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FINAL REPORT

OF THE

WORKING CONFERENCE

ON

JUVENILE AND FAMILY SUBSTANCE ABUSE: A JUDICIAL RESPONSE

OCTOBER 28 - 30, 1987 RENO, NEVADA



NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

UNIVERSITY OF NEVADA P.O. BOX 8970 RENO, NEVADA 89507 (702) 784-6012

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NCJRS

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ACQUISITIONS

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Juvenile and Family Substance Abuse: A Judicial Response

October 1987

Reno, Nevada

Dear Conference Participant:

The Council is pleased to provide you with this final report of its October 28-30, 1987 conference on Juvenile and Family Substance Abuse: A Judicial Response. We believe the conclusions of the conference that are summarized in the report truly represent the juvenile and family law judiciary's concerns about the problems of substance abuse among youth and their families. Equally, important, we believe the report clearly conveys the broadly based commitment of the judiciary to confront and eventually reduce in real terms the destructive effects of substance use/abuse on children and within society as a whole.

By design, the conference drew upon the assembled expertise, experience and observation of all participants in its working process. The report reflects the serious input of all seventy persons who were involved. We are grateful to you and to all your colleagues both in and outside the judiciary for having contributed actively to the outcomes summarized by this report.

The Council plans to continue its work in this critically important field of concern. As the conference in October 1987 was not the beginning of the Council's efforts to deal with substance abuse, neither do we regard it to have been an end. Rather, the conference was but one significant event in a continuum of activity dating from 1982 in formal ways and extending for many years to come.

Conference Participants Page 2

conference did serve to broaden and deepen the Council membership's awareness of the real problems posed by juvenile and family substance abuse. It also ratified much of what had been accomplished by the Council's Committees on Alcohol and Drug Abuse, Driving Under the Influence, and Judicial Training on Substance Abuse Issues. Importantly, the conference served to establish both a common frame of reference and sense of direction for the future upon which the Council and its members can build over the long term to have an effective and lasting impact on prevention and intervention programs that will combat substance abuse in the United States.

We commend to your review and continuing reference this report of the conference conclusions. It reflects your views and those of your colleagues working in concert with an outstanding group of national experts in the field. We trust the report may both stimulate and guide your own individual efforts every bit as much as it will guide the Council's collective efforts to combat substance use/abuse as a destructive presence in the lives of children and families.

Judge Rdy B. Willett

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CONFERENCE REPORT

Juvenile and Family Substance Abuse: A Judicial Response

October 28-30, 1987 Reno, Nevada

Introduction

The National Council of Juvenile and Family Court Judges conducted a working conference on substance abuse by juveniles and families at its Reno, Nevada headquarters on October 28-30, This conference was part of the Council's continuum of effort to address the problems of substance abuse in American society, beginning with the concerns expressed by many member judges as early as 1982-83. It involved 50 Juvenile and Family Court Judges, 12 faculty resource experts and 10 Council/staff members. Included among the participating judges were the Council's leadership and members of ongoing committees on Alcohol and Substance Abuse, Continuing Judicial Education, Driving Under the Influence, and Metropolitan Courts. Among government agencies represented were the Office of Juvenile Justice and Delinquency Prevention, Bureau of Justice Assistance, National Highway Transportation Safety Administration, Office of Substance Abuse Prevention, Department of Education, and the State Justice Other participants represented volunteer parents, Institute. treatment providers, research, juvenile interstate compact, criminal justice planning, court services, and law enforcement agencies and organizations.

The intent of the conference was to develop a broad base of understanding for appropriate response by the Juvenile and Family

Juvenile and Family Substance Abuse: A Judicial Response (con't)

Court judiciary to substance abuse as a correlate and/or causal factor in cases presented to the courts. Nine fundamental issues were presented to the conference in plenary session. Each issue was analyzed and response recommendations were developed by the participants in six small groups composed of judges, agency and organization guests, and faculty resource persons. Resulting response recommendations were reported back to plenary session for arrival at a consensus of the conference as a whole.

Participant interaction within the small groups, lead by a judge facilitator, proved to be exceptionally lively, candid and serious. Thus the responses developed from analysis of each issue reflects genuinely the full range of observation, experience, and expertise among the conference participants.

Outcomes of the conference directly serve the Council's goals in the substance use/abuse field as noted below:

- a. Continued development of understanding for substance use/abuse problems confronted by Juvenile and Family Courts.
- b. Continued development of judicial activism at the jurisdictional and community levels for prevention of and intervention on substance abuse by juveniles and families.
- c. Continued development of strategies and programs through which Juvenile and Family Courts may respond

Juvenile and Family Substance Abuse: A Judicial Response (con't)

effectively to the needs and interests of those referred for adjudication.

- d. Continued development of curriculum for judicial education and training in the field of substance use/abuse.
- e. Continued development of policy, practice and programs for guidance of Juvenile and Family Courts nationally in responding to the pervasive problem of substance abuse.

Issue I: The Reality of Substance Use/Abuse

- a. Substance use/abuse is a significant factor in the great majority of cases presented to Juvenile and Family Courts, including: delinquency, neglect, abandonment, abuse, family violence, status, dependency, termination and family dissolution.
- b. The pervasive presence of substance use/abuse within these cases compels judges and court services personnel to develop in-depth knowledge and understanding of the problem.
- c. Courts must assume reponsibility for the earliest possible identification of substance related problems among juveniles and families presented to them and act through diversion and/or disposition to address the problem.
- d. Alcohol and other licit drugs, (i.e., inhalants), as well as illicit drugs, must be recognized by the courts to be integral to the whole problem of substance use/abuse affecting juveniles and families.
- e. Substance use/abuse by juveniles must be viewed as a problem involving families; therefore, families must be part of the problem's treatment.

- f. Families must recognize that their use/non-use of alcohol and other drugs serves as a model to children within the family.
- g. National and courts recognition must be given to the fact that substance use/abuse (through vehicle accidents, youth violence, family violence, child abuse, overdose and youth suicide) is the prevailing cause of death among adolescents.
- h. Courts and judges serving on Juvenile and Family Court benches must recognize they have a direct interest in fostering programs at the community level for prevention of substance use/abuse among children.
- i. Both prevention and intervention of juvenile and family substance abuse require courts to develop collaborative relations with other institutions in their communities, i.e., school, health providers, treatment providers, etc.
- j. Law in virtually every state mandates that any use of substance by juveniles is tantamount to abuse, and recognizes the high risk that is represented by its effects on children; therefore, the Council supports abstinence for all juveniles as required by law.
- k. Medically, substance dependence is defined and treated

as a disease. Acknowledging that definition, courts are responsible none-the-less for holding juveniles and families to account when there is social-legal dysfunction requiring judicial review and resolution for protection of the child, family unit and members, and the community. Therefore, courts will be required often to provide treatment and rehabilitation as part of a diversion strategy to prevent further dysfunction or as part of a disposition which imposes sanctions as well as treatment and rehabilitation to both account for an illegal behavior and prevent further dysfunctional behavior.

- 1. Children tend to be victimized both by their own abuse of substances and by others, including adults, who abuse substances.
- m. Cultural minorites in urban and rural settings may suffer greater pressure for substance abuse due to socio-economic conditions and cultural isolation.
- n. Courts must recognize that youth involvement with drug trafficking not only fuels substance abuse among their peers but also has become a primary support system for fueling gang activities.

Issue II: Supply/Demand Sides of the Substance Abuse Equation

- a. The economics of substance supply are overwhelmingly compelling to adults and youth involved in the supply chain.
- b. Youth have been involved with supply of substances at the social distribution levels always and are significantly increasing their involvement as entrepreneurs at relatively sophisticated levels.
- c. Family, siblings and peers remain the most common immediate sources of supply for substances used/abused by juveniles.
- d. Supply side issues are very difficult for Juvenile and Family Courts to attack; cooperative efforts with adult courts and other justice system components are necessary in most instances.
- e. Juvenile access to licit drugs, primarily alcohol and medicines, is particularly difficult to attack given the acceptability of these substances within society as a whole and the continual promotion of them in the media.
- f. The liquor industry should be required to limit their advertising, place warning labels on their products and bear part of the cost burden (through special fee assessments) for combatting substance abuse among

Issue II: Supply/Demand Sides of the Substance Abuse Equation (con't)

children; requirements placed on the tobacco industry provide both precedence and model for what should be required of alcohol products.

- g. Juvenile and Family Courts should aggressively support law enforcement efforts to reduce both supply of and demand for substance use/abuse.
- h. Juvenile and Family Courts should support statutory efforts to place civil and criminal liability on providers of substances to juveniles.
- i. Juvenile and Family Courts should foster programs and activities in their communities to change "normative behavior" among adolescents and the acceptance by society as a whole that youth will experiment with substances.
- j. The Juvenile and Family Courts judiciary must work closely with parents and education institutions to decrease demand among youth for substances through early and continuous education for prevention of first use, family recognition of the life threatening nature of substance abuse, and reduction of peer pressure to use.
- k. The courts should foster and encourage parenting education on substance use/abuse, the need for adult role models within the family for non-use and the

Issue II: Supply/Demand Sides of the Substance Abuse Equation (con't)

development of self-esteem among youth to avoid peer pressure for use.

- The judiciary should join with other concerned community groups to advocate that the media avoid "romanticizing" substance use as an attractive recreational alternative to be mimicked by youth.
- m. Judges and courts personnel should urge the phasing-out of tobacco subsidies in recognition that cigarette smoking is a "gateway" activity into substance use by youth.
- n. Public funding at all levels federal, state and local must be provided in adequate amounts and with year to year consistency for the nation to successfully decrease both supply and demand for substance abuse.
- o. Both supply and demand problems are affected significantly by general socio-economic conditions, particularly in urban and minority group situations.

Issue III: Screening, Testing, Assessing and Evaluation for Substance Use/Abuse in Cases Referred to Courts

- a. Means must be developed and implemented to assess and evaluate the presence and degree of involvement represented by substance use/abuse in all cases presented for resolution.
- b. A gated process is the preferred approach to assessment and evaluation:
 - (1) determine probable cause for suspicion of serious substance use/abuse,
 - (2) determine the depth and scope of substance use/abuse when probable cause is determined,
 - (3) determine the direct relationship of substance use/abuse to the socio-legal dysfunction(s) presented for resolution, and
 - (4) determine the appropriate diversion and/or disposition for addressing the substance use/abuse problem through education, intervention, treatment and rehabilitation methods.
- c. The court must be cognizant and protective of the constitutional rights of individuals who will be subjected to screening and assessment for substance use/abuse; urinalysis and other intrusive technologies for screening and testing should be based on probable cause and should be researched and monitored carefully for quality and reliability.

Issue III: Screening, Testing, Assessing and Evaluation for Substance Use/Abuse in Cases Referred to Courts (con't)

- d. Where probable cause is determined by the court, assessment and evaluation of juveniles who seriously abuse substances should be inclusive of assessment and evaluation of the family environment for use/abuse.
- e. Pre-adjudication assessment should be limited to those methods and procedures required for determination of probable cause; post-adjudication methods and procedures may include more intrusive approaches, i.e., urinalysis.
- f. Assessment methods, instruments and protocols must be developed specifically for juveniles and validated with juveniles to be useful for juvenile court adaptation at both the pre-adjudication and post-adjudication levels; most existent instruments available currently were developed for and validated with adult substance users/abusers.
- g. Given proper constitutional safeguards, all juveniles referred to courts should be screened and assessed for substance use/abuse.
- h. Given proper constitutional safeguards, all dysfunctioning families referred to courts should be screened and assessed for substance use/abuse.

Issue III: Screening, Testing, Assessing and Evaluation for Substance Use/Abuse in Cases Referred to Courts (con't)

- i. Courts should encourage voluntary screening, testing, assessment and evaluation for substance use/abuse by all referred for prospective adjudication.
- j. All juveniles (delinquent or status offenders) should be screened, assessed and evaluated for substance use/abuse prior to disposition.
- k. Ultimately, the effectiveness of court screening, assessment, testing and evaluation for substance abuse will be determined by the availability of resources available to the court for intervention, treatment and rehabilitation.

Issue IV: Timing of Court Intervention on Juvenile and Family Substance Abuse

- a. Courts must intervene to the extent law allows and as soon as law allows where juveniles and/or their families are determined to be involved significantly with substance use/abuse.
- b. Courts must intervene on determined substance use/abuse after adjudication in all juvenile delinquency cases.
- c. Courts must recognize that earliest possible intervention on substance use/abuse by juveniles significantly increases the potential effectiveness of subsequent treatment and rehabilitation; such timing is compelling given the earlier ages of first use by children (average age of 12 for first alcohol use, 13 for first marijuana use).
- d. The court should be broadly defined to include community systems concerned with preventing/intervening on juvenile substance use/abuse with the court serving as a brokering agent to empower community services to act.
- e. Courts should intervene whenever it determines the child/family to be open to treatment.
- f. Courts should intervene whenever it determines and as soon as the child/family is identified to be at risk from substance abuse.

Issue IV: Timing of Court Intervention on Juvenile and Family Substance Abuse (con't)

g. Courts should develop and maintain continuing interaction with the medical profession, i.e., pediatricians, alcohol and other drug treatment specialists, and mental health specialists, to assure earliest possible intervention opportunities are achieved both by the judiciary and treatment communities.

Issue V: Court Authorities to Intervene on Juvenile and Family Substance Abuse

- a. Courts must not hesitate to use all their statutory and inherent powers to address effectively the pervasive influence of substance use/abuse on juvenile and family dysfunction when probable cause is established.
- b. Courts must exercise those powers to require obedience of orders issued for protection, treatment and/or rehabilitation of the child.
- c. Courts should have the power to retain status offenders in a non-criminal facility to access treatment and rehabilitation when substance abuse is determined to be a significant threat to the child or others.
- d. Courts must establish clear and specific guidelines for intake procedures to include assessment of substance use/abuse.
- e. Courts must establish clear and specific guidelines for diversion programs which will address intervention, treatment and rehabilitation in cases of juvenile substance abuse.
- f. Courts must intervene on established serious substance abuse even though the abuser may be in the state of denial.
- g. Courts must establish and enforce that violation of a

court order for intervention, treatment and/or rehabilitation of a juvenile constitutes a delinquent act.

- h. States of juvenile residence should be financially responsible for care of a juvenile substance abuser or accept jurisdiction for care when the juvenile substance abuser is identified in another state.
- i. Courts must assert authority to require the family to participate in the treatment process for substance abusing juveniles.
- j. Where statutes are unclear or inhibiting of court authority to address juvenile and family substance abuse in the interest of protecting the child, others and the family's capacity to function, statutes should be adopted to provide courts with appropriate authorities.
- k. Statutes should be expanded to include substance abuse among other child abuse and neglect offenses where it is determined the family is victimized by a member's abuse of substances.
- 1. Court intervention on juvenile and family substance abuse must be interdisciplinary in structure to provide

Issue V: Court Authorities to Intervene on Juvemile and Family Substance Abuse (con't)

appropriate legal, physiological, psychological, social and behavioral remedies.

- m. Courts should not discourage reporting of substance abuse which threatens a juvenile, family member or others.
- n. Juvenile and Family Courts should encourage Appellate and Supreme Courts to be aware of the substance abuse problem confronting juveniles and families and the authority of the courts to intervene; training of appellate judges in dealing with juvenile/family substance abuse issues is strongly encouraged.
- o. Statutory law prohibiting juveniles from purchasing, possessing or using substances should be reviewed to reflect that violation of the law is a delinquent act.
- p. Juvenile courts should have jurisdiction over juvenile driving under the influence cases.

Issue VI: Effective Intervention and Treatment

- a. Courts must work with other community institutions and systems to assure access to effective treatment and rehabilitation services on behalf of juveniles and families having serious substance abuse problems.
- b. Courts must assert and enforce their orders for treatment and rehabilitation of juvenile and family substance abuse by service providers in the community in the interest of the child, family and community.
- c. Treatment and rehabilitation services must provide a multi-discipline approach with the capacity to meet the need for juveniles and families physiologically, psychologically, socially and behaviorally within the treatment regimen.
- d. Based on effective assessment and evaluation of need for intervention, treatment and rehabilitation either inpatient and outpatient services may be appropriate, or a combination of the two, along with aftercare.
- e. In many cases a continuum of treatment services of up to 18 months or longer duration may be required for effective treatment and rehabilitation.
- f. Families should be required by courts to participate in the treatment and rehabilitation of juvenile

Issue VI: Effective Intervention and Treatment (con't)

substance abuse based on the treatment regimen recommended by competent service providers; family based treatment programs often provide continuance of care flexible enough to meet the needs of the child and the entire family.

- g. Courts should require the providers of ordered treatment to provide confidential progress reports to assure effectiveness of the treatment and participation by the juvenile and/or family.
- h. Judges and court services personnel must develop sufficient knowledge and understanding of substance abuse treatment modalities and regimens to effectively select and monitor treatment providers in court ordered cases.
- i. Courts must foster and encourage the development of community and state plans, funding and service provision networks to assure adequate substance abuse treatment measures are available and accessible to court ordered/diverted cases.
- j. State insurance commissions should require health insurance carriers to meet the cost of the child's/family's treatment needs rather than a fixed amount and to enable the use of outpatient services as well as inpatient.

- k. Where more than one agency or provider is involved in the treatment the court should appoint a case manager to assure coordination and compliance, i.e., a CASA, Probation Officer or Case Worker.
- Courts must participate actively with community systems to foster and support effective substance use/abuse prevention programs as the first line intervention strategy to reduce juvenile and family substance abuse.
- m. The consistent availability of federal funds for support of state and local treatment programs is essential to assure access to these services nationally by the courts.
- n. The National Council of Juvenile and Family Courts should develop and/or distribute a directory of effective treatment and rehabilitation programs.
- o. Courts should collaborate closely with schools and education systems to develop effective early intervention programs offered to juveniles who are at risk of serious substance abuse.
- p. Court ordered treatment of juvenile/family substance abuse must be an accountable undertaking by the persons so ordered and by the treatment/rehabilitation service providers on which the court must rely for carrying out the order.

Issue VII: Organized Youth Groups Involvement with Substance Manufacture, Distribution and Sale

- a. Organized youth groups (gangs and gang-like groups) have become serious and relatively sophisticated substance operators in recent years.
- b. These groups are operating on an intra and inter state scale reaching far beyond formerly defined street, block, neighborhood and community territories associated with youth gang activities.
- c. Substance manufacture, (i.e., PCP, crack-cocaine, methamphetamines), distribution and sale by youth organizations are becoming the primary motivation of gangs in many parts of the nation and the economic rewards that result are greatly increasing the power of these organizations.
- d. At least some basis for the rapid growth of organized youth groups as full range suppliers of substances is predicated on the distinctions between juvenile and adult law.
- e. Juvenile and Family Courts are ill equipped to deal with the organized youth supply phenomenon.
- f. Youth organizations so involved should be recognized to be organized crime and should be certified to adult criminal courts for adjudication where law permits.

Issue VII: Organized Youth Groups Involvement with Substance Manufacture, Distribution and Sale (con't)

- g. Juvenile and Family Courts should recognize the potential for gang involvement by early aged offenders and assert their authority to divert them from further affiliation with gangs or gang-like organizations.
- h. Juvenile courts should encourage and actively collaborate with community institutions and groups, including parents, which are working to intervene on gang activities.
- i. Judges and court services personnel should develop their knowledge and understanding of gang and gang-like organizations and their appeal to youth.
- j. Juvenile courts can intervene on younger aged offender gang affiliation through intensive probation supervision, imposition of curfew and/or removal from environment; early intervention is required.
- k. Courts should encourage long term neighborhood and community approaches to dissolution of gangs.
- Courts must support parents/families in combatting gang influence on juveniles.
- m. Courts should stress community services and help build success models to support juveniles making serious

efforts to avoid gang affiliations, particularly on return to communities from rehabilitation commitments.

- n. The definition of gangs developed by the California State Task Force on Youth Gang Violence, January, 1986, should be adopted by the juvenile justice system nationally.
- o. Courts and communities must recognize that organized youth group involvement with the manufacture, marketing and sale of substances is a phenomenon appearing in all sections and regions of the nation and no longer should be viewed as an inner city, large urban environment problem alone.

- a. The mobility of youth is presenting courts with an increasing need for interjurisdictional coordination; juvenile and adult courts, intrastate, interstate and even international.
- b. The juvenile interstate compact can be used more effectively; however, the issue of time is a critical factor for improved effectiveness.
- c. Juvenile and adult jurisdictional variances create problems which can be and are exploited by substance supply organizations who are using juveniles in criminal activities.
- d. Juvenile court judges have found judge to judge discussions on an interstate basis to be a practical alternative.
- e. Courts must open communications with all appropriate jurisdictions to effectively address complex cases involving substance abuse and/or substance trafficking.

- a. Juvenile and Family Court judges must assert active leadership in their communities to develop effective systems-wide programs for the prevention of and intervention on substance abuse among juveniles and families.
- b. NCJFCJ resolution adopted in 1984 supports and encourages judicial activism to combat the pervasive presence of substance use/abuse among juveniles and families referred to courts.
- c. Judges should advocate involvement of the family, protection of the child, accountability of the juvenile and protection of the community in their leadership role.
- d. Judges should seek two levels of planning within their communities:
 - (1) immediate provision of prevention and intervention programs and resources and
 - (2) long term, multi-generational strategies to reduce substance use/abuse within society.
- e. Judges must assess and understand thoroughly what community services exist currently.

- f. Judges should encourage statewide as well as community level organization for provision of needed substance use/abuse services.
- g. Judges should organize their dockets to provide time for participation in community service to address substance abuse problems.
- h. Juvenile courts should seek continuity in rotation assignments to the juvenile bench; a minimum of six years is recommended for a judge's assignment.
- i. Judges must hold service agencies and treatment providers to account for carrying out court ordered substance abuse intervention.
- j. Judges must interact with all court jurisdictions to assure awareness of and support for the Juvenile and Family Court's efforts to intervene on substance abuse.
- k. Judges must assure that court administration and services personnel are well trained in substance abuse issues and active within the community for addressing those issues.
- Judges should reinforce and support community standards regarding substance abuse through their judicial actions and leadership.

Issue IX: Community Leadership by Judges (con't)

- m. Judges should establish close and active collaboration with schools, public health, social services, law enforcement and other appropriate institutions in the community for combatting substance abuse among juveniles and families.
- to the judges in their active community leadership for responding to the substance abuse problem.

JUVENILE AND FAMILY SUBSTANCE ABUSE: A JUDICIAL RESPONSE

OCTOBER 28 - 30, 1987

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