



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 13, 2011

Motion 13558

Proposed No. 2011-0355.2

Sponsors Ferguson

1 A MOTION accepting the family treatment court budget
2 report, in compliance with Ordinance 16984.

3 WHEREAS, Ordinance 16984, Section 69, Proviso P1, the mental illness and
4 drug dependency fund proviso requires that the department of community and human
5 services mental health division develop and submit a report to the council on family
6 treatment court, and

7 WHEREAS, the report contains recommendations on:

8 1. An analysis of funding needs and possible revenues for family treatment
9 court in 2011 and thereafter;

10 2. The feasibility of establishing a limit on the number of family treatment court
11 cases;

12 3. Efficiencies that the defender agencies and superior court could make to
13 reduce costs; and

14 4. An analysis of whether Mental Illness and Drug Dependency Action Plan
15 strategy 8a, expand family treatment court, could be revised to fund all of the costs
16 associated with family treatment court, and

17 WHEREAS, in addition, the report also contains data and other information on
18 family treatment court including, but not limited to:

19 1. The number of family treatment court cases in 2009 and 2010;

20 2. The length of time for family treatment court case dispositions in 2009 and
21 2010;

22 3. The number of hearings for 2009 and 2010 family treatment court cases;

23 4. The number of defendants and children involved in family treatment court
24 cases in 2009 and 2010; and

25 5. Detailed explanation of the family treatment court case processing and case
26 handling in the defender agencies and in superior court, and

27 WHEREAS, the executive must transmit to the council the report and motion
28 required by this proviso by May 14, 2011, which was extended to August 15, 2011, filed
29 in the form of a paper original and an electronic copy with the clerk of the council, who
30 shall retain the original and provide an electronic copy to all councilmembers, the council
31 chief of staff and the lead staffs for the budget and fiscal management committee and the
32 law, justice, health and human services committee or their successors;

33 NOW, THEREFORE, BE IT MOVED by the Council of King County:

34 The family treatment court budget report, Attachment A to this motion, is hereby
35 accepted.
36


Motion 13558 was introduced on 8/29/2011 and passed by the Metropolitan King
County Council on 9/12/2011, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr.
McDermott
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: A. Proviso Response: Family Treatment Court Budget Report August 2011

Proviso Response: Family Treatment Court Budget Report

August 2011



King County

**Department of Community and Human Services
Mental Health, Chemical Abuse and Dependency Services Division**

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Executive Summary

The 2011 Adopted Budget, Ordinance 16984, Section 69, Proviso 1 directs the King County Department of Community and Human Services (DCHS) Mental Health, Chemical Abuse and Dependency Services Division (MHCADSD) to develop a report regarding the Family Treatment Court (FTC). Department of Community and Human Services staff worked collaboratively with staff from Superior Court; the Office of Performance, Strategy and Budget (PSB); the defender agencies; the Washington State Office of the Attorney General; the Washington State Department of Social and Health Services (Children's Administration); the Office of the Public Defender (OPD), and Metropolitan King County Council staff to prepare this report. The Mental Illness and Drug Dependency (MIDD) Oversight Committee reviewed and provided comment on an earlier draft of the report. The workgroup identified some areas for efficiency and savings in FTC operations, many of which have already been implemented.

The FTC is a therapeutic court that works with children and families involved in dependency matters in King County. A dependency case is filed in Superior Court by the State of Washington when a child has been abandoned, or to remove a child from his or her home and parents, based on evidence of abuse or neglect. Family treatment courts around the country help parents who are in danger of losing custody of their children, due to charges of abuse or neglect, by providing them the opportunity to be clean and sober and achieve recovery. The FTC provides support to aid parents in resisting further criminal activity; teaches parents skills that will aid them in leading productive, substance-free and crime-free lives; helps parents become emotionally, financially, and personally self-sufficient; increases personal, familial, and societal accountability; helps develop adequate parenting and coping skills to be effective parents on a day-to-day basis; and ensures that children have safe and permanent homes within permanency planning guidelines or sooner. The FTC results in reunited families in stable homes, in reduced reliance on disruptive and expensive out-of-home care, and in children being raised in safe and caring families.

The University of Washington's (UW) Division of Public Behavioral Health and Justice Policy conducted a quasi-experimental outcome study comparing FTC participants to a statistically matched comparison group in regular dependency court. The evaluation determined that FTC parents are more likely to be admitted to and use treatment services and entered treatment faster and remained longer than regular dependency parents. The FTC children spent less time in out-of-home placements and less time in the child welfare system and were more likely to be permanently reunified with their parent, or be on trial home visits, than children in regular dependency court. In addition, the evaluation indicated that families of color in FTC have more positive outcomes than families of color in the regular dependency court and that there were no differences when compared with white families in FTC on most outcomes, suggesting the program aligns strongly with the County's Equity and Social Justice Initiative.

There are three components of County FTC costs: Superior Court program staff, public defenders, and treatment. This report focuses on court and defense costs because the costs of treatment are largely, although not exclusively, borne by the State of Washington. Since its inception in 2004, King County's FTC has had multiple funding sources, including a federal

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Bureau of Justice Grant to launch the program, the General Fund, the Veterans and Human Services Levy, and the MIDD fund. Prior to the 2010 Adopted Budget, public defense costs for FTC were entirely funded by the General Fund and were not distinguished from defense costs in regular dependency cases. Due to the planned expansion of FTC under MIDD Strategy 8a, and the supplantation of MIDD funds to pay for the base costs of FTC in 2010, the full costs of providing public defense in FTC should have shifted to the MIDD fund. Unfortunately, the estimates for public defense costs were inaccurate leaving \$186,000 in defense costs associated with FTC unbudgeted in 2010. For 2010, the County Council approved the use of Human Service Levy funds for this purpose, but left approximately \$200,000 in FTC defense costs unbudgeted in 2011. The proviso process was intended, in part, to determine the source of funding for the unbudgeted amount.

While the UW evaluation of FTC indicates that the program has strong, positive outcomes for its participants, it is not currently possible to weigh these outcomes and the cost of achieving them against other MIDD strategies because the MIDD evaluation has not been completed. Nonetheless, given the positive outcome evaluation, the King County Executive recommends that the FTC be maintained at its current level of operations – no more than 60 children at any time and no more than 90 children in the course of the calendar year. The court is requested to continue to manage its caseload to not exceed its current budgeted level of operations. For 2011 and 2012, the County Executive recommends funding the unbudgeted public defense costs out of the OPD appropriation in the General Fund. For 2013, the MIDD will be responsible for funding for all FTC costs. However, the Executive's recommendations assume that FTC costs and outcomes will be evaluated alongside other MIDD strategies in the course of 2012 budget preparations and final funding levels will be determined once the MIDD evaluations are completed.

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Family Treatment Court Budget Proviso Development Process

The 2011 Adopted Budget, Ordinance 16984, Section 69, Proviso 1 directs the Department of Community and Human Services (DCHS), Mental Health, Chemical Abuse and Dependency Services Division (MHCADSD) to develop a report regarding the Family Treatment Court (FTC). The proviso reads in full:

“Of this appropriation, \$208,418 shall not be expended or encumbered until the executive transmits and the council adopts a motion that references the proviso's ordinance, section and number and states that the executive has responded to the proviso. This proviso requires that the department of community and human services mental health division develop and submit a report to the council on family treatment court. The report must be collaboratively developed with and include input from the mental illness and drug dependency oversight committee, the office of performance, strategy and budget, superior court, the defender agencies and council staff. (1) The report must contain, but need not be limited to, recommendations on: (a) an analysis of funding needs and possible revenues for family treatment court in 2011 and beyond; (b) the feasibility of establishing a limit on the number of family treatment court cases; (c) efficiencies that the defender agencies and superior court could make to reduce costs; and (d) an analysis of whether Mental Illness and Drug Dependency Action Plan strategy 8a, expand family treatment court, could be revised to fund all of the costs associated with family treatment court. (2) In addition, the report must contain data and other information on family treatment court including, but not limited to: (a) the number of family treatment court cases in 2009 and 2010; (b) the length of time for family treatment court case dispositions in 2009 and 2010; (c) the number of hearings for 2009 and 2010 family treatment court cases; (d) the number of defendants and children involved in family treatment court cases in 2009 and 2010; and (e) a detailed explanation of the family treatment court case processing and case handling in the defender agencies and in superior court.

The executive must transmit to the council the report and motion required by this proviso by May 15, 2011, filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staffs for the budget and fiscal management committee and the law, justice, health and human services committee or their successors.”

In response to the proviso, the DCHS, in collaboration with the Mental Illness and Drug Dependency (MIDD) Oversight Committee (OC), created an FTC proviso workgroup. The FTC proviso workgroup was convened by DCHS and Superior Court and was comprised of members of the MIDD OC and staff from the DCHS, MHCADSD, Superior Court; Metropolitan King County Council; Washington State Department of Social and Health Services (Children's Administration); Washington State Attorney General's Office; Office of the Public Defender

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(OPD); defense contract agencies (Associated Council for the Accused, Northwest Defenders Association, Society of Counsel Representing Accused Persons, and The Defender Association); and the Office of Performance, Strategy and Budget (PSB). See Appendix B for a list of workgroup participants.

The FTC proviso workgroup met four times: December 10, 2010, January 12, 2011, March 11, 2011, and June 29, 2011. In addition, many smaller meetings were held among workgroup participants. The workgroup focused its discussion on the FTC proviso, which included describing the court process, options for efficiencies to reduce costs and collecting data on FTC. The FTC proviso workgroup recommendations were reviewed and approved by the MIDD OC during the March 24, 2011 MIDD OC meeting and the final report was reviewed and approved by the MIDD OC co-chairs.

King County Strategic Plan Alignment

The FTC aligns with the King County Strategic Plan in multiple goal areas. The FTC advances the strategy to “provide therapeutic courts, such as mental health and drug courts” under the objective to “ensure fair and accessible justice systems” within the Justice and Safety Goal to “support safe communities and accessible justice systems for all.” Further, because it is an upstream program designed to intervene with families and children in crisis, it also supports the objective to “support the optimal growth and development of children and youth” in the Health and Human Potential Goal to “provide equitable opportunities for all individuals to realize their full potential.”

As in the rest of the nation, people of color are over-represented in the County’s criminal justice system, as compared to their representation in the general population. Programs that improve the outcomes of people of color, particularly children of color, are important in the long-term effort to overcome the underlying disproportionality affecting communities of color. An evaluation of FTC demonstrated that families of color in FTC have more positive outcomes than families of color in the regular dependency court. The apparent particular benefit FTC has for families of color indicates that the program strongly supports the County’s Equity and Social Justice Initiative.

Overview of Family Treatment Court

Family Treatment Court is an alternative to regular dependency court and is designed to improve the safety and well being of children in the dependency system by providing parents access to drug and alcohol treatment, judicial monitoring of their sobriety, and individualized services to support the entire family.

A dependency case is filed in Superior Court by the State of Washington when a child has been abandoned, or to remove a child from his or her home and parents based on evidence of abuse or neglect. Dependency cases are often lengthy, taking years to resolve. Resolution takes the form of either reunification of the family, or the termination of parental rights and the permanent removal of the child from his or her home.

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Dependency petitions are filed on behalf of the Department of Social and Health Services (DSHS), and the Attorney General's Office represents the State in these matters. The Office of the King County Prosecuting Attorney is not involved in dependency cases. Residential treatment programs utilized by parents or children involved in dependency cases are paid for by the State; however, outpatient treatment programs can be state, county, or locally funded, depending on the program.

The right to parent one's children is considered a fundamental freedom under the United States Constitution, and parents in dependency cases therefore have a constitutional right to a publicly funded defense attorney if they are unable to afford one themselves. In addition, the Revised Code of Washington (RCW) 13.34.092 states that in dependency cases, "the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court." Further, RCW 13.34.100 requires that "if the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position." The County bears the full cost of indigent defense in dependency cases.

In 2002, The Honorable Judge Patricia Clark convened a group of key stakeholders to determine the feasibility of developing a family drug court in King County. While numerous adult and juvenile offender therapeutic courts were in operation both locally and nationally at that time, family drug courts focusing on child abuse/neglect and dependency matters were just beginning to evolve. Following a series of site visits and the successful application for and award of a Bureau of Justice Administration grant, the King County FTC was opened in August 2004. The FTC Policies and Procedures Manual, developed and approved by the FTC Advisory Committee, guided program operations along with the requirements of the federal demonstration grant. The FTC Advisory Committee continues to meet on a quarterly basis to review program guidelines, activity and outcomes. The initial program capacity target was 45 children at any given time. The program expanded in 2009 to 60 children and their families at any one time, or 90 children per year.

The vision of FTC is to promote the health, safety and welfare of children in the dependency system by actively intervening to address the drug, alcohol and other service needs of families through integrated, culturally competent and judicially managed collaboration that facilitates timely reunification or an alternative permanency plan.

The FTC has four primary goals:

1. Ensure that children have safe and permanent homes within the permanency planning guidelines or sooner
2. Ensure that families of color have outcomes from dependency cases similar to families not of color
3. Ensure that parents are better able to care for themselves and their children and seek resources to do so; and

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4. Reduce the cost to society of dependency cases involving substance abuse.

After a finding of dependency, parents voluntarily enter the program and agree to increased court participation, chemical dependency treatment, and intensive case management in order to reunite with their children. Case review hearings initially occur every other week and become less frequent as parents progress through the program. Incentives are awarded to recognize parents' achievements, and graduated sanctions are used when parents violate program rules. It is expected that parents will remain in FTC between 12 to 24 months. If a parent is unable to engage in services or maintain sobriety, the process has prepared the court for quickly finding the best solution for the children.

There were 537 total FTC hearings in 2009, and 755 hearings in 2010, for 45 and 60 cases respectively. In 2009, FTC enrolled 67 children and 54 parents. In 2010, FTC reached capacity and enrolled 91 children and 69 parents throughout the year.

Table 1: 2009 and 2010 FTC Cases and Hearings

FTC Totals	2009		2010	
Parents/Children	54	67	69	91
Hearings	537		755	
Cases	45		60	

Table 2: 2009 and 2010 FTC Parent Outcomes

Year	Currently in FTC	Graduation	Opt Out	Non-Compliance	Dependency Dismissed	Termination of Parental Rights	Relinquishment
2009	26	12	1	2	1	1	2
2010	41	9	0	7	2	1	0

The end of a case in FTC is considered dismissal of dependency; therefore the length of case disposition in FTC is the length of a case from acceptance hearing to dismissal of dependency or exit from FTC, whichever occurs first. When comparing all cases in FTC that exited in 2009 and 2010, the average length of time in FTC was 13.3 months.

Table 3: Length of Time for FTC Case Disposition

Median length of time in dependency system*	24.3 months
Cases that exited FTC in 2009 and 2010	13.3 months
Cases that entered and exited in 2009 and 2010	10.3 months
Cases that entered and exited in 2009	5.9 months
Cases that entered and exited in 2010	4 months

* From Petition to Permanency

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The proviso required a “detailed explanation of the family treatment court case processing and case handling in the defender agencies and in Superior Court.” In response to this requirement, the four contract public defense agencies provided the following outline, included as Figure 1, as the detailed explanation of FTC case processing and case handling in their defender agencies.

Figure 1: Contract Defender Agency FTC Case Process and Case Handling

- 1) The case is a dependency case, regardless of whether hearings being held, or additional court services being provided through FTC. Clients are represented from the 72 hour shelter care hearing, the 30 day shelter care hearing, mediation if scheduled and the pre-trial conference, a period of at least two months until entry into FTC. In order to be accepted into FTC program, a parent enters an agreed order of dependency and disposition. Several client meetings, several hearings and a mediation session prior to the entry of an agreed order of dependency, in most cases. Additional hearings may be set during the pre-dependency stage depending on issues that arise during that portion of the case. This is a labor intensive time for the defense attorney, as the attorney is building a working relationship with the client, reviewing discovery, talking to witnesses and service providers, assessing the service needs of the parents and addressing visitation and other issues that arise early in the case. It is important to remember that these cases continue to be dependency cases, the difference simply is that the ongoing post-disposition review hearings occur in a FTC setting, with more frequent hearings and more intensive services available to the parties. Many cases do not complete FTC – revert back to “mainstream” track for dependencies – continuity of attorney representation and staffing allows transition without delay, starting over to learn what occurred over intervening six months-one year at FTC.
- 2) The nature of representation is significantly different in a dependency case than for that of a criminal case (which would include contempt of court cases). The types of issues are broader in dependency cases, and the level of involvement with and knowledge of one’s client by an attorney and the attorney’s staff is more intensive, and of longer duration, than in most criminal cases. This requires substantial work in between court hearings by the attorney and staff. The FTC clients frequently attend “wrap around” meetings with their entire FTC team. This occurs outside of the courthouse and generally involves the primary treatment providers, the lawyers, often the defense social worker and FTC staff. The defense attorney’s work is not simply that of an attorney showing up at a hearing and standing by for the client. In addition, if there is a failure to complete the program, the case continues in the “mainstream” dependency court. The ultimate outcome for failure of a parent in dependency court is, what the U.S. Supreme Court has termed the most drastic thing a state can do to its citizens short of the death penalty: termination of parental rights.
- 3) Initial representation is handled as all dependencies:
 - A. Case intake
 - B. Client contact and regular client meetings

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- C. Case/discovery review, preparation for trial if an agreement is not achieved
- D. Investigation, as needed
- E. Referral to defense social worker
- F. Treatment referrals, preliminary assignments as needed
- G. Court hearings (72 hour/30 day, Additional shelter care hearings/pre-trial conference/fact finding hearing/disposition)
- H. File formal response to dependency petition and file pre-trial conference report
- I. Mediation
- J. Meetings and conferences with Department of Social and Health Services Caseworkers - various meetings
- K. Meetings and conferences with Assistant Attorney General
- L. Pleading preparation for motions, as needed

4) Family Treatment Court Referral/Intake/Representation

- A. Opt-in is at the dependency fact finding/acceptance hearing (post disposition) stage of ongoing dependency case
- B. Ongoing contact with client (ongoing representation and dependency legal services)
- C. Ongoing monitoring of client progress, and that of other parties in case
- D. Ongoing monitoring of client and case-related issues
- E. Ongoing monitoring of progress and issues relating to the child
- F. Attorney office investigator, social worker or paralegal contacts with client, others as may be needed by case and client's circumstances
- G. Motions filed and presented, as needed
- H. File responses to motions and/or court reports (requires obtaining declarations from clients and other potential witnesses)
- I. Case related staffings for FTC issues
- J. Other case related meetings, as needed
- K. Initial progress review/permanency planning hearing /ongoing FTC review hearings: Court appearances and pre-hearing preparations

5) Staffing: Support Staff

- A. Note: approximately 2.0 full time employees (FTE) spread between four contractors (plus assigned counsel attorneys in addition to that number)
- B. Support staff: (contract staff funding)
 - i. 1.0 (total) FTE paraprofessional (split between four agencies), including investigator/paralegal/social worker, as needed on a case-by-case basis. (Defense social workers assist clients with understanding the need and role of services; assisting with visitation issues, help select experts for evaluations, review parenting evaluations with the attorney and client, attend wrap around meetings with the attorney and client, or with the client when the attorney is not available, locate resources in the community such as shelter programs, food banks, and a myriad of other resources needed by the clients.

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- ii. .4 clerical (spread between four contractors).
- C. Support staff: (assigned counsel)
 - i. Social workers – available through State OPD program referrals
 - ii. Investigator – available through KC OPD on cases by case, as necessary basis
 - iii. Clerical – varies from attorney to attorney (not separately funded)

Superior Court provided the description of case processing and handling given below in Figure 2.

Figure 2: Superior Court FTC Case Process and Case Handling

A case enters the dependency system when a dependency petition is filed. Every case has a 72-hour shelter care hearing and a pre-trial conference hearing (and some cases have additional shelter care hearings) before dependency is established, either through agreed orders or a fact finding hearing.

A case is eligible for FTC provided that an agreed order of dependency has been entered, a referral is received within six months of the petition being filed and chemical dependency is identified as a parental deficiency. An eligibility screening is conducted that involves an interview with the prospective parent, gathering relevant documentation, a criminal background check, and collateral interviews. If the referral passes these screening check points, the case is set for an acceptance staffing. It is at this staffing that the Judge determines whether to accept this participant into FTC.

The first hearing in FTC is called the acceptance hearing. After acceptance, the case is set for regular review hearings based on its level in the FTC program. All new (level 1) participants have review hearings every other week. Level 2 hearing frequency is every four weeks and level 3 is every four-six weeks. In rare cases a participant will enter level 4 and come to court every 8-12 weeks.

Ability to move to the next level in FTC is spelled out in FTC policy manual. Every six months a permanency planning hearing is conducted and contested motion hearings are scheduled as needed. These types of hearings also occur in non-FTC dependency cases.

There are two types of hearings specific to FTC: Check-in hearings and compliance clock hearings. A check-in hearing is set following a positive or missed urine analysis or reported treatment noncompliance. This usually occurs outside the regularly scheduled review hearing. A compliance clock hearing is set if a participant fails to make progress or is noncompliant with FTC program rules. At this hearing it is determined whether or not the case will stay in FTC or return to the regular dependency calendar.

Cases which return to the regular dependency calendar are reviewed by the court every 6 months until permanency is achieved and the dependency is dismissed. Cases which stay in FTC are concluded when permanency is achieved through reunification or placement in an alternative home followed by dismissal of the dependency. A parent can also opt out of FTC at any point in the program and return to the regular dependency calendar.

Outcome Evaluation of the King County Family Treatment Court

The University of Washington's (UW) Division of Public Behavioral Health and Justice Policy has conducted a quasi-experimental outcome study comparing 76 parents and 89 children enrolled in FTC with 182 parents and 235 children families eligible for FTC, but served by the regular dependency court. The researchers obtained lifetime administrative data on substance use, treatment, and child welfare involvement from DSHS. All parents who entered FTC between March 2006 and October 2009 were included in the study.

The study found that families in FTC experienced significantly better substance use service outcomes and child welfare outcomes than similar parents served through the regular dependency court. In particular, the UW study found the following statistically significant differences between the treatment group and the comparison group:

- The FTC parents were more likely to be admitted to and use treatment services than comparison group parents.
- The FTC parents entered treatment faster than comparison group parents, remained in treatment longer, and were more likely to be successfully discharged.
- The FTC children spent less time in out-of-home placements and less time in the child welfare system than comparison group children.
- At the end of the study, FTC children were more likely than comparison group children to be permanently reunified with their parent, or be on a trial home visit with their parent.

In addition, analysis of differences by race/ethnicity generally indicated that families of color in FTC had more positive outcomes than families of color in the comparison group; there were no differences when compared with white families in FTC on most outcomes.

Other studies nationally have linked these types of improved outcomes to significant long-term cost savings resulting from decreased child placements, less time in out-of-home care, and decreased parental recidivism in dependency court and substance use treatment. Results thus far indicate that there may be significant cost savings generated by the King County FTC, however no attempt has yet been made to quantify the potential cost savings. In addition to the short-term savings due to child placements, a comprehensive calculation of FTC benefits would include a longitudinal study that compares the subsequent criminal justice involvement of participants in FTC against that of the comparison group. See Appendix F for the UW evaluation report.

Analysis for Funding Needs and Possible Revenues of Family Treatment Court

There are three components of FTC costs: Superior Court program staff, public defenders, and treatment. This report focuses on court and defense costs because the costs of treatment are

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largely, although not exclusively, borne by the State of Washington. A full cost-benefit evaluation of the program would require investigation into the treatment costs, as well as court and defense costs.

Since its inception, King County's FTC has had multiple funding sources, including a federal Bureau of Justice Administration grant to launch the program, the General Fund, the Veterans and Human Services Levy, and the MIDD fund.

Table 4: FTC Funding by Source, 2007-2011

Funding Source	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget
Office of the Public Defender					
MIDD	---	---	---	254,000	247,253
Human Services Levy	---	---	---	183,293	---
General Fund ¹	N/A	N/A	291,695	---	---
Unbudgeted	---	---	---	---	195,000
OPD Subtotal	N/A	N/A	291,695	437,293	442,253
Superior Court					
MIDD	---	---	207,189	277,770	342,788
Human Services Levy	193,754	200,000	201,834	237,225	269,806
General Fund	---	88,526	---	32,500	33,628
Federal Grant	53,545	---	---	---	---
Other Grants	20,000	15,000	---	---	---
Superior Court Subtotal*	267,299	303,526	409,023	547,495	646,222
Criminal Justice Total	N/A	N/A	700,718	984,788	1,088,475

¹Because they were not distinguished from regular dependency credits, it is not possible to determine precisely FTC defense costs prior to 2010. The 2009 figure is an estimate based on 2009 FTC hearings data provided by Superior Court. It would be highly labor intensive to replicate this estimate for earlier years.

*The Superior Court budget appropriation was \$647,459 in 2009 and \$649,004 in 2010. Due to ramping up because of the MIDD expansion funding, the full funding for 2009 and 2010 was not utilized.

In 2010, FTC served 91 children; court staff and defense attorney costs totaled \$1.1 million. The total cost per child served was \$12,000, excluding treatment. When the cost of treatment is factored in, the cost per child increases significantly.

Due to the planned expansion of FTC under MIDD Strategy 8a and the supplantation of MIDD funds to pay for the base costs of FTC in 2010, the full costs of providing public defense in FTC should have shifted to the MIDD fund. Unfortunately, the initial estimates for public defense costs were inaccurate and the actual cost of the program was not fully budgeted; \$183,293 in defense costs was not included in the 2010 Adopted Budget. Through a supplemental appropriation in Ordinance 17001, King County Council approved the use of Vets and Human

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Service Levy funds for this purpose in 2010, but left approximately \$195,000 in FTC defense costs unbudgeted in 2011. The proviso process was intended, in part, to determine the source of funding for the unbudgeted amount.

Prior to the 2010 Adopted Budget, public defense costs for FTC were entirely funded by the General Fund and were not distinguished from defense costs in regular dependency cases for payment or tracking purposes. The OPD pays a credit or partial credit for each dependency event (i.e. case assignment, review hearing, contested disposition or trial, termination petition or trial, and reinstatement of parental rights), regardless of whether the hearing occurs in regular dependency court or FTC. Until 2010, the distinction between regular dependency and FTC was not relevant to the OPD budget.

Superior Court costs for FTC are associated primarily with staff for the program, with some limited additional costs for operating supplies, urinalysis testing, disproportionality initiatives, and program evaluation. Currently, there are 5.65 Superior Court full time employees (FTE) in the FTC program. These positions have been funded by a combination of MIDD and Human Service Levy funds between 2009 and 2011.

The MIDD is a funding source for FTC through two mechanisms: MIDD Strategy 8a and General Fund supplantation. In addition, Revised Code of Washington (RCW) 26.12.250 requires that every county authorizing the MIDD one-tenth-of-one percent sales tax shall “establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources.”

The MIDD Strategy 8a, Expand Family Treatment Court Services and Support to Parents, specifically aligns with the following MIDD policy goals: a reduction of the incidence and severity of chemical dependency and mental and emotional disorders in youth and adults; diversion of mentally ill and chemically dependent youth and adults from initial or further justice system involvement; and a reduction in the number of mentally ill and chemically dependent people using costly interventions like jail, emergency rooms, and hospitals. The expected outcomes of FTC MIDD expansion include a reduction in the use of substances by parents involved in FTC and in juvenile justice system involvement among their children. The MIDD funding for FTC to expand the number of children in the court began in 2009.

During the 2009 legislative session, the Washington State Legislature amended the MIDD statute (RCW 82.14.055) to allow up to 50 percent of MIDD sales tax proceeds to be used to pay for existing County General Fund supported programs. This supplantation of General Fund programs was to ramp down by 10 percent every year until it was no longer allowed in 2015. The King County Code was amended to mirror this change. The ability to supplant MIDD was key to balancing the 2010 General Fund budget, which had a deficit of \$56.4 million. Among the programs shifted to the MIDD in the 2010 Adopted Budget was the pre-expansion FTC. In the 2011 session, the legislature again amended the MIDD statute and reset the supplantation clock, allowing for up to 50 percent supplantation in 2011 and 2012, ramping down 10 percent annually until it is no longer allowed in 2017. The County currently uses approximately 30 percent of MIDD revenues to supplant previous General Fund support. In addition, the amendment allows

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for MIDD funds to “be used to support the cost of the judicial officer and support staff of a therapeutic court” regardless of the supplantation restriction.

Cost Savings Options Considered by the Family Treatment Court Workgroup

Understanding the fiscal constraints of both the County’s General Fund and the MIDD fund, FTC proviso workgroup members explored a number of strategies for their potential to reduce the costs of FTC.

As required by the proviso, the workgroup evaluated the feasibility of establishing a limit on the number of FTC cases. The FTC currently has a limit on the number of the children that the court can serve: 60 children at any given time for a maximum of 90 children annually. It would be feasible to limit the number of children served to a total of 60 annually (versus 90 annually), which would be roughly the capacity of the court prior to the MIDD-funded expansion. While it would not be feasible to remove families from FTC to meet the cap immediately, the number of court participants could shrink through attrition to reach the identified cap.

Without cutting court staff, the savings to the County from reducing the number of FTC participants is limited because the cases would shift back to regular dependency court. The regular dependency process is less intensive and requires fewer hearings, but defense and court costs are borne entirely by the General Fund. If FTC was reduced from 60 children at any one time to the pre-expansion capacity of 30 children at any one time, MIDD would save approximately \$115,000 in defense costs, while the General Fund’s costs for defense in regular dependency court would increase by roughly \$35,000. The net savings to the County of shrinking FTC by one quarter is estimated at \$80,000 at 2011 defense credit rates.

Given the limited savings and the findings of the UW evaluation, which showed promising outcomes for FTC participants, Superior Court, the defense contractors, the Assistant Attorney General (AAG), and the Executive does not support reducing the cap on court participants at this time. However, a cost-benefit analysis of the court in the context of the MIDD Evaluation Plan is recommended by the Executive. At roughly \$12,000 per child in County costs, FTC is an expensive program and, while its outcomes appear very promising, costs and benefits of FTC should be weighed against the potential outcomes that could be achieved if that money was spent on other MIDD priorities.

The workgroup also examined efficiencies suggested by the defender agencies, the AAG, and the Superior Court to reduce costs. These recommendations are summarized below in Table 5.

Table 5: Family Treatment Court Efficiency Options from Justice Partners

Efficiency Options	Impact	Potential Savings (2011 Costs)	Proposed By
Eliminate discussion of issues relevant to non-FTC parent from FTC review hearings.	Because FTC review hearings would not include discussion of dependency issues, defense attorneys for non-FTC parents	Maximum of \$220,000 in General Fund costs. In practice is likely to	AAG, Superior Court

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Efficiency Options	Impact	Potential Savings (2011 Costs)	Proposed By
	<p>(who are paid for by the General Fund as part of regular dependency court) would not attend these hearings. Non-FTC parents and their attorneys would still attend permanency planning hearings, initial permanency reviews, and contested motion hearings. This would lead to less flexibility regarding visitation and permanency planning on each case, and would necessitate setting up a system to notify non-FTC parents in advance if a dependency matter was going to be discussed.</p>	<p>be considerably less than this because dependency matters would be discussed at some hearings after advance notice.</p>	
<p>Eliminate check-in hearings. Check-in hearings are currently held when a participant has a positive urinalysis or misses a urinalysis appointment.</p>	<p>The client would continue to check in with FTC staff and receive a response, but would not receive immediate feedback from the Judge on their recent behavior and instead would meet with FTC treatment liaison. Note: in regular dependency cases the parents are not brought before the judge for a positive UA or missed UA appointment but meets with the DSHS social worker.</p>	<p>\$38,176</p>	<p>AAG, Superior Court, DSHS</p>
<p>Take three extra weeks off a year, totaling 12 non-court weeks a year.</p>	<p>The FTC currently takes off nine weeks per year. By increasing this to 12 weeks, clients would have to wait longer than the policy dictates for their scheduled review hearings, losing contact with the judge and FTC court team. Additional time off would result in fewer hearings, resulting in savings in defense costs.</p>	<p>\$34,448</p>	<p>Superior Court</p>
<p>Consolidate the permanency planning hearing and FTC review hearing when they fall within a week or two of</p>	<p>Clients would receive less time in front of the judge to discuss treatment related issues if review hearings were combined with their permanency planning</p>	<p>\$17,353</p>	<p>Superior Court</p>

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Efficiency Options	Impact	Potential Savings (2011 Costs)	Proposed By
the normal FTC review calendar.	hearing. Because defense contractors are paid by the hearing, consolidating these hearings would save in defense costs.		
Limit participation	Fewer clients would benefit from FTC, and these cases would still incur costs to the General Fund through the regular dependency process. In addition, this proposal would reduce the MIDD expansion part of FTC, upsetting the balance between supplantation and expansion within MIDD. Superior Court offered this as a potential cost saving measure, but did not support it.	Potential savings would be largely in defense costs, and would be dependent on where the cap was set. Savings to MIDD would be partially offset by increased costs to General Fund	Superior Court
Continue FTC staffing meetings, but keep them focused on current treatment issues so that it is not necessary for prosecuting and defense attorneys to attend.	Dependency related issues would continue to be heard at statutory review hearings, permanency planning hearings, and contested motion hearings. This is the model used in FTCs in other jurisdictions.	Would potentially reduce workload for defense and AAG. However, because defense costs are paid by the hearing it would not reduce costs to the County.	AAG
The order for FTC reviews should be streamlined and condensed to one page, if possible.	Streamlining the report process and using templates can save attorney and staff time preparing for hearings. Blank templates should be available so that these orders can be completed during staffing.	Potential staff time savings, but unlikely to significantly reduce costs to County	Defense contractors, AAG
Pay for defense on a calendar basis as is done in other therapeutic courts, rather than on a credit basis.	Would require the reassignment of many ongoing cases and an amendment to the contract with the defense contract agencies	Because of the high rate of conflicts due to multiple family members involved in one case, this proposal would cost slightly more than the credit system.	Superior Court
The details of any changes should be worked out and incorporated into FTC Policy and Procedures Manual so that expectations are clear and so that practices continue past personnel rotations.			

Recent Changes to Family Treatment Court Practice

Superior Court made revisions to the Dependency Court calendar, which included revisions to the FTC calendar in the spring of 2011, following a series of meetings with dependency stakeholders in response to diminished State Attorney General's Office resources. Although these revisions were not a direct response to FTC budget proviso, they were efficiencies implemented by the court that reduced the costs of the program. Appendix C shows the prior and revised FTC calendars. The announcement of the calendar revisions from Superior Court that was sent to dependency stakeholders is also included in Appendix C; the new calendar went into effect April 18, 2011.

The calendar for FTC changed from full days on Mondays in Kent and Tuesdays in Seattle to a full day on Thursdays in Seattle and Wednesday mornings in Kent. The revision to the calendar for FTC was in response to the availability of the AAG, who due to state budget cuts was no longer able to cover the previous FTC calendar.

In addition, Superior Court has implemented the following two of the strategies discussed by the workgroup:

1. Take three additional weeks off per year, which would reduce approximately 36 hearings per year. The court implemented this recommendation in May 2011. Potential savings: \$34,448.
2. Consolidate FTC review hearings and permanency planning hearings when possible. Combining these two types of hearings when they would fall within a week or so of each other would save about 25 hearings a year. The court implemented this recommendation in May 2011. Potential savings: \$17,353.

Combined, these strategies reduce the number of hearings and save about \$51,000 in defense costs annually.

Executive Recommendation

The FTC helps parents who are in danger of losing custody of their children due to abuse or neglect charges by providing them with the support and structure they need to succeed in treatment and reunite their families permanently. The successful resolution of a dependency charge through FTC has benefits for parents and children, and has the potential to reduce future involvement in the criminal justice system for both parents and children. While King County's FTC is an expensive program, the UW evaluation indicates that the court has very promising outcomes, particularly for families of color. Given the strength of the evaluation and the potential long-term benefit of the program, the Executive recommends that FTC be fully funded at its current levels – 60 children at any given time and 90 children annually. The Executive requests that the court continue to manage its caseload to maintain, but not exceed these levels. The Executive also recommends that the unbudgeted portion of defense costs be paid out of a

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supplemental appropriation to the OPD budget by the General Fund. Furthermore, the Executive recommends that the Court continue to look for budget efficiencies (e.g., reduced travel, equipment, supplies, etc.) in order to control and manage FTC costs in 2011 and beyond.

The FTC supports multiple goals in the King County Strategic Plan, including the Justice and Safety goal through the provision of a therapeutic court and the Health and Human Potential goal by reuniting children with their parents in stable homes. The Financial Stewardship goal requires the County to find ways to “plan for the long-term sustainability of county services,” which requires, in part, that the County evaluate programs on both an efficacy and cost basis. Therefore the King County Executive recommends that a cost comparison review of FTC be conducted as part of the MIDD Evaluation Plan in 2012. This process will enable the Executive and Council to weigh FTC against other MIDD funded programs. The goal is to measure the performance of multiple programs to help inform budgeting decisions. The 2013 size and level of funding for FTC will follow from the evaluation and it is expected that MIDD will bear the full responsibility for funding the program in 2013, pending the outcome of the evaluation.

Appendix A: Revised Code of Washington (RCW) 26.12.250

- (1) Every county that authorizes the tax provided in RCW 82.14.460 shall, and every county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources. A county with a drug court for criminal cases or with a mental health court may include a therapeutic court for dependency proceedings as a component of its existing program.
- (2) For the purposes of this section, "therapeutic court" means a court that has special calendars or dockets designed for the intense judicial supervision, coordination, and oversight of treatment provided to parents and families who have substance abuse or mental health problems and who are involved in the dependency and is designed to achieve a reduction in:
 - (a) Child abuse and neglect
 - (b) Out-of-home placement of children
 - (c) Termination of parental rights; and
 - (d) Substance abuse or mental health symptoms among parents or guardians and their children.
- (3) To the extent possible, the therapeutic court shall provide services for parents and families co-located with the court or as near to the court as practicable.
- (4) The department of social and health services shall furnish services to the therapeutic court unless a court contracts with providers outside of the department.
- (5) Any jurisdiction that receives a state appropriation to fund a therapeutic court must first exhaust all federal funding available for the development and operation of the therapeutic court and associated services.
- (6) Moneys allocated by the state for a therapeutic court must be used to supplement, not supplant, other federal, state, local, and private funding for court operations and associated services under this section.
- (7) Any county that establishes a therapeutic court or receives funds for an existing court under this section shall:
 - (a) Establish minimum requirements for the participation in the program; and
 - (b) Develop an evaluation component of the court, including tracking the success rates in graduating from treatment, reunifying parents with their children, and the costs and benefits of the court.

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[2005 c 504 § 503]

Notes:

Findings -- Intent--Severability -- Application -- Construction -- Captions, part headings, subheadings not law -- Adoption of rules -- Effective dates -- 2005 c 504: See notes following RCW 71.05.027.

Alphabetization -- Correction of references -- 2005 c 504: See note following RCW 71.05.020.

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Appendix B: Family Treatment Court Proviso Workgroup Participants

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Appendix C: Dependency Calendar Changes

Prior FTC Calendar and Structure:

Seattle		Monday	Tuesday	Wednesday	Thursday	Friday
	Judge Clark	Trials	Trials	Trials	MLK	PTCs
	Judge Trickey	--	FTC	--	--	--
	Comm. Hillman	King West	OICW White Center	King West Adoptions	AM: Privates PM: Admin	King East King South
<i>AGAMs</i>		1	2	1	1	1+
Kent						
	Gallaher	King East White Center Adoptions	King West MLK	AM: King South PM: PTCs	King South OICW Privates	AM: Truancy overflow PM: Admin
	Garratt	FTC	--	--	--	--
<i>AGAMs</i>		1.5	1	.5+	1	0
Weekly Total Seattle AGAMs: 6.0 (plus PTCs)						
Weekly Total Kent AGAMs: 4.0 (plus PTCs)						

Final Adopted Calendar (effective April 18, 2011):

Seattle (54.9%)		Monday	Tuesday	Wednesday	Thursday	Friday
	Judge Clark	Trials	Trials	Trials	FTC	PTCs
	Comm. Hillman	King West	OICW	King West Adoptions	MLK	AM: Privates PM: Admin
<i>AGAMs</i>		1	1	1	2	0+
Total Hearing %		14.7%	7.9%	18.8%	11.9%	1.6%
Kent (45.1%)						
	Comm. Gallaher	King East	King West White Center	AM: Adop PM: PTCs	King South	AM: Privates PM: Admin
	Comm. Garratt	---	--	AM: FTC	--	--
<i>AGAMs</i>		1	1	1+	1	0
Total Hearing %		12.7%	13.6%	2.0%	16.3%	0.6%
Weekly Total Seattle AGAMs: 5 (plus PTCs)						
Weekly Total Kent AGAMs: 4 (plus PTCs)						

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Dependency Calendar Changes

Sent by email March 2, 2011 at 4:29 PM

Dear Dependency Stakeholders,

Over the past several weeks, we have worked together to develop a new way to organize dependency calendars in response to diminished resources. Despite the difficult budget constraints that have plagued us all, this collaborative effort has yielded some positive results and efficiencies. The new calendar configuration aligns five of the seven Department of Children and Family Services offices with one courthouse and one specific day of the week. The AAG will again be able to participate in FTC. Friday morning scheduling will allow mediations to continue and expand.

On Monday the stakeholder leadership team met to review the implementation plan for the proposed calendars and yesterday the court's FTC staff and judicial officers met and reviewed the implementation plan. Both groups agreed to implement the plan as outlined below:

- Beginning Monday, March 7, 2011, new dependency petitions will adhere to the following locations for filing:
 - All new White Center, King South and King East petitions will be filed in Kent.
 - All new MLK and OICW petitions will be filed in Seattle.
 - There is no change to filings for King West or Private cases (based on the parent's/guardian's zip code).
 - Adoptions will not change.
- Once a case is filed using the new calendar, all subsequent matters will be scheduled in accordance with the new calendar day/location.
- Beginning Monday, March 7, 2011, any subsequent hearing scheduled in court will be scheduled according to the new calendar. If a case is changing location, orders for the next hearing date will be accompanied by an Order to Change Case Area Designation.
- Motions filed for matters to be heard before April 15, 2011, should be set according to the old calendar and location (where the case is currently located). At the time the matter is heard, the next hearing will be set in accordance with the new calendar and an Order for Change of Case Area Designation (when appropriate) will be signed.
- The court will sign orders to reschedule all hearings that fall on or after April 18th to a date in accordance with the new calendar. Ryan Murrey will send an updated list of all the cases this will impact by the early part of next week. He will work with parties on the logistics of completing, mailing and filing these orders.
- Effective April 18, 2011, all cases will be heard in accordance with the new calendar.
- Judge Clark will begin hearing FTC calendar on Thursday, April 21, 2011. Correspondingly, Comm. Hillman will begin hearing the MLK calendar on April 21, 2011.

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- The FTC in Kent will begin hearing cases on the new calendar on Wednesday, April 20, 2011. Comm. Garratt will still preside over the Kent FTC calendar, which remains in Courtroom 1H.

Because of the phased nature of this implementation, we expect the period between March 7, 2011 and April 18, 2011 will experience some calendar anomalies and questions. Please feel free to ask Ryan if you have questions. Copies of the new calendar for Seattle and Kent are attached. We will distribute these beginning early next week. Please let Ryan know if you would like the pocket laminated calendar for your office/staff.

Finally, thanks to all of you for your patience over the past few weeks as we have worked through this process. Everyone has been extremely receptive and positive throughout the development of these new calendars. Your continued patience as implementation is completed is sincerely appreciated.

As always, please feel free to contact me with questions as well.

Your distribution of this information widely to any stakeholder, staff member or other dependency partner is sincerely appreciated.

Best regards,

Jorene

Jorene D. Reiber

Director, Family Court

King County Superior Court

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Seattle Dependency Calendar

(Rev 3/2011)

All proceedings occur in courtrooms E-201(Ct 5) & E-209 (Ct6)

SEA	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
AM	King West	OICW	King West	MLK Ct 5	Privates Ct 5
			Adoptions	FTC Ct 6	PTCs Ct 6
PM	King West	OICW	King West	MLK Ct 5	PTCs Ct 6
			Adoptions	FTC Ct 6	

MRJC Dependency Calendar

(Rev 3/2011)

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All proceedings occur in courtroom 1L unless otherwise specified

MRJC	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
AM	King East	King West	FTC Ct 1H	King South	Privates
		White Center	Adoptions		
PM	King East	King West	PTCs	King South	
		White Center			

Appendix D: Implications for Cost Savings

**King County Family Treatment Court Outcome Study: Implications for Cost Savings
January 2011**

Prepared by the University of Washington's Division of Public Behavioral Health and Justice Policy

Our findings suggest that the King County Family Treatment Court (FTC) is effective at improving parent treatment and child welfare outcomes. When compared to similar parents in the regular dependency court, parents in FTC were 63 percent more likely to be admitted to treatment, took half as long to enter treatment, were more likely to comply with treatment, stayed in treatment more than twice as long, and were 37 percent more likely to be successfully discharged from treatment.

Other studies have demonstrated that substance use treatment success is related to positive child welfare outcomes; similarly, FTC was effective at improving child welfare outcomes. The FTC children spent a third less time in out-of-home placements, less time in the child welfare system, and were 70 percent more likely to be returned home.

Rigorous research on FTCs nationally consistently finds positive outcomes similar to those found in King County. Although formal cost-benefit analysis has not been conducted with the King County FTC, the similarity of court processes – and evaluation results – suggest that similar long-term cost savings may be achieved by the FTC in areas such as:

- Decreased foster care days
- Decreased caseworker time
- Decreased arrests
- Decreased court hearings
- Decreased prison/jail time
- Decreased probation/parole days
- Decreased substance use treatment
- Decreased healthcare (especially urgent/emergency care)
- Decreased public housing usage
- Decreased drug-addicted babies born; and
- Decreases in other publicly funded expenditures.

NPC Research, the most active evaluators of FTCs and drug treatment courts, has completed several cost-benefit analyses at sites across the nation. The table below summarizes their findings:

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Location	Cost Savings Per Participant	Return on Investment	Areas of Savings ¹
Harford Co., MD	\$12,000 over 1 year	350%	Foster care days, Criminal justice, Court Cases
Jackson Co., OR	\$5,593 over 4 years	106%	Foster care days, Probation/Parole, Court Cases
CA "Court 1"	\$1,657 over 4 years	130%	Not provided
CA "Court 2"	\$2,141 over 5 years	Not provided	Not provided
Baltimore, MD	\$5,022 over 1 year	Not provided	Foster care days (did not examine other areas)

The general approach of all of these courts was the same as the King County FTC: frequent judicial monitoring, comprehensive and individualized services and support, collaboration across agencies, intensive supervision, and increased treatment support. In each cost-benefit evaluation depicted, cost savings were realized in several areas, with the bulk of savings in foster care days, but large savings were also found from long-term decreases in prison and jail time, court hearings, probation and parole, and treatment services.

We cannot know for certain whether these findings generalize to the King County FTC. However, several factors support the assumption that the King County FTC is achieving similar cost savings:

- The findings of cost savings have consistently been replicated in multiple national studies.
- National sites are very similar to the King County FTC in approach and outcome.
- The evaluation of the King County FTC found that the median number of days children remained in an expensive sector of care, out-of-home placements, was 208 days less for FTC children than comparison children. This should be understood in light of estimates of annual foster care costs ranging from \$21,000 to \$52,000, depending on the state and the nature of calculations, and other types of residential placement costs being much higher.²
- We found that FTC parents were 37 percent more likely to be successfully discharged from substance use treatment. Successful completion is likely related to decreases in the significant costs related to future arrests, child welfare referrals, court time, future substance abuse treatment, and related areas.

Over the next several months, researchers will work with court officials to conduct a more thorough accounting of cost savings that result from the positive outcomes achieved by FTC, against program expenditures. Nonetheless, our analyses thus far, coupled with cost-benefit analyses conducted at similar sites across the nation; suggest that there may be significant cost savings generated by the King County FTC.

¹ For full reports, see www.npcresearch.com

² E.g., Dunlap, 2009; http://www.platteinstitute.org/docLib/20100405_FINAL_-_Foster_Care_Study.pdf

Appendix E: Case Processing/Client Representation within Contractor Defense Agencies

The United States Supreme Court and the Washington State Legislature have deemed dependency and termination of parental rights matters so fundamental that parents are entitled to counsel at all stages of dependency proceedings (*See, e.g.*, RCW 13.34.090). Family Treatment Court is a unique hybrid of the traditional drug court model and dependency court.

The FTC is different from the mainstream dependency court because of its intensity, frequency, voluntary entry, intimacy with the group- parents are encouraged to be strictly honest- and the collaborative, team work approach. The success of the program requires teamwork by all players.

The basic premise of FTC is that if a parent completes the program, children are returned successfully and the dependency dismissed. Like all therapeutic drug court programs, FTC is lengthy and has strict acceptance and graduation criteria.

When the State files a dependency petition against a parent, an initial 72 hour shelter care hearing is held. Each party to the case (father, mother, child) is represented by a separate attorney due to inherent conflicts of interest. Each attorney thus begins their attorney-client relationship with their potential FTC participant prior to entry.

The defense attorney is the gatekeeper into FTC. In most cases, the parent's attorney makes the initial referral and determines which dependency clients are the best candidates. Parent's counsel must explain the risks and benefits of the program and ultimately sell the program to the parent. The presiding FTC judge ultimately decides who is accepted into the program.

From a treatment perspective, defense counsel will want to explore all treatment options available to the client to decide if FTC is the best option. This requires an independent investigation of the facts and discovery review immediately after the case comes into the defense office. It is our obligation to advise the client if FTC makes sense from a legal standpoint - what legal benefits are gained by successfully completing FTC, the numerous rights waived and the informal motion and due process issues that the parties will encounter as opposed to mainstream dependency court. Defense attorneys explain the program in detail to the client including the outcome upon successful completion and the procedure and penalties if the client fails.³ Typically, this decision-making process involves several meetings and close communication with the client. Attorneys typically invite clients to observe FTC and see if they are comfortable with the format.

In order to be eligible to enter FTC, the parent must stipulate to a finding of dependency. If an attorney represents a youth, they are also involved in negotiating the terms of their parent's agreed order, and the youth's agreement to the terms is required before entry of the order. Youth

³ The ABA notes how parents must be advised, "Counsel the client about all legal matters related to the case, including... The service plan, and the potential consequences of failing to obey court orders or cooperate with service plans: ABA Approved Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases, Rules 6 and 11.

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in King County 12 years of age or older are typically assigned counsel independent of their parent, regardless of whether or not the parent is an FTC participant.

For all youth clients, the dependency order likely includes services for them, such as counseling, or drug treatment, school attendance, and remaining in placement. Failure by the youth to abide by the conditions of the dependency order can result in civil contempt, and up to seven days of juvenile detention. It is imperative that they work with their attorneys so they understand their obligations and the expectations in their parent's order.

The FTC provides for an expedited entry procedure where substance abuse appears to be a primary issue in the dependency petition. In those situations, the expectation is that a case conference occurs to negotiate and sign agreed orders in approximately 30 days in preparation for an acceptance hearing.

A client must first qualify then be accepted into FTC. Once the parent has met the program and clinical eligibility and entered their stipulated order of dependency, the defense attorney is responsible for notifying the Treatment Specialist that agreed orders have been entered. An acceptance staffing follows. Despite agreeing to dependency, not every candidate is accepted. The purpose of the acceptance staffing is for the team to discuss overall eligibility taking into consideration the dependency petition, the chemical dependency assessment, history and all available information. Parents are required to waive their Health Insurance Portability and Accountability Act rights in order for the team to review their history.

Defense attorneys further assure that the information learned in FTC will not be used against participants in additional legal proceedings. The team collects private formation about candidates and participants, and defense counsel must see that is not further disseminated without waivers.

The FTC is organized around a team concept, and defense counsel on the team has a strong voice at all proceedings. The duty to provide competent representation entails knowledge of dependency law, including substance abuse. The FTC defense attorneys know the literature and research to counter another's skewed or incorrect beliefs of drug and alcohol addiction.

Once a client is accepted to FTC, an acceptance hearing takes place one week after the staffing. The defense attorney reviews the acceptance order and FTC policies with the parent prior to the acceptance hearing.

The FTC defense attorneys' assume several roles in addition to serving as our client's attorney and team member. The case doesn't end with the client's entrance into FTC. The FTC cases require a higher level of attention from dependency attorneys due to the frequent (bi-weekly) FTC hearing schedules, compared to the three to four hearings typically scheduled each year for a case in the regular dependency court. Due to the goal of FTC courts to serve as early permanency courts, defense remain strong advocates for our clients.

While every agency is different, the FTC attorney role is viewed as helping our clients by monitoring their progress in both treatment and court. Defense attorneys provide encouragement and support in treatment. We do not simply abandon them to the FTC program. Defense

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attorneys continue to be advocates for our clients, engaging in case planning and advocating for appropriate social services using a multidisciplinary approach to representation.

Defense attorneys recognize that most of our clients have a host of problems. The FTC and defense counsel must be prepared to help participants deal with mental health services, health problems, housing, transportation, domestic violence, jobs and other life issues. Approximately two-thirds of all FTC families are eligible to participate in FTC wraparound. This is a process based on the idea that services should be tailored to meet the needs of children and their family. The defense attorney or any team member can refer a family for wraparound at the case staffing.

The defense attorney is responsible for responding to the teams' compliance concerns for each client under tight deadlines: The DSHS and treatment specialist reports are due to team members 1.5 days prior to the hearing, and responses to incorrect or disputed information is due by noon the day prior to the hearing. The attorney is required to speak to their client before the staffing the next day.

The FTC, like all drug courts, centers on a client's recovery. Integrated into the court's design is recognition that relapses will occur and what is critical for the participant and the court is how the court responds to these relapses. At a minimum, defense attorneys assist in negotiating sanctions, working with their client in navigating the graduated process that could ultimately lead to a termination of parental rights petition. Although decreases in visitation are not supposed to be considered part of the response scheme, in cases where there is prolonged relapse or other noncompliant behavior the court may reduce parent's visits if they believe it is necessary to keep the child safe.

The youth may wish to continue to visit their parent notwithstanding their sobriety, and since the legislature has determined that visitation is the right of the family, including the child, the court is obligated to consider their wishes as to visits. Youth may also wish to have fewer visitations with their using parents than the court originally authorized. It is the role of youth's counsel to file, argue and advocate for this motion or objections with the court and parties.

If a parent is terminated from the program, it is because their dependency was successfully dismissed or their parental rights terminated. Parents can voluntarily opt out or be terminated for non-compliance with FTC policies. In these latter situations, the case returns to dependency court. The average length of FTC participation is twelve to eighteen months. A parent's continual lack of progress in treatment or compliance with their case plan is grounds for termination from FTC. In addition, new criminal charges related to drug use, disrespectful communications or actions to the judge, presenting false documents to the court, threats of violence to a team member or participant, dealing or distributing drugs are all grounds for termination from FTC. Nearly each of these scenarios actually occurred with FTC clients. As one can imagine, the defense attorney's role in participating at hearings, advising and controlling their client is vitally important. If a parent is terminated from FTC rather than graduating successfully, they are extremely unlikely to prevail in a termination of parental rights trial.

The four contractor agencies receive approximately 2.0 FTE's worth of funding. The Office of Public Defender funds everything within four defender agencies with the long-established FTE

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system. Part of the big picture of how far an FTE funding goes is looking at what it costs to run each agency. Basic overhead such as office space, printer costs, employee benefits, support staff, computers, etc. is included within this rate.

Families are changed traumatically whenever the state initiates dependency proceedings. The FTC has proven to be a valuable therapeutic court to end the revolving door of addiction for families. The findings on the University of Washington's King County Division of Public Behavioral Health and Justice Policy study indicate FTC participants fare better than their counterparts in mainstream dependency court: less time in out-of home placements for children, children more likely to return home, earlier entry to treatment for parents, and more enduring sober outcomes for parents. Appendix E includes anecdotal family stories of the impact of defense.

Anecdotally, work by Northwest Defense Agency attorneys has directly impacted families.

Participant Client

AF was a single mother we initially represented in dependency cases for her oldest three children, due to her methamphetamine addiction. In December of 2004 she gave birth to her fourth child, who was allowed to remain in her care because of her sober housing and engagement in treatment. She entered FTC in February of 2005 for the case of her youngest child. Because she was facing a termination for the rights to her other three children that time their cases were not eligible for inclusion in the program. As her attorney we continued to push the inclusion of siblings who were already in a dependency. After some time in FTC the team decided to change the policy, and because of AF's progress (and one should recall in 2006 it was not generally believed that meth addicts could ever recover from their addiction), the cases for the three oldest children were transferred to FTC in 2006 and the termination petition withdrawn as to them. The team at FTC helped support her not only by overseeing her drug treatment, but also by assisting her with mental health counseling, housing and pursuing her education. In August of 2007, two of her older children were returned to her care (her oldest, who had developmental issues had been placed with the grandparents - this was a contested issue due to the grandparents' lack of support of mother's recovery, but through attorney advice and negotiation a third party custody agreement was reached rather than the grandparents and department seeking termination and adoption). After 15 months and 18 FTC hearings, the cases were all dismissed in March of 2009. AF had by that time gotten a degree and had begun work in medical billing, sufficient to support herself and her children. Since then she has married and all of her children are doing very well.

Youth Participant

KG is a pre-teen who, along with her siblings, was removed from the home of her mother and step-father after both of them experienced serious problems with substance and her baby sister had ingested drugs she had found while crawling on the floor. Prior to the case entering FTC, KG's attorney worked to negotiate a placement of all of the children with the paternal grandparents, over the objection of DSHS. After the family entered family treatment court, the parents started making significant progress which resulted in FTC team deciding to allow the

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parents to move into the home of the paternal grandparents. While this kept the family together, it was a somewhat tense environment as the home went from two adult residents to four adults plus four children. The mother continued to work with the team to maintain her sobriety and was able to obtain safe, stable housing near KG's school. KG requested to be placed with her mother in the new home, the request was granted and the parties are now working to move all of the other children into the home of the mother as well. If this case continues to proceed well, it will be closed in six months.

Non-participant Client

FG is the father of a child born to a mother who entered FTC in March of 2009 (her dependency petition was filed in February of 2009). The mother had a long history of addiction (including amphetamines, opiates and un-prescribed methadone) and had lost custody of her six older children. FG had his own history of addiction and past criminal matters (which prevented his entry into FTC), but had been clean and sober, encouraging the mother to become clean and sober. FG attended all of FTC hearings with the mother. Both parents entered clean and sober housing and engaged in a rigorous year-long program (some issues and miscommunication arose when a new director entered that program but were addressed through our advocacy as his attorney). The FTC provided assistance with addressing past legal issues, treatment, housing, education and counseling. Wraparound services were also provided. As the father's attorney we attended the monthly wraparound meetings to address issues and concerns and also addressed the past criminal matters for the father and the removal of unnecessary services (which not only assisted in the dismissal of the case but also saved money for the department). The child was returned to the parents in September of 2009. In July of 2010, after 18 months and 26 FTC hearings the case was dismissed. The parents have recently married, and are doing very well with their child.

Appendix F: University of Washington Family Treatment Court Outcome Evaluation Findings Report

University of Washington Outcome Evaluation Final Report (32 pages)

<http://www.kingcounty.gov/healthservices/MHSA/MIDDPlan.aspx> (link on the right hand side)

Appendix G: Defender Agency Recommendations

All of the four contracted defender agencies strongly support FTC. No other program exists within the King County juvenile justice system that is more effective in reducing racial disproportionality between families of color and other court participants than FTC. The FTC system's effects ripple beyond the courtroom doors. Ending homelessness for families, recovery from drug addiction and treatment for mental illness are all addressed through FTC. These successes impact more than the families involved. Reunifying and rebuilding families reduces the human and dollar cost of juveniles in detention and adults in the county jails.

The 2010 budget for FTC defense costs was built on the assumption that defense costs in FTC cases would mirror those in mainstream dependency cases. The FTC cases have proven to be higher. The higher costs are a derivative of what makes FTC so successful, that is, more interaction between all parties and the courts, and a higher rate of participants per case than in other dependency proceedings. The FTC families tend to have a higher level of involvement by both parents, a higher level of involvement in treatment, and a higher level of involvement in team staffing, and judicial hearings that are integral to all drug courts and the FTC model. The higher level of court activity means a higher level of involvement by all parties to court proceedings, including defense counsel and the attorney general.

The four defense agencies strongly object to any approach to the already inadequate funding of defense costs. An approach that cuts defense costs without fundamentally changing FTC model will simply result in the defense providing largely the same level of service without being paid. An approach that reduces defense costs by changing FTC model should be studied carefully to avoid altering or eliminating the very things that make FTC so successful. National study after study indicates that anything short of fidelity to the traditional drug court model renders a treatment court meaningless. If public defense and hearing costs are reduced, King County will not have the same successful program. Before implementing a defense or hearing reduction, defense agencies recommend careful review and consider reducing the court's capacity.

The defense agencies note that the initial proposal to reduce defense costs in FTC occurs in the broader context of cuts and imbalances across public defense in King County. Beginning July 1, 2011 all state funds to reduce juvenile offender caseloads are gone, which means caseloads will increase to 330; the just-implemented reduction of staffing for contempt of court caseloads reduced the eight public defenders representing those clients to only three, and the 2010 Spangenberg Study commissioned by King County concluded even before these cuts that public defense was operating at 20 percent above system capacity.

In summary, the defense recommends for FTC:

1. Continue funding for public defense at the current level of cost through June 30, 2011 while the information about the actual level of need for defense in FTC, based on the actual experience of FTC, is compiled;

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2. Analyze the expansion of FTC that MIDD has already funded and calculate its cost to the court;
3. With that cost information set a realistic budget of what the county can afford to pay, and;
4. With that budget information make a decision about whether to reduce capacity but continue the program as designed or redesign the currently successful program to reduce defense costs by reducing hearings. As to the latter, the parties note the potential issue raised by RCW 13.34.090 which provides that parents are entitled to defense counsel “at all stages of dependency proceedings.”