



THE COURT'S ROLE IN PREVENTION

The Purpose of Upstream

Upstream is a community-based approach that leverages judicial resources, court leadership, child welfare agency partnership, and state, local and, community stakeholder engagement to collaboratively develop a plan of action that aims to strengthen communities, prevent child maltreatment and out-of-home

placement, reduce court involvement, and support safe and healthy families. The Upstream framework is grounded in a prevention mindset with the ultimate goal of providing every family the community-based supports they need to have safe and healthy outcomes.

Upstream shifts reactive practices to proactive strategies

In most communities, the child welfare system, including the courts, operates in a reactive state. Only after an incident of maltreatment are resources provided to focus on the needs of the family. Too often, the actions of the system worsen the situation, sometimes causing further stress, trauma, and burden in an already challenging situation. Additionally, family-serving agencies are often siloed, striving to fulfill all families' needs themselves and lacking awareness of support services available in their community. Upstream begins to remedy the current reactive state by identifying opportunities to support families before court involvement is required through engaging community partners in a **structured mapping process**. The result is a **collaborative action plan** where the entire community, including the court, assumes responsibility for the health and safety of families.

Courts support prevention of maltreatment through community partnerships

Much has been said about the convening power of judges, and while that is the case in many communities, judges also have a unique and vital role at the table as a community partner. Judges who oversee child welfare cases see traumatized

children and families every day. They also routinely observe missed opportunities where families could have received help earlier, where necessary services are not available or accessible, and where resources are overwhelmed or strained. As such, judges have valuable insight into the strengths and needs of communities, what supports a family's success, and what causes further harm. These perspectives are critical to supporting a prevention mindset throughout communities. Judges are looked to as important conveners in Upstream, but also have the opportunity to contribute as stakeholders.

The positional power that judges leverage to convene stakeholders around the table comes at a cost if the judge does not also fully engage as a member of the collaborative. A true community collaboration only exists where there are shared interests, mutual benefits, and the sharing of power. A judge must acknowledge the positional power they have and how the community's perceptions of that power may impact collaboration. The concept of power sharing is inherently challenging for a court, but in the community, judges can begin to build trusting relationships that lead to effective collaboration through inviting community members to the table, listening to their needs and solutions, and welcoming new and different perspectives.

Courts support prevention of removal through best practices in the courtroom

Once a family is court-involved, judges and attorneys have a responsibility to ensure the family is receiving supportive services to both avoid unnecessary removal and reduce the likelihood of future maltreatment. Judges and lawyers have several tools that support prevention mindsets, including reasonable efforts findings and aspects of quality legal representation. These tools are discussed as part of Upstream's structured mapping process.

When judges make thorough reasonable efforts findings in the courtroom, they are promoting prevention as a valued component of child welfare work. Finding that reasonable efforts were made confirms that the agency provided individualized support and services necessary to prevent removal and the trauma it causes. Understanding what services exist in communities is key to making meaningful and tailored reasonable efforts determinations. The Family First Prevention and Services Act (FFPSA) directly supports reasonable efforts to prevent removal by allowing states to access Title IV-E funds for the provision of evidence-based practices through an FFPSA Prevention Plan. Understanding the state's FFPSA Prevention Plan and service continuum supports judges' abilities to make meaningful reasonable efforts findings.

Attorneys can also inquire about reasonable efforts as an aspect of quality legal representation. When attorneys advocate for individualized case plans, in-home services, and safety plans, they send the message that families should be supported without the disruption of removal whenever possible. Knowledge of the continuum of supports available in the community is critical to attorneys being able to advocate for the best services to meet the unique needs of families.

Courts support prevention of future maltreatment through ensuring access to a continuum of effective services in the community

As described, judges and attorneys have a unique perspective as to what court-involved families need, what has been successful, and what has been ineffective in the past. Attorneys should advocate for individualized case plans that match families targeted needs and identify gaps in available services. Through collaborative efforts, like Upstream, the court can have a role in supporting a comprehensive continuum of effective services for families aimed at strengthening protective factors and addressing the risk factors to future maltreatment.

Central to these collaborative efforts is the court working with a variety of community partners, including schools and behavioral health professionals. These partners bring valuable expertise and resources that can enhance services continuums for court-involved families in innovative ways. Many courts house behavioral health liaisons to screen, assess, refer, and sometimes treat individualized family needs. Some communities have instilled legal advocacy clinics within schools to make this crucial resource more easily accessible to families.

Conclusion

The court has a valuable role in community prevention efforts as part of a cross-system collaboration, a source of accountability, and a witness to the traumatization that can occur when families are separated or face separation because they do not have access to the supports they need to thrive. Judges and attorneys can promote prevention of maltreatment and removal through partnerships, advocacy, and application of best practices. Upstream establishes a key structure for maximizing the court's role in prevention efforts.



**Strengthening Children and Families through
Prevention and Intervention Strategies:**
A COURT AND COMMUNITY-BASED APPROACH