

Therapeutic Courts in the Alaska Court System

Barbara Armstrong

Therapeutic courts—often called “problem-solving courts” or “wellness courts”—have been a growing component of the U.S. court system since the 1990s. The National Drug Court Institute (NDCI) reported that in 2014 there were 4,368 problem-solving courts in the nation. Figure 1 shows the dramatic increase in the number of drug courts from 1989 to 2014. Therapeutic courts differ from traditional courts in their holistic approach to offenders and to the underlying issues which bring these individuals into the justice system—most notably substance abuse and mental health. The Alaska Court System (ACS) currently operates 12 therapeutic courts statewide (Table 1) and is considering additional pilot project courts. The latest additions to the roster of therapeutic courts are a dual-jurisdiction state-tribal wellness court—the Kenai Henu’ Community Wellness Court—with cases presided over by both a state judge and a judge of the Kenaitze Tribal Court, and a drug- and alcohol-related felony wellness court in Palmer. This article provides a brief overview of the development of ACS therapeutic courts, including a description of therapeutic courts currently in existence in our state, as well as proposed pilot project courts.

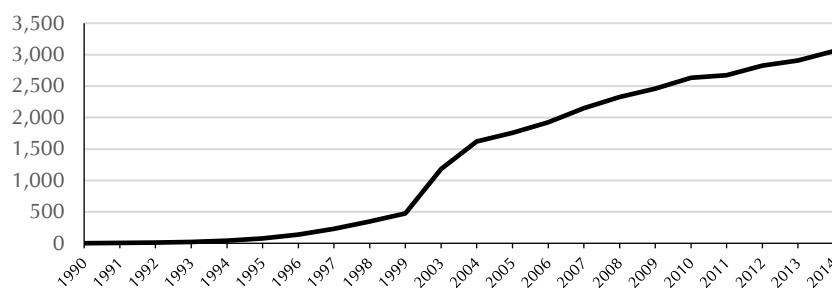
The Rise and Expansion of Therapeutic Courts

Therapeutic courts began in 1989 with the Miami Drug Court, according to a 2010 Center for Court Innovation study, and since then drug courts have grown rapidly in a number of jurisdictions across the nation (Figure 1). The drug court model soon led to the creation of courts dealing with alcohol issues, most often DUI (driving under the influence of drugs or alcohol) offenses. Drug and alcohol treatment is a critical part of the therapeutic court model and most thera-

peutic court programs last 12 to 24 months. The therapeutic court process involves a team of individuals including the offender, the judge, the prosecutor, defense counsel, and court administrative personnel—and possibly an outside agency related to the offender’s status or underlying problem (such as the U.S. Department of Veterans Affairs for veterans courts)—as well as a treatment provider representative.

This holistic approach, using a collaborative strategy developed by justice system representatives and treatment service providers, results in what the Center for Court

Figure 1. Number of Drug Courts by Year in the United States, 1989–2014



Source of data: National Drug Court Institute, "Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States" (2016), Table 3 (<http://www.nadcp.org/sites/default/files/2014/Painting%20the%20Current%20Picture%202016.pdf>).

Table 1. Therapeutic Courts in the Alaska Court System

Court	Eligible offenders	Date established	Capacity	Type of case referred	
				Felony	Misdemeanor
Anchorage Child in Need of Aid (CINA) Therapeutic Court	Parents or custodians aged 18 or over of children; individuals who are in need of recovery services	2014	20	—	—
Anchorage Coordinated Resources Project (Mental Health Court)	Alaska Mental Health Trust Authority beneficiaries charged with criminal offenses	1998	75	X	X
Anchorage Municipal Wellness Court	Charged with DUI or refusal or other alcohol-related charge	1999	30		X
Anchorage Wellness Court — Felony Drug Court	Felony drug or drug-related offenses	2001	20	X	
Anchorage Wellness Court — Felony DUI Court	Felony DUI or felony refusal	2001	40	X	
Anchorage Veterans Court	Veterans with misdemeanor or felony alcohol- or drug-related offenses	2004	25	X	X
Bethel Therapeutic Court	Felony or misdemeanor crime directly related to offender substance abuse; or violation of probation due to substance abuse	2002	20	X	X
Fairbanks Wellness Court	Felony DUI	2007	30	X	
Juneau Coordinated Resources Project (Mental Health Court)	Misdemeanor or felony charge; currently diagnosed with a mental illness or qualifying for mental health services	2012	15	X	X
Juneau Therapeutic Court	Felony alcohol- or drug-related offenses	2005	15	X	X
Kenai Henu' Community Wellness Court (State-Tribal Wellness Court)	People convicted of drug- and alcohol-related misdemeanor and felony offenses	2016	20	X	X
Ketchikan Therapeutic Court	Charged with multiple misdemeanors, a felony DUI, or felony refusal; or on probation for felony DUI or felony refusal	2005	12	X	X
Palmer Coordinated Resources Project (Mental Health Court)	Charged with misdemeanor or low-level felony and diagnosed with a mental disability; Alaska Mental Health Trust Authority beneficiary; Mat-Su resident	2005	25	X	X

Source of data: Alaska Court System. See also "Therapeutic Court Information," <http://www.courts.alaska.gov/therapeutic/index.htm>

Innovation describes as “individualized justice” for the offender. Other common elements of the therapeutic court process, in addition to treatment for factors contributing to criminal behavior, include offender accountability, community engagement, staff training, data collection for each case, improved safety for victims and the public, and an overall focus on positive outcomes for the offender and the community.

Therapeutic courts have expanded to deal with a variety of issues (both criminal and civil) and types of offenders. A Bureau of Justice Statistics (BJS) 2012 census of problem-solving courts in the U.S. outlined the following categories of courts:

- drug courts work with offenders with an underlying drug abuse problem;
- mental health courts work with offenders who have a mental illness or developmental disability;
- family courts address issues with parents and children such as custody—parental substance abuse may be a factor—or may deal with other family issues such as domestic violence;
- domestic violence courts focus on offenders and treatment and assisting victims with safety needs;
- tribal wellness courts deal with substance abuse and other issues through partnerships between state courts and American Indian/Alaska Native tribal courts;
- veterans courts concentrate on this specific population and the surrounding issues which bring veterans into the justice system, such as substance abuse and homelessness;
- youth specialty courts focus on issues with young offenders; and
- DWI (also called DUI) courts work with offenders who have DWI (driving while intoxicated) offenses. Some courts are hybrid DWI/drug courts.

In addition to the above categories identified by BJS, some jurisdictions may have other specialty courts, such as reentry, prostitution, or homelessness courts.

Offenders being considered for a therapeutic court are screened for eligibility and given the opportunity to participate. The programs are voluntary, and typically involve some form of treatment related to an underlying issue that brought the individual to the attention of the justice system. By opting to participate in a therapeutic court, and complying with all the requirements, an offender can decrease the amount of jail or prison time related to an offense, and in some instances, the case may be dismissed. The goal is to assist the offender in desisting from the behavior that brought them before

the court, ensure offender accountability, and focus on positive outcomes for the individual and the community.

Effectiveness of Problem-Solving Courts

The 2016 report by the National Drug Court Institute (NDCI) provides a brief summary of research on problem-solving courts, and discusses the many meta-analyses that have been conducted. The majority of research has been done on drug courts, a category of problem-solving court that has been in existence the longest. There is consensus that adult drug courts, DUI courts, family drug courts, and mental health courts “improve justice system outcomes and can return net financial benefits to taxpayers.” Because the majority of research has focused on drug courts, additional work is needed to determine the effectiveness of other types of courts. The NDCI also suggests that further research is needed to understand why and how therapeutic courts result in positive outcomes, and to discover ways to improve the effectiveness of these programs. Research has also shown that the number of therapeutic courts will likely continue to grow, and will be able to operate more effectively with more data identifying the key aspects of successful programs.

Most of the above studies have focused on the numerous problem-solving courts in the Lower 48. However, several studies of Alaska problem-solving courts have been undertaken by the Alaska Judicial Council (Council) since 2000, shortly after the inception of therapeutic courts in the state. The results published in these studies have been positive and indicate that successful graduates of the programs in problem-solving courts have lower recidivism rates following graduation, which results in cost savings for the system. The studies have examined the Anchorage mental health courts, Anchorage felony drug court and felony DUI court, and Bethel therapeutic court. Overall, therapeutic court program graduates had lower recidivism rates than offenders in comparison groups. The most recent therapeutic court study by the Council was published in 2012 and looked at therapeutic courts and the Alaska Department of Corrections institutional substance abuse programs. The study indicated that these programs also had a positive impact on recidivism rates. In 2012, a law review article by Anchorage Superior Court Judge Jack W. Smith, who at one time presided over the Alaska Veterans Court, looked at the benefits of that court. The article noted that obtaining more data about court participants would assist future analysis of the effectiveness of the court.

Other studies of Alaska Court System therapeutic courts include 2008 reports by

Hornby Zeller Associates on the Anchorage and Palmer mental health courts, and a 2008 Urban Institute Justice Policy Center report on the Anchorage Wellness Court. Both reports noted the positive impact of these courts, including decreased involvement by program graduates in the criminal justice system.

Therapeutic courts in the Alaska Court System are also part of the research currently being done by the Alaska Justice Information Center (AJIC) for the Results First Initiative. This initiative examines evidence-based programs, like therapeutic courts, that potentially impact recidivism, and then generates additional information on benefits and costs to help guide policy decisions and resource allocation.

Alaska Court System Therapeutic Courts

The first Alaska Court System “wellness court” was established in Anchorage in 1999 to deal with misdemeanor DUI offenders. Individuals were screened for eligibility for the 18-month program and voluntarily agreed to

*Please see **Therapeutic courts**, page 4*



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Therapeutic courts (continued from page 3)

participate. Substance abuse treatment, as well as supervision, are core elements. The court was specifically called a “wellness court” to reflect the Alaska Native view of justice as a restorative process.

The Alaska Court System has come to recognize different needs in the community, and has sought to expand the types of therapeutic courts available to deal with both felony and misdemeanor offenders, as well as to increase access to these courts. The growth of therapeutic courts is tied to the concept of individualized justice, as well as to access to the most effective and appropriate judicial process. The roster of Alaska therapeutic courts (Table 1, page 2) now includes DUI courts, drug courts, mental health courts (with support from the Alaska Mental Health Trust Authority), municipal wellness courts, a child in need

of aid (CINA) court, a veterans court, and the newly established state-tribal wellness court—Kenai Henu’ Community Wellness Court. Therapeutic courts are located in Anchorage, Bethel, Fairbanks, Juneau, Kenai, Ketchikan and Palmer, with the goal to expand to other court jurisdictions in the future. Funding for therapeutic courts comes from legislative appropriation, federal and state agency grants, and community and private entity donations. At present, more than half of the therapeutic courts (8) focus specifically on working with offenders who have substance abuse issues. (Substance abuse is often a common factor among participants in all of the therapeutic courts.)

Although successful participants are able to receive reduced sentences and sanctions, and in some instances dismissal of a charge, the Alaska Court System stresses in its website description of therapeutic courts that these courts are “not an ‘easy way out’ of a felony or misdemeanor....” Most

importantly, the therapeutic court model is an alternative justice model in which a collaborative court team made up of a supervising judge, district attorney, defense counsel, probation officer and/or substance abuse or mental health treatment provider, oversees and closely monitors participants who chose the treatment program in lieu of incarceration.

Offenders who meet the eligibility screening requirements for participation in a therapeutic court follow prescribed conditions and are supervised by a member of the therapeutic court team. Once all required conditions have been met, the individual is eligible to “graduate” from the therapeutic court in a graduation ceremony. Both the graduates and the judges who preside over the ceremony have stated that this event is often a momentous occasion for successful participants, and can be an important milestone in continued desistance and recovery.

Wellness/therapeutic courts operate in

Resources

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Anchorage, Bethel, Juneau, and Ketchikan, and deal with misdemeanor and felony drug and alcohol offenders. A wellness court will open in Palmer in January 2017. The Anchorage Municipal Wellness Court, which deals with misdemeanor alcohol offenders, was the first therapeutic court established in Alaska. All of these courts utilize a team approach for each case and work to assist offenders in becoming productive citizens. Participants in these courts who successfully complete all requirements of the program are eligible to receive sentences that include reduced or dismissed incarceration time.

The Coordinated Resources Project includes the mental health courts in Anchorage, Juneau, and Palmer. The first mental health court was established in Anchorage in 1999. The Palmer court began operation in 2005 and the Juneau court was created in 2012. A high percentage of adults in the criminal justice system are Alaska Mental Health Trust Authority (Trust) beneficiaries—that is, individuals who are dealing with any of the following:

- mental illness;
- developmental disabilities;
- chronic alcoholism and other substance abuse-related disorders;
- Alzheimer’s disease and related dementia; or
- traumatic brain injuries.

A 2014 study by Hornby Zeller Associates estimated that on June 30, 2012, about 65 percent of the persons under Alaska Department of Corrections supervision were Trust beneficiaries. Trust beneficiaries are often diagnosed with co-occurring disorders—e.g., both mental illness and substance abuse. The Coordinated Resources Project is able to assist individuals who are often dealing with multiple disorders, and the Trust provides ongoing financial support for this effort.

The Veterans Court in Alaska, created in 2004, was one of the first veterans courts in the nation. Alaska has a higher percentage of veterans in the general population than any other state, according to a June 2016 report by the Alaska Department of Labor and Work Force Statistics. This court works closely with the Department of Veterans Affairs to determine the most effective treatment plan for veterans in the criminal justice system, to ensure offender accountability, and to assist in the rehabilitation of veterans.

The Child In Need of Aid (CINA) Therapeutic Court was first started as a pilot project in 2014 to assist parents with substance abuse issues. The court functions with two judges for each case—one judge who deals with underlying substance abuse issues, and one who deals with other issues in the case,

such as custody. This court is now an established therapeutic court, and functions with input from representatives from the Alaska Office of Children’s Services, the Division of Behavioral Health, the Office of Public Advocacy, the Public Defender, Native organizations, and other social service agencies.

A government-to-government agreement was recently signed between the Alaska Court System, Alaska Department of Law, and the Kenaitze Tribe. This is the first such agreement in the state. An Alaska Court System judge and a Kenaitze Tribal judge will sit jointly to hear felony cases involving substance abuse issues, as well as child in

need of aid (CINA) cases involving felony offenders. It is anticipated this court will hear its first cases in December 2016.

These therapeutic courts exist as part of the effort to deal with the substantial problems of substance abuse and mental health issues that are contributing factors for involvement with the criminal justice system.

Behavioral Health Data and Court Case Filings

Substance abuse continues to be a significant public health issue in the U.S. and

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Table 2. Growth of Drug Courts from 2009 to 2014

Drug court model	12/31/2009	12/31/2014	Difference	Percent change 2009 to 2014
Adult drug court	1,317	1,540	+223	+17 %
Adult hybrid drug/DUI court*	354	407	+53	+15 %
Campus drug court	5	3	-2	-40 %
Co-occurring disorders court	NR	62	—	—
DUI court	172	262	+90	+52 %
Family drug court	322	305	-17	-5 %
Federal district reentry drug court	30	29	-1	-3 %
Federal district veterans treatment court	NR	6	—	—
Juvenile drug court	476	420	-56	-12 %
Reentry drug court	29	26	-3	-10 %
Tribal wellness drug court	89	138	+49	+55 %
Veterans treatment court	19	266	+247	+1,300 %
Total	2,459	3,057	+598	+24 %

* Hybrid drug/DUI courts are a subset of adult drug courts and are not counted separately in the total tallies.
NR: not reported.

Source: National Drug Court Institute, "Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States" (2016), Table 4 (<http://www.nadcp.org/sites/default/files/2014/Painting%20the%20Current%20Picture%202016.pdf>).

Table 3. Growth of Problem-Solving Courts (Other than Drug Courts) from 2009 to 2014

Drug court model	12/31/2009	12/31/2014	Difference	Percent change 2009 to 2014
Adult mental health court	288	392	+104	+36 %
Child support court	46	62	+16	+35 %
Community court	25	23	-2	-8 %
Domestic violence court	206	210	+4	+2 %
Gambling court	1	0	-1	-100 %
Gun court	6	2	-4	-67 %
Homelessness court	25	22	-3	-12 %
Juvenile mental health court	NR	37	—	—
Parole violation court	6	3	-3	-50 %
Prostitution court	8	18	+10	+125 %
Reentry court	26	30	+4	+15 %
Sex offender court	NR	9	—	—
Truancy court	352	314	-38	-11 %
Other problem-solving courts	200	189	-11	-6 %
Total	1,189	1,311	+122	+10 %

NR: not reported.

Source: National Drug Court Institute, "Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States" (2016), Table 8 (<http://www.nadcp.org/sites/default/files/2014/Painting%20the%20Current%20Picture%202016.pdf>).

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Alaska. The Substance Abuse and Mental Health Services Administration (SAMHSA) noted in *Behavioral Health Barometer: Alaska, 2015* that 39,000 individuals aged 12 or older (7% of that age group) reported past year alcohol dependence or abuse during 2013–2014, and 35,000 adults age 21 or older (7% of that age group) reported heavy alcohol use in the preceding 30 days during that period. Illicit drug use or dependence (including non-medical use of prescription drugs) in the prior year was reported by 19,000 persons age 12 years or older (3% of this age group) for the period 2013–2014. All of these Alaska percentages are similar to national averages for the time period. The same SAMHSA report also presents data on serious mental illness among persons in Alaska age 18 years and older for 2013–2014: of individuals age 18 years or older, 20,000 persons (4% of this age group) indicated a serious mental illness for the period. (The data above are from the National Surveys on Drug Use and Health sponsored by SAMHSA and reflect the age ranges in the surveys.)

Data on Alaska Court System FY 2015 case filings involving alcohol or drug offenses illustrate the role of substance abuse on court caseloads. In Superior Court in FY 2015, felony drug cases represented about 19 percent (1,208) of felony filings, and felony DUI cases represented about 5

percent (306) of felony filings. In District Court, misdemeanor drug cases represented 2 percent (528 cases) and misdemeanor DUI filings represented 13 percent (3,414) of misdemeanor filings statewide for the period. (In FY 15 there were 6,457 total felony case filings and 25,887 total misdemeanor case filings statewide.) And, though not separately tracked in court statistics, many other offenses are committed by persons whose criminal behavior is directly tied to substance abuse.

Conclusion

Therapeutic courts continue to expand both in Alaska and nationwide. Based on responses to their survey of states and territories, the National Drug Court Institute (NDCI) cites a 24 percent increase in the types of drug courts overall from 2009 to 2014, and a 36 percent rise in adult mental health courts during the same period (see Tables 2 and 3, page 5).

There has been exponential growth in different drug courts over the period 2009–2014 (Table 2). Veterans Courts grew by 1,300 percent, by far the largest increase of all the types of courts listed. Tribal wellness courts grew by 55 percent, DUI courts by 52 percent, and adult drug courts and adult hybrid drug/DUI courts by 17 percent and 15 percent respectively. There was a large decrease (40%) in campus drug courts (a category of court not discussed extensively in the NDCI report), while there were much smaller drops in family drug courts (-5%),

Federal district reentry courts (-3%), juvenile drug courts (-12%), and reentry drug courts (-10%).

Among problem-solving courts, other than drug courts, the greatest expansion in 2009–2014 was seen in prostitution courts (125%—increasing from 8 in 2009 to 18 in 2014), adult mental health courts (36%), child support courts (35%), and reentry courts (15%) (Table 3). The NDCI estimates that over the next 3 years, among all problem-solving courts the categories most likely to increase in number are adult drug courts, followed by reentry courts, juvenile mental health courts, and domestic violence courts.

The Alaska Court System is striving to meet the needs of Alaskans involved with the criminal justice system who are dealing with mental health and substance abuse issues. Research shows that therapeutic courts can be effective in working with offenders with these problems. Access to justice is a critical focus, and the court is looking at ways to increase the locations and types of therapeutic courts. Current therapeutic court pilot projects under discussion include a CINA (Child In Need of Aid) Therapeutic Court in Palmer. The Alaska Court System is committed to offender accountability, public safety, and providing the opportunity for offenders to become productive community members.

Barbara Armstrong is the editor of the Alaska Justice Forum.

Alaska Felony Sentencing Patterns: Selected Findings

Teresa White Carns

The Alaska Judicial Council (Council) recently released *Alaska Felony Sentencing Patterns: 2012–2013*. The report examines factors associated with felony sentences under new presumptive ranges set by the legislature in 2005 and 2006. The study has been used by the Alaska Criminal Justice Commission (ACJC), established by the legislature in 2014 to make recommendations about criminal justice reform and sentencing. This brief article looks at selected findings from the report.

Background

The goal of presumptive ranges is to decrease the likelihood of unjustified disparity in sentencing, while generally allowing some judicial discretion in the imposition of a sentence. In 2005 and 2006, the legislature significantly changed Alaska's sentencing laws by substituting presumptive sentencing ranges for the specific presumptive sentences in effect since 1980. The legislature also

extended the presumptive ranges to include all first offender Class B and C felonies, thus substantially increasing the number of offenders subject to the presumptive system. Additional legislative changes in the years between 2005 and 2012 included significant increases in the presumptive ranges for sex offenses, an increase in the types of offenses classified as felonies, and an increase in the seriousness level of classification for a number of already existing felonies. (See "Classification of Felony Offenses.")

Selected Findings

The report examined sentencing records for 2,970 cases, a 60 percent sample of all felonies sentenced during 2012 and 2013. The analysis included the single most serious charge identified in each case and a variety of other factors related to the sentencing. Other factors included offender demographic characteristics, location of the case in the state, seriousness of the offense, and whether the conviction was at trial or

Classification of Felony Offenses

- *Unclassified* offenses are the most serious crimes, such as murder, kidnapping, and sexual assault in the first degree.
- *Classified offenses* are categorized in order of seriousness by class—Class A being the most serious, then Class B, Class C.

the result of a plea (Table 1).

More than half of the sample was Caucasian (58%); 28 percent was Alaska Native/American Indian; 9 percent was African American; 4 percent was Asian/Pacific Islander; and 1 percent was unknown. About one-fifth of the offenders (21%) in the sample were female. More than half (54%) of the offenders were between the ages of 16 and 30 years.

Two-thirds (67%) of the offenders in the study had no prior felony convictions. The