

# ***Therapeutic Justice Statewide Database***

***By the Alaska Judicial Council for the Alaska Court System***

**September 2006**

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## **Part I: Introduction**

In September 2005, the Alaska Court System invited the Alaska Judicial Council to look at data collection practices in the state's therapeutic and problem-solving courts, and make recommendations about what data the court should include in a planned statewide database. The Council staff consulted more than fifty court staff and people associated with therapeutic courts, and more than thirty national experts and documents about therapeutic court databases. Those contacted were asked to help describe the data that they used, the barriers to getting data, and what they wanted to see in a shared database. This report summarizes the Council's findings and recommendations for a statewide, web-based, shared therapeutic courts database compatible with (or designed by) Maximus, the creator of the court's CourtView system.<sup>1</sup>

### **A. Therapeutic justice in Alaska**

Therapeutic justice as a concept stems from early in the twentieth century.<sup>2</sup> "Therapeutic justice emphasizes the need to address the root causes of a specific offender's criminality, to treat the offender to remove the problems and to return the offender to the community as a responsible citizen."<sup>3</sup> Florida is often credited with starting the first drug court in 1989; at present, some estimate that well over 1,000 therapeutic courts operate throughout the United States.<sup>4</sup>

In 1998, the first Coordinated Resources Project (misdemeanor Mental Health Court) opened in Anchorage. In 1999, the Anchorage Wellness Court, serving misdemeanants with alcohol problems, began operation. Felony courts handling drug and Driving Under the Influence (DUI) cases in Anchorage, and alcohol-related felonies and misdemeanors in Bethel started up in 2002. An Alaska Highway Safety Office grant in 2004<sup>5</sup> provided funding for therapeutic courts in Juneau,

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<sup>1</sup> The reader should keep in mind that the therapeutic and problem-solving courts are changing quickly. The information in this report was generally current as of September 2006. Terminology, procedures and other aspects of the courts may be different at a later date. The underlying principles of data collection for therapeutic courts however, are more stable.

<sup>2</sup> For a more detailed discussion of therapeutic justice concepts and their development in Alaska, see Carns, Hotchkin and Andrews, "Therapeutic Justice in Alaska's Courts, ALASKA LAW REVIEW (June 2002).

<sup>3</sup> *Id.*, at 5.

<sup>4</sup> National Drug Court Institute web site, "Drug Court Facts." <http://www.ndci.org/courtfacts.htm>, last visited June 6, 2006.

<sup>5</sup> The Alaska Highway Safety Office administers grant funds from the National Highway Transportation and Safety Administration. The grant continues to fund therapeutic courts throughout Alaska, with its major focus on those that respond to drunk driving issues.

Ketchikan, and Fairbanks. The legislature and the Alaska Mental Health Trust Authority supported a Coordinated Resources Project (CRP) for Palmer. Drawing on the experience of the mental health and addiction courts, the court system added the Anchorage Family Care Court in 2003 (for parents with children in need of aid). The Veterans Court began in 2004, working primarily through the Veterans Administration to facilitate services to veterans who appear in the Anchorage district courts on misdemeanor charges.

The diversity of these projects' origins, methods, and people served sometimes obscures their underlying similarities. Each of them provides a long-term structured program with opportunities for treatment, tailored to individual participants to a greater or lesser extent.<sup>6</sup> Each calls forth substantial cooperation between the courts and other agencies to accomplish their goals of reducing recidivism among groups of people, most of whom have extensive histories in the justice system.

## **B. Need for a statewide therapeutic court database**

The Alaska Court System wanted a therapeutic court database to achieve several goals:

- Collect data consistently among all the therapeutic courts<sup>7</sup> (p. 3, part 2.2),<sup>8</sup> without duplication of data entry.
- Allow team members in individual projects to manage their programs and “do their jobs effectively” (page 4, part 3.2).
- Compile data about drug testing and frequency, outcomes of drug testing, incentives and sanctions, attendance at community support groups, and other events that occur during the program.
- Provide customized data needed by only a single court (e.g., Family Care Court; Veterans Court).

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<sup>6</sup> The addiction courts tend to provide the same program for all participants. The CRP projects, Family Care Court and Veterans Court all rely on individual programs tailored to the needs of each participant.

<sup>7</sup> The Center for Court Innovation, “The Future of Drug Courts: How States are Mainstreaming the Drug Court Model,” 2004, page 38 cites this as a primary reason for developing a therapeutic court database. See <http://www.jointogether.org/resources/the-future-of-drug-courts-how.html>.

<sup>8</sup> Page and paragraph references are to “Memorandum of Agreement between the Alaska Court System and the Alaska Judicial Council,” November 8, 2005. Available from the Alaska Court System.

- Enable process and outcome evaluation (p. 1, part 1.1), with consideration of three primary areas of outcome measures: sobriety of participants and/or mental health indicators, retention in the program, and recidivism (page 4, part 3.2).
- Identify variables that predict program success (page 4, part 3.2).
- Provide evidence of results for funding purposes (page 4, part 3.2).
- Allow easy responses to questions about program operations (page 4, part 3.2).

National reports and guidelines also support the need for therapeutic court databases. A June, 2006 report, for example, says administrators should: “Develop an effective management information system - the top priority for [therapeutic] court administrators - and do it at the earliest stages...”<sup>9</sup>

### **C. Methods**

The Council in consultation with the court designed a process for making recommendations about the proposed database that included the following steps:

- The Council designed a survey asking for information about who entered data, where and when they entered it, what other information they would find useful, and barriers to data entry. The survey asked about approximately 160 different pieces of information that Alaska and other jurisdictions collect.<sup>10</sup>
- The Council also interviewed all of the judges associated with the projects, and other agency staff. The basis for the interview questions was the survey form that was mailed to court staff and others.

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<sup>9</sup> *Drug Courts: The Second Decade*, National Institute of Justice, June 2006, page 2.

<sup>10</sup> Copies of the survey form are available from the Council on request. The 17-page form included a ten-page table that listed about 160 data elements. Many of the data elements were drawn from a database (Roehl and Guertin, Drug Court Management System 2000, available at <http://spa.american.edu/justice/pages.php?ID=7>) used in the Anchorage CRP and the Anchorage Wellness Court. Court staff asked that the survey include other data elements that it thought important. The survey form also asked respondents to discuss barriers to data entry, usefulness of various program operations and outcome measures, and their ideas about what the database should include. About thirty judges, staff and agencies associated with the therapeutic and problem-solving court projects received the survey by mail in mid-December 2005. Council staff interviewed judges and others in December and January. The excellent response rate, nearly 80%, gave a solid understanding of current data collection for therapeutic and problem-solving courts.

- The Council considered the shared data elements that would be used by all courts, and the individual data needs of the different types of courts, including addiction courts, mental health courts, and family care court.
- The Council reviewed the national guidelines for data collection in therapeutic and problem-solving courts, including data elements used to evaluate courts.
- The Council considered the legal issues that affected data entry, particularly confidentiality laws and ex parte issues.
- The Council considered the need for a database that gave the court the ability to evaluate the projects, both for process and outcome. For primary outcome measures, the court specified sobriety of participants and mental health indicators, retention in the program, recidivism, and variables that predicted program success. The court wanted easily retrievable data for use in responding to questions about program operations, based in part on national standards for evaluation.
- The Council identified existing barriers to data entry, retrieval and analysis.
- For the proposed database, the Council identified each of the elements, the source for each element, possible persons to enter these data, and data storage.
- The Council reviewed all previous reports and evaluations done for therapeutic courts, and analyzed, at the court's request, "why they were done the way they were as part of baseline information."

## **Part II:**

### **Current data collection in therapeutic and problem-solving courts**

#### **A. What data did Alaska's therapeutic justice and problem-solving courts collect?**

In its surveys and interviews, the Council found that people compiled substantial amounts of information about each participant and case. Of the approximately 160 data elements listed on the survey form, two or more projects collected all but about twenty. Detailed information about a participant's charges, substance abuse and mental health problems, history, and treatment assessments were available in every court.

Of the elements not collected, the majority were pieces of information that could be characterized as more useful for reporting and evaluation purposes than for day-to-day assessment and management of the case. Clearly, however, people were willing to keep data that they used in their daily work, or that were required by another agency. For example, treatment providers were required by their primary funding agency, DHSS, to enter data into the AKAIMS system. Their staff entered data into the AKAIMS system, but those data often were not easily available to the therapeutic court team members.

The surveys and interviews highlighted the real need for a standardized, shared database. Even though members of the therapeutic court teams collected a wide variety of data, they had limited ways to retrieve it within their own projects. They also had difficulties sharing data among databases, and using their data to understand their projects.

#### **B. Who kept the data, and where?**

In any given therapeutic or other problem-solving court that had been functioning for more than a year,<sup>11</sup> data about a participant could be found in numerous places. Most of the data resided in paper files, including: court paper files (sometimes a public file and a separate judge's file), case coordinators'<sup>12</sup> files, project managers' files, treatment agency files, probation officers' files, attorneys' files, social worker and guardian ad litem files, support group files, electronic monitoring or house arrest files, hand-kept tally sheets or spreadsheets, and summary documents and reports.

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<sup>11</sup> Most staff people in the newer courts have not had a chance yet to develop documents or spreadsheets for reporting program management information. They had begun operations less than a year before this survey and were still working out the details of their programs. They rely primarily on court files, court or agency computer systems and personal files for most of their information.

<sup>12</sup> At the time this report was written, most of the case coordinators were ASAP probation officers. Dept. of Corrections probation officers also played a role in many of the therapeutic justice projects.



Some data were kept on computers, including the court computer files (either the RUG system or the new CourtView system, depending on the community), Excel spreadsheets, Access databases, and other agency databases.

- **Court case file.** All of the projects kept standard court-required data in the court case files. In-court clerks at every hearing, and other clerks maintained case files using the court system's standard procedures.
- **Individual participants' paper files.** In all of the projects, staff with responsibility for the case entered information about it manually into a paper file that was separate from the court system's paper file. To a large extent, staff entered the information that they thought useful, choosing their own words and abbreviations. They used a format that made sense to them but was not necessarily consistent with the format that the next case coordinator/ASAP probation officer or judge or agency staff person used. The data were recorded, but retrieving them, even for a single participant, was not easy. Retrieving enough of them to look for patterns among the cases was not feasible without substantial time and energy to devote to the task.
- **Individual projects' forms.** Some courts and agencies designed forms that they used for part of the information about their cases. For example, Bethel ASAP designed both an intake sheet and an exit interview form. Anchorage Wellness Court (misdemeanors) used several forms, including an intake form and a form (Hearing Record) that the judges completed at the time of each hearing. These forms stayed in the court or agency files. Data from them tended not be re-entered into a computerized system.
- **Court's computer systems.** The court system's own staff entered standard court information into either CourtView (used in Anchorage, Palmer and Fairbanks, with plans to install it in all courts) or RUG (the computerized database used by the court system in most court locations while it upgrades to CourtView statewide).
- **Individual projects' Word documents or Excel spreadsheets.** Several of the projects designed their own Word documents or spreadsheets to report how many participants were in their programs, what charges they faced, treatment progress, and other variables. Programs that used Word documents included the Mat-Su Recovery Center (a treatment provider for the Palmer CRP), Veterans' Court, and the Bethel Therapeutic Court. The Bethel ASAP probation officer also tracked recovery program and community work service in separate logs that he designed.

Some courts used Excel spreadsheets in addition to the written summaries and reports; others used only the spreadsheets. The Bethel Therapeutic Court produced several detailed reports

in Excel. The Palmer CRP tracked treatment history and current treatment status, health information, and some intake data in Excel spreadsheets. The Anchorage CRP tracked competency evaluations in a spreadsheet. The Juneau Therapeutic Court and the Anchorage Veterans Court both kept a dozen or more data items in Excel spreadsheets for periodic reporting. People who entered the data into these documents and spreadsheets included the project managers, case coordinators/ASAP probation officers, and treatment staff.

- **Individual projects' customized databases.** Three of the courts, Anchorage (misdemeanor) Wellness Court, Family Care Court and the Anchorage Mental Health Court (CRP) used customized databases that were adapted by outside agencies from a nationally-available therapeutic court database.<sup>13</sup> The Anchorage Wellness Court and the CRP share a data-entry position.
- **Other agencies' databases.** Many data elements that might go into a statewide therapeutic and problem-solving court database were recorded in other agencies' computerized databases. These included: AKAIMS (treatment providers: Mat-Su Recovery Center, Mat-Su Daybreak); ASAP database;<sup>14</sup> JAS database (DOC); probation officers' files (for felony participants, DOC); Division of Juvenile Justice (only used for past criminal history; primarily by ASAP and prosecutors); Municipality of Anchorage database; Veterans' Administration database (Veterans Court); Office of Children's Services database for Family Care Court (also, social workers' and guardians ad litem case files).

### C. How were the data used?

The courts and other agencies have used this wealth of data in a variety of ways. Some of the data have been used for reports on the courts, and for evaluations.<sup>15</sup> Courts and team members refer to individuals' files frequently for information about the participants' progress and needs. Project managers, judges, and court administration compile the data into reports that allow them to plan for program needs and development. Individual courts have often supplied data to the court system administration and other groups for periodic updates on the numbers of people in their programs, the demographic characteristics, and the number of graduates.

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<sup>13</sup> See Drug Court Management System 2000, *supra*, note 10. The Judicial Council adapted this database for the Anchorage CRP; the court system now maintains it. The UAA Justice Center has adapted the same database for use by the Anchorage Wellness Court and the Family Care Court.

<sup>14</sup> ASAP was designing a new statewide, web-based database at the time this was written. ASAP staff entered some data into existing ASAP computerized databases.

<sup>15</sup> See Appendix E for a list of available therapeutic court reports and evaluations.

Several groups have used data from the various data sources to make published reports on the programs. These have included:

- C&S Management Associates has prepared eight reports on the Department of Corrections Jail Alternative Services (JAS) program, including information about the Anchorage Coordinated Resource Program (Mental Health Court) in most of them.
- The University of Alaska Anchorage Justice Center has written several summaries of facts about the Anchorage Wellness Court (misdemeanors); Partners for Progress, Inc. also has prepared reports about the Anchorage Wellness Court (misdemeanors).
- The court system has used data about the therapeutic courts in its responses to the legislature's requests for information about performance measures in 2003 - 2005.
- The Alaska Judicial Council has used data about the Anchorage CRP, the Anchorage Felony DUI and Drug Courts, and the Bethel Therapeutic Court in outcome evaluations for each of these courts.<sup>16</sup>

#### **D. What data were not collected?**

Some data that seemed potentially important or useful were not collected. These included a number of variables that would be useful to evaluators, but were not immediately useful to people who worked in the therapeutic and problem-solving courts.<sup>17</sup> Given very limited time and resources for entering data and doing their other work, the project staff did not believe that the data were useful.<sup>18</sup>

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<sup>16</sup> The Judicial Council's reports are available at [www.ajc.state.ak.us](http://www.ajc.state.ak.us), under "Publications." The Judicial Council also is partnering with the UAA Justice Center and The Urban Institute on a four-year evaluation of the Anchorage (misdemeanor) Wellness Court, set for publication in September 2007.

<sup>17</sup> For example, project staff did not track several identification numbers that would help evaluators, such as the Arrest Tracking Number (ATN), and the Department of Corrections Offender Tracking Information System (OTIS) number. They also did not track the ASAP number (except, of course, for ASAP employees), and typically did not assign a unique number for each participant. Evaluation of the projects' outcomes requires data from other agencies; these identification numbers would help match the therapeutic project case to the other agencies' files.

Respondents to the survey also did not record the days in custody during the past two years; the number of days on bench warrant (although it may have been recorded in log notes sporadically); or the number of jail days served since last hearing, which was a variable tracked by some other therapeutic courts as a measure of the participants' progress or problems. These variables, again, would often be more useful to evaluators or to project staff reporting on participants' progress in the program, than for day-to-day case management.

<sup>18</sup> Some of the data elements listed on the survey included information that tracked case coordinators' and probation officers' contacts with the participants. No-one interviewed or surveyed believed that these data should be in a database.

Some data were kept by the treatment programs, but judges and others believed that treatment data in court files should be limited to avoid problems with confidentiality and ex parte restrictions. Some said that they did not use the information for making their decisions. If this information was discussed orally at court hearings, someone might have recorded it in the log notes or hearing record, or the case coordinator/ASAP probation officer might have noted it in the paper case file.

Other information, such as juvenile adjudications, simply seemed unavailable to judges, and was information that they did not expect to use in decision-making.<sup>19</sup> For the most part, it was information that they did not have when making decisions in non-therapeutic court cases either.

Most of the projects collected very little information about the status of participants at the end of their time in the court. Variables such as the participants' improvements in jobs, education, family relationships and other domains of life were not compiled by any of the programs. Some staff noted that no-one had left their programs yet, and they had not had an opportunity to develop this information. Most projects that had already had people leave the program through opt-out, discharge, or completing the program did not see the data as simple to collect, or as useful.

## **E. Complexities of data entry, and barriers**

Respondents to the surveys and interviews gave many diverse reasons why data were not entered into a database or used in their projects. The three most important reasons were confidentiality or ex parte issues, lack of resources, and lack of a day-to-day need for the information. Other barriers to data entry were multiple ways of defining and recording data, and in some instances a belief that it was better to continue with manual records of events.

### **1. Legal and constitutional issues**

#### **a) Ex parte issues: ethical considerations for judges and court staff**

The commentary to Canon 3.B.(7) of the American Bar Association's Model Code of Judicial Conduct, 1998 Edition, says,<sup>20</sup> "[T]he judge should not initiate any extra-judicial factual

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<sup>19</sup> Juvenile adjudications were kept by the Department of Health and Social Services, Division of Juvenile Justice. Apparently they were typically not easily available to most judges in most types of proceedings in part, apparently, because of confidentiality issues. If the DOC probation officer prepared a pre-sentence report in a felony conviction, the information was more likely to be available.

<sup>20</sup> Hon. Karen Freeman-Wilson, "Ethical Considerations for Judges and Attorneys in Drug Court," May 2001. Available from the National Drug Court Institute, <http://www.ndci.org/publications/ethicalconsiderations.pdf>, February 14, 2006. Cited from "American Bar Association's Model Code of Judicial Conduct (the "Canons"), 1998 Edition, Standing Committee on Ethics and Professional Responsibility and Judicial Code Subcommittee, American

inquiries, should not initiate legal inquiries without the consent of all parties, and should immediately report all unsolicited ex parte contacts to all parties.”<sup>21</sup> The Alaska Code of Judicial Conduct, Canon 3, Section B(7), is phrased slightly differently: “A judge shall not initiate, permit, or consider ex parte communications or other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except as allowed by this Section.”<sup>22</sup>

Another provision of the Alaska code, Canon 3 B(12) states: “ ‘Without prior notice to the parties and an opportunity to respond, a judge shall not engage in independent ex parte investigation of the facts of a case.’ This section identifies the two components that the Code requires for the judge to bring facts that the judge discovers into a case: first, prior notice to the parties and second, an opportunity to respond. The procedure for avoiding improper ex parte consideration of data would be notice by the judge to the parties (either in an agreement up front or explicitly during the process) of the intended data to be used and, second, an opportunity for the parties to request that the data not be used, or used under certain conditions.”<sup>23</sup>

One possible approach to resolving the ex parte issues is to leave data in other agencies’ databases. In Alaska, appropriate agreements and technical arrangements could allow a court database to be tied to other agencies’ databases. Access to needed clinical data could be possible through the AKAIMS database. Access to other necessary clinical and some criminal justice data

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Bar Association, 1998.”

<sup>21</sup> *Id.*, at 10.

<sup>22</sup> *Alaska Code and Commentary* (<http://www.ajc.state.ak.us/conduct.htm>, 2/15/06), Canon 3, section 7: (7) *A judge shall accord to every person the right to be heard according to law.\* A judge shall not initiate, permit, or consider ex parte communications or other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except as allowed by this Section. A judge shall make reasonable efforts to see that law clerks and other court staff carrying out similar functions under the judge's supervision do not violate the provisions of this Section.*

*(a) A judge may initiate or consider an ex parte communication when expressly authorized by law\* to do so.*

*(b) When circumstances require, a judge may engage in ex parte communications for scheduling or other administrative purposes, provided that:*

The first sentence of Section 3B(7) (“A judge shall accord to every person the right to be heard according to law.”) is not intended to expand or alter the law of standing (a person's right to bring an action), nor is it intended to expand or alter the procedural rules governing the scope and manner of a person's right to be heard in a case.

Judges should endeavor to create some form of record of ex parte communications whenever possible, even when the communications are authorized under this Section.

<sup>23</sup> Additional information and commentary from Marla Greenstein, Executive Director, Alaska Commission on Judicial Conduct, email 8/30/06.

could be possible through the ASAP database. Access to participant's prior criminal histories could be available through the Department of Public Safety's APSIN system. However, even if these data are not in the court system's database, and therefore not under its control, the issues of ex parte viewing by the judge and court staff remain.

The Alaska Canon appears to prohibit the judge and court staff from looking at most of the information about an individual participant in other agencies' databases without the participant's consent. However, the case coordinator/probation officer, treatment personnel, ASAP personnel, and other non-judicial team members could use other agencies' databases with appropriate authorization, without ethical problems.

In addition, the court can put the information into its proposed database. Because the linkages with other agencies are some years away, the court may prefer this solution. If the court chooses this approach, sections of the database can be protected with passwords so that judges and other court staff do not automatically have access.

The ex parte issues exist independently of the proposed or existing databases, and the court system and judges have relied on their previously developed solutions for them. The first step has been to draw clear lines between branches of government. Thus, most of the case coordinators/probation officers now (or soon will) work for ASAP as probation officers (except Anchorage Muni Wellness Court and Juneau case coordinators), an executive branch agency housed in the Department of Health and Social Services. Others filling a similar role, such as the social workers in the Family Care Court, Veterans' Administration staff in the Veterans Court, and JAS staff in the CRP courts are also employed by non-court agencies.

The second solution for judges and court staff is to avoid receiving or initiating requests for certain types of information. One judge said,

We don't have any personal data in the court file because it's [the court file] open. The case coordinator [probation officer] has waivers from clients to discuss information in open court. It's the case coordinator's job to keep track of everything and it's just as easy to ask what's going on in open court. I don't need all that information - just a paragraph or two on each defendant.<sup>24</sup> . . .

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<sup>24</sup> Each of the quotes is from an interview or survey.

“I don’t need information [about prior offenses] to shape a sentence; I need information about what to do now with the defendant. The DA uses the information about prior criminal history to make a decision about eligibility, . . . he can give me the information.”

“Treatment providers come in and speak every week. There’s nothing on paper to me, except from the case coordinator, . . . [and] I destroy those reports.”

The court employs the Project Managers. Several of these Project Managers are entering data and doing other Case Coordinator/Manager tasks that present potential conflicts of interest for them because of the ex parte issues. Entry of some types of data by Project Managers may be ethical, while entry of other types of data (such as confidential treatment information) could present ethical issues.

#### **b) Confidentiality issues**

A second barrier to data entry was confidentiality of participants’ records. Confidentiality issues appeared in two areas. First, judges and therapeutic and problem-solving court staff interviewed for this project believed that information in court case files could be subpoenaed. They were concerned that some of the information that could be subpoenaed would be detrimental to participants and to the therapeutic process. As a result, they did not want those data to be in a court-controlled database or in court files.

Second, most respondents noted concerns with HIPAA,<sup>25</sup> and other federal statutes and regulations that govern confidentiality of patient records. HIPAA protects medical records in general, while the CFR statute and regulations protect the privacy of clients in federally-funded alcohol and drug programs. Both allow treatment program clients to waive their rights under specified circumstances, and both permit treatment data to be used for research and evaluation with the appropriate safeguards. Although waivers are signed by participants at the beginning of most of the therapeutic court programs, those surveyed and interviewed did not refer to them as being important in any part of the process. This could have been because they took them for granted (and we did not ask about them specifically), or it could have been because the courts limited their own access to confidential information, making the waivers largely moot.

The projects often solved these problems by limiting the information that came to the court’s attention. Most of the judges said that they relied on summary reports about treatment progress, often verbal, at court hearings. Depending on the project, the reports came from social workers

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<sup>25</sup> The Health Insurance Portability and Accountability Act of 1996 (effective April 14, 2003), and 42 U.S.C. § 290dd-2 (2000); 42 C.F.R. § 2.20 (2001).

(Family Care Court), treatment providers, JAS or ASAP staff (the CRPs), or the Veterans Administration representative. Non-court agencies employed all of the staff who made reports at the hearings.

If the verbal reports were accompanied by written summaries or materials, some judges did not keep them, or left them with the case coordinators/probation officers. The Veterans Court and the Family Care Court had weekly brief written reports on participants, about one paragraph each. The Wellness Court had a one-page “Hearing Record” that the judge completed during each hearing that included much of the summary information.

Most of the judges and staff said that the treatment programs had better protection for the treatment data in the agencies’ own databases or files. Most believed that the detailed information about participant assessments and evaluations, and treatment assignments and progress should not be in the court’s proposed database. However, if it is in the court system’s database, as a temporary or permanent situation, the court can limit access by using passwords for appropriate persons.

Other jurisdictions have resolved these issues by leaving the data in the other agencies’ databases, and providing limited read-only access to appropriate therapeutic court staff. Some have created systems that allow each person reading the database to make notes in a designated field, again with limited access. An easily accessible example is the Harlem Juvenile Intervention Court database, which links the court with other team members. Access to the database and to individual parts of it is controlled, so that much of the clinical information is available only to specified treatment providers, but not to other team members.

As discussed under *ex parte* issues, the court may choose to enter some of the confidential information into its own database. If this path is chosen, the court should keep in mind the need for participants’ waivers of confidentiality (as appropriate), and the need for protected access to fields in the database that include confidential information.

## **2. Resource issues**

Many of the barriers to data entry in the existing therapeutic court projects arose from lack of resources. Entering data required trained staff with sufficient time to use data entry programs. It required databases or spreadsheets into which data could be entered. Three projects (Anchorage (misdemeanor) Wellness Court, Family Care Court and Anchorage CRP) had databases into which they could enter data. A few others had spreadsheets or word-processing documents that they used to store and report data. Even if the projects had a place to enter data, staff time and training needed for good data entry were extremely limited.



This led directly to one of the most important barriers to data entry. Many of the people interviewed and surveyed said that they did not collect particular data items because they did not need them. They did not use them in their day to day work, and they were not asked for them for periodic reports. A related barrier was that staff people believed that it was not their personal job to enter data, or that the data were better kept in paper files (for reasons of efficiency, security, and so forth).

For example, data about prior criminal history were not kept by the therapeutic court projects. These data were available from the prosecutor if needed, but for the most part, project staff said that it was the prosecutor who used the data to make decisions about eligibility. Because the prosecutor made the decision, the project staff did not see a need to record the prior criminal history data. Also, they believed that entering data in their own files or spreadsheets would duplicate data that already were entered in another database. If they needed the data, they could gain access to it through another method, and they did not see the usefulness of keeping it in their own database.

Another point raised by several people contacted was that technology gaps between the urban and rural areas of the state made use of existing databases difficult. For example, DHSS employees using AKAIMS<sup>26</sup> noted that the database was slow to respond in rural areas because of less-advanced technology available in those areas. Other people also noted the sizable technology gaps between urban and rural areas that sometimes prevented data entry and transmission.

### **3. Multiple approaches to data choices and entry**

Most of the projects developed independently of the others, and evolved their own means of keeping track of information about participants and the project. Definitions, terminology, choices about what data were important and every other aspect of the projects were individualized to suit the needs of staff. As a result, it can be difficult to compare data available from one project with that from another project. An example of these difficulties is the wording used for finishing the program. Some programs use the word, “graduation.” Some prefer to say “commencement.” “Completion” or “discharge” also might be acceptable. People feel strongly about their preferences, believing that the choice of words affected how people viewed the program. These differences can present a barrier to sharing data.

A related problem is that even when staff members at one level of operations agree on a data field and the definitions for each possible data entry, staff actually entering the data may not enter

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<sup>26</sup> AKAIMS is a Dept. of Health and Social Services database used by treatment providers throughout the state to store information about individual clients, including therapeutic court participants. In the long run, it could be a data source to which the court and other agencies involved with therapeutic justice might want to link.

the data consistently from one project to the next, or within the project. An example is the formal “opt-in” date, which varies from project to project.<sup>27</sup> One project may decide that the opt-in date is the date when the Rule 11 plea is entered. One staff person may use the date written on the Rule 11 agreement; another may use the date of the hearing in court when the plea is discussed and formally entered. Working definitions of the “opt-in” date also may change over time, without the database or spreadsheet being changed to reflect the new meanings.

Another barrier to data entry is the design of existing data entry programs. Data entered into an Access database (Anchorage CRP, Family Care Court and Anchorage (misdemeanor) Wellness Court) or an Excel spreadsheet (Bethel, Palmer CRP, Juneau Therapeutic Court, Family Care Court, and Veterans’ Court) can be shared, and combined (assuming the data elements were defined in the same way). However, any data that are entered as text, in “Notes” fields in spreadsheets and databases, or in word-processing documents cannot be easily compared in a database or spreadsheet.

In addition, many existing programs do not have places to put specific data elements. The Excel spreadsheets are very helpful to project staff and others when focusing on specific questions or regular reports about particular topics – enrollment, retention rates, graduation or commencement rates and so forth. However, the spreadsheets are very particularized, so that if a project has not yet had any graduates, the spreadsheet is not likely to have a place to enter the information about graduation.

A problem for those using data is that it is entered at different times in different projects. Some projects enter data at the time of intake, or the hearing in question. Others enter information periodically, when time is available. As a result, data may be more current in one program than another. People using the database for reports should be aware of the possible differences in time frames, and consider them when comparing data for different programs.

A fourth problem with data entry is that needs for data change. A project may have been recording data about the number of hearings in which an incentive was given, but the question from the program administrators or legislature this week is about the length of time between each hearing. The staff who enter data must find (or have someone design) a place for entering these data, then return to the original case files and enter the new data requested. The changing nature of data requests is not compatible with regular, stable data entry.

Another barrier to consistent data entry is that projects may take their data from different sources. One project may use self-report by the participant for information about ethnicity. Another

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<sup>27</sup> Some projects have both “initial” or “informal” opt-in dates and “formal” opt-in dates. Both dates should be recorded.

may use the Department of Public Safety definition of ethnicity, and a third may take the information from a Department of Corrections database. In the Council's experience, many conflicts arise among these different sources of information, leading to the need to resolve the discrepancies.

## **Part III: The Proposed Therapeutic Justice Database**

### **A. Parameters for the database**

Part I.B. of this report discussed briefly the court's needs for the therapeutic courts database. The court set out consistency in data collection, single point of entry for all data, program management needs, information about events during the programs, individualized data for particular courts, and the ability to evaluate the projects' processes and outcomes as its primary interests. This introduction to the proposed database briefly addresses some of the issues that arose in the process of preparing the report.

#### **1. Consistency in data collection**

The existing programs collect a great variety of data that is stored in numerous locations. The proposed database is intended to be used by all therapeutic projects throughout the state. New projects should be able to tap into the database with little difficulty. As the court is finding with its implementation of CourtView, individual court locations may need to adapt their procedures to accommodate the standardized fields for data definition and entry. In proposing the data elements and definitions in this report, the Council has tried to build on existing practices to minimize the difficulties of transition. Because many of the data elements are new to most of the projects, training programs can help assure that everyone learns the new procedures in the same way, reducing some of the possible confusion.

#### **2. Single point of entry for all data**

The court plans to avoid any re-entry of a particular piece of data. The ultimate goal is a statewide, web-based system in which once the defendant/participant's ethnicity, for example, is entered in any agency's database, it does not need to be re-entered. Interviews with technological specialists suggested that, while the goal is feasible in the long run, in the short run, data from other agencies may need to be re-entered into the therapeutic court database. However, once the data are entered into the court's own database, they should not need to be re-entered again for any reason.

The reason that a single point of entry is not immediately feasible is that the bridges between the court's database and the agency databases have to be built one by one. In the long run, the court would have links from its database to the Department of Corrections, the Department of Public Safety, the Department of Health and Human Services (ASAP and the Office of Children's Services), and the Municipal Prosecutors' offices. Data entered in one agency's database could

automatically populate the court's database via these bridges. This linkage will require that the agencies enter their data in standardized ways, or have translators/converters that can make the shared data fields compatible with each other.

In addition, participants' attorneys, probation officers, treatment personnel, and others could have limited read-only access to relevant data about the participants and their cases. It also may be possible for funding agencies and evaluators to have more direct access to therapeutic court data in formats that respect the confidentiality provisions of each participant. Again, these links require further work on the part of each agency and the court, with some interviewees estimating ten or more years before a substantially shared system becomes a reality.

### **3. Information about events during the program**

This proposed database is designed with several components - the basic elements (Table 1), additional information about the participant that could or must come from other agencies at intake (Table 2), data for case management (Form1, Case Management Form), and data specific to therapeutic courts (Table 3). At present, information about events during the program used by staff for case management often resides in the case coordinator's or probation officer's paper file. A "Hearing Record" form is completed for hearings in the Anchorage Wellness Court (misdemeanors) and filed in the court's standard case file. Some projects track specific items of information (e.g., what phases participants are in, substance abuse testing) in Word or Excel documents. There is little consistency in either the information tracked, or the method of tracking.

While the information about participants that the projects collect at the beginning of the program can be relatively easily recorded and re-entered if needed in a central location, information about how the case is managed on a daily or weekly basis can only be realistically collected and entered by staff in each individual program. This could potentially require substantial training and auditing to be certain that each project understands how and when to enter the data so that they are consistent with all other projects. The process of data entry also needs coordination if administrative staff are to use the data for periodic reports on the status of all of the therapeutic courts.

The proposed Case Management form in this report is designed to be used (if desired) as a paper form at each hearing, at least in the short run. The staff entering data could either record the data by hand at the hearing and later transfer it to the database, or could enter it directly into the database at the hearing. The method used will depend on the preferences and training of the staff for each project.

The hearing record includes information about substance abuse monitoring results since the most recent hearing, the participant's employment and housing, cognitive behavioral program status,

other judge or staff notes, and the next court date. Information for individual courts is specified. A major focus of the form is on recording incentives and sanctions. These are considered a critical component of the therapeutic court process, and the court would like to track their use in some detail.

#### **4. Individualized data for each program**

These data are found in different locations, depending on when they would be collected. For example, the data collected at intake for CRP courts (mental health courts) could include some information about Alaska Psychiatric Institute hospitalizations, specialized mental health diagnoses from the formal treatment plan,<sup>28</sup> and previous competency exam outcomes. For the Family Care Court, a separate set of variables would include detailed information about the child(ren) involved, the legal status of the CINA proceedings, and other appropriate variables.

The Case Management Form includes specialized information for each of the three types of courts, the addiction courts, the family care court, and the mental health courts that should be collected and entered regularly as part of case management. The variables on the Therapeutic Courts Only table include other information that is only needed for one type of program, such as outcomes specific to the court (e.g., return of child(ren) to parents, as an outcome for the Family Care Court).

#### **5. Process evaluation and outcome measures**

Other documents cover the theories and practices used to evaluate therapeutic courts in great detail.<sup>29</sup> The points mentioned in this section emphasize evaluation needs that the court should address in its database design. These needs include both process evaluation and outcome evaluation.

Process evaluations look at on-going projects to determine how many participants are enrolled, the points at which participants are leaving (or being discharged from) the projects, the frequency with which incentives and sanctions are being used in the different projects, and other information helpful for program management. The information from process evaluation also can be used for periodic reports to the court administration, legislature, funding organizations and other interested groups. Process evaluations do not need rigorous statistical tests to establish validity. Information from process evaluations also can be used as part of an outcome evaluation.

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<sup>28</sup> Based on the currently-used DSM-IV system of diagnosing mental illnesses and conditions.

<sup>29</sup> See Appendix A.

Outcome evaluations rely on several procedures for statistical validity and reliability.

- An outcome evaluation must have a sufficient number of participants to statistically distinguish among them. Most experts prefer at least one hundred participants, but some statistical techniques can work with fewer.
- A reliable outcome evaluation must have a comparison group. Ideally, defendants would be assigned randomly to a therapeutic court or the traditional process. Alaska attorneys and others have agreed that this would be inappropriate in Alaska because of equal protection considerations. As a result, Alaska evaluations have used a combination of other methods.

Participants are used as their own comparison. Evaluators collect information about the participants' past criminal history, past days of incarceration and other recidivism measures, often for a defined period (e.g., two years) before the participants' entry into the therapeutic court program. Data from the same participant during the two years after the program (or same period after the participant starts the program) are compared to the prior history to see if there are significant changes that could be attributed to the therapeutic program.

A second method is comparison of the therapeutic project participants with defendants in the traditional court program who have been matched on important variables such as age, gender, ethnicity, prior criminal history, addiction or other problems, and current offense. Although this is not as desirable as random selection, many rigorous evaluations use it as an acceptable substitute. Whichever technique is used (preferably both self-comparison and comparison with matched defendants), a valid evaluation requires comparison groups.

Data should be reported for participants who participate for a period but then are discharged for whatever reason. Data for this group can give project administrators and the court valuable information about who is best suited to the program or about the timing of dropouts or failures. Another reason to compile these data is that some research shows that defendants who participate in the program, even if they leave before completion, show significant improvement over the comparison groups who did not participate in the program. Finally, some researchers believe that the only valid way to measure the success of the program is to include all participants in the analysis, not just those who completed the program successfully.

- Outcome measures can be quantitative or qualitative. The most commonly used quantitative measure is recidivism, whether new arrests, new remands to custody, or new convictions.

More specialized measures are days of incarceration or days of hospitalization at API after the program (compared to the participants' days before, or compared to the comparison groups' days). Quantitative measures must be objective measures that any other researcher would be able to replicate. For the quantitative measures, widely-used statistical techniques should be applied to the data to show whether differences among groups are statistically significant. Data that are not statistically significant may help in understanding the programs, but should always be accompanied by appropriate caveats.

Qualitative measures are not subjectively decided, but often are less easily measurable. Examples of commonly used qualitative measures are improvements in the participants' situations between intake and the end of their participation in the program. Because the goals of therapeutic courts include assuring that participants are habilitated or rehabilitated by the end of the program, qualitative measures include improvements in life domains such as housing, education, employment status, family relationships, and financial responsibility. Other qualitative measures include drug-free babies, and return of children to parents (or other permanent resolution for the children).

One measure that many programs would like to use is freedom from substance abuse. While the participant is in the program, regular testing for substance use can assure that this goal is being met. Once out of the program, measurement of substance use is far more difficult. Thus measures like "days of sobriety" may be valid during the program, but not reliable after program completion.

The projects or evaluator may wish to make separate arrangements for developing data for a comparison group, but the data should be collected and stored using the same parameters as those for the therapeutic court participants.<sup>30</sup> Because the group should match the demographic characteristics of the therapeutic court participants as closely as possible, this choice of comparison defendants should perhaps be postponed until the preliminary demographic data about the participants can be accumulated.

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<sup>30</sup> The comparison group defendants should have accurate data, at the same level of detail, as that collected for the therapeutic court participants for the variables on which the groups are matched. These include prior criminal history, age, gender, ethnicity, location, current offense and (if possible) indications of substance abuse problems (or mental health issues, as appropriate). Most of the other information compiled about therapeutic court participants at intake and throughout the programs will not be available for the comparison groups. However, comparison defendants should have accurate end-of-case information about dispositions, charge(s) convicted and sentences.



## **B. Proposed Data Elements for Alaska Courts**

### **1. Basic variables for program reporting**

Most of variables in Table 1 below are in the court case file, but should be transferred to any therapeutic project database. At least two of them, the reasons for admission to the program and reasons for departure from the program, do not seem to be kept consistently by any program in any location. This list of data elements permits program staff to make periodic reports about each therapeutic court program, and to view data from all of the programs together. Court and program staff will be able to:

- State the number of participants in their program;
- Identify the number of participants of different ages;
- Show the location of the case (prefix to court case number);
- Show the reasons why participants were in the program (e.g., substance (alcohol or drug) abuse, mental health issues – the list of reasons can be more or less detailed depending on the wishes of those using the database);
- Show how long each participant was in the program, or has been in the program (along with the average time in program for those who left);
- Show the reasons why the participants left the program.

With the addition of limited data about subsequent re-offenses or re-admission to the Department of Corrections, program staff also could use this basic information for outcome evaluations that show the effectiveness of the programs, and could show relationships among reasons for program entry/exit, age and other variables, and likelihood of continued reduction in criminal behavior after the program.

**Table 1: Basic data elements for all projects**

<b>Name of Element</b>	<b>Values</b>	<b>Agencies with this Information</b>	<b>Uses of Information</b>
<b>Identification Information</b>			
<b>1. Name</b>			
	Last, first, middle	Court, computer	Identification, matching other databases
<b>2. Date of birth</b>			
	Day, month, 4-digit year	Court, paper	Identification, matching other databases, calculation of age for evaluation
<b>3. ID numbers</b>			
	Social Security, Drivers License, State ID	Court, paper	Identification, matching other databases
<b>Court and Program Admission Information</b>			
<b>4. Court case number</b>			
	All letters and digits	Court, computer	Program reporting, case decisions, management. Location of case for evaluation
<b>5. Date of admission or non-admit to Program</b>			
	Day, month, 4-digit year	Court, paper	Program reporting, Evaluation
<b>6. Reasons for admission to program (can use more than one)</b>			
	Substance abuse, mental health problem, CINA	Court, paper	Program reporting, Comparison with other programs, evaluation
<b>7. Reason for non-admission to program</b>			
	Def. decided not to join, DA said not eligible, treatment program said no, judge said no, other	Not currently kept	Program reporting, Evaluation, comparison groups
<b>8. Rule 11 date (or conviction date)</b>			
	Day, month, 4-digit year	Court, paper	Evaluation
<b>Commencement, Graduation, Opt-out, Discharge Information (end of case information)</b>			
<b>9. Date of program end</b>			
	Day, month, 4-digit year	Court, paper	Program reporting, evaluation
<b>10. Reason for program end</b>			
	Opt-out, discharged, commenced or graduated or completed program, other	Not kept routinely	Program reporting, evaluation

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## **2. Other data elements at intake**

These data elements often are not kept in court files or on the court's computer. Project staff must collect them from other data sources. In the long run, it may be possible to pull them into the court system database from another agency's database. In the short run, project staff will need to enter each piece of data for each individual participant. The court staff will need to come to agreements with individual projects about the definitions for each variable. For example, every

project entering data into the database will have to use the same definition of ethnicity. As noted on the table, at least two different sets of definitions are widely used (Office of Management and Budget, and Department of Public Safety). Similarly, definitions of employment status, prior criminal history and each of the other variables will have to be agreed upon.

**Table 2: Other data elements at intake**

<b>Name of Element</b>	<b>Values</b>	<b>Agencies with this Information</b>	<b>Uses of Information</b>
<b>11. Sex</b>			
	Male, Female	DOC, DPS, ASAP, Treatment	Program reports, evaluation
<b>12. Ethnicity</b>			
	Am Ind/AK Native, Asian, Black, White, Hawaii or Pacific Islander. Ethnicity, Hispanic/Latino or Hisp./non-Latino (OMB) OR can use DPS categories	DOC, DPS, ASAP, Treatment	Program reports, evaluation
<b>13. Marital status</b>			
	Single, Married, Divorced, Other	ASAP, Treatment Self-report, JAS	Program reports, evaluation
<b>14. Primary language</b>			
	AK Native, Spanish, Russian, Other	Self-report AKAIMS? ASAP?	Provide services as needed
<b>15. Current Housing Type</b>			
	Temporary, Permanent, Oxford House, Other	Self-report	Provide services, evaluation
<b>16. Location of Housing</b>			
	Oxford House, Transitional, Section B, Public housing, ALF, Homeless, Institution, Other	Self-report	Provide services, evaluation
<b>17. Education Status</b>			
	Some high school; GED; graduate; some voc. training; military; some college; college graduate. Other (specify) (can be more than one)	Self-report	Provide services, evaluation
<b>18. Employment or other status</b>			
	Employed, Homemaker, Student, Disabled, Military, Unemployed, Other.	ASAP, Treatment provider, JAS	Provide services as needed, evaluation
<b>19. Income Source</b>			
	Wages/salary; scholarships; disability, social security or other non-welfare; welfare; other (specify).	Self-report	Provide services, evaluation
<b>20. Income amount (per month?)</b>			
	Continuous variable, in dollars	?ASAP? Self-report	Referrals for services, evaluation
<b>21. Source of funding for treatment services</b>			
	Veterans Admin., Indian Health, Private Insurance, Contract with DBH, Contract with court, Other.	?	Case management (could be used for evaluation)
<b>22. Family relationships</b>			
	More discussion needed	Self-report	Provide services, evaluation

Name of Element	Values	Agencies with this Information	Uses of Information
<b>23. Interpersonal relationships</b>			
	More discussion needed	Self-report	Provide services, evaluation
<b>24. Custody of children</b>			
	Not applicable; does not have custody; has custody of one or more children.	Self-report, OCS	Case management, evaluation
<b>25. Prior criminal history</b>			
	Level of detail to be decided - this could be a summary variable, or several variables. The court will decide whether to count charges or cases, and whether to use data from juvenile events, other states, etc.	APSIN (direct or via ASAP)	Evaluation
<b>26. Number of prior substance abuse (including alcohol) related offenses</b>			
	None, 1, 2, 3, etc., plus notes field for more detail if needed	Self-report, APSIN or ASAP, maybe treatment	Case management, evaluation
<b>27. Current Probation or parole status</b>			
	No supervision, on probation, on parole, not applicable (e.g., Family Care Court)	DOC, ASAP	Case coordination and management
<b>28. Current Electronic Monitor, HAP status</b>			
	Not on either, Not applicable, on HAP, on EM. If yes, notes?	DOC	Case coordination and management, evaluation
<b>29. History of DV (civil and criminal)</b>			
	Court will decide what to include in this variable.	court computer	Evaluation
<b>30. Current DV or other restraining order</b>			
	No/yes. If yes, notes field for details	court computer	Case coordination and management
<b>31. History of CINA involvement</b>			
	For all but FCC, this would be a summary variable. Separate set of variables for FCC*	court, OCS.	Case decisions, evaluation
	*Family Care Court Variables could include: Number of children involved in the case; Names and dates of birth for each; Special needs of child(ren) in CINA case; Number of prior terminations of parental rights; Number of prior CINA cases involving these children; Number of prior CINA cases involving other children; Outcomes of prior cases; Date of CINA case that brought parent to FCC; Phase of CINA case when admitted to FCC; ICWA status; Permanency planning deadlines (dates) in current case(s); Children's housing/residency/custody status;		
<b>32. ICWA case?</b>			
	No. Yes. If yes, name of tribe(s)	court, OCS	Case decisions, evaluation
<b>33. Current CINA cases?</b>			
	No. If yes, but not FCC, limited info. If yes and FCC, detail	court, OCS	Case decisions, evaluation
<b>34. History of competency rulings</b>			
	N of prior competency decisions;	court	Case decisions

Name of Element	Values	Agencies with this Information	Uses of Information
<b>35. History of civil commitments</b>			
	N of prior civil commitments	court	Case decisions
<b>36. History of alcohol problems</b>			
	Structure of variable needs further discussion	Treatment assessment, self-report	Treatment decisions, case management, evaluation
<b>37. Family history of alcoholism</b>			
	None. If yes, notes field	Self-report, treatment	Treatment decisions, evaluation
<b>38. History of other substance abuse</b>			
	Structure of variable needs further discussion	Treatment, self-report	Treatment decisions, case management, evaluation
<b>39. History of FASD/FAE</b>			
	None. Yes: minor, moderate, severe	Treatment, professional evaluations	Treatment decisions, case management, evaluation
<b>40. History of mental health problems</b>			
	For CRPs, more detail. For others, no/yes: minor, moderate, severe	Treatment	Treatment decisions, case management, evaluation
<b>41. Number of API days associated with this participant in two years before [intake? Opt-in?]</b>			
	None. If some, record number	Treatment	Case management, evaluation
<b>42. History of chronic health problems that could affect program participation</b>			
	None. Yes (specify) (e.g., diabetes, HIV/AIDS, TB, other chronic conditions)	Treatment	Treatment decisions, case management, evaluation

### 3. Variables specific to therapeutic and problem-solving courts

The Case Management Form and Table 3 describe the variables that are specific to therapeutic and problem-solving courts. These include information about items such as adjunctive medications, cognitive behavioral programs, and program phases, that are generally not used outside of therapeutic courts, and would not be in either the court's usual records or any other agency's records. The section includes a draft "Case Management Form" that is intended to be used as a case management tool and as a record of incentives and sanctions. Finally, the section includes information about the participant's status at the end of a program whether the participant left before completion or completed the program, and about post-program recidivism.

#### a) Adjunctive medications

Adjunctive medications reduce cravings for alcohol, allowing those using them to focus on establishing new behaviors that will aid sobriety in the longer run. The programs that use adjunctive medications typically have them prescribed for a few months. Participants using them are followed by a physician and program staff. The database should include information about participants who use them. The notes field provided can contain information about the specific medication prescribed and the length of use, as well as the monitoring of medication use.

#### b) Cognitive Behavioral Programs

Some programs use cognitive behavioral programs<sup>31</sup> in addition to treatment programs, groups, and other interventions. The cognitive behavioral programs focus on making participants aware of their thinking patterns related to their addictions, and on developing ways of avoiding or responding to situations that could trigger inappropriate behavior. The most commonly used version at this time is "Moral Reconciliation Therapy,"<sup>32</sup> although many other approaches are available. The database should record use of any of these, with information in the notes field about the specific technique.

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<sup>31</sup> A recent publication, *Drug Courts. The Second Decade*, *supra* note 9, page 16, describes cognitive behavioral therapy techniques (CBT). "CBT requires participants to recognize and examine the role played by thoughts and emotions in perpetuating addictive behavior and [to] take control of internal processes by learning new social, emotional, and cognitive skills. . . . CBT [is] considered to be one of the most effective approaches to substance abuse treatment . . ."

<sup>32</sup> This technique is copyrighted by Dr. Kenneth Robinson. It was developed in 1985 by Dr. Greg Little and Dr. Robinson. See <http://www.moral-reconciliation-therapy.com/>, last visited July 6, 2006.

### **c) Program Phases**

Some programs divide their work with participants into phases. Others, such as the CRP (Mental Health Courts) find the division inappropriate to their clientele. If the program uses phases, the database should note that fact.

### **d) Case Management; Incentives and Sanctions**

In the traditional court process, once the defendant has entered a plea (or been convicted at trial) and the judge has imposed sentence, the case is closed. The court has no further contact with the defendant. In the typical therapeutic or problem-solving court process, the defendant enters a guilty plea with a Rule 11 agreement<sup>33</sup> and then is monitored by the court, with the assistance of the project staff and team members. Therapeutic courts use different means to track events during this program.

The Case Management Form focuses in part on tracking incentives and sanctions, which are discussed in more detail below. A Key Component of the therapeutic court philosophy and operation is built on the premise of prompt and well-defined incentives and sanctions for participants.<sup>34</sup> To the extent possible, it is important to measure how these are used in individual courts. The reasons for tracking incentives and sanctions include:

- To monitor progress in an individual participant's case;
- To determine the balance in an individual court between incentives used and sanctions imposed, in terms of the overall frequency of use, and the balances between intensity of incentives and intensity of sanctions;
- To evaluate how incentives and sanctions are used in therapeutic courts in general; and
- To see whether use of incentives and sanctions is significantly associated with success in the programs and with participant characteristics.

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<sup>33</sup> Alaska Criminal Rule 11(e) governs the entry of guilty pleas and plea agreements.

<sup>34</sup> "Defining Drug Courts: The Key Components," Bureau of Justice Assistance, January 1997, republished October 2004. Page 13, Key Component #6: "A coordinated strategy governs drug court responses to participants' compliance" – "Drug courts impose appropriate responses for continuing AOD [alcohol and other drug] use. . . . Responses increase in severity for continued failure to abstain. . . . Drug courts must reward compliance as well as respond to non-compliance." Also, Key Component #7: "On-going judicial interaction with each drug court participant is essential." Performance Benchmark #2: "The court applies appropriate incentives and sanctions to match the participant's treatment progress." See also, Huddleston, Freeman-Wilson, and Boone, *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*, May 2004, page 5.

To frame this discussion, Council staff reviewed national literature about therapeutic courts, standards for evaluation of therapeutic courts, national guidelines for databases, and databases from other jurisdictions. The Council also drew on its surveys and interviews, and included information from a judge-sponsored discussion of incentives and sanctions that occurred on April 28, 2006 at the spring judicial conference in Anchorage.

A draft set of guidelines for evaluating therapeutic courts<sup>35</sup> asserted that therapeutic courts were “premised on a behavioral model.”<sup>36</sup> The model relied on rewards and punishments, or incentives and sanctions, to achieve the results. The draft guidelines suggested that the court should be able to track the client’s action, the court’s action, and the timing of each (because the usefulness of incentives and sanctions theoretically depended on having the court action follow soon after the client’s action).

A 2005 paper<sup>37</sup> about participants’ views of therapeutic courts emphasized the importance to participants of having incentives and sanctions decided in the therapeutic court hearings. Most participants agreed “that seeing others receive praise and sanctions (particularly the latter) send the message that ‘it could be me.’”<sup>38</sup> This finding suggests that a database should note the context in which incentives and sanctions were administered.

### 1) Incentives

Incentives are items or actions, tangible or behavioral, offered to therapeutic court participants to encourage them to follow the therapeutic court program. In principle, they should be offered frequently and appropriately. Behavior that might warrant an incentive could include achieving a specific goal (e.g., finding a job, completing a course of treatment, regaining custody of children); maintaining a course of action (holding a job since the last court hearing, staying sober or having a negative drug/substance test); or taking an initiative (volunteering extra time for a community work service project).

Some incentives commonly used in therapeutic courts include:

- Applause in court (whether standing ovations, or seated applause).

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<sup>35</sup> See Appendix A.

<sup>36</sup> *Local Drug Court Research: Navigating Performance Measures and Process evaluations*, **Draft only**. Cary Heck, National Drug Court Institute, April 2006, Page 17. **Not for dissemination.**

<sup>37</sup> D. J. Farole, Jr. and A. B. Cissner, “Seeing Eye to Eye?,” Center for Court Innovation, 2005, pp. ii - iii.

<sup>38</sup> *Id.*



- Praise from the judge, generally, or for a specific action;
- (Occasionally) Small concrete awards such as tickets to local events, T-shirts, or other small appropriate items donated by the local private sector. One judge said that he used a small bag of cookies. Another judge had heard that a morning Starbucks coffee was valued by participants.
- Some actions by the court can be viewed as incentives or sanctions, depending on whether they are increased or decreased. Judges can increase or decrease the number of substance abuse monitoring tests as an incentive or a sanction. Judges can shorten the amount of time that a participant must spend on probation as an incentive.
- For some participants, speaking in court, or interacting with the other participants is an incentive; conversely, the participant would view any chance of losing the opportunity to be a part of the group as a sanction.
- One judge suggested that opportunities for incentives could include such things as giving a simple set of instructions (part of a treatment plan), with a requirement for reporting back to the court when those actions were completed, and then providing praise.
- One judge encouraged people to set manageable goals for themselves (e.g., a participant's individual goal was to acquire a Kirby vacuum cleaner), and then offered praise when the participant reached the goal.
- Introduction of privileges, such as television, cigarettes, and removal of in-home restrictions.
- Opportunity to work and study past curfew hours.
- Reduction in length of probation, program fees or fines required, and similar legal consequences of the offense committed.
- Early driver's license reinstatement.

Most judges interviewed for this project did not have resources to offer physical incentives (e.g., tickets to movies). They believed, in any case, that participants responded to praise and interaction with the judge more readily than to physical gifts.

## 2) Sanctions

Sanctions are actions meant to discourage specific behavior by a participant. Judges agreed at a discussion of incentives and sanctions<sup>39</sup> that sanctions should be therapeutic rather than punitive or shaming.<sup>40</sup> They should be well-defined, fairly administered among all participants, individualized, and administered promptly. Participants should perceive them as an objectively-administered “time-out.”

The types of behaviors for which sanctions are appropriate also must be clear. Behaviors that could warrant sanctions include probation violations, missed treatment or group sessions, any problems with substance abuse testing, and poor reports from treatment providers or other organizations to which the participant is accountable. The draft document, “Local Drug Court Research: Navigating Performance Measures and Process Evaluations,”<sup>41</sup> says that

Behavioral research supports the notion that the magnitude of the sanction or incentive should be proportionally consistent with the precipitating incident, so sanctions and incentives should be measured in relation to client behaviors. Therefore, it is both possible and desirable to create a ratio of behaviors to sanctions or incentives with a goal of a one-to-one ratio.<sup>42</sup>

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<sup>39</sup> 2006 Spring Judicial Conference, April 28, 2006.

<sup>40</sup> Many judges believed that punitive or shaming approaches were ineffective because participants in therapeutic courts have been punished and shamed, with no results, for many years.

<sup>41</sup> C. Heck, *Local Drug Court Research: Navigating Performance Measures and Process Evaluations*, 2006 Draft (not for dissemination; quoted with permission), National Drug Court Institute; page 9.

<sup>42</sup> *Id.* at 9. As a followup to this, the author notes that units of services should be defined so that programs can document them. If an increase in frequency of attendance at groups or other events is considered a sanction, the program would have to have a way to define the increase (e.g., hours, number of sessions). The same principle would apply to other services. Similarly, incentives and sanctions would have to be standardized so that they could be compared across participants in the same program or in different programs.

One judge defined a sanction as “anything that jeopardizes the relationship with the judge.” In general, sanctions included:

- Increases in events that demanded extra work of the participant, including increased numbers of substance abuse tests; increased treatment<sup>43</sup> or group (e.g., 12-step) meetings; or increased attendance at therapeutic court hearings.<sup>44</sup>
- Return to residential treatment from out-patient treatment.
- Return to a previous phase of the program (for those therapeutic courts that structure their program in phases).
- Imposition of brief jail time - typically one to two days.
- Imposition of surveillance, or increase in surveillance by SCRAM, Sobriator, electronic monitoring, and so forth.
- Loss of privileges that might be associated with a particular program.
- Writing essays, letters of apology, or other documents.
- Observing therapeutic court proceedings for extra time.
- Added community work service time.
- Restriction of privileges, such as television, cigarettes, and travel.
- In-home restrictions.

For each incentive or sanction imposed, the NDCI draft document recommends including the following bits of information in a database: a) the precipitating event; b) the type of sanction or incentive; c) the completion of the sanction;<sup>45</sup> d) who initiated the incentive or imposed the sanction; and e) intensity or severity.

One thing that must be considered in designing data elements to capture information about incentives and sanctions is the multiple reasons for using different actions. For example, increases or decreases in required sessions, monitoring, and similar actions could be viewed as incentives or sanctions, or they could be more neutrally regarded as aspects of the program. The database design and the training for data entry staff must distinguish between the two uses.

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<sup>43</sup> Although some programs use increased frequency or intensity of treatment as a sanction, treatment programs are often very reluctant to view or present treatment in this way. The treatment agencies view changes or increases in treatment as therapeutic rather than punitive.

<sup>44</sup> In addition to increasing the frequency that a participant must attend therapeutic court hearings (as a sanction), some courts require participants to sit in the jury box and observe other participants' therapeutic court hearings as a sanction.

<sup>45</sup> *Id.* page 24. The document does not specify what is used to measure the “completion of the sanction.”

**Form 1:**  
**Case Management Form**  
**Therapeutic Courts**

(to be completed for each hearing in a therapeutic or problem-solving court.)

If completed electronically, earlier data should not be over-written.

Participant \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Judge: \_\_\_\_\_

Participant Date of Birth: \_\_\_\_\_

Case number(s): \_\_\_\_\_

Participant present?  Yes  No

Participant in custody?  Yes  No \_\_\_\_\_

Participant status:  bail  probation

other (specify) \_\_\_\_\_

**Substance Abuse Monitoring**

Number of scheduled tests: \_\_\_\_\_

Number of negative tests: \_\_\_\_\_

Number of tests missed: \_\_\_\_\_

Number of positive tests: \_\_\_\_\_

If positive, which substances? (Check all that apply)  alcohol  cocaine  marijuana  opiates

methamphetamine,  prescription drugs,  other (specify) \_\_\_\_\_

**Incentives at this hearing**

**Precipitating event #1**  employment-related  education-related  improved health  improved family relationships  housing-related  community service  sobriety  completion of short-term requirements  other (specify) \_\_\_\_\_

**Date of precipitating event #1:** \_\_\_\_\_

**Incentive given**  applause  words of recognition from judge  token reward  reduction in program requirements (specify)  increased privileges (specify)  reduction in legal consequences (specify)

other (specify) \_\_\_\_\_

**Precipitating event #2**  employment-related  education-related  improved health  improved family relationships  housing-related  community service  sobriety  completion of short-term requirements  other (specify) \_\_\_\_\_

**Date of precipitating event #2:** \_\_\_\_\_

**Incentive given**  applause  words of recognition from judge  token reward  reduction in program requirements (specify)  increased privileges (specify)  reduction in legal consequences (specify)

other (specify) \_\_\_\_\_

**Sanctions at this hearing**

**Precipitating event #1**  substance test problems/relapse  violation of program conditions/new offense (specify) \_\_\_\_\_  non-attendance at treatment  non-attendance at group meetings  employment-related  education-related  other (specify) \_\_\_\_\_

**Date of precipitating event #1:** \_\_\_\_\_

**Sanction imposed**

Jail days  Yes  No (if yes number) \_\_\_\_\_

Increased sessions or intensity of sessions  Yes  No (if yes number and type) \_\_\_\_\_

Increased testing  Yes  No (if yes number) \_\_\_\_\_

Write essay, letter, etc.  Yes  No (if yes type) \_\_\_\_\_

Restrict privileges  Yes  No (if yes type) \_\_\_\_\_

More community service  Yes  No (if yes amount and type) \_\_\_\_\_

Increased monitoring  Yes  No (if yes amount and type) \_\_\_\_\_

Increased number of therapeutic court hearings  Yes  No (if yes number) \_\_\_\_\_

Other sanction  Yes  No (specify) \_\_\_\_\_

**Precipitating event #2**  substance test problems/relapse  violation of program conditions/new offense (specify) \_\_\_\_\_  non-attendance at treatment  non-attendance at group meetings  employment-related  education-related  other (specify) \_\_\_\_\_

**Date of precipitating event #2:** \_\_\_\_\_

**Sanction imposed**

Jail days  Yes  No (if yes number) \_\_\_\_\_

Increased sessions or intensity of sessions  Yes  No (if yes number and type) \_\_\_\_\_

Increased testing  Yes  No (if yes number)  
Write essay, letter, etc.  Yes  No (if yes type) \_\_\_\_\_  
Restrict privileges  Yes  No (if yes type) \_\_\_\_\_  
More community service  Yes  No (if yes amount and type) \_\_\_\_\_  
Increased monitoring  Yes  No (if yes amount and type)  
Increased number of therapeutic court hearings  Yes  No (if yes number) \_\_\_\_\_  
Other sanction  Yes  No (specify) \_\_\_\_\_

### Participant's current housing

Temporary  Permanent  Other (specify) \_\_\_\_\_

### Location of housing

Oxford House  Transitional  Section B  Public housing  ALF  Homeless  Institution  
 Other (specify) \_\_\_\_\_

### Participant's Cognitive Behavioral Program status

CBP not required  current in CBP  
 not current in CBP (if not current, specify problem) \_\_\_\_\_  
Type of CBP (specify) \_\_\_\_\_

### Other judge notes about this hearing

\_\_\_\_\_  
\_\_\_\_\_

### Next court date

\_\_\_\_\_

### Information for individual courts

#### CRP

Is participant taking appropriate medications? Yes/No: (If No, what should change] \_\_\_\_\_  
API hospitalizations  Yes  No (If Yes, specify) \_\_\_\_\_  
Is participant being treated for co-occurring substance abuse disorder?  Yes  No  
(If Yes, specify) \_\_\_\_\_  
Is participant current with recovery groups or other required groups?  Yes  No  Not required  
(If required and not attending, specify what group) \_\_\_\_\_

#### Addiction courts

Is participant current with adjunctive medications?  Yes  No  Not required  
Is participant current with recovery groups or other required groups?  Yes  No  Not required  
(If required and not attending, specify what group) \_\_\_\_\_  
Participant's current HAP, SCRAM, Sobriator, EM, other program status: Participating  Yes  No  Not required  
(If participating, which program) \_\_\_\_\_  In violation (specify how) \_\_\_\_\_  
Consecutive days of sobriety: \_\_\_\_ (if tracked by this project)

#### Family Care Court

Child(ren)'s custody status  With parents  in relative foster care  in state foster care  
 other (specify) \_\_\_\_\_  
Is participant current with adjunctive medications?  Yes  No  Not required  
Is participant current with recovery groups or other required groups?  Yes  No  Not required  
(If required and not attending, specify what group) \_\_\_\_\_  
Participant's current HAP, SCRAM, Sobriator, EM status: Participating  Yes  No  Not required  
(If participating, which program) \_\_\_\_\_  In violation (specify how) \_\_\_\_\_

### Other Judge's Notes

#### **e. Cost Information**

Program and court staff could use information about the costs of the program to weigh the benefits of the program against its expenses and associated costs. This is not information that the court would normally record for cases that are traditionally processed. Much of the information that could shed the most light on the costs of therapeutic and problem-solving courts is not readily available. Fields are set aside for cost data, to emphasize the need for the information. Development of the detailed information that would go in these fields can be done at a later time.

#### **f. End of Program Information and Outcome Measures**

Courts do not usually evaluate their processes by looking at the outcomes of cases. Because therapeutic and problem-solving courts are designed differently, the outcome of the process is crucial information. At this point in time, the measures used nationally and in Alaska to assess the effectiveness of programs are fairly well established. The proposed data elements and fields describe information about the participants' situations at the end of the therapeutic court process, and at points in time (six months, one year, two years, etc.) after the participants have finished or otherwise left the program.

**Table 3: Variables specific to therapeutic and problem-solving courts**

Name of Element	Values	Agencies with this Information	Use of Data
<b>37. Phases</b>			
	Court does not have; N/A. If yes, variable(s) to track phases	Therapeutic courts	Case management, evaluation
<b>38. Cost of treatment</b>			
	To be developed after further discussion	Treatment agencies; other participating agencies.	If participant is required to pay for treatment, may be used for case management. Evaluation
<b>39. Improvement in quality of life variables at end of program</b>			
	Participant's housing: Same as at Intake; improved; worse.	Exit interview by program staff	Evaluation
	Participant's employment/occupation: Same as at Intake: Yes/no		
	Type of employment: No job. Part-time or occasional work. Full-time work. Military. Full-time student. Homemaker. Disabled.		
	Participant's education status: Some high school; GED; graduate; some voc. training; military; some college; college graduate. Other (specify).		
	Participant's income: Same as at intake: yes/no If not the same, is it <input type="checkbox"/> more <input type="checkbox"/> less		
	Participant's income source: wages/salary; scholarships; disability, social security or other non-welfare; welfare; other (specify).		
	Participant's family relationships: Improved since Intake? Yes/No. Stable? Yes/No		
	Participant's interpersonal relationships: Improved since Intake? Yes/No. Stable? Yes/No		
	Participant's custody of children: Not applicable. Does not have custody, no change. Does not have custody; improved situation. Has custody of one or more children. Other (specify).		
	Did participant have a drug-free baby? Yes/No/Not Applicable		
	Did participant's quality of life improve in other ways? Yes (specify)/No.		

Name of Element	Values	Agencies with this Information	Use of Data	
<b>40. Post-program recidivism (Data from DPS, Court, DOC)</b>				
Six month recidivism		Added data collection or transfer from APSIN, court, ASAP, DOC	Evaluation	
	Number of new remands to custody, six months post-program (or post-disposition for comparisons)			
	Number of new DPS arrests, six months post-program/disposition			Note that CRPs (Mental Health Courts) may wish to add Days of Hospitalization” as a variable in this section.
	Number of new court cases filed, six months post-program/disposition			
	Number of new DPS convictions, six months post-program/disposition			
	Number of new court cases with convicted charge(s), six months post-program/disposition			
One-year recidivism				
	Number of new remands to custody, one year post-program (or post-disposition for comparisons)			
	Number of new DPS arrests, one year post-program/disposition			
	Number of new court cases filed, one year post-program/disposition			
	Number of new DPS convictions, one year post-program/disposition			
	Number of new court cases with convicted charge(s), one year post-program/disposition			
Two-year recidivism				
	Number of new remands to custody, two years post-program (or post-disposition for comparisons)			
	Number of new DPS arrests, two years post-program/disposition			
	Number of new court cases filed, two years post-program/disposition			
	Number of new DPS convictions, two years post-program/disposition			
	Number of new court cases with convicted charge(s), two years post-program/disposition			
Three-year recidivism				
	New fields can be added as needed to continue to track post-program/post-disposition recidivism for as long as desired			





## **Part IV: Suggestions for development of database**

- 1. Data elements.** The Council suggests that the court use the variables in Tables 1, 2, 3 and the Case Management Form. The Tables show the sources of each data element, the uses of each element, and some of the possible ways that the variables could be defined. They include enough data to meet the court system's minimal requirements for data that can be used for process and outcome evaluations to show the effectiveness of the projects for funding organizations and others. The tables also include some information unique to therapeutic and other problem-solving courts (e.g., use of adjunctive medications, reasons for admission (opt-in) and discharge (opt-out, other discharge, graduation, commencement, etc), and dates of admission and discharge that will be of interest in program management and evaluation.
  
- 2. Retrieving data to review program operations.** The Council suggests that the court work with the projects to design separate report templates and mechanisms that will allow each project to generate periodic reports about its operations.

The court will need to determine, project by project, who will be trained to generate the reports. The court will also need to decide how frequently it would like to have reports (monthly or quarterly are recommended), and how widely it will distribute the reports (senior staff, area court administrators, presiding judges, and each of the other therapeutic/problem-solving projects). Projects also may wish to generate more frequent reports, with the resources available to them.

- 3. Most data should stay in other agencies' databases.** In the short run, before the technological work is done to make this possible, the court would prefer to have all of the relevant data in its own database. This will probably mean entering much data manually, and creating systems of password-only access to different sections of the database to deal with ex parte issues. It will require waivers of confidentiality from participants and other agencies.

In the long run, a web-based system would allow most of the data elements to stay in the databases in which they originate. This meets several needs specified by the court in its request:

- data will only be entered once, insuring greater efficiency and less chance of mistake;
- data definitions will be standardized across projects and agencies;
- data will be shared in a web-based database among several agencies (with appropriate provisions for security and confidentiality).

**Comment:** In the long run, leaving data elements in their current databases resolves several significant problems. It means that data do not have to be re-entered in a different database, or otherwise transferred. It means that confidentiality issues are resolved in the simplest, most effective way possible. The data never reside on a court system database, and are (presumably) not accessible with a subpoena. It also resolves problems involving separation of the branches of government. This approach will require agreements with the agency storing the data, and will require ways of resolving the technological problems of sharing data across different databases.

A long-term solution of leaving data in other agencies' databases also has down sides. The data needed might not always be available due to technology issues, or administrative issues with confidentiality agreements. It may take a longer and more complex process to look at the data when they are needed. These issues would have to be worked out over a period of time, but probably are not sufficient to outweigh the advantages to the court of not having the data in its own database.

- 4. The court should arrange routine evaluations of the projects.** The Council suggests that the court provide for routine evaluations by one or more outside agencies for each of the projects. The court should have and maintain agreements with the agencies where the data are stored, so that the evaluators can easily obtain data needed for assessments of progress and analysis of outcomes. These agreements are needed with Department of Corrections, Department of Public Safety, and Alaska Psychiatric Institute, especially for the outcome data about participants and comparison groups.
- 5. Who could enter data.** The court could hire employees trained specifically to enter intake and end of program data for the therapeutic/problem-solving projects. One or two employees should be able to enter all of the data for all of the existing projects, at intake and at the end of each participants' stay in the court. They also should be able to enter the data for the comparison participants, once the evaluator has identified the comparison participants.

The court will decide who could take responsibility for completing the Case Management Forms throughout the case. The data for these forms will need to be entered at the time of each hearing. Observations about incentives and sanctions must be made in person at a hearing.

6. **Training, team members.** All project staff, including case coordinators/probation officers employed by other agencies, should receive training about the reasons for program data entry and evaluation, how it benefits them directly, how it is done, and the essential role of data collection. The training should be as targeted and relevant as possible, given the existing lack of awareness of the need for data to evaluate the outcomes of the projects. The training should cover the need for comparison groups and the need to keep information about people who consider the program but don't start, or who start and are then discharged; the types of evaluations that will be done, who will use the evaluations and why; the reasons for and uses of cross-project comparisons; and how and when data will be available to team members for their use in continuing improvement of their programs. The training should give opportunities for participants to express their concerns and suggest alternatives.

Case coordinators/probation officers, project managers and any other persons with data responsibility should receive thorough training in the definitions used for each variable, the need for data entry that is consistent among all of the projects, the level of precision and detail needed for each variable, and the reasons for including non-completers of the program in the database with (to the extent possible) the same amount of data detail as those who finish the program.

7. **Links with other agencies.** The court should continue to work with other agencies to build links among databases. All of the agencies appeared interested in sharing data via web-based links. All agreed that building the bridges among agencies, although they are working actively to accomplish this, will take some time. For the therapeutic courts projects, the most useful link is probably that with ASAP. ASAP is close to having a new database, and almost all of the case coordinators are now employed by ASAP as ASAP probation officers. A link with AKAIMS for assessment and treatment information might be the next most useful connection.
8. **Feedback from users.** The court system should encourage users of the database to offer suggestions for improvements at any time, and should routinely (at least annually) invite comments about usefulness of data elements, proposed new elements, value of improvements made, technical problems, new barriers to data entry and use, and other issues.

# **Appendix A**

## **National Standards for Therapeutic Court Databases**

### **Introduction**

A number of groups have worked with databases for therapeutic courts. The Bureau of Justice Statistics (U.S. Department of Justice) established guidelines for DOJ-funded drug courts in the late 1990s. Building on that work, the State Justice Institute funded modification of the Drug Court Management System 2000,<sup>1</sup> (Roehl and Guertin) for public domain use. Several other groups have created or adapted databases for use by therapeutic courts.<sup>2</sup>

In addition to looking at guidelines for databases, the Council also looked at databases designed and marketed for widespread use by numerous therapeutic courts. The National Center for State Courts has published bulletins and papers on the creation and maintenance of therapeutic court databases. The National Drug Court Institute also provides information about databases. See Appendix D for a complete listing of the documents and organizations that the Council consulted before preparing this report.

Several jurisdictions have created databases and shared them along with training materials over the Internet. *Drug Court Management System 2000* is one system. The “Buffalo” (New York) database is another well-known database. The Center for Court Innovation has done substantial work on therapeutic court data collection and use. The Brooklyn Treatment Court and Jacksonville courts worked with American University in 1997 and 1998 to create a public domain database which was distributed by the DOJ Bureau of Justice Statistics. A number of private companies also market therapeutic or drug court databases. These include Loryx and Maximus.

#### **1) *Distinguishing characteristics of therapeutic court databases***

What distinguishes a therapeutic court database from a typical court case management system? Those interested in databases tailored specifically for therapeutic programs usually want to see:

- Information about the defendant’s demographic characteristics and substance abuse and

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<sup>1</sup> Roehl and Guertin, *Drug Court Management System 2000*, available at <http://spa.american.edu/justice/pages.php?ID=7> )

<sup>2</sup> See Appendix D in this report for a partial listing.

mental health histories;

- Details about the progress of the case including information about substance abuse testing, treatment programs, incentives awarded and sanctions imposed, and length of time in program; and
- Information about the differences between the defendant's situation at the beginning of the program and at exit from the program, along with post-program information about recidivism and relapse.<sup>3</sup>

## **2) General recommendations for therapeutic court databases**

Several national groups have proposed standards for therapeutic court databases to guide courts around the country in designing management information systems. Their recommendations are consistent with each other, and have not changed substantially in the past eight years. The general recommendations include:

- Databases should hold enough information to serve three distinct groups of users:
  - a) Case coordinators, judges, and team members, who need the information daily or frequently;
  - b) Court and program administrators who need management information about the therapeutic program at regular intervals or upon request from legislators and others; and
  - c) Evaluators who are reporting longer-term outcomes, costs and benefits to legislators, court administrators and the public.
- Databases should emphasize ease of data entry;
- Databases should clearly track each participant's current status (e.g., being considered, admitted to program, left program (or graduated), and dates of each event (date of initial inquiry, date of admission, date left program));
- Databases and training for using them should emphasize consistency of data entry within each site and among sites;
- Databases should, to the maximum extent possible, be designed to link with other

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<sup>3</sup> See <http://www.ncjrs.gov/html/bja/monitor/demis.htm> "Drug Court Monitoring, Evaluation and Management Information Systems" (Part D).

agencies' databases so that data entered at one agency's site can be used by other agencies without re-entering the data (single entry for each piece of data);

- Confidentiality should be maintained at all times, by limiting access to parts of the database, aggregating data for statistical analysis, and using other appropriate methods;
- Database design, to the extent possible, should emphasize ease of accommodating new technologies as they become available.

### **3) Performance Reporting**

Most national experts believe that a therapeutic court database should allow court administrators and others to assess the projects' management frequently. The information from the therapeutic court database, combined with data from the court's overall case management system should allow the court to pinpoint relationships between the therapeutic court case processing and the case processing in the court at large. Performance measures for these purposes (as distinct from outcome measures discussed below) include:

- Number and characteristics of defendants admitted or not admitted;
- Length of time needed to admit a defendant to the court;
- Length of time in program;
- Length of time to graduation/commencement/completion;
- Frequency of negative and positive drug/alcohol tests;
- Frequency of different types of sanctions and incentives.

### **4) Outcome Measures**

Therapeutic court researchers, funders and administrators appear to generally agree on the outcome measures that are appropriate for these projects:

#### **a) Objective recidivism measures**

- Most reported evaluations and research use some measure of recidivism. Commonly used measures include:
  - 1) Re-arrests after program entry;
  - 2) New convictions after program entry;
  - 3) New arrests after program completion (e.g., graduation, discharge);
  - 4) New convictions after program completion (e.g., graduation, discharge);
  - 5) Remands to custody for any reason after program entry;
  - 6) Remands to custody for any reason after program completion.

Less frequently used measures may include:

- 1) Days of incarceration after program entry and/or completion;
- 2) Days of institutionalization after program entry or completion (mainly used for mental health courts);
- 3) Days of sobriety (total, or continuous), or days until relapse;
- 4) Days retained in program.

**b) Comparison groups**

Most programs compare the outcomes described above to one or more comparison groups:

- 1) The defendant's own history of arrests, convictions, remands to custody, days of sobriety, and so forth, prior to entry into the program (or after completion of the program, depending on which measure is being used);
- 2) The group of defendants who entered the program but did not complete it (this is not considered a measure of program success, but it allows policymakers to see differences between those who succeeded in the program and those who did not, which can lead to improvements in the program's effectiveness);
- 3) The group of defendants who considered the program but chose not to enter it (again, this is not a measure of program success, but can offer useful information to policymakers);
- 4) A matched group of comparison defendants who are similar in prior record, demographic characteristics and type of offense who did not enter or consider the program;
- 5) The preferred comparison is a group of randomly-chosen therapeutic court participants, compared to a control group whose members were not chosen in the random selection process for the therapeutic court.

**c) Qualitative outcome measures**

Most national discussions of therapeutic court databases emphasize the need for programs to track qualitative measures of success as well as quantitative measures. At the end of the program (and in some places, during the program), experts recommend recording the defendant's status in each of the life domains described above, so that evaluations can show changes and improvements associated with the therapeutic program. They suggest that programs should gather information at the beginning of the program (intake) about:

- a) Employment;
- b) Education
- c) Housing;



- d) Family status (married/not; stable family relationships/not; custody of children; and so forth); interpersonal relationships status;
- e) Financial stability and accountability (e.g., payment of fines, restitution, child support; defined source of support, such as a job, disability payments, etc.); and
- f) Health of children (children with FASD/FAE or drug-related disabilities, drug-free babies, etc.).

## **5) Cost Measures**

Most experts agree that therapeutic courts should try to measure the costs of their programs, and to show the costs avoided by their use, and compare therapeutic court costs to the costs of incarceration, welfare, and various forms of assistance. Some of the basic information for these measurements could come from the therapeutic court database, such as:

- Number of participants;
- Length of time in program;
- Number of days incarcerated (or in API) during and after program; and
- Children's status (e.g., state custody, with relatives, not relevant).

Much of the information about program costs and cost avoidance would need to come from outside the therapeutic courts database. Whether the information was entered into the therapeutic court database, or into a separate evaluation database would be a court decision.

## Appendix B

### List of Surveys and Interviews

The Judicial Council contacted most of those involved in the administration of therapeutic courts who would have information about data collection, including judges, case coordinators/probation officers, project managers, funding agencies, court technological staff, and court administrators. Those contacted as of June 15, 2006 included:

<b>Table of Surveys and Interviews, Therapeutic Court Database Project</b> <i>Alaska Judicial Council and Alaska Court System, September 15, 2006</i>		
<b><i>Type of Respondent/court</i></b>	<b><i>Name</i></b>	<b><i>Survey or interview</i></b>
Ther. Ct. coordinator, Alaska Court System	Robyn Johnson	Interviews
Deputy Court Admin. Director	Christine Johnson	Interview
Third District Area Court Administrator	Wendy Lyford	Interview
ISS Director, court	Debbie Cook	Interview
ISS Project Manager, court	Diane Schenker	Interview
UAA Justice Center Statistician	Alan McKelvie	Interview
DHSS Program Oversight	Michelle Bartley	Interview
DHSS Information Services/AKAIMS	Danny Varela	Interview
ASAP Director	Ron Taylor	Interviews
Contract Database Developer/ASAP	Peter Kristeller	Interview
First District Area Court Administrator	Neil Nesheim	Survey
Fourth District Area Court Administrator.	Ron Woods	Survey
UAA Justice Center Evaluator	Ron Everett	Survey, phone calls
Wellness Ct. Project Manager	Jeeni Jurvig	Interviews
Wellness Ct. Judge	Peter Ashman	Interview
Wellness Ct. Judge	Nancy Nolan	Interview
Wellness Ct. State Case Coordinator/Prob. Officer	Julie Linnell	Survey
Wellness Ct. Muni Case Coordinator	Ann Van Boeckel	Survey
Juneau Therapeutic Court Judge	Keith Levy	Interview
Juneau Project Manager/Case Coord./Prob. Officer	Wendy Hamilton	Survey
Juneau Evaluator	Steve Hamilton	Survey
Juneau Funding Source (NCADD)	Matt Felix	Interview
Ketchikan Therapeutic Court Judge	Kevin Miller	Interview
Ketchikan Project Manager/Case Coord./Prob. Officer	LuAnn Richardson	Survey

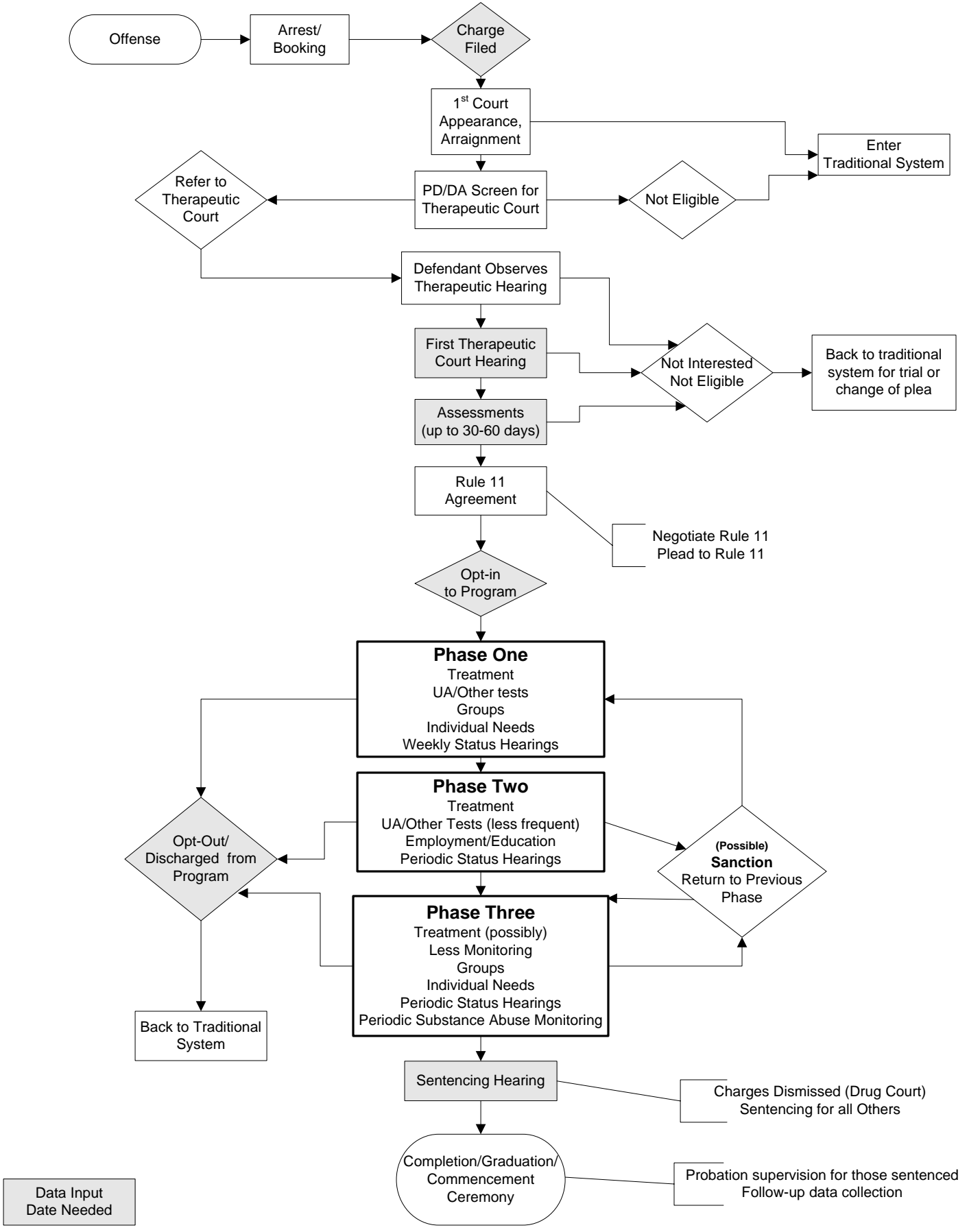
## Table of Surveys and Interviews, Therapeutic Court Database Project

*Alaska Judicial Council and Alaska Court System, September 15, 2006*

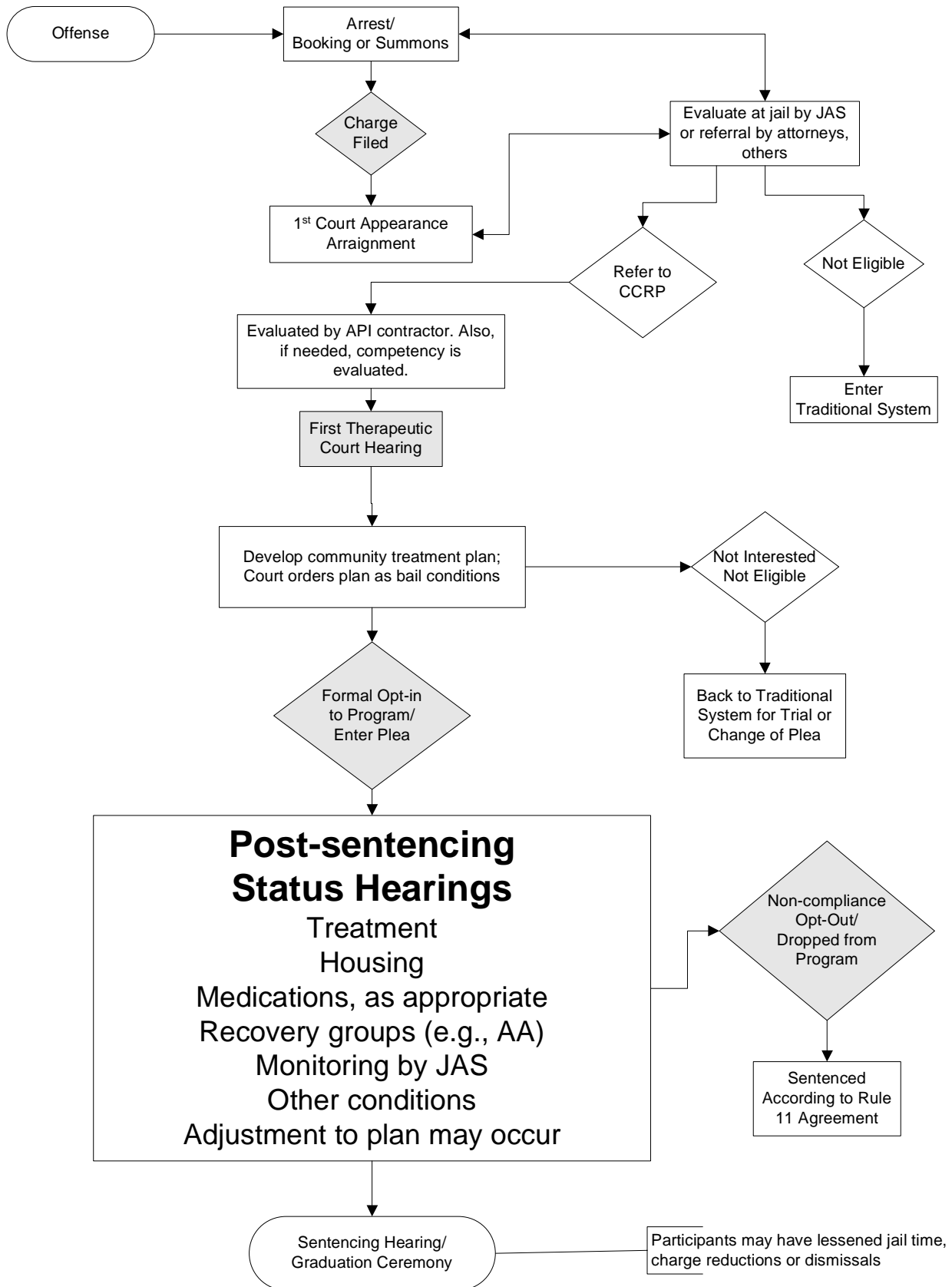
Anchorage Felony DUI /Drug Ct. Judge	Stephanie Joannides	Interview
Anchorage Felony DUI /Drug Ct. Judge	Bill Morse	Interview
Judicial Assistant, Judge Joannides	Kadell Moore	Survey
ASAP Probation Officer/Anch. Felony	Jim Stanton	Interview
Bethel Therapeutic Court Judge	Leonard Devaney	Interview
Bethel Judicial Assistant	Mona Jensen	Survey
Bethel Project Manager	Sally Russell	Survey/Interview
Bethel ASAP Case Coordinator /Prob. Officer	Dave Martens	Survey
Bethel Treatment, YKHC	Mike Bricker	Survey
Anchorage CRP Judge	Stephanie Rhoades	Interviews
Anchorage CRP Project Manager	Kate Sumey	Interviews/Survey
Anchorage CRP Case Coordinator /Prob. Officer	Carol Ann Hoggins-Wolfe	Survey
Anchorage JAS case coordinator	Doug Lindsey	Survey
Anchorage CRP Data Assistant	Nancy Wininger	Interview/Survey
Anchorage CRP Data Assistant	Linda Koenig	Interview
Anchorage CRP JAS Coordinator	Doug Lindsey	Survey
Mental Health Trust Authority	Steve Williams	Survey/Interview
Palmer CRP Judge	Gregory Heath	Interview
Palmer CRP Project Manager	Kristin Hull	Survey
Palmer CRP Treatment/DayBreak	Polly Odom	Survey
Palmer CRP Treatment/AK Family Services	Israel Nelson	Survey
Palmer CRP Treatment/Mat-Su Health	John Cook	Survey
Palmer/Anchorage JAS Manager	Colleen Patrick-Riley	Interview
Palmer JAS case coordinator	Ray Mercer	Survey
Anchorage Family Care Court Judge	Mark Rindner	Interview
Anchorage Family Care Court Judge	Sen Tan	Interview
Anchorage Veterans Court Judge	Jack Smith	Interview
Anchorage Veterans Court Judge	Sigurd Murphy	Interview

***Appendix C:  
Therapeutic Court Flowcharts***

# General Therapeutic Court Process in Alaska

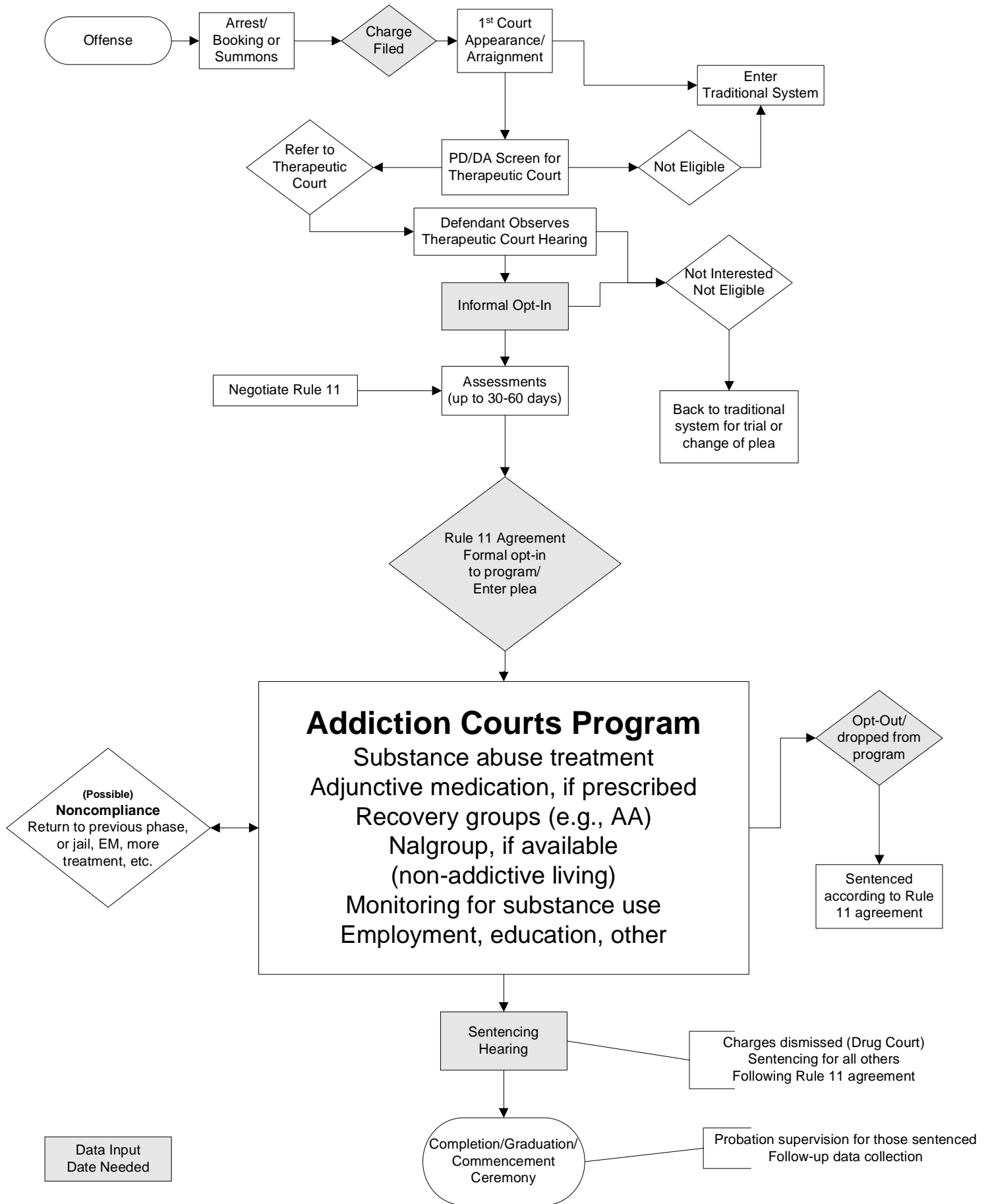


# Court Coordinated Resources Project

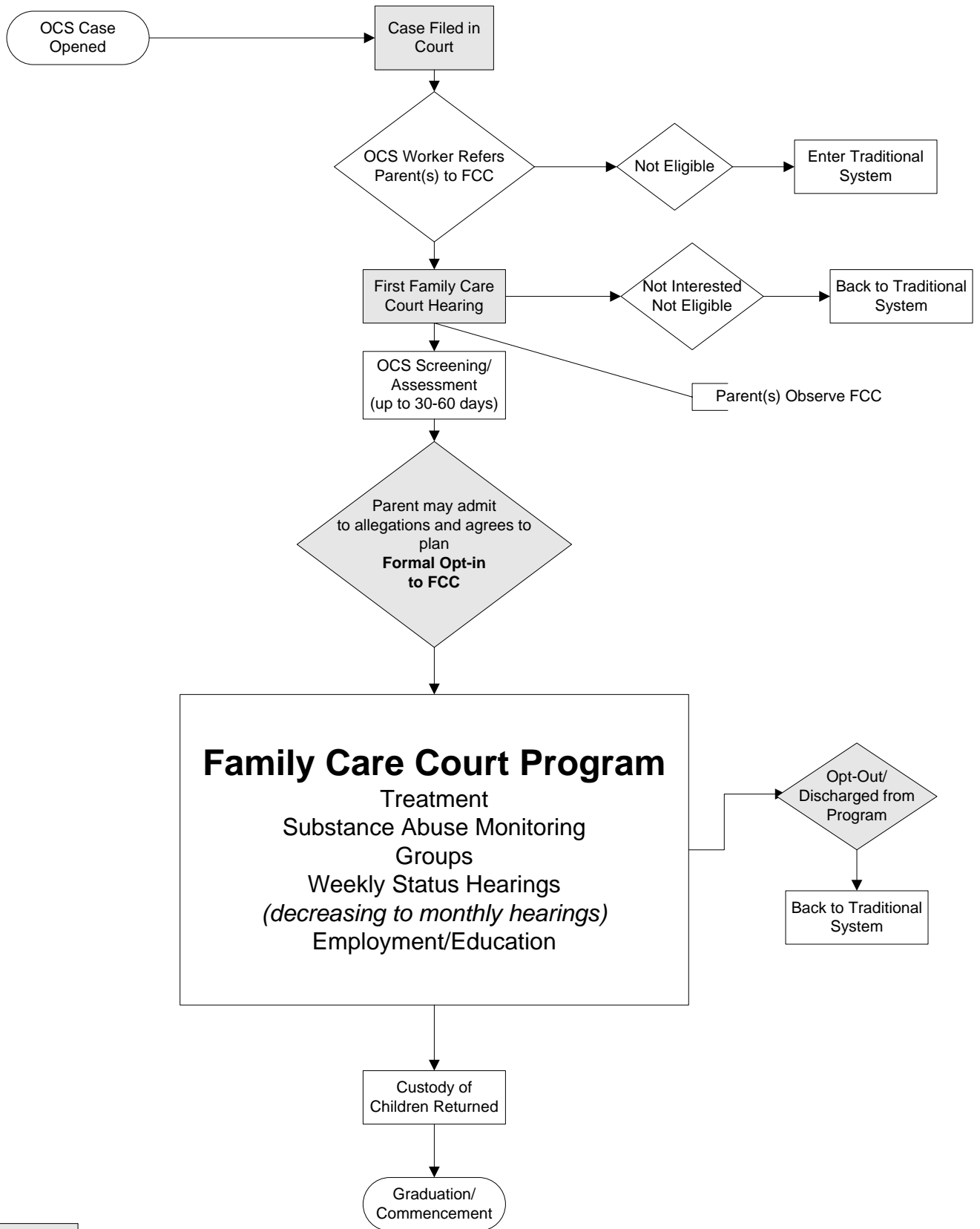


Data Input  
Date Needed

# Addiction Courts



# Family Care Court



Data Input Date Needed



## **Appendix D**

### **Therapeutic Court Database Project**

### **List of Sources, Bibliography**

#### ***American University OJP Drug Court Clearinghouse and Technical Assistance Project:***

- *Assessing the Impact of Family Drug Courts*, OJP Drug Court Clearinghouse FAQ, <http://spa.american.edu/justice/resources/faqsfamily.pdf>, May 2006.
- *Buffalo, New York Drug Court Management Information System*, Drug Court Clearinghouse, American University, downloaded November 2005 from <http://spa.american.edu/justice/resrouces/mis.pdf>.
- *Criteria/Clinical Standards for Defining Drug Courts*, FAQ series, November 2004, Drug Court Clearinghouse, American University (as well as the on-going exchange of information about statewide MIS, April 10, 2006).
- *Drug Court Policies Regarding Conduct and Confidentiality of Staffings*, FAQ series, Drug Court Clearinghouse, August 2005.
- *New HIPAA Requirements Relating to Provision of Patient Information, Effective April 14, 2003*, Drug Court Clearinghouse, April 2003.
- *Practical Guide for Applying Federal Confidentiality Laws to Drug Court Operations*, S. R. Holland, Drug Court Clearinghouse, May 1999.
- *Recidivism and Other Findings Reported in Selected Evaluation Reports of Adult Drug Court Programs Published: 2000 - April 2005*, Drug Court Clearinghouse.

#### ***Center for Court Innovation:***

- *Action Research, Using Information to Improve Your Drug Court*, Center for Court Innovation, 2005.
- *Data, Delinquency and Drug Treatment: How Technology Can Aid a Juvenile Drug Court*, Center for Court Innovation, D. Hack, 2003.
- *Project Tech Help Drug Court MIS Design Document*, Center for Court Innovation, 1998.
- *Seeing Eye to Eye: Participant and Staff Perspectives on Drug Courts*, D. Farole & A. Cissner, Center for Court Innovation, November 2005.

**Drug Court Technology Resource Center:**

- *Evaluation and MIS 101* and other documents, www.drugcourtech.org (a website relying on work done by the Brooklyn Treatment Court, Buffalo, NY, and Florida drug courts), various dates.
- *Sample Data Module*, Drug Court Technology Resource Center, dated 12/20/2002.

**National Center for State Courts:**

- *A Newsletter of the Problem-Solving Courts Community of Practice*, Vol.2, No. 1, Spring 2005, National Center for State Courts.
- *Bringing Courts Into the Future: the Agility Imperative*, Court Manager, G. Wolfe and V. Kasten, Spring 2005, National Association for Court Management, National Center for State Courts.
- *Developing Statewide Performance Measures for Drug Courts*, Statewide Technical Assistance Bulletin, Vo. 2, October 2004, National Center for State Courts.
- *Information Collection, Storage, and Use for Drug Courts: Developing a Statewide System*, February 2005, NCSC.

**National Drug Court Institute and National Association of Drug Court Professionals:**

- *Ethical Considerations for Judges and Attorneys in Drug Court*, K. Freeman-Wilson, National Drug Court Institute, May 2001.
- *Federal Confidentiality Laws and How They Affect Drug Court Practitioners*, J. Tauber and S. Weinstein, National Drug Court Institute, 1999.
- *Local Drug Court Research: Navigating Performance Measures and Process Evaluations, Draft Only*. Cary Heck, National Drug Court Institute, April 2006. Not for dissemination.
- *NADCP News*, various issues, National Association of Drug Court Professionals.
- *Random Assignment Evaluation of the DUI Court in Maricopa County (Phoenix), Arizona, USA*, J. F. Frank & R. K. Jones, Office of Research and Technology, National Highway Traffic Safety Administration, from NADCP, April 2006.

**Other Organizations and Reports:**

- *Global Guide to Performance Indicators*, Vera Institute of Justice, 2003.
- *Missouri's Innovative Court Information System: Milestone Tracking*, Vol. 8, Issue 3, Child Court Works, American Bar Association Center on Children and the Law, December 2005.
- *DUI Digits*, NCADD (Juneau office), January 2006.
- *Minnesota Supreme Court Chemical Dependency Task Force Final Report to Minnesota Supreme Court*, recommendations section, from Dan Griffin, Minnesota courts, February 2006.

**United States Government Agencies:**

- *Adult Drug Courts*, GAO Report to Congressional Committees, February 2005.
- *Drug Court Monitoring, Evaluation and Information Systems*, (Part D), BJA, May 1998.
- *The Mathematics of Risk Classification: Changing Data in Valid Instruments for Juvenile Courts*, U.S. Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention, July 2005.

In addition, the Council has worked closely with the SJI-sponsored database ((Roehl and Guertin, *Drug Court Management System 2000*),<sup>1</sup> and has reviewed information from numerous other jurisdictions about databases and MIS products. Council staff have trained at NADCP evaluation seminars in 2000 and 2003.

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<sup>1</sup> Available at <http://spa.american.edu/justice/pages.php?ID=7> ). Council staff modified this for the Anchorage CRP, and also (in 2001) for the Anchorage Wellness Court. The Anchorage Wellness Court stopped using the database for a few years, but is now using a slightly different version of it to collect data.

## **Appendix E**

### **Reports and Evaluations of Alaska Therapeutic Courts**

#### **A. Court Coordinated Resources Project and Jail Alternative Services Program**

1. *Department of Corrections Status Reports to the Trust Authority* (re: “Jail Alternative Services”), February 2000.
2. Hamilton, C. and Hamilton, S., *Court Coordinated Resources Project*, October 2000.
3. Hamilton, C. and Hamilton, S., *Jail Alternative Service Program Evaluation*, October 2000.
4. Hamilton, C. and Hamilton, S., *Jail Alternative Service Program Evaluation*, June 30, 2001.
5. *Alaska Mental Health Trust Authority Status Report*, Re Jail Alternative Services Program, March 2002.
6. Hamilton, C. and Hamilton, S., *Jail Alternative Service Program Evaluation July 1, 1998 – June 30, 2003*, May 2004.
7. *Court Coordinated Resources Project Evaluation Report*, Alaska Judicial Council, January 2003.

#### **B. Anchorage Wellness Court**

1. *The Anchorage Wellness Court 2001 Summary of Facts*, Partners for Progress, Inc. (published February 2002).
2. *The Anchorage Wellness Court: 2001-2002 Summary of Facts*, Partners for Progress, Inc. (published 4/18/03).
3. *The Anchorage Wellness Court Summary of Facts, 2003 Update*, UAA Justice Center (published 2/14/04).
4. *Anchorage Wellness Court Summary of Facts, 2005 Update*, UAA Justice Center (published February 14, 2006).

#### **C. Other Therapeutic Court Evaluations and Reports**

1. Carns, Hotchkin, & Andrews, “Therapeutic Justice in Alaska’s Courts,” *Alaska Law Review*, Vol XIX, No. 1, June 2002, pages 1 - 55.
2. Therapeutic court performance measure data for Missions and Measures, FY’02 - FY’05, (available from Alaska Court System).
3. *Evaluation of the Outcomes in Three Therapeutic Courts*, Alaska Judicial Council, April 2005.