family team meetings
- All aspects of the programs are "trauma-informed"
Treat Pregnant Women with Opioid Use Disorder

**Highlights the important evidence-based practices recommended in the Substance Abuse and Mental Health Services Administration’s (SAMSHA) latest and most comprehensive guidance regarding pregnant women with opioid use disorders.**

In 2018, SAMSHA released the new Clinical Guidelines for Treating Pregnant Women with Opioid Use Disorder and Their Infants. These guidelines include recommendations for comprehensive, patient-centered care to support positive health outcomes for both the mother and the baby. The guidelines emphasize the importance of addressing opioid use disorders in pregnancy, providing evidence-based treatment options, and ensuring continuity of care across settings.

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**Parent Partner Programs – Promising Practice to Keep Families Struggling with Substance Use Disorder Together**

**Discusses how some states are using parent partner programs to improve reunification outcomes and foster increased trust and confidence in the child welfare and juvenile court systems.**
### Parent Partner Programs (continued).

#### SIGNIFICANTLY HIGHER REUNIFICATION RATES

Participating parents 5.6 times as likely to ultimately be reunified

60% of children with a parent mentor reunified with their parents within 12 months compared to 26% of those children without

#### MORE RESOURCES

- **Washington State – Parents Program**
  - Parent ally connects at first court hearing and attends all thereafter
  - Dependency 101. What to expect in court, and how to reunify with child
  - Follow-up support. Parent “sponsor”

- **Baltimore / D.C.**
  - Parent Mentors who have navigated the child welfare system and receive additional training
  - Partner with parents through the whole process and beyond

- **Iowa**
  - Over 150 Parent Partners
  - Parent Mentor match ups but also interagency work

#### Model Curriculum and National Judicial Training Event

- Partnership between Task Force, National Judicial College, and American Association of Addiction Psychiatry
- Development and Publication of a comprehensive Medical-Legal Addiction Resource Guide
- Hosting of National Judicial Opioid Training Conference in Reno, NV on November 11-13, 2019
- Training and Support for Judge/Faculty members from all U.S. states and territories
- Creation and sharing of model curriculum on issues of addiction, treatment, and judicial responses

Nov 11-13, 2019
Reno, Nevada
PART III.
Examples of Promising State Programs and Responses to the Epidemic

The Power of Judges as “Conveners”

Judges have taken the lead to convene emergency “summits” and to create state, regional and local opioid task forces to study the problems in their communities and to craft targeted responses, utilizing all resources that are available.
Families First Act

- Federal investments in prevention for children at risk of foster care
  - Mental health and substance abuse prevention and treatment
  - In-home parent skill-based
- Community Court / Teen Court
- Faith and Justice Initiative
  - Now linking with out Safe Baby Courts
  - Churches as hosts for visitation contracts
  - Training / assisting families in staying out of court
  - Over $1m in legal grants to assist families
- Justice Liaison from TennCare
  - Cut red tape
  - Enforce contracts
  - Assist judges

Tennessee Juvenile Justice Reform Act of 2018

- Detention and out-of-home placement only for serious crimes of safety risk

- Community Based services
  - Where youth lives no longer determines what services he/she receives
  - Don't need DCS custody to get far-away services

- Uniform data collection

- Risk and Needs Assessment Tools (e.g. CANS Tool)
  - To determine the services and actions needed from beginning
**Tennessee Projects**

- Safe Baby Courts
- Peer-to-peer mentoring of aging-out foster children
  - Every child has gone to regular schools
  - Foster children going to community colleges
- Community Court / Teen Court
- Faith and Justice Imitative
  - Now linking without Safe Baby Courts
  - Churches as hosts for visitation contracts
  - Training / assisting families in staying out of court
  - Over $1m in legal grants to assist families
- Justice Liaison from TennCare
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**TN Rocs**

- Tennessee Recovery Oriented Compliance Strategy
- Serves individuals who have high behavioral health needs but are not considered to have the risk of recidivism that rises to full recovery court
- Connects participants to resources for recovery over incarceration
- This docket requires participants to comply with:
  - Behavioral health treatment
  - Drug screens
  - Court appearances for updates
Safe Baby Courts

Contact: Stephanie Etheridge, Tenn. AOC

Leading child welfare reform from the Supreme Court and AOC

Project Wrap-Around
- Davidson County has hired staff for this
- Making sure foster children to finish high school
- So that EFC dollars can go toward college
- Contact: Leslie Kinkead, Tenn. AOC

Quality Hearing Project
- Dyer, Montgomery, and Sumner Counties
- CIP teaching motivation interviewing skills to foster care review boards
- Communication method
- Contact: Nyasha Justice, Tenn. AOC
Faith-Based Recovery Congregations

Department of Mental Health and Substance Abuse

Recovery congregations meet 6 criteria

1. Provide spiritual / pastoral support
2. Addiction is viewed as a treatable disease, not a moral issue
3. Embrace and support people in recovery
4. Provide a visible outreach in the community
5. Share recovery information
6. Host recovery support groups

Programs Responding to the Special Needs of Children and Families

Kentucky’s Sobriety Treatment and Recovery Teams (START)

- Pairs specially-trained child protective service workers with family mentors to work with court-involved families to help parents achieve recovery and maintain custody of their children
- Partners with treatment providers to ensure participants have access to appropriate treatment

Tennessee’s Healthy Babies Program

- Cross-branch collaboration with a goal of decreasing the number of babies born with NAS
- Provides access to reversible contraceptives and drug treatment for pregnant women
- First state to require reporting of NAS for public health purposes
- In one location, a “Recovery Cabin” provides safe and sober housing and support for pregnant women
- NAS cases decreased by 52% in one year

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National Quality Improvement Center for Collaborative Community Court Teams

- 15 court demonstration sites across 9 states were selected to participate
- Enhancing the capacity of collaborative court teams, such as family drug courts and infant-toddler dependency courts, to appropriately implement the provisions of the Child Abuse and Prevention Treatment Act
- Work to coordinate services across multiple agencies to address the needs of infants, young children, and their families affected by substance use disorders and prenatal substance exposure
Pennsylvania – Family Engagement Initiative

- **Core Elements**
  - **Family Finding**
    - Identify and build positive connections with kin
    - Support relative’s engagement with system
    - Create network of extended family support
  - **Crisis / Rapid Response Family Meetings**
    - Family meeting within 72 hours of an emergent event to give family a voice
  - **Enhanced Legal Representation**
    - Client relationship and contact
    - Case preparation
    - Advocacy
    - Attorney feedback mechanism

http://www.ocpcourts.us/childrens-roundtable-initiative/family-engagement-initiative

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Use of Technology and the Collection of Data

**EVIDENCE-BASED PROGRAMS THAT WORK**

All programs must be “data driven” with judicial leadership given to the collection and sharing of data for evaluation of programs and activities to determine what works.

**Montana’s courts** are utilizing technology to bridge the gap between those in need and available services including remote court appearances, remote training for court and treatment staff, access to treatment assessments and services, remote drug screening, court date reminders, and community supervision services.

**New Mexico’s Project ECHO** (Extension for Community Healthcare Outcomes) combines primary and specialty care, linking “expert specialty teams” from the UNM School of Medicine with primary care physicians in local, often rural communities, creating access to expertise and addiction/treatment information and services otherwise unavailable.
TIPQC - projects

- **Opioid Exposed Newborn** Optimize the care and improve outcomes of opioid exposed newborns by improving recognition, pharmacologic and non-pharmacologic treatment, and the referral to follow-up services.

- **Tennessee AIM**
  - Decrease complications of OUD in pregnancy by optimizing the care for women through education, resource mapping, screening, access to treatment services, and protocols for antepartum, intrapartum, and postpartum care.

- **Vermont-Oxford Network NAS Universal Training**

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**Sequential Intercept Model: SIM**

- **Identity Resources**
- **Identity Gaps**
- **Develop Solutions**

- Community
- Communications
- Press
- Faith based
While the issue of access to and availability of quality treatment is a concern of the judicial branch for all substance use disorders, the necessity to include medication assisted treatments (MAT) in the range of options available to those with opioid use disorder has created additional challenges.

✅ Rapid Access to Treatment
Because of the very real risk of overdose death, many courts and communities across the country have implemented programs and procedures to make naloxone available in places of likely contact with individuals with OUD, including in the courtroom. Rapid access to MAT – buprenorphine, methadone and naltrexone – is also provided at all likely intercept points, both before and after the individual may have contact with the court.

✅ Education for All Judges and Court Staff
Because of continuing misunderstanding and bias against the use of MAT by some in the justice system, the National Judicial Opioid Task Force has recommended that all judges and court staff who deal directly with individuals with substance use disorders must receive training on the basics of MAT and the necessity of using only treatments that are evidence-based.

Medical-Legal Partnerships in TN

Legal Aid of East Tennessee

Dayspring Health

Le Bonheur Children’s Hospital, University of Memphis School of Law, and Memphis Legal Services

Legal Aid Society & Tennessee Alliance for Legal Services

MEMPHIS ChiLD

Memphis Area Legal Services
Life’s most persistent and urgent question is, *what are you doing for others?*

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