

# Georgia's 10th Annual Accountability Courts Conference

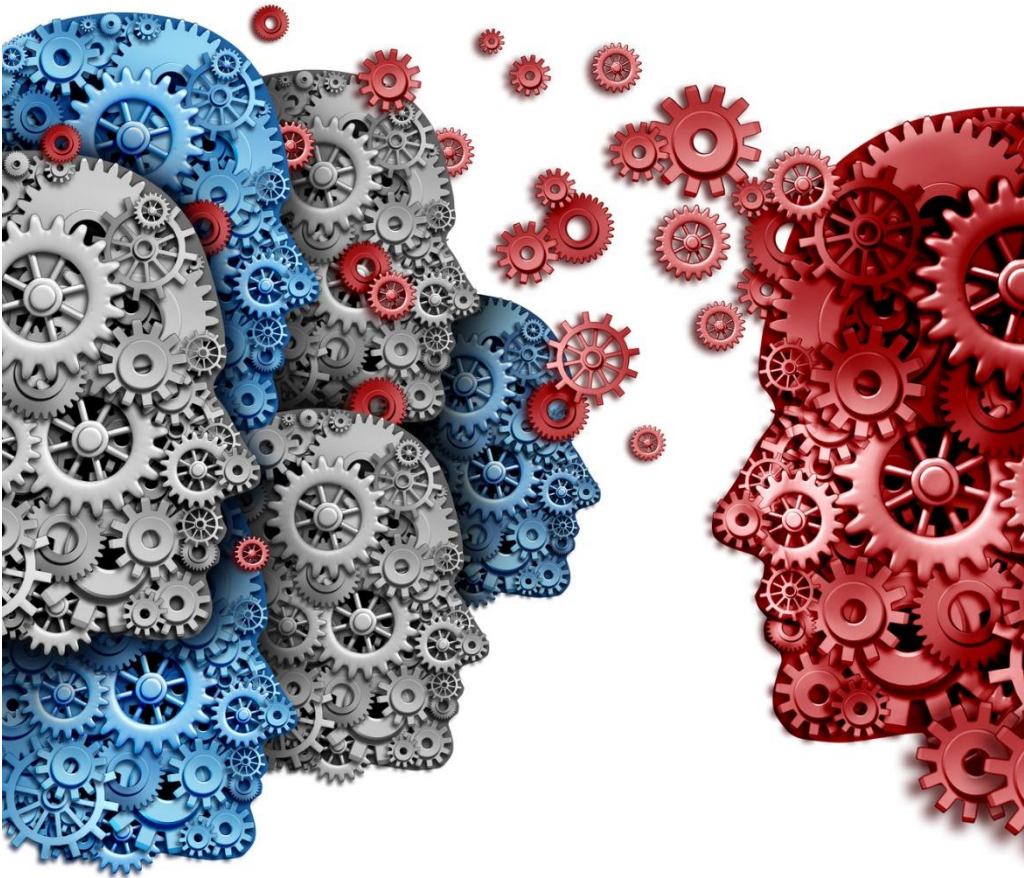
September 16, 2014

## *Engaging Parent & Child Attorneys:* **Roles and Responsibilities in the FDC**



Phil Breitenbucher, *Children and Family Futures*

# Session Objectives



- Understand the role of attorneys in FDCs including the benefits of attorney engagement for both the parent and the child
- Explore the most common ethical and operational concerns of attorneys and learn strategies to address them
- Understand the role of the Judge and the FDC team in engaging attorneys



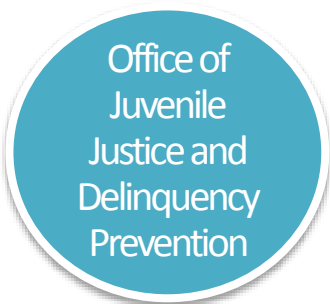
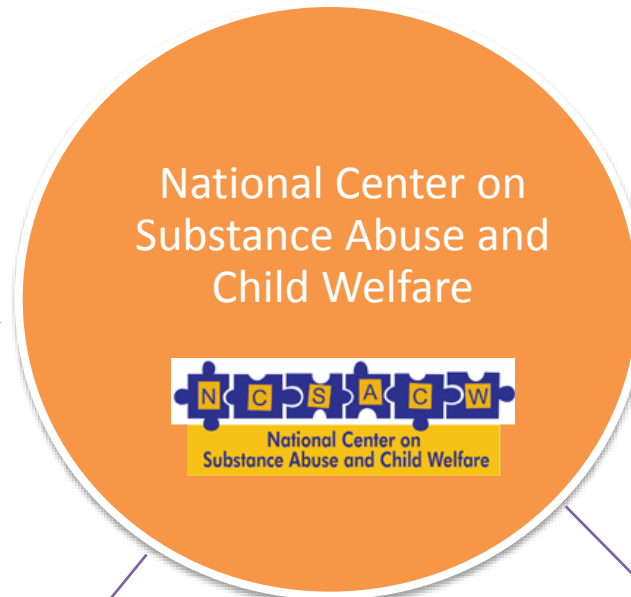


# Children and Family Futures

## *Our Mission*

To improve safety, permanency, well-being and recovery outcomes for children, parents and families affected by trauma, substance use and mental health disorders.





# Opening Remarks

Acknowledgement and recognition of the need and the challenge to engage attorneys in Family Drug Court

- 5 National Reports
- Hundreds of Technical Assistance Requests
- 2010 & 2013 OJJDP Family Drug Court Technical Assistance and Training Needs Assessment



# Opening Remarks



Acknowledgement and recognition that how attorneys are engaged may and most likely will look different in each jurisdiction, based on:

- State/Local Laws
- Local Administrative Procedures
- Model of Family Drug Court
- FDC Team Composition, and
- Level/Stage of Collaboration
- Requirements for and/or availability of assigned counsel or child representative



# Roles of Children's Counsel

Attorney for the  
Child

Represent and zealously advocate for the child's wishes and interests

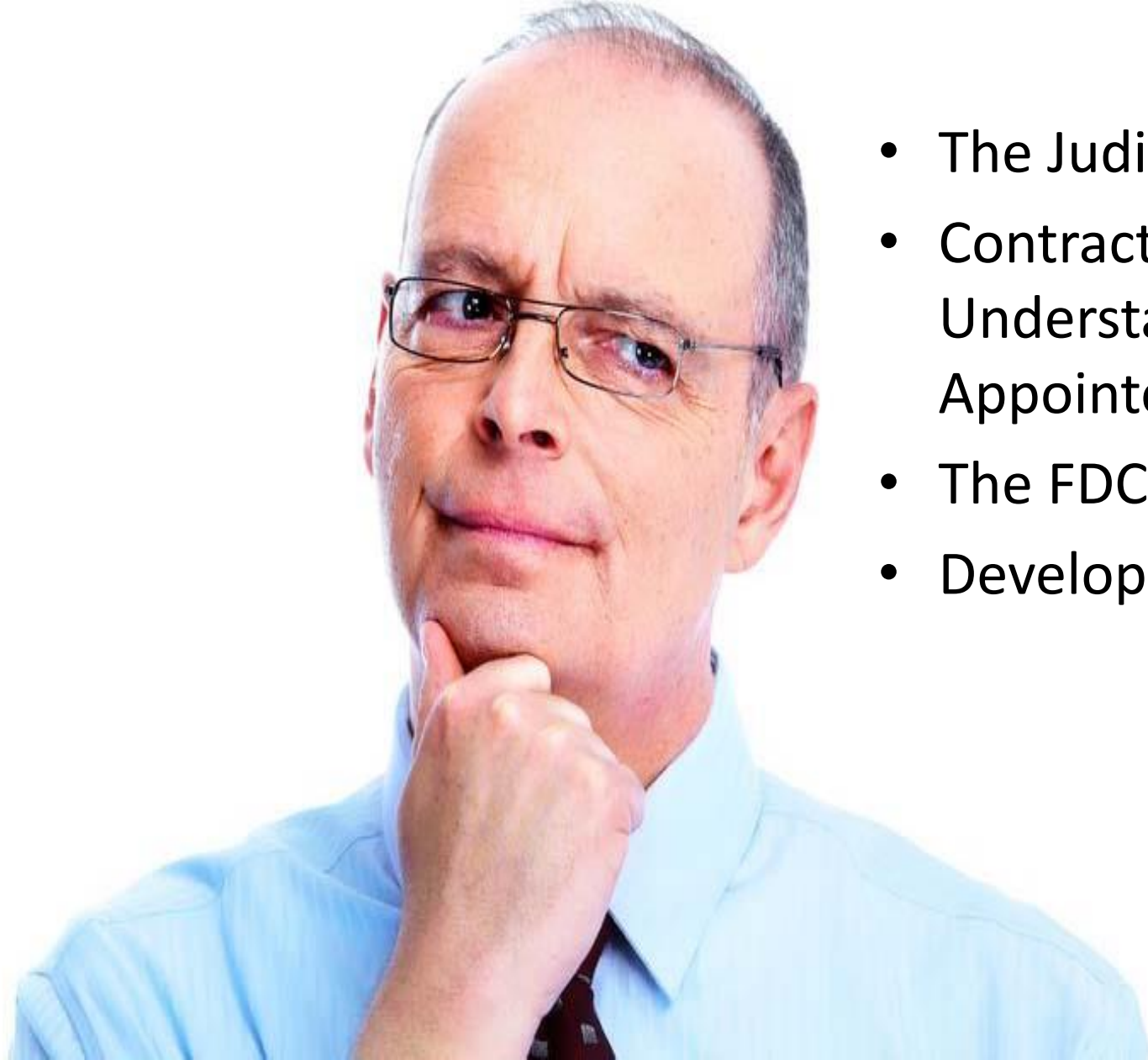
Guardian ad  
Litem

Assess and report on the child's best interest. Provide the court with pertinent information and an informed recommendation as to the child's best interest.

Friend of the  
Court

Information gathering and dissemination. Facilitates collaborative solutions; and helps to promptly secure safe, stable homes and nurturing families for children so that they may thrive.

# Sources of Obligations to Participate in FDC



- The Judicial Officer
- Contracts or Memorandums of Understanding for Receiving Appointed Cases
- The FDC Treatment Team
- Development of Shared Outcomes



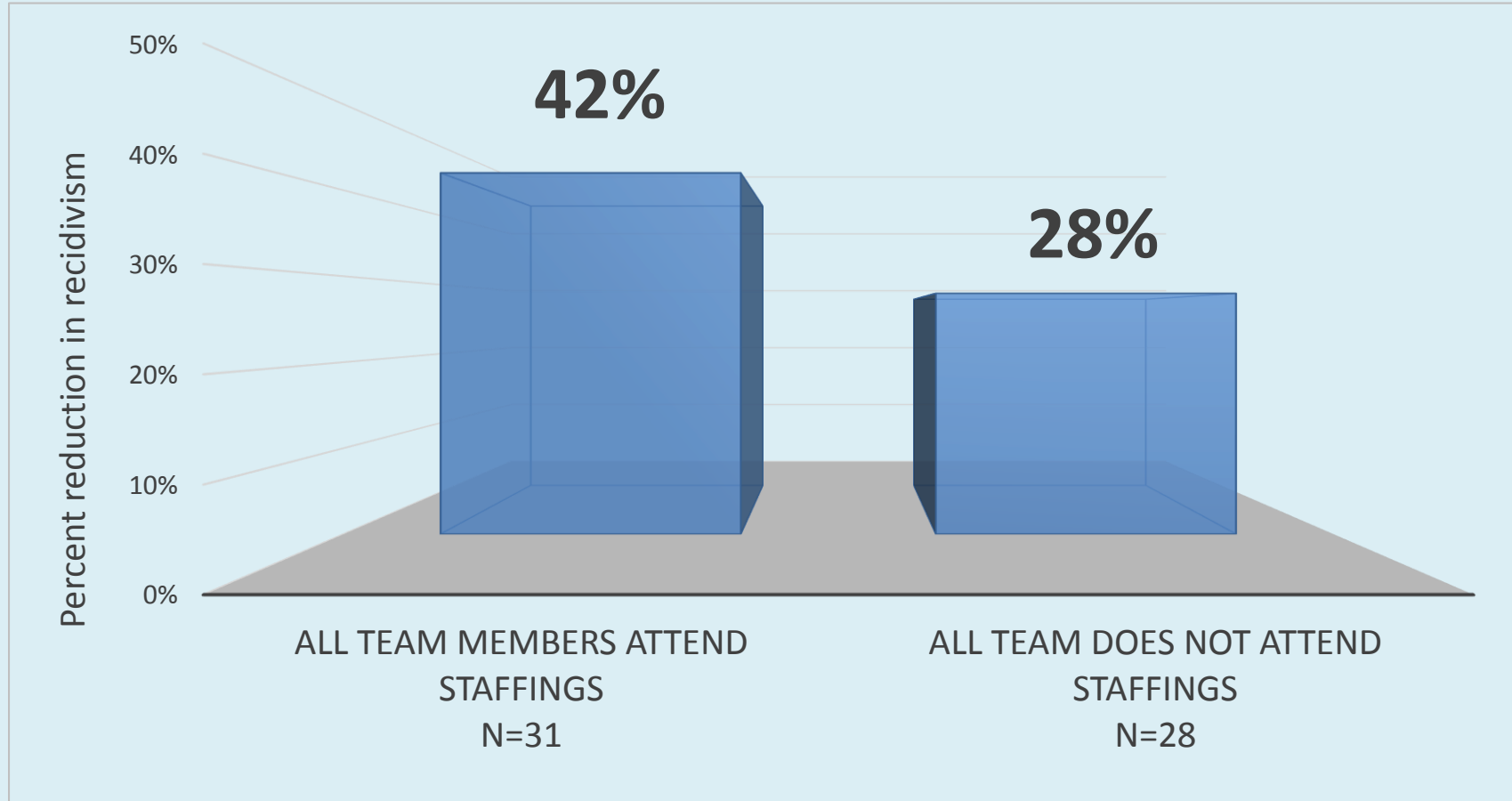
# Critical Role of Parent's and Children's Counsel in the FDC

The FDC Parent and Children's Attorney actively participates by advocating for their client during staffing and court proceedings in a non-adversarial manner, assisting with the negotiation of plea agreements, and completing necessary documents to facilitate the treatment process for the parent, child and family.





# Drug Courts That Required All Team Members to Attend Staffings Had 50% Greater Reductions in Recidivism and 20% Greater Savings



Note 1: Difference is significant at  $p < .05$

Note 2: "Team Members" = Judge, Both Attorneys, Treatment Provider, Coordinator

# Rethinking Our Practices...



*Importance of  
Attorney Engagement  
within the FDC*

**Effective collaborative  
courts focus on engagement  
of all partners**



# A Closer Look

## Duties of a Parent's Counsel

- The duty to provide competent representation entails knowledge of the area of dependency law (Welfare & Institutions Code (WIC) § 317.5(a); Cal. Rules of Prof. Conduct, Rule 3-110(B), (C))
- This includes Substance Abuse (California Rules of Ct., Rule 5.660(d)(3); WIC § 218.5)
- The parent's attorney shall: Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available (The American Bar Association (ABA) approved Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases)
- While parent's counsel have the duty to provide zealous advocacy, dependency cases are required to be conducted in as informal and non-adversarial atmosphere as possible (Welfare & Institutions Code § 350(a)(1); Cal. Rules of Ct., Rule 5.660(d)(4).)

## Duties of a Children's Counsel

- Meets with and establishes rapport with the child
- Disclose information from the child as is appropriate to assure child's best interest
- Present an assessment of child's best interest to the court via reports and recommendations
- Child's capacity does not alter the responsibility to assess child's best interest and advocate for the same
- Contacts those persons significantly affecting of having relevant knowledge of the child's life, examines records and investigates the child's situation
- Review and file pleadings, actively participate in court proceedings
- Recommend additional evaluations of the child, as necessary
- Monitor compliance with court orders
- Requests the court to appoint an attorney to represent the child if the child's wishes differ from the recommendations

# Importance of Parent's Counsel



- Parent's Counsel advise clients as to risk and benefits of program and ultimately sell program to clients
- Success of program requires agreements by all players
- Keep parent focused on ultimate goal of reunification. Avoid derailing progress litigating smaller issues such as missed tests
- Parent's Counsel perspective is critical to overcome problems

# Critical Duties of Parent's Counsel

- Maintain confidential information of the client (attorney-client privileged communication)
- Duty of loyalty
- Avoid conflicts of interest
- Provide zealous advocacy
- Provide competent representation
- Maintain communication with client
- Protection of parent's procedural rights
- Conduct an independent investigation







# Let's Be Clear

“The obligation of a parent’s attorney is to protect the interests of the parent and advocate for their position, not to safeguard the best interests of the child. That duty falls upon the agency, minor’s counsel, and the court.”

\* Rauber, Granik, & Laver (Eds), *“Representing Parents in Child Welfare Cases.”* American Bar Association, Washington, DC: 2000.

# Importance of Children's Counsel

- Gives the children a voice
- They are children who arrive at kindergarten not ready for school.
- They are in special education caseloads
- They are disproportionately in foster care and are less likely to return home
- They are in juvenile justice caseloads
- They are in residential treatment programs



# Rethinking Our Practices...



*Strategies to Engage  
Attorneys in Your  
FDC*

**Effective collaborative  
courts focus on engagement  
of all partners**



# Collaborative Relationships: Key Themes/Lessons

**Fundamentals of successful collaboration and active engagement of partners include:**

- Alignment of project and partner goals
- Communication of concrete benefits to prospective partners
- Ability to integrate the collaborative's work into existing efforts or infrastructures
- Clarification, understanding and agreement on roles, responsibilities and processes
- Establishing relationships is an event, maintaining relationships is a process

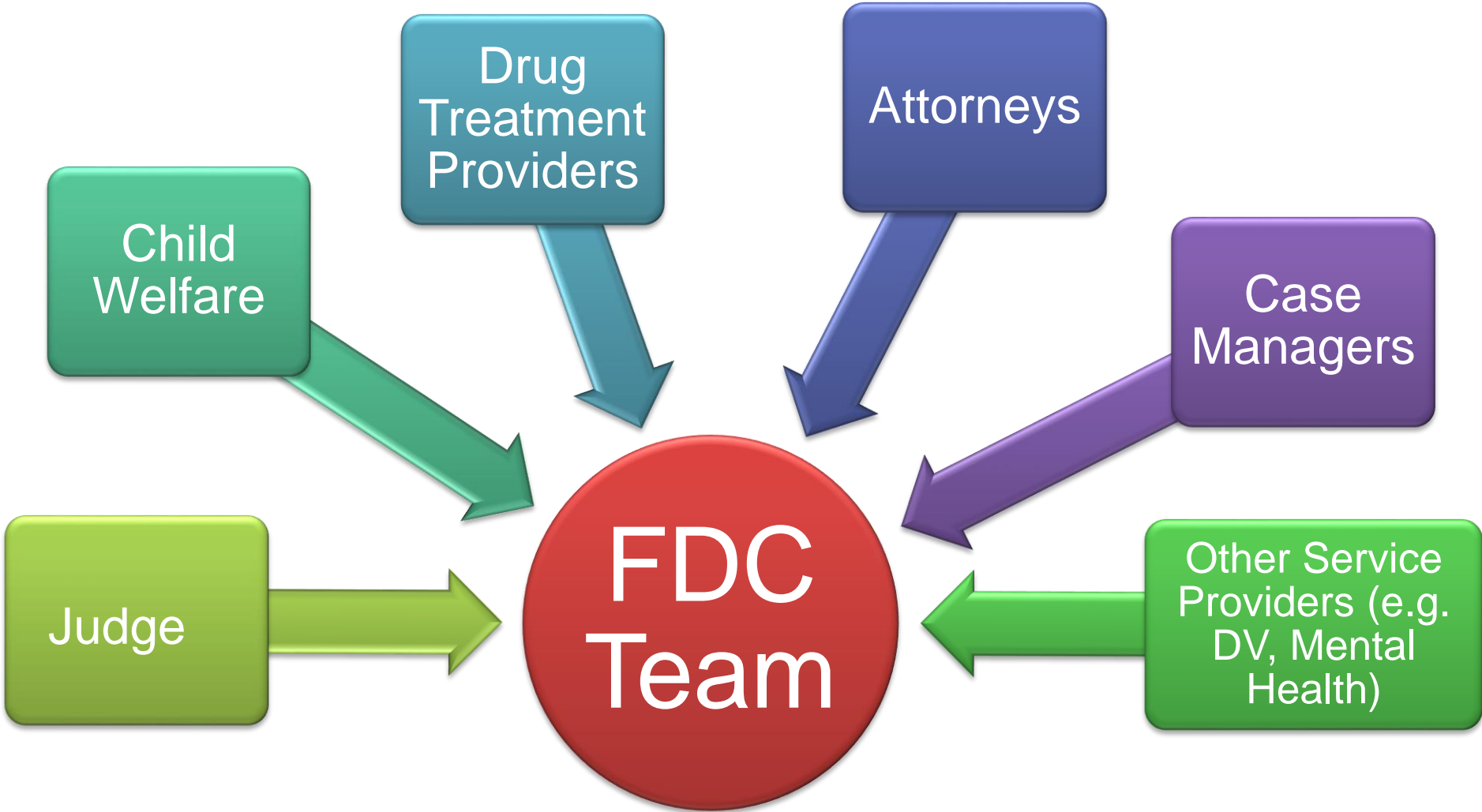


# Key Steps to Building an Effective Communication Infrastructure

- Establish individual and cross-system roles and responsibilities
- Establish joint policies for information sharing
- Develop integrated case plans
- Develop shared indicators of progress
- Monitor progress and evaluate outcomes
- Cross-systems communication on client progress
- Cross-systems training on both: clinical and program and policy issues impacting system operations



# Role Clarification of FDC Team Members



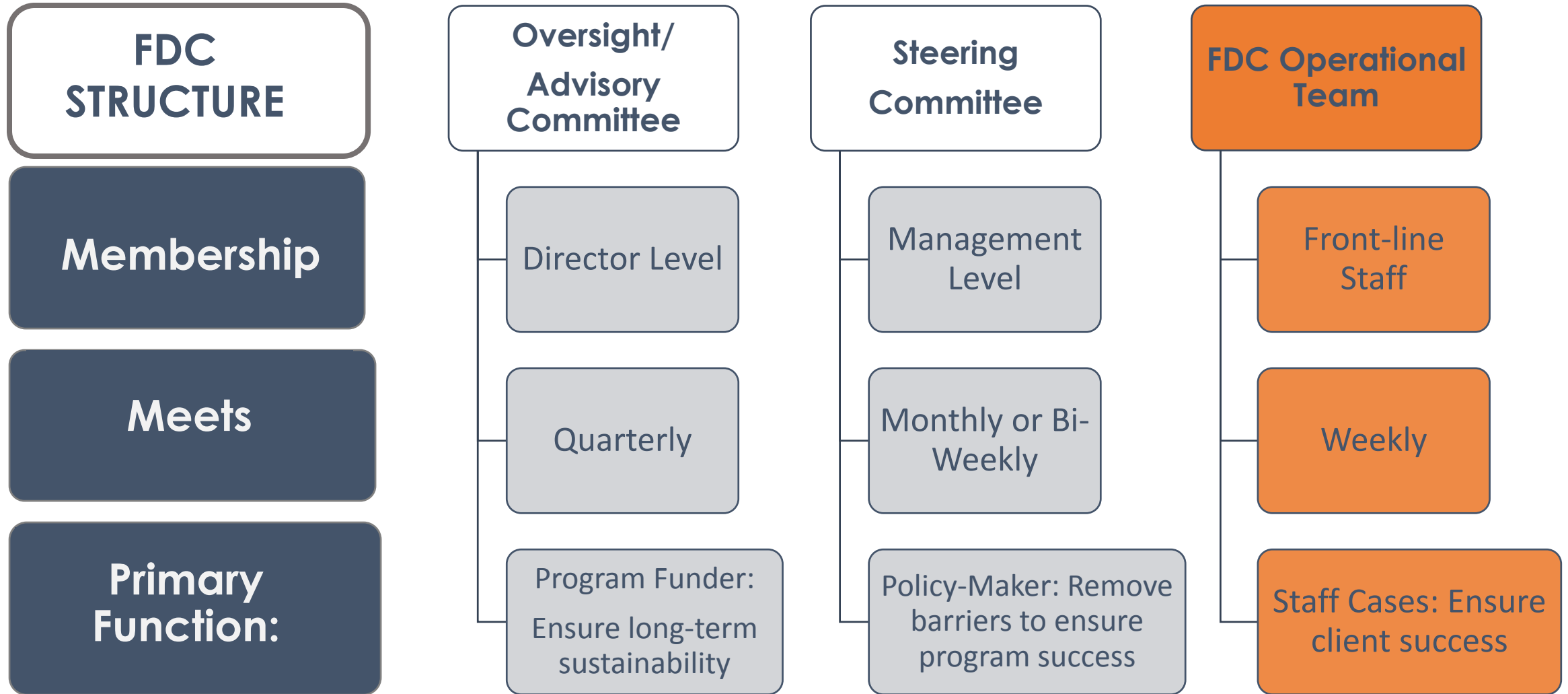


# The Role of the Operational Team

- Create an individualized course of action
  - Strengths-based, responsive to family's needs, relies on family and family's formal/informal supports
- Engage the child and family
- Ensure appropriate assessment and information needed to choose interventions
- Develop/implement a course of action
- Track progress and address emerging needs
- Sustain and support child and family over time



# Building Cross-System Collaboration: Developing the Structure to Create and Sustain Change





# Define Your Goals as a System



- Increase family reunification rates
- Increase client compliance with AOD treatment
- Decrease children's stay in foster placement
- Increase timeliness of assessments and treatment
- Increase collaboration among the Juvenile Court, CWS and AOD
- Promote maintenance of healthy parent-child relationship

# Understanding of Goals and Values

## Child Welfare

Primarily concerned with the safety, well-being, and permanency outcomes of children whose parents are in treatment. Goal: Is the parent moving toward sobriety to meet legal deadlines?

## Treatment Providers

Primarily concerned with parents' (who may not even be identified as parents) recovery as they progress through treatment, on a different timetable than the court or child welfare system.

## Judicial Officers

Monitor treatment against legal deadlines.

## Parent or Child Attorney

Provide zealous and competent advocacy and representation; may have very different perspectives on what information should be shared.



# WHAT IS SUCCESS IN FDC?

## KEY OUTCOMES

### Safety (CWS)

- Reduce re-entry into foster care
- Decrease recurrence of abuse/neglect

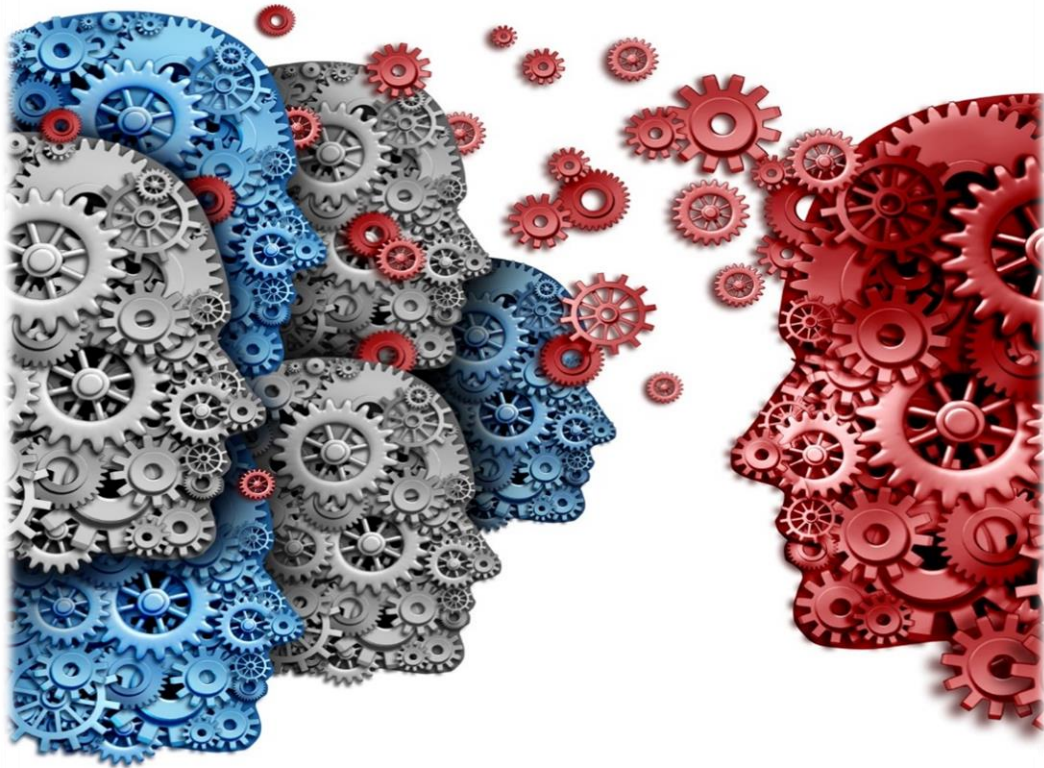
### Permanency (Court)

- Reduce time to reunification
- Reduce time to permanency
- Reduce days in care

### Recovery (AOD)

- Increase engagement and retention in treatment
- Increase number of clean UA's
- Increase number of graduates
- Decrease Recidivism

# Operational Considerations: The Referral Process



- What is the role of the parent's attorney in the referral process to FDC?
- Who will be referring parents to the FDC?
- Do the attorneys understand the referral process?
- Does the existing referral process make sense for the parents' attorneys?
- Assure referral process does not impinge on parental rights.



# Benefits to Family (Parent & Child)

- Better and quicker access to services
- Chances of reunification increase
- Reunification often occurs sooner
- Integrated care for the entire family
- Long term improvement
- Improved parenting skills
- Improve parent and child “buy-in” to services
- Empowerment of the parent and child in the case
- Easier access to children’s services



# Benefits to Attorney

- See last slide – “Benefits to Parent/Family”
- Streamlined case processing
- Additional resources
- Entire FDC Team shares responsibility for client success (accountability for agency)
- Comprehensive documentation of client progress in system (quality of information)





# Benefits to Attorney

- Ability to meet with client regularly and resolve barriers to reunification early on
- Avoid bypass
- Helps prioritize clients; cases become more clear cut
- Fewer trials
- An opportunity to improve services to parents as a whole
- More knowledgeable about reasonable services



(Source: Marlowe and Carey, May 2012)

## Treatment Completions



## Reunification Rates



## FDC vs Comparison

### Days in Foster Care



### New CPS Petition after FR



# Rethinking Our Practices...



*Group Activity  
and Discussion*

**Effective collaborative  
courts focus on engagement  
of all partners**



# Rethinking Our Practices...

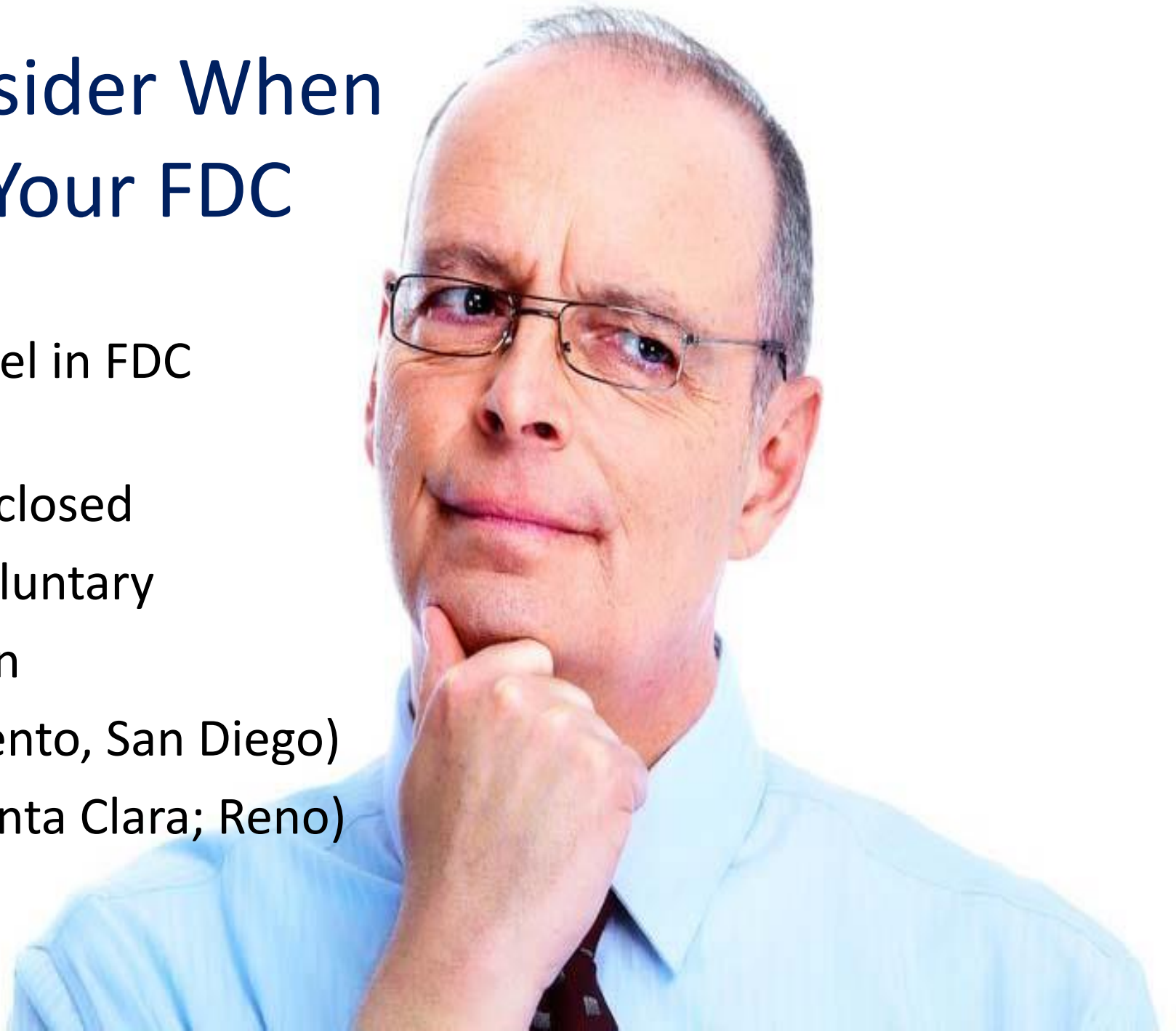


## *Key Considerations*

**Effective collaborative courts focus on engagement of all partners**

# Issues to Consider When Designing Your FDC

- Role of Parent's Counsel in FDC proceeding
- Public proceedings or closed
- Voluntary or forced voluntary
- Use of jail as a sanction
- Parallel track (Sacramento, San Diego) or integrated track (Santa Clara; Reno)



# Understanding Current Operations

Partners need an in-depth understanding of each other's systems and how they impact each other

- Who does what? When? Why? And How?
- How does that affect the families you serve?

In developing this understanding, partners:

- Raise awareness about unknown processes
- Clarify misunderstood processes
- Develop a shared, common language
- Identify opportunities for improvements





# Operational Considerations: Flow of Information

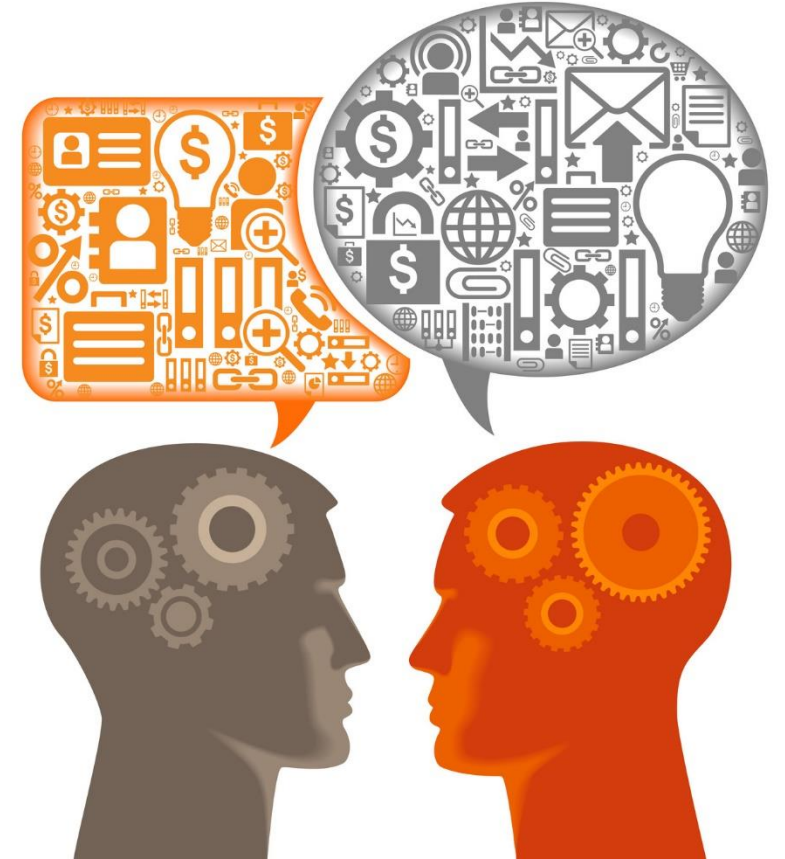
- What information goes to whom?
- How is information distributed?
- What information should be used and when?
  - If parallel or integrated model?
  - On or off the record?



# Additional Operational Considerations

## Communication

- Necessary to allow the attorney to advocate for the client at staffings and hearings
- Walking the tightrope and understanding the attorney's role: the attorney is both a team member and the attorney for the parent
- Discussing behavioral responses (rewards and sanctions) with clients
- Discussing behavioral responses in the team setting
- Consider impact of all team decisions on the child



# Information Needed by Court Professionals



- Level of involvement of parents in a treatment program;
- Barriers to treatment;
- Support systems being developed around the parent and family;
- When parents are experiencing relapse or have left treatment; and
- The continuing care plan of the parents, if they are in residential treatment.

# Team Consideration

Trust within the team that each member will perform his/her responsibility to the client is essential!







## **Q&A and Discussion**





# Resources



## FAMILY DRUG COURT GUIDELINES SELF-ASSESSMENT

- Designed to assist FDC Practitioners in assessing their own policies, procedures and operations based on the FDC Guidelines
- Please contact us: [fdc@cffutures.org](mailto:fdc@cffutures.org)



# FDC LEARNING ACADEMY

2010-2014

**30+** Webinars

**55+** Hours of content

**50+** Expert presenters

**2000+** Attendees

**45** States

**4.3** Satisfactory rating





**Family Drug Court Learning Academy  
Webinar Series**

**2014**

*This Changes Everything*

**For more information, please visit the FDC Learning Academy Webinar Library**  
**[www.cffutures.org/presentations/webinars/category/fdc-series](http://www.cffutures.org/presentations/webinars/category/fdc-series)**



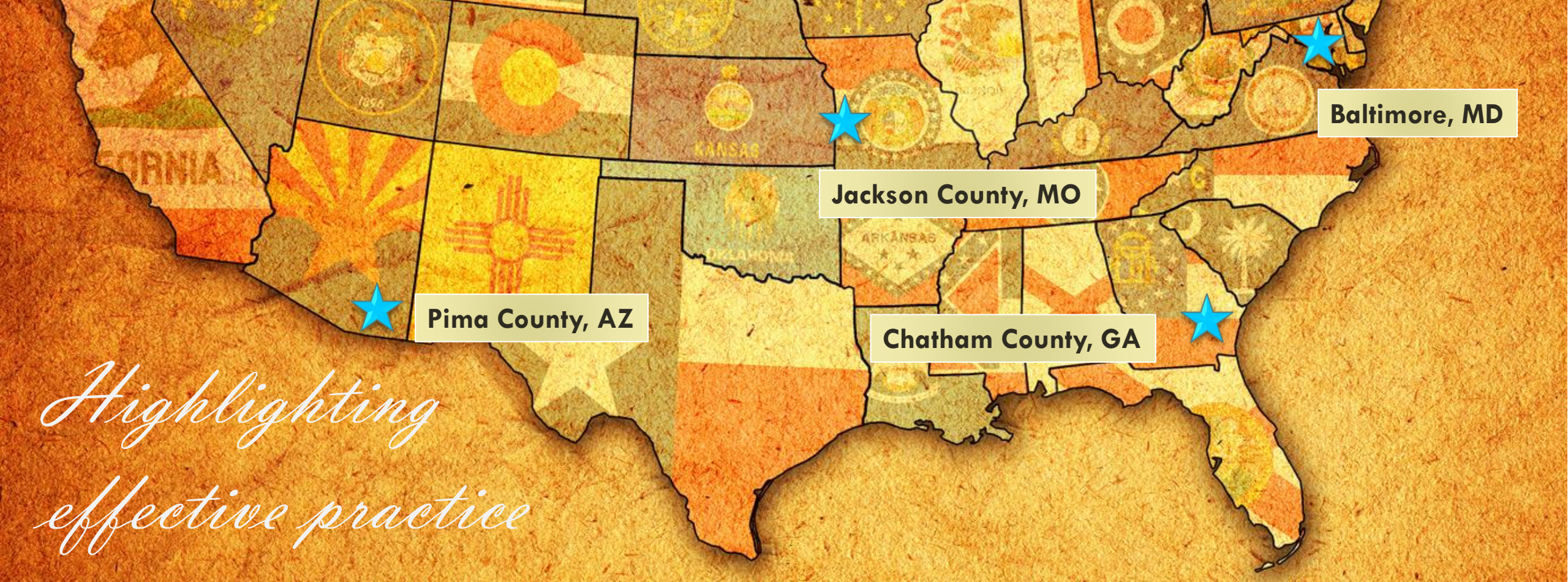
# This Changes Everything - 2014

<b>March 6<sup>th</sup></b>	Tested and Proven – Utilization of Recovery Support Specialists as a Key Engagement and Retention Strategy in FDC (and Beyond)
<b>April 10<sup>th</sup></b>	Our Grant is Over – Now What? Re-financing and Re-Directing as Real Sustainability Planning for Your FDC
<b>June 19<sup>th</sup></b>	Closed Doors or Welcome Mat? Opening the Way for Medication-Assisted Treatment in FDC
<b>July 10<sup>th</sup></b>	So How Do You Know They Are Really Ready? Key Considerations for Assessing Families in Recovery for Reunification
<b>Aug. 14<sup>th</sup></b>	Exploring Solutions Together – The Issue of Racial and Ethnic Disproportionality in FDCs
<b>Sept. 18<sup>th</sup></b>	Matching Service to Need – Exploring What “High- Risk, High-Need” Means for FDCs



*Visit* **FDC Learning Academy Blog**  
[www.familydrugcourts.blogspot.com](http://www.familydrugcourts.blogspot.com)






*Highlighting  
effective practice*

★ FAMILY DRUG COURT  
PEER LEARNING COURT PROGRAM

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# NCSACW Online Tutorials

Please visit: [www.ncsacw.samhsa.gov/](http://www.ncsacw.samhsa.gov/)

1. Understanding Substance Abuse and Facilitating Recovery: A Guide for Child Welfare Workers
2. Understanding Child Welfare and the Dependency Court: A Guide for Substance Abuse Treatment Professionals
3. **Understanding Substance Use Disorders, Treatment and Family Recovery: A Guide for Legal Professionals**



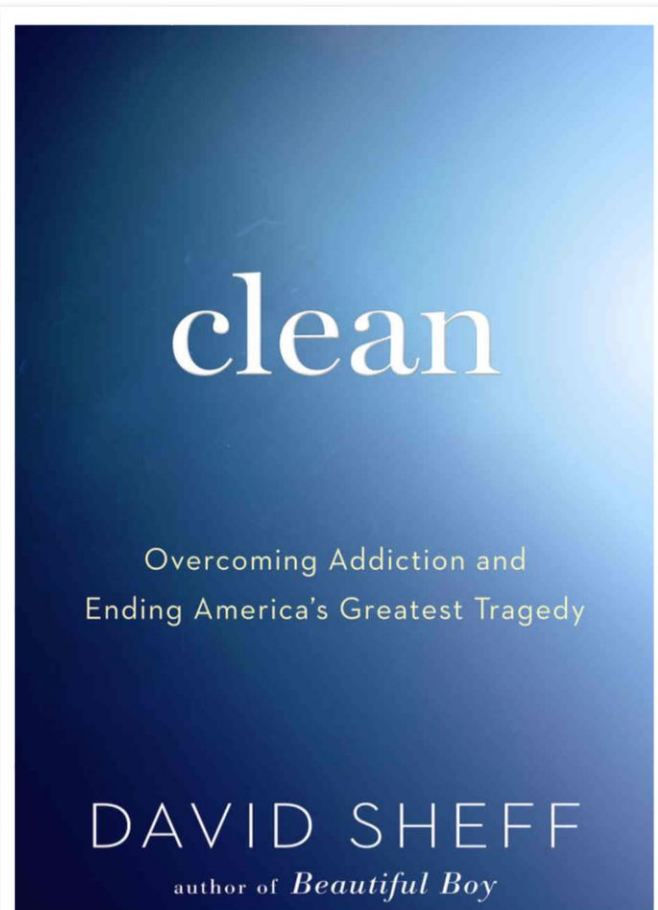
# Earn 6 CLEs Free!

National Center on Substance Abuse and Child Welfare  
Online Tutorial:

*Understanding Substance Use Disorders, Treatment and Family  
Recovery: A Guide for Legal Professionals*



- Roles of Child Welfare and Substance Abuse Treatment Professionals
- Engaging and Retaining Families
- Impact of alcohol and drug addiction on children and families
- Principles of addiction and recovery
- Child Welfare Timetables – AFSA Guidelines
- Cross-system communication and collaboration



# Recommended Reading

"David Sheff has written the most important book about addiction in a decade. *Clean* is a blueprint for thinking clearly – and empathetically – about America's costliest and most misunderstood public health crisis."

– Benoit Denizet-Lewis,  
The New York Times Magazine

For more information, please visit:

[www.davidsheff.com](http://www.davidsheff.com)

*Improving outcomes for children  
and families affected by  
substance use disorders*



[www.cffutures.org](http://www.cffutures.org)

[www.ncsacw.samhsa.gov](http://www.ncsacw.samhsa.gov)



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