Recidivism in Alaska's Felony Therapeutic Courts

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Recidivism in Alaska's Felony Therapeutic Courts

Executive Summary

The Alaska Judicial Council found that graduates of the Anchorage Felony Driving Under the Influence, Anchorage Felony Drug, and Bethel Therapeutic Courts were rearrested and re-convicted far less frequently than comparison offenders. The Council followed graduates for one year after they completed their program and tracked comparison offenders for one year after they were released from serving their sentence. Therapeutic court graduates were also re-arrested far less frequently than a baseline sample of Alaskan offenders charged with felonies in 1999, discussed in the Council's January 2007 report, *Criminal Recidivism in Alaska*. Findings included:

- The longer the participants stayed in the program, the less likely they were to recidivate even if they did not graduate.
- 54% of the participants in these project graduated.
- 13% of graduates were re-arrested within one year after completing a therapeutic court program compared to a 32% re-arrest rate for comparison offenders and a 38% re-arrest rate for offenders charged with felonies in 1999.
- Participants who were discharged from the programs or who left voluntarily had about the same rate of recidivism as the offenders charged with felonies in 1999.
- Older participants were less likely to be re-arrested than younger participants.
- Participants in the Anchorage Felony DUI Court were less likely to be re-arrested than those in the Anchorage Felony Drug Court and the Bethel Therapeutic Court.
- No participants in the programs who were re-convicted within the first year were convicted of an offense at a more serious level than the one on which they entered the therapeutic courts. None were convicted of a Drug or Sexual offense. In contrast, 3% of the comparison offenders were convicted of offenses at a more serious level. In the Council's companion report on recidivism among 1999 offenders, about 15% of most types of offenders were convicted of offenses at a more serious level.
- Native participants responded as well to the therapeutic court programs as did Caucasian participants. Blacks and other ethnicities did not do as well as Caucasian participants.
- The Council recommended that the state should develop further information about the costs and benefits of therapeutic court programs; should explore the reasons for the relative success of Native participants in the programs; and should determine why ethnic groups other than Natives and Caucasians did not do as well in the programs.

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Introduction

In 2001, the legislature created two new therapeutic courts for defendants with alcohol problems: one for felony Driving Under the Influence cases in Anchorage, and one for defendants with alcohol problems in Bethel. At the request of the legislature in its original bill, HB172, the Judicial Council evaluated the two projects in 2005,[1] with funding from the state's Department of Health and Social Services.[2] At the same time, the Council evaluated the Anchorage Felony Drug Court. The present report looks at the recidivism rates for the 117 offenders who participated in the therapeutic courts, and compares them with matched groups of 97 offenders who did not participate in the therapeutic courts.[3] This analysis also compares these groups with the baseline recidivism rates for 1999 offenders,[4] reported by the Judicial Council in *Criminal Recidivism in Alaska*.[5]

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[1] EVALUATION OF THE OUTCOMES IN THREE THERAPEUTIC COURTS, Alaska Judicial Council, April 2005. Available on the Judicial Council's website, www.ajc.state.ak.us, under "Publications."

[2] Funding for this report, and the companion report, CRIMINAL RECIDIVISM IN ALASKA, cited below, also came from the Alaska Department of Health and Social Services.

[3] The methodology used in this report is described in Appendix A. Also see below, footnotes 9, 19, and 34.

[4] The offenders included in the report on criminal recidivism had been included in the earlier Council report, ALASKA FELONY PROCESS: 1999, Alaska Judicial Council, February 2004. The report is available from the Council's web site, www.ajc.state.ak.us, under "Publications."

[5] Alaska Judicial Council, CRIMINAL RECIDIVISM IN ALASKA, January 2007. Available from the Council's web site at www.ajc.state.ak.us, under "Publications."

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Part 1

Measures of Recidivism

The Council compiled the number of new arrests and convictions[6] for each of the offenders who participated in one of the therapeutic justice projects, and for other defendants who did not participate.[7] The information reported here includes offenders who had been out of the program for at least one year. The comparison group included those who had finished serving any sentence imposed, and had been out of custody for at least one year. The offenders were grouped into three categories:

- All offenders who graduated from one of the programs ("graduates");
- All offenders who were in one of the programs, but were discharged before finishing the program ("discharged");[8] and
- Offenders with similar characteristics to the participants who did not participate in one of the programs ("comparison").[9]

The Council also compared the recidivism of each of the therapeutic court groups to the recidivism of convicted Alaska offenders charged with felonies in 1999.[10]

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[6] The data for new arrests and new convictions came from the Department of Public Safety.

[7] The Council also collected information about the numbers of new cases filed in Alaska courts, using Court system data. There was very little difference in the rates of recidivism between re-arrests and new cases filed. For simplicity and comparability to other reports, only the re-arrest and re-conviction rates are included in this report. Information about cases filed is available from the Judicial Council on request.

[8] The term "discharged" included all participants who did not complete the therapeutic court program for any reason. Some participants "opted out;" that is, they chose to not complete the program. Others were asked to leave the program for a variety of reasons. Most who were asked to leave either had frequent relapses into substance abuse, or had committed new offenses that could not be handled within the context of the therapeutic courts.

[9] The comparison groups were selected separately for each of the three therapeutic courts, by program staff. They were matched on age, ethnicity, gender, offense of conviction, and prior record of convictions. The Anchorage Felony Drug Court had 19% of the comparison offenders, the Anchorage DUI Court had 52%, and the Bethel Court had 29%. The most noticeable difference between the comparison groups and the participant groups was that the comparison offenders had slightly less severe prior records. Analysis showed that the differences did not matter significantly in the recidivism between the groups.

[10] See note 4, above.

Part 2

Amount and timing of recidivism during one year after release

Table 1 shows the recidivism rates for the first six months and the first year after offenders graduated from therapeutic courts; or from serving their sentences, in the cases of the discharged participants, the comparison offenders and the1999 felony report offenders.[11]

Table 1
Recidivism rates for therapeutic court graduates, discharged, comparisons, and baseline offenders, during first six months and first year[12] after end of program

	Graduated[13]	Discharged[14]	Comparison Offenders[15]	1999 Felony Report Offenders (baseline)[16]
% arrested, 1st 6 months	8%	26%	18%	26%
% arrested, 1st year	13%	39%	32%	38%
% convicted, 1st 6 months	4%	10%	8%	13%
% convicted, 1st year	6%	26%	23%	28%

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[11] All of the offenders had been released for at least one year. When comparing the different groups, it is useful to remember that all of the participants in the therapeutic courts were there because they had serious alcohol or drug abuse problems. The comparison group offenders also had substance abuse issues. Of the 1999 felony offenders, 68% had alcohol problems, and 48% had drug problems.

[12] The analysis used 214 offenders who were released from incarceration or the program for at least a year.

[13] Offenders who completed a therapeutic court program.

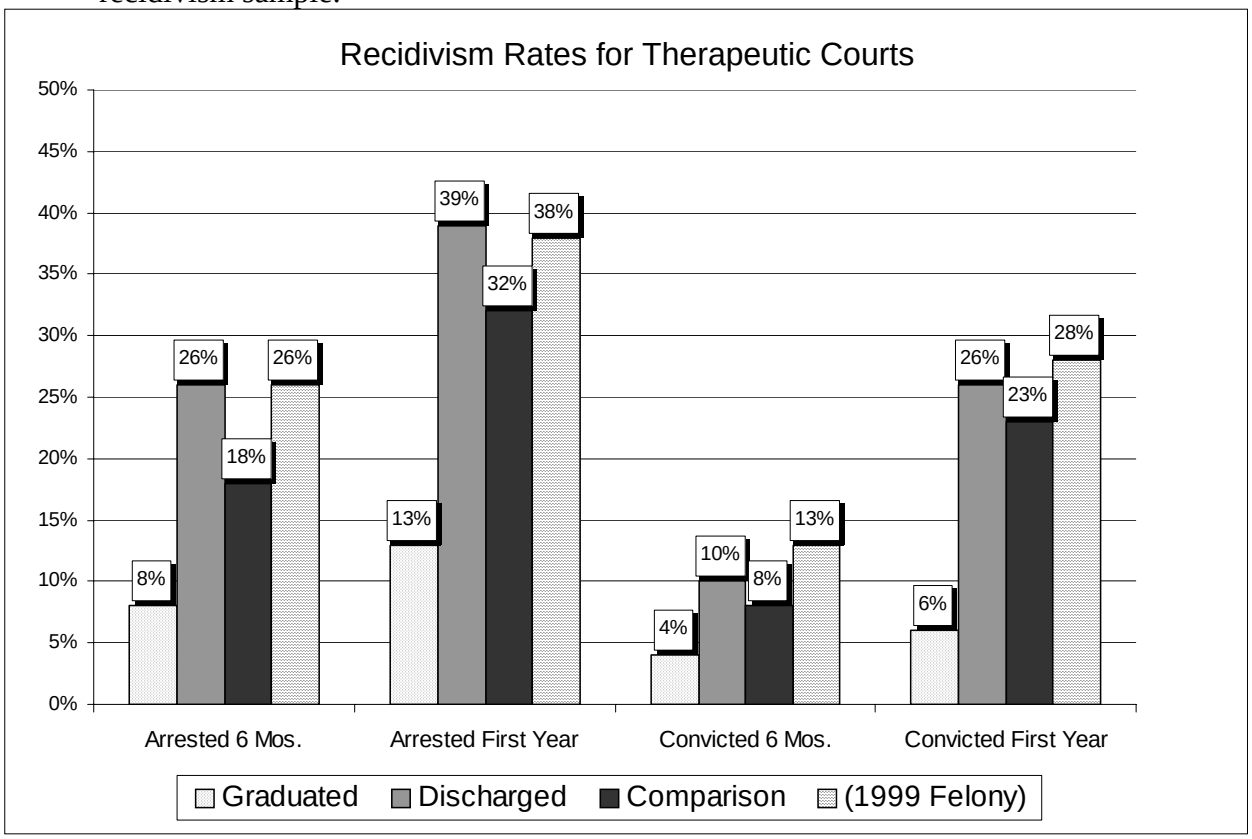
[14] Offenders who were in a therapeutic program but who opted out or were discharged.

[15] Offenders who had characteristics similar to the therapeutic court participants but who did not participate in a therapeutic court program.

[16] Two-thirds sample of all Alaskan offenders charged with a felony in 1999 and convicted of an offense.

Findings

- Graduates of the therapeutic court programs re-offended far less frequently than did any of the other groups measured.[17]
- 13% of the graduates were re-arrested in the first year, a rate about one-third of that for the other groups. 6% of the graduates were convicted of a new offense in the first year, a rate about one-quarter of that for the other groups.
- Participants in the program who were discharged did about as well as offenders in the 1999 recidivism sample.[18]



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[17] Graduates had significantly fewer new arrests than the other two groups in the first six months, and in the first year, and significantly fewer convictions in the first year. There were no significant differences between graduates and other groups for convictions during the first six months after release, probably because there were few convictions during this period. The differences between the discharged group and the comparison group were not statistically significant. The differences between the therapeutic court groups and the 1999 felony recidivism group could not be tested statistically in this report.

[18] Comparison group results were slightly, but not significantly, better than the results for discharged participants. The combined group of graduates and discharged program participants had slightly lower recidivism rates than the comparison group (the differences were not statistically significant), and substantially lower recidivism rates than the 1999 offenders. Graduated and discharged combined rates were: 16% re-arrested in first six months; 25% re-arrested in first year; 7% re-convicted in first six months; 15% re-convicted in first year.

Part 3

Description of Participants

The offenders described here included all of the participants, graduated and discharged, in the three programs reviewed in this report, Anchorage Felony DUI, Anchorage Felony Drug, and Bethel Therapeutic Court.[19]

A. Demographics

1. Gender

- 29% of the graduates were female; as were 24% of the discharged participants.
- Men and women graduated at similar rates.

2. Ethnicity

Overall, about 45% of participants in the program were Caucasians, 44% were Alaska Native, and 11% were "Other" (Black, Hispanic and Asian/Pacific Islander).

- 49% of the graduates were Caucasian; as were 41% of the discharged participants;
- 39% of the graduates were Native; as were 48% of the discharged participants;[20]
- 12% of the graduates were Black and Other ethnicities; as were 11% of the discharged participants.

[19] The total number of offenders in the analysis was 214. Of these, 97 were comparison offenders, 63 were graduates of one of the three programs, and 54 were discharged after participating in one of the programs. The demographic descriptions give data only for the graduates of the programs, and those who were discharged. The descriptive analyses relied on cross-tabulations of the data, or bi-variate analyses. A multivariate analysis, showing which of the variables were independently statistically significant, taking into account all of the other information about offenders, is reported below in Part 4.

[20] Almost all of the Bethel participants and comparison group offenders were Native. The Anchorage felony courts had a mix of ethnicities.

A separate analysis showed that Caucasians, Natives, and "Other" ethnicities did not differ in any statistically significant way in the chances that they would graduate or be discharged.[21]

- Of the Caucasian participants, 57% graduated and 43% were discharged.
- Of the Native participants in the programs, 48% graduated and 52% were discharged.
- Of the "Other ethnicity" participants, 54% graduated and 46% were discharged.

3. Age

The offender's age was not significantly related to the chance that an offender would graduate or be discharged.

- 43% of the graduates were aged 40 and over; as were 33% of the discharged participants.
- 19% of the graduates were between the ages of 18 and 30, as were 35% of the discharged participants.[22]

4. Indigency (type of attorney)

One indicator of an offender's socioeconomic status at the time of admission to the therapeutic court was whether an attorney had been appointed for the offender at public expense.[23] Offenders had to meet specific guidelines to show that they could not afford to employ their own attorneys. Their lack of ability to afford an attorney showed that they had less income and fewer resources than offenders who used a private attorney to represent them.[24]

- 89% of the graduates and 96% of the discharged participants had a public attorney.

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[21] The multivariate analysis, below in Part 4, showed that the chances of re-arrest, which was a different question than likelihood of finishing the program, were statistically significantly greater for "Other" ethnicity offenders.

[22] The multivariate analysis showed that older participants were significantly more likely to have low recidivism rates after they left the program than younger participants. See Part 4, below. 68% of the discharged participants between 18 and 30 had a new arrest, and 37% had a new conviction in the first year. 14% of the discharged offenders and 4% of the graduates aged 40 and over had a new arrest. The Council's companion recidivism report, note 5, above, also showed that younger offenders were significantly more likely to be re-arrested.

[23] Information about the participants' incomes was not consistently available from any source.

[24] Much of the early work in designing and setting up the therapeutic courts was done with the close cooperation of the Public Defender Agency. Public Defender clients may have had a better chance of participation during the early days of the programs. Private attorneys have been encouraged to work with the therapeutic courts also.

B. Criminal history

- 60% of the graduates had at least one prior felony, as did 51% of the discharged participants.

C. Location

- 23% of the participants were in the Anchorage Felony Drug Court, 46% were in the Anchorage DUI Court, and 31% were in the Bethel Court.
- Of the 117 participants in the programs, 54% graduated and 46% were discharged from the program. The rates varied slightly by the programs, with 50% of Bethel participants graduating, 56% of the Anchorage Felony Drug Court participants, and 56% of the Anchorage Felony DUI participants.

D. Type of conviction that brought offender to therapeutic court

All of the offenders entering these three therapeutic courts had an alcohol or drug abuse problem. Some courts also had restrictions on the types of offenses that the offenders had committed. The Anchorage DUI court took only persons convicted of felony Driving Under the Influence (DUI).[25] The Anchorage Felony Drug Court took offenders with a drug abuse problem, who had no violent offenses on their records. The Bethel Therapeutic court took a mix of offenders, both felonies and serious misdemeanors, including some who were convicted of Violent offenses.

- 6% of the graduates had a Violent conviction when they entered the therapeutic court, as did 9% of those discharged from a therapeutic court;
- 11% of the graduates had a Property conviction when they entered the therapeutic court; as did 24% of those discharged;
- 13% of the graduates had a Drug Conviction when they entered the therapeutic court; as did 7% of those discharged;
- 67% of the graduates had a Driving conviction when they entered the therapeutic court, as did 56% of those discharged.
- This analysis suggested that offenders with a Property conviction in the case that brought them to therapeutic court were more likely to be in the discharged group, rather than the graduated group. Driving and Drug offenders were disproportionately represented in the graduated group.

[25] Offenders might also have been convicted of felony refusal of a blood alcohol test.

- All of the Violent offenders were in the Bethel court, either as participants or comparisons.[26]
- Most of the offenders in the three courts had been convicted of a Class C Felony at the time of their admission to the therapeutic programs. A handful had been convicted of Class B offenses, and a small number had been convicted of misdemeanor offenses.[27]

[26] The Bethel court had more leeway to take a variety of offenders. The Anchorage Felony Drug Court was initially limited by the terms of the federal grant that funded it to take only non-violent offenders. The Anchorage DUI Court was limited by the terms of its state legislative mandate to take only felony offenders convicted of DUI and related felonies. The Bethel court worked with alcohol addicted offenders.

[27] All of the misdemeanor offenders were in Bethel.

Part 4

Recidivism rates related to offender characteristics[28]

- Participants in the Anchorage DUI program had fewer re-arrests and new convictions during the first year after release than participants in the other two programs.
- The longer an offender participated in a program, the less likely that participant was to be re-arrested.[29]
- Native and Caucasian participants had about the same chance of being re-arrested after their time in the program.[30] Black and Other participants (combined) were more likely to be re-arrested and re-convicted in the first year. The data are not detailed enough to allow any hypothesis about this finding.
- Older participants were less likely to be re-arrested and re-convicted than younger participants.

[28] Details of the survival (multivariate) analysis that produced these findings are available from the Council. The findings listed on this page were all statistically significant in the survival analysis. Gender, indigency, prior history of convictions, seriousness of the underlying conviction, a participant's mental health status, and the amount of time incarcerated before trial were all not statistically significantly related to the chance of re-arrest and re-conviction for participants.

[29] There was not enough information about convictions to analyze the relationship between length of time in program and convictions.

[30] The Council's companion report on recidivism (see note 5, above) showed that Natives were significantly more likely to be rearrested after release than were Caucasians. This report's findings that Natives had about the same re-arrest rates as Caucasians, all other things being equal, is even more significant in the context of general information about the relationships between ethnicity and recidivism.

Part 5

Type and Seriousness of New Convictions

A. New convictions by type of conviction that brought offender to therapeutic court

The percentages of offenders in the therapeutic courts who had a new conviction during the first year varied by the type of the original offense with which they entered the therapeutic court.

- 33% of the offenders with a new conviction had been convicted of a Property offense.[31]
- 33% had been convicted of a Driving offense.
- 22% of the participants who were convicted of a new offense had originally been convicted of a Violent offense.
- 11% had been convicted of an "Other" offense.
- None had been convicted of a Drug or Sexual offense.

B. Type of new convictions

To see how often repeat offenders committed the same type of offense as the one they had been convicted of earlier, the Council compared the new convicted offense with the offense of which the offender was convicted in the earlier report. An offender could have been convicted of more than one new type of offense.

- No single group of offenders (e.g., Violent, Property) was more likely than any other group to be convicted of the same type of offense.[32]
- An "Other" conviction was the most common type of new conviction, particularly for those originally convicted of Violent and Driving offenses.[33]

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[31] The Council's baseline recidivism report showed that more Property offenders had a new conviction than did other types of offenders. See CRIMINAL RECIDIVISM IN ALASKA, see note 5, above, at page 3.

[32] The number of graduates and discharged offenders, combined, during the first year out of the program was too small to draw any conclusions about statistical significance. The earlier recidivism report, *id.* at page 6, showed that Driving offenders were the most likely group to be convicted of a new offense in the same category as their earlier offense, but that does not seem to be the case in this group of offenders.

[33] "Other" offenses included perjury, weapons, violation of court orders, escape, and public order offenses.

C. Seriousness of new convictions

- Within the first year after their release from the program,[34] none of the program participants (graduates and discharged) were convicted of an offense at a more serious level than the one for which they were admitted to a therapeutic court.[35] In contrast, about 15% of most types of offenders in the companion recidivism report, and 3% of the comparison offenders in this therapeutic court analysis were convicted of an offense at a more serious level than their 1999 offense.[36]

[34] For graduates, release from the program was measured from their date of graduation. For participants who were discharged from the program or left voluntarily, release was measured from the date on which they were released from serving any sentence that was imposed.

[35] A graduate of one of the therapeutic courts was alleged to have committed a more serious crime two years after graduation from the therapeutic court. Although the Council did not extend its data collection to more than one year out, because of the limited number of cases available, this case is mentioned for the sake of completeness.

[36] CRIMINAL RECIDIVISM IN ALASKA, see note 5, above, at page 6. 18% of Violent offenders, 16% of Driving offenders, 15% of Property offenders, and 14% of Other offenders were convicted of an offense more serious than their 1999 case. 4% of Drug offenders and no Sexual offenders were convicted of more serious offenses.

Part 6
Findings and Recommendations

Findings

1. 54% of the participants in these programs graduated. Within one year of graduating, these graduates were less than half as likely to be re-arrested than comparison offenders with similar characteristics and about one-third as likely to be re-arrested than felony offenders charged in 1999. Therapeutic courts promote public safety by reducing recidivism of felony offenders who have alcohol and drug problems and who graduate from a therapeutic court program.

2. Recent national reports provide support from other programs, showing that many therapeutic programs reduce recidivism and have benefits that exceed costs by as much as ten-to-one ratios.[37]

3. Native groups have urged state agencies to provide treatment programs that are responsive to the differences between Native and Western cultures. This report found that Native and Caucasian participants do about equally well in therapeutic courts.

4. Offenders of other ethnicities (Blacks, Hispanics and Asian/Pacific Islanders were grouped together for this analysis because of the small numbers of each ethnicity) participated in the therapeutic courts in smaller proportions. Participants in these combined ethnic groups were re-arrested at higher rates than Native or Caucasian participants.

Recommendations

1. To build on the success of the therapeutic courts, sponsoring agencies should do additional work on the costs and benefits of this approach.

2. The state should explore the reasons for good response to the therapeutic courts for Native participants. It would be useful to talk with participants and staff, particularly in Bethel, to determine the reasons for these successes.

3. The state should explore possible reasons for the differences among ethnic groups in recidivism rates.

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[37] Aos, Miller and Drake, EVIDENCE-BASED PUBLIC POLICY OPTIONS TO REDUCE FUTURE PRISON CONSTRUCTION, CRIMINAL JUSTICE COSTS, AND CRIME RATES, October 2006, Washington State Institute for Public Policy, Exhibit 4, page 9, shows a variety of treatment and monitoring programs including therapeutic courts from around the country that have been shown to reduce recidivism. Costs and benefits of many of the programs are shown on the chart.

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Appendix A

Therapeutic Court Recidivism Methodology

This Appendix describes the procedures that the Judicial Council used to select the subjects and carry out the analyses for the report

Sample

The Council published *Evaluation of the Outcomes in Three Therapeutic Courts*[38] in April 2005. The report included 154 program participants and 104 comparison offenders.[39] Comparison offenders were selected by program staff, after discussion with the Council. Subsequent analyses showed that they matched the participants on age, gender, ethnicity, and type of offense.

At the time of the 2005 report, requested by the legislature in HB 172, 41% of the participants were still active in the programs. The Alaska Department of Health and Social Services funded this follow-up report to find the outcomes for these offenders and the comparison groups one full year after the offenders had completed the therapeutic programs, or had been discharged and completed serving their sentences, or had finished their sentences. Of the original 258 offenders, 214 met the criteria for inclusion in the present report.

Data about release and subsequent recidivism

The Department of Public Safety, the Department of Corrections, and the Alaska Court System provided access to data about the selected offenders. The format of each data set varied among the agencies. More detailed information is available from the Judicial Council.

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[38] EVALUATION OF THE OUTCOMES IN THREE THERAPEUTIC COURTS, Alaska Judicial Council, April 2005. Available on the Judicial Council's website, www.ajc.state.ak.us, under "Publications."

[39] The report included 154 program participants and 104 comparison offenders. The research used matched comparison offenders, the usual methodology for evaluations such as this one. Randomized control groups are rarely used in this type of research because of ethical concerns, sample size issues, and statistical problems. See, letter from Dr. John Roman, The Urban Institute to Chief Justice Fabe and Judicial Council members, February 6, 2007, available from the Judicial Council. Dr. Roman noted that "the numbers of people eligible to participate in an experimental program are small." He also noted that "when small samples are randomized, researchers are often unable to detect a positive program effect even if there was one. Empirical studies have found that a well-matched comparison will yield results that are nearly identical to a randomized design.

Program end and release dates

Each offender had a program end or release date. For participants in the therapeutic courts, the program end date was either the date on which the offender was shown as officially completing the program, or (if the offender was discharged or left the program voluntarily) the date on which the offender finished serving the sentence imposed after discharge from the therapeutic court. For the comparison offenders, the release date was defined as the date on which they were released from incarceration for the sentence they were serving. The time frame for the report was the first twelve months (one year) after the program end or release date. Offenders who had not been out of incarceration or released from a program for at least one year were not included in the analyses.

Arrest and conviction data

The Department of Public Safety provided the Council with a database that included only the offenders' arrests and convictions on or after the date of program end or release. The information included the dates and charges for which the offenders were arrested or convicted. Staff recorded the date of the first arrest for any reason after the release date, the total number of charges and arrests after the release or program end date, the date of the first conviction, and the total number of convicted charges and cases after the release or program end date. The nature of each charge also was recorded.

Database

The Council and its contractor, the Institute for Social and Economic Research (ISER) at the University of Alaska Anchorage, created a database of the 214 offenders who met the criteria for inclusion in this analysis. The database contained details about the offenders in the 2005 therapeutic court evaluation data set: gender, age, type of offense, proceedings in the therapeutic court, type of attorney and other information. The Council added the data from the Department of Public Safety about new arrests and convictions. This new database was used for the analyses in this report.

Analyses and Report

The Council modeled this report and the analyses of therapeutic court recidivism after the companion report, CRIMINAL RECIDIVISM IN ALASKA.[40] The Institute for Social and Economic Research at the University of Alaska Anchorage conducted the analysis. Statistical techniques used included bivariate analyses (cross-tabulations) and survival (multivariate) analyses. The Council also conducted some bivariate analyses in-house.

The Council prepared this report about the data and analyses. Results of significance tests, and greater detail about the data and methods are available by contacting the Council.

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[40] See above, at note 5.