Therapeutic courts
(continued from page 5)

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 FY15 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 NCDI 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 NCDI 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

majority of offenders (81%) were convicted of Class C felonies—the least serious offense classification (Figure 1). Just over 70 percent were convicted of nonviolent Class C felonies (e.g., property, driving, and drugs) (Figure 2).

In nearly all the cases (94%), conviction was by a plea agreement. Cases for the most serious offenses went to trial most often, however, and 55 percent of Unclassified offenses (the most serious) had been convicted after a trial.

Most offenders (79%) were sentenced to some active time of incarceration. Nearly two-thirds of offenders (61%) received sentences that included probation plus some incarceration time. In determining a sentence, a judge may hand down a *Suspended Imposition of Sentence* (SIS) if the offender and the offense fall under certain criteria. The SIS can specify conditions including incarceration, probation, and restitution; if the person successfully completes all of the conditions, the person is discharged and the court may set aside the conviction. In the sample examined, 15 percent of offenders received an SIS.

Regarding the most serious offenses, most offenders convicted of a sex offense received sentences of active incarceration time within or above the presumptive ranges, while more than half (51%) of offenders convicted of a Class A felony (non-sexual offense) received sentences below the presumptive ranges due to mitigating factors. The report also found sentences below presumptive ranges for 39 percent of Class B nonsexual sentences and 51 percent of Class A nonsexual offenses.

In looking at each class of felony offense (A, B, C), longer active sentences were imposed for violent offenses versus nonviolent offenses. Overall, males were more likely to receive a longer sentence than females, and males were more likely to have been convicted of a violent crime than females. Other factors that appeared to result in longer sentences included the level of violence of the offense, and prior felony convictions of the offender.

Dr. Brad Myrstol at the UAA Justice Center conducted the multivariate analysis of the data. He found that within each class of offense, A, B, and C, violent offenses received longer sentences, on average, than nonviolent offenses. Similarly, within each class of offense, offenders with prior felony convictions received longer active sentences on average than offenders with no prior convictions. The less serious the offense of which a person was convicted, the more likely it was that the sentence was associated with factors other than the nature of the offense or the offender's prior record. These factors included case-processing factors such as type of attorney, and whether a presentence report was filed, and whether a case went to trial, sometimes interacting with demographic characteristics.

Table 1. Alaska Felony Sentencing: Variables Studied

Dependent variables	
Sentence length	Imposed sentence length
	Active sentence length
	Active time: yes/no?
Independent variables	
Demographic characteristics of offenders	Age at time of offense
	Gender
	Ethnicity
	Criminal history
Offense characteristics *(for the single most serious offense of conviction)*	Class of offense
	Type of offense
	Number of felony and misdemeanor
	Court location
	Domestic violence flag
Characteristics of court cases	Type of disposition (plea vs. trial)
	Type of attorney
Factors related to sentencing	Presentence report filed
	Probation
	SIS (suspended imposition of sentence) sentence

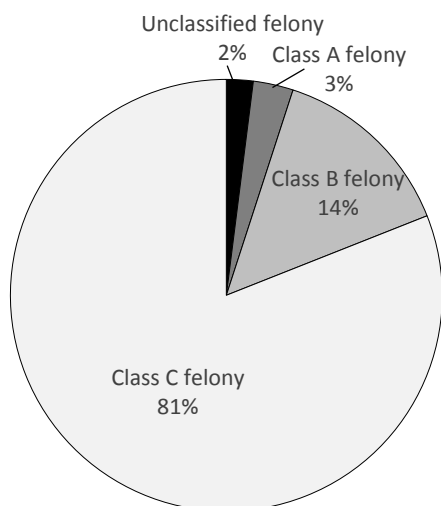*Source: Alaska Judicial Council (2016), "Alaska Felony Sentencing Patterns 2012–2013"*

The report notes that the Alaska Criminal Justice Commission recommended to the Governor and Legislature in 2015 that non-sex felony presumptive ranges be aligned with prior presumptive terms, and that the state's prison beds be focused on "serious and violent offenders" and "higher-level drug offenders" (p. 85). The fact that the study's data showed that some types of sentences were already often below the presumptive ranges—e.g., Class A drug offenses, Class A and Class B nonsexual offenses—suggested that current sentencing practices may already be in alignment to some degree with Commission recommendations.

A full copy of the report is available at the Alaska Judicial Council website (http://www.ajc.state.ak.us/sites/default/files/reports/research/final_draft_alaska_sentencing_patterns_2012_-_2013.pdf). Appendices include mean active sentence length for each type of conviction noted in the publication, as well as a detailed history of the changes from 2000 to 2013 in felony offense definitions, classifications and sentencing statutes.

Teresa White Carns is with the Alaska Judicial Council in Anchorage and is responsible for special projects.

Figure 1. Distribution of Most Serious Convicted Offenses by Class of Offense

- Unclassified felony 2%
- Class A felony 3%
- Class B felony 14%
- Class C felony 81%

Source of data: Alaska Judicial Council (2016), "Alaska Felony Sentencing Patterns 2012–2013"

Figure 2. Distribution of Most Serious Convicted Offenses by Type of Offense

- Murder/kidnapping 1%
- Other 8%
- Violent 20%
- Sexual* 7%
- Drug 22%
- Driving 15%
- Property 27%
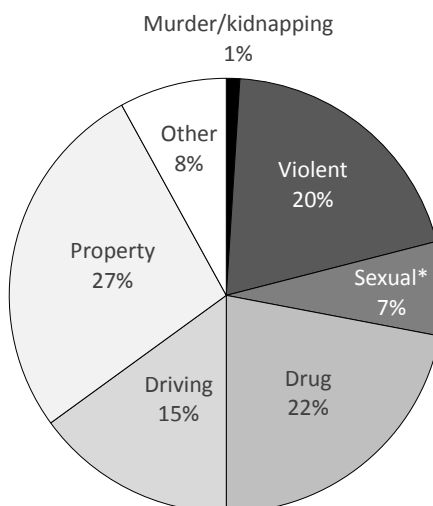
* All sexual offenses were included in the *sexual* category.

Source of data: Alaska Judicial Council (2016), "Alaska Felony Sentencing Patterns 2012–2013"