
Evaluation of the Outcomes in Three Therapeutic Courts

Anchorage Felony Drug Court
Anchorage Felony DUI Court
Bethel Therapeutic Court

April 2005

alaska judicial council



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By: Alaska Judicial Council

**for the Legislature and the Alaska Department of Health and Social Services
with the cooperation of the Alaska Court System**

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Judicial Council staff all contributed to the report, with Larry Cohn, Executive Director helping in the structure and analysis, Susie Dosik contributing editing, Pat Scott and Kathy Grabowski assisting with administration, and Ana Wood responsible for fiscal matters.

The legislature asked for this report when it created the Anchorage Felony DUI Court and the Bethel Therapeutic Court. The Department of Health and Social Services, Division of Behavioral Health, funded the evaluation at the request of the governor. Thus it is a report that exemplifies inter-branch collaboration on an important policy issue in the criminal justice system.

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Executive Summary

The legislature created two new therapeutic courts for defendants with alcohol problems in 2001. The Anchorage Felony Driving While Intoxicated (DUI Court) and the Bethel Therapeutic Court serving felons and chronic misdemeanor defendants with alcohol problems started work in 2001 and 2002 respectively. A federally-funded Anchorage Felony Drug Court (Drug Court) was already working with defendants who had drug-related convictions. The legislature asked the Judicial Council to evaluate two of the courts, and funded the evaluations of all three in 2004 through the Department of Health and Social Services.

The present evaluations begin a continuing process of assessing the benefits and costs of therapeutic courts. They show significant reductions in days of incarceration for graduates of the three courts and improvements in many other ways for participants in the courts when compared to similar defendants whose cases had been handled through normal court channels. Participating defendants exhibited a better quality of life including more stable families, better education and employment, and improvements for their children. These factors benefitted the community as well as the participants.

- Defendants who had graduated from the programs or were active in them spent fewer days incarcerated, had fewer remands to custody, and fewer convictions after they began the program.
- Defendants in the comparison groups for each program had significantly more days of incarceration during the two years after their convictions on the comparison offenses.
- Drug-free babies, better jobs, education and reduced domestic violence all showed better quality of life for participants in the programs.
- Therapeutic courts served disproportionately more minority defendants, women, and defendants with public attorneys, suggesting that they served a wide variety of defendants, and their benefits were not limited to a narrow group of selected participants.

Part I

Introduction

Imagine the following scenario: Seven prior misdemeanor convictions - three petty thefts, two drunk driving, a disorderly conduct, and an assault. A brief stint in a treatment program for alcoholism. And the defendant is before the court again for a felony Driving Under the Influence. A judge reviewing this defendant's record sees that the defendant must spend at least the mandatory minimum of 120 days incarcerated, as required by the statute. But the judge sees that the defendant has spent most of that time incarcerated while waiting for trial, plus many days of jail time in recent years. Other times, the defendant was referred for treatment but didn't go. What else is left? More jail? It didn't work before to protect the public, except for the brief time that the defendant was incarcerated. More treatment? That didn't seem to work either.

In response to those questions asked by hundreds of judges about thousands of defendants, judges throughout the country began developing new approaches to chronic offenders whose criminal activity appeared to be primarily fueled by alcohol and drug abuse. The new drug courts, drunk driving courts and others have been grouped under the general heading of "therapeutic courts."¹ Therapeutic justice courts screen defendants using standard assessments for levels of substance abuse, review prior criminal histories, and carefully discuss with defendants the commitments they must make. Once the defendants "opt in" to the programs, they are sent to outpatient treatment, tested frequently for drug or alcohol use, required to obtain work or education, make restitution to victims, and appear before the judge regularly. As defendants progress through the phases of the programs, they become more independent and have less intrusive supervision. Judges use incentives and sanctions to encourage defendants to stay with their plans for progress.

Alaska has several such courts in Anchorage² and Bethel. Major new funding has been obtained for expansion of the concepts to district courts in Ketchikan, Juneau, Fairbanks, Palmer and other sites during 2005. This report looks at the three courts that handle felony cases: the Anchorage Felony Drug Court ("Drug Court"), the Anchorage Felony DUI Court ("DUI Court"), and the Bethel

¹ For a more extensive discussion of therapeutic justice principles, and Alaska's early programs, see Carns, Hotchkin and Andrews, *Therapeutic Justice in Alaska's Courts*, 19 ALASKA LAW REVIEW 1 (2002).

² The Judicial Council has also published an evaluation of the Anchorage Court Coordinated Resources Project (also known as the Mental Health Court), COURT COORDINATED RESOURCES PROJECT EVALUATION REPORT (2003). The report is available at the Judicial Council web site, www.ajc.state.ak.us, under "Publications."

Therapeutic Court. Funded by the state's Department of Health and Social Services, the Judicial Council has evaluated the effectiveness of these programs using changes in days of incarceration, convictions and numbers of remands when participants were compared to similar defendants who did not take part in the programs. Although it is premature to draw final conclusions about the long-term effectiveness of the courts, the preliminary data reported here show improvements in outcomes for graduates and participants in the programs.

Part II

The Three Therapeutic Courts: History, Background and Description

The three therapeutic courts evaluated in this report were created between 2001 and 2002.³ The Drug Court began in June 2001, and the DUI Court started work in December 2001. The Bethel Therapeutic Court accepted its first participants on June 25, 2002. At the time this evaluation began in March 2004, all of the courts had been taking defendants for at least eighteen months.

These three were the only Alaska therapeutic courts that took felony cases, distinguishing them from the Anchorage Wellness Court and the Anchorage Court Coordinated Resources (Mental Health Court), which took only misdemeanor cases, and the Family Care Court, which took Child in Need of Aid (civil) cases. Some of the planned courts (wellness courts in Fairbanks, Juneau and Ketchikan, and a mental health court in Palmer) may serve felony defendants.

Funding sources for these three courts also distinguished them from other therapeutic justice courts in the state. The Drug Court was funded by the U.S. Department of Justice as part of a nationwide program to create and support drug courts. The DUI and Bethel Therapeutic Courts were created and funded by the Alaska legislature in 2001.⁴ Other therapeutic justice courts were supported by combinations of state, local, non-profit,⁵ and very recently, federal funds. All three courts required evaluation of their outcomes as a condition of funding.⁶

³ Information taken from the Alaska Court System's web site (<http://www.state.ak.us/courts/drugct.htm>), except Bethel information from email correspondence with Pat McBride, Court Analyst, 10/11/02.

⁴ 2001 Alaska Sess. Laws ch. 64.

⁵ The Anchorage Wellness Court, in particular, has been supported by an Anchorage non-profit, Partners for Progress. Partners itself has received federal funds to support its work with the Anchorage Wellness Court.

⁶ The U.S. Department of Justice required evaluation of all felony drug courts created with its grants (see Judicial Council for documents). HB172, section 1 (k) required that "The Council shall evaluate the effectiveness of the pilot therapeutic courts programs by developing baseline information and comparing that data with on-going program results as reported by the therapeutic courts, and prepare a report to the legislature, courts, and affected agencies."

This section of the report briefly describes each of the therapeutic court projects. The court system's web site (<http://www.state.ak.us/courts/>) has additional information about the Anchorage Drug and Felony DUI Courts. Please see this site for detailed discussions of current eligibility, requirements for graduation from the programs, and contacts for the courts.

A. Standard Criminal Justice Process for Felony Defendants

Felony defendants who did not participate in the therapeutic court typically entered into a plea agreement with the state,⁷ and were sentenced before a superior court judge. Most felony defendants were sentenced to and served some period of time incarcerated, followed by a period of one to ten years on probation or parole. Judges could require treatment as a condition of the defendant's release, and could impose other conditions that were related to the defendant's crime (including fines, restitution, limits on movement or associations, community service hours, and requirements for work or education efforts). Defendants were supervised by felony probation or parole officers. Because the probation and parole officers carried caseloads of one hundred or more defendants at a time, typical offenders saw a probation officer relatively infrequently.

B. Anchorage Felony Drug Court

The Drug Court, the first of the felony therapeutic courts, opened after nearly two years of grant-writing, planning and training. Each of the agencies involved – the courts, the district attorneys, the defense bar (generally represented by the Public Defender agency), the Department of Corrections, the Judicial Council (as evaluator) and the Department of Health and Social Services (as the funder of the treatment providers) worked through issues related to plea agreements, incentives and sanctions, eligibility criteria, treatment, program structure, and evaluation. Despite the intensive efforts to base the Drug Court on the national and well-tested model, many issues still confronted the Drug Court with its first participants. Remarkably, despite continuing challenges, the Drug Court structure in 2004 closely resembled the original model used by the court.

At the time of data collection in March of 2004, the Drug Court had thirty participants, including graduates, people active in the program, and those who had started the program but had left for various reasons. The court and prosecutor had also identified twenty persons as a comparison group, all of whom had considered participation but had not opted in to the program. Superior Court Judge Stephanie Joannides, who started with the program, continued to be the judge. Most of the other team members, prosecutors, defense attorneys, and treatment staff had changed.

⁷ Carns, Cohn and Dosik, ALASKA FELONY PROCESS: 1999. Alaska Judicial Council, 2004. This report includes a detailed description of the typical felony process.

One major component of the program changed at about the time data collection began in March 2004. The Department of Corrections began winding down its participation in therapeutic courts, and eventually withdrew the probation officers who had been providing case coordination in all three felony therapeutic courts. As of December 2004, the court had negotiated an agreement with the Alcohol Safety Action Program (ASAP) in Bethel to provide case coordination services for the Bethel defendants. A similar agreement is being negotiated for the other two felony therapeutic courts that includes DOC. Felony probation officers now supervise therapeutic court participants using the same criteria set for supervision of other felony defendants.

Basic components of the Drug Court included:

- Eligibility decisions based on grantor/funder requirements,⁸ other program standards, standard assessments of substance and alcohol abuse, and interviews. The prosecutor made the first decision about eligibility. At a minimum, the defendant had to have committed the offense while using or possessing illegal drugs, or while addicted to drugs, with some connection between the addiction and the offense;
- A written plea agreement entered with the court that detailed the conditions of the program, and included the provision that when the participant completed the program, the charges against him or her would be dismissed;
- A program with three phases: Phase I of intensive treatment, testing, and frequent court appearances; Phase II with fewer required meetings and more emphasis on maintaining a job or education; Phase III with occasional court appearances and emphasis on independence and accountability;⁹
- Random mandatory drug testing, diminishing in frequency as the participant moved through the program;
- Outpatient treatment combined with support groups (such as AA), with required attendance, again diminishing in frequency as the participants gained more independence;¹⁰
- Regular meetings with the judge and Drug Court “team,” which included a prosecutor, defense attorney, case coordinator/manager, and treatment person. Attendance at the court hearings was mandatory for participants. At the hearings, the judge considered progress reported by the team members and participant, offered incentives (praise, encouragement,

⁸ For the Drug Court in particular, federal funding restrictions did not allow offenders with any prior record of violence, or a current violent or sexual offense, or a series of other offenses to participate. Each program has different eligibility requirements. See the court website, *supra*, note 3 for more detailed information about eligibility for Drug Court.

⁹ Again, the incentives for completing the Drug Court program are different from the incentives for completing the other therapeutic court programs.

¹⁰ The Drug and DUI Courts (who had the same treatment provider) used a therapeutic community model for treatment, with at least six days weekly of treatment in the first phase.

and occasionally, small tokens donated to the program such as tickets to events), and imposed sanctions, if warranted.

- Immediate sanctions for failed drug tests or other violations of the program's requirements that could include extra time sitting in court, jail time, increased frequency of testing, and other measures intended to increase compliance with the program and protect public safety;
- A requirement for safe and sober housing;
- Twelve to eighteen months of participation was required for most defendants.

C. Anchorage Felony DUI Court

In Anchorage, nearly all of the participants in the Felony DUI Court were convicted of Felony Driving Under the Influence. This offense was defined as the third DUI offense within the past ten years.¹¹ Because the program was funded by the state rather than under federal grants and guidelines, the criteria for admission were broader than for Drug Court. Team members considered each applicant and agreed on suitability for the program. There were many more DUI Court participants than Drug Court participants. The evaluation included seventy-four defendants who had graduated, were active, or had opted out of the program, as compared to a total of thirty Drug Court participants. The comparison group for the DUI Court included 54 defendants, 34 of whom had considered DUI Court but never opted in and twenty randomly chosen Felony DUI defendants from the same time-frame who had not considered the therapeutic court option.

The DUI Court closely resembled the Drug Court in many ways. DUI Court participants appeared before the same judge, attended the same treatment program, had many of the same team members and were largely indistinguishable from the Drug Court participants. However, consequences for the defendants differed. Drug Court graduates had their charges dismissed by the prosecutor upon successful completion of the program. DUI Court graduates remained on probation for two full years following graduation, with supervision by DOC probation officers.

D. Bethel Therapeutic Court

The Bethel Therapeutic Court developed differently than the Anchorage courts because of the different resources available and the different demographics in Bethel.¹² A new superior court

¹¹ AS 28.35.030(n). Some of the defendants in the program may have been convicted under earlier versions of the law that required the third DUI to have occurred within the previous five years. The law has changed several times in the past five years, generally lengthening the period during which the prior offenses could have occurred.

¹² The State of Alaska's web site, <http://www.state.ak.us/local/communit.shtml>, links to information about communities including Anchorage and Bethel. See this website for detailed information about the population, geography, and economic and cultural influences shaping the communities. Also note that Bethel is a rural hub community that provides about 56 Native villages in the Yukon-Kuskokwim region with health, justice, and other

position was added to Bethel by the enabling legislation, and the judge was appointed in part because of his interest in therapeutic courts. Because the Bethel Therapeutic Court began work later than the Anchorage therapeutic courts, it had 51 participants to evaluate, and thirty defendants in the comparison group in March of 2004.

Only one treatment provider who met the program requirements was available in Bethel; that treatment provider used a different treatment model than the therapeutic community model chosen in Anchorage. The Bethel Therapeutic Court started defendants in small groups, rather than singly (as in the Anchorage Courts) because of the treatment provider's needs. The Bethel Therapeutic Court took mainly defendants whose primary problem was alcohol abuse with a few whose primary problem was drug abuse. All of the drug abusers also had an alcohol problem. Bethel took some chronic misdemeanor offenders in addition to felony defendants. The court referred most defendants for naltrexone¹³ therapy. Overall, however, it used the same components and most of the same procedures described above in the Drug Court section.

government services.

¹³ Naltrexone is prescribed to reduce alcohol cravings and is typically taken for 90 to 120 days. It was used by some, but not all, of Alaska therapeutic justice program as one component of the program. Programs always used it in conjunction with longer-term treatment programs that focused on behavioral changes. Substantial scientific evidence supported its safety and beneficial effects. Some attorneys and treatment professionals, however, believed that it should not be used. Their reasons varied. Some believed the medical model of addiction was inappropriate. Others wanted more scientific evidence, and yet others believed that using any pharmaceutical aid to end a substance addiction was inappropriate.

A recent *New England Journal of Medicine* article by Richard Seitz, "Unhealthy Alcohol Use," *NEW ENG. J. MED.* 296 (2005), reported that controlled studies of naltrexone showed that heavy drinking was reduced significantly. The article stated that "[e]ither naltrexone or acamprosate is first-line therapy," along with supervised counseling and followup *Id.* at 605.

Part III

Description of the Evaluations

A. Selection of Participants and Comparison Groups

To evaluate the effectiveness of the three therapeutic courts, the Judicial Council chose to use every person who had opted in to one of the courts, even if they had stayed for a relatively brief time. The database includes 154 defendants who participated in one of the programs to some extent. At the time of the data collection in spring of 2004, 32 had graduated, 63 were active in the programs, and 59 had opted out or been asked to leave a program after some participation (Table1).

The Council selected a comparison group for each of the therapeutic courts evaluated (Table 1a). The court system had collected limited data about the two Anchorage therapeutic courts in the months before the Council began its data collection. Their research analyst provided the Council with his data from therapeutic court participants, and with his list of comparison cases. Most of those on the list were people who were interested in the Felony Drug or DUI Courts but who for unspecified reasons did not participate. Case coordinators provided some of the names and the research analyst's observations of therapeutic court hearings gave additional names. The research analyst's list did not have enough DUI comparison cases, so the Council obtained a list of contemporaneous DUI cases from the Area Court Administrator and randomly selected twenty additional Felony DUI cases.

The Bethel Therapeutic Court comparison group came from a list provided by the case coordinator. The thirty names on the list were defendants who had expressed an interest in the court, but who either were not accepted, or who decided on their own to not participate, before opting in to the program. Thus, with the exception of the randomly selected Felony DUI cases in Anchorage, most of the comparison group cases for all three courts were defendants who had shown some preliminary interest, but who never opted in to any program.¹⁴

¹⁴ Ideally, with more resources, a matched control group of defendants who had not been referred to, or shown interest in, the therapeutic courts would be preferable. Given the Council's findings (below) that the current groups tended to be well-matched except on prior criminal history, future evaluators should pay particular attention to matching defendants on criminal history.

	Not in Program	Graduated	Active	Left/Dropped	Total
Drug Court	0	10	7	13	30
Drug Court Comparison	20	-	-	-	20
DUI Court	0	15	34	24	73
DUI Court Comparison	54	-	-	-	54
Bethel Therapeutic Court	0	7	22	22	51
Bethel Court Comparison	30	-	-	-	30
Total:	104	32	63	59	258

	N of Defendants	Graduated		Active		Opted Out/Left	
		N	%	N	%		
Drug Court	30	10	33%	7	23%	13	43%
Drug Court Comparison	20	-	-	-	-	-	-
DUI Court	73	15	21%	34	47%	24	33%
DUI Court Comparison	54	-	-	-	-	-	-
Bethel Therapeutic Court	51	7	14%	22	43%	22	43%
Bethel Court Comparison	30	-	-	-	-	-	-
Total:	258	32		63		59	

B. Data Collection

¹⁵ Notes about this table: Several factors affected the data on this table, especially the length of time the court had operated. The Drug Court showed the highest percent of graduates because it started taking defendants in 2000 and because it went through a recent period in which it did not take new participants, giving it a low percentage of active participants and a relatively higher percentage of graduates and opt-outs. The Bethel Therapeutic Court had been operating only since June 25, 2002, so had relatively fewer graduates. Bethel also differed from the other courts by taking defendants in groups, rather than singly. It recently had another group of four graduates (see *Tundra Drums*, 11/11/04, page 8; the article continues, noting that at that time it had 20 defendants active in the program with a waiting list of 12 - 14 more).

The Council used the database designed for its collection of data about 1999 felony defendants¹⁶ and modified it to accommodate the needs of the therapeutic court evaluations. Because the databases were so closely related, the Council could use data from the 1999 cases as baseline data for some of the analysis of the therapeutic courts data. The database included about 160 variables (see Appendix B for list).

Program participants for the three courts were located by first working from the list created by the court's research analysts in late 2003. The lists gave the defendant's name and identification numbers, the criminal case number that brought the defendant to the therapeutic court, the defendant's status in the program, and limited other information including prior criminal history.

Research associates read each of the court case files and recorded data on laptop computers. The lists were checked again with program judges, case coordinators, and other staff associated with the programs to update information collected earlier. Data also came from other sources. The Department of Public Safety provided electronic lists of all prior offenses for each defendant, including the comparison defendants. The Department of Corrections provided information about remands to custody for all defendants, again including comparisons,¹⁷ and about days of incarceration for each of the 258 defendants.

A final step in data collection used the assistance of Anchorage probation officers who were assigned to the Drug and DUI courts at the time.¹⁸ Council staff provided the probation officers with the names of the therapeutic court participants and asked them for information not available from the court case files about changes during the program in the defendants' employment status, educational status, and other measures of improvement in accountability and quality of life.

¹⁶ Carns, Cohn and Dosik, ALASKA FELONY PROCESS: 1999, *supra* note 7. Available from the Judicial Council, or downloadable from www.ajc.state.ak.us, under "Publications."

¹⁷ The Council discussed with the Department of Public Safety the accuracy of arrest records, because arrests, before and after the opt in date for each defendant, were one of the preferred measures of outcomes. Because not all communities report arrests to DPS, the Council decided that it would use a different measure. At that point, DOC agreed to provide the Council with information about all remands to custody for each of the 258 defendants in the evaluation.

¹⁸ The Department of Corrections has since withdrawn the probation officers from the therapeutic courts programs; probation officers continue regular supervision of felony therapeutic court participants. Case coordination that was provided by these officers for the therapeutic courts during the evaluation period will now be provided by the Department of Health and Social Services, Division of Behavioral Health under the ASAP program. This change in the program means that these data reported here may not be entirely applicable to the new program.

Part IV

Description of Therapeutic Court Participants and Comparison Groups

A. Introduction

The data in this section describe the characteristics of the defendants, both for the entire group of 258, and for the different courts and comparison groups.

One of the first questions was how closely the participants matched with the comparison groups. With the exception of the twenty randomly selected Felony DUI cases for the DUI Court comparison group, all of the comparison defendants were people who had shown an interest in one of the programs. As the data below show, the defendants in each group were fairly similar to the actual program participants in age, gender, ethnicity, level of offense (felony or misdemeanor), and seriousness of charged offense. A statistical analysis comparing the participants and the comparison groups showed no statistically significant differences except for prior criminal history. Prior criminal history for each of the comparison groups included fewer serious offenses than prior histories for the participant groups.

B. Age

Age at Offense	Frequency	Percent
16 - 20 Years	19	7%
21 - 30 Years	66	26%
31 - 39 Years	89	34%
40 and older	84	33%
Total:	258	100%

Overall, the 258 defendants in this report tended to be older than a baseline group of 1999 defendants.¹⁹ In the 1999 report, nearly one-half of the defendants were less than 30 years old. In

¹⁹ *Supra*, ALASKA FELONY PROCESS: 1999, note 7, at Figure 1, page 53, and accompanying text.

this group (Table 2), only one-third of the defendants were 30 years or less. One-third of the defendants in this group were 40 or older, compared to 22% of the 1999 defendants.

Table 2a Mean Age at Date of Offense by Group		
	Number of Defendants (258)	Mean Age in Years
Drug Court	30	35
Drug Court Comparison	20	34
DUI Court	73	37
DUI Court Comparison	54	37
Bethel Therapeutic Court	51	32
Bethel Therapeutic Court Comparison	30	32

The mean age of the defendants (Table 2a) varied more by the court group (Drug Court, DUI Court, and Bethel) than it did by whether the defendant was in the comparison group or the program. None of the age differences were statistically significant. The DUI Court defendants and comparisons were the oldest, at a mean age of 37 years. The Bethel defendants and comparisons were youngest, at the mean age of 32 years. These data show that the courts and comparison groups matched well on mean age.

Table 2b Age by Status in Program		
Status in Program	N of Defendants	Mean Age in Years
Comparison Groups	104	35
Graduated	32	38
Active	63	35
Left Program	59	33

The evaluation also looked at demographic variables by the defendants' status as a comparison defendant or status in the program: graduated, active, or left the program. Table 2b. shows distinct differences between the four groups. Graduates were older than the other groups (mean age = 38); defendants who left the program were noticeably younger (mean age = 33), but the differences were not statistically significant. These data were consistent with the belief among many attorneys and others that older people had more motivation to complete the program for two related reasons. As defendants aged, they were likely to have a longer history of failures, and more prior offenses. These led, in turn, to a greater likelihood that the defendant would face a longer prison term as the alternative to participating in the therapeutic court.

C. Gender

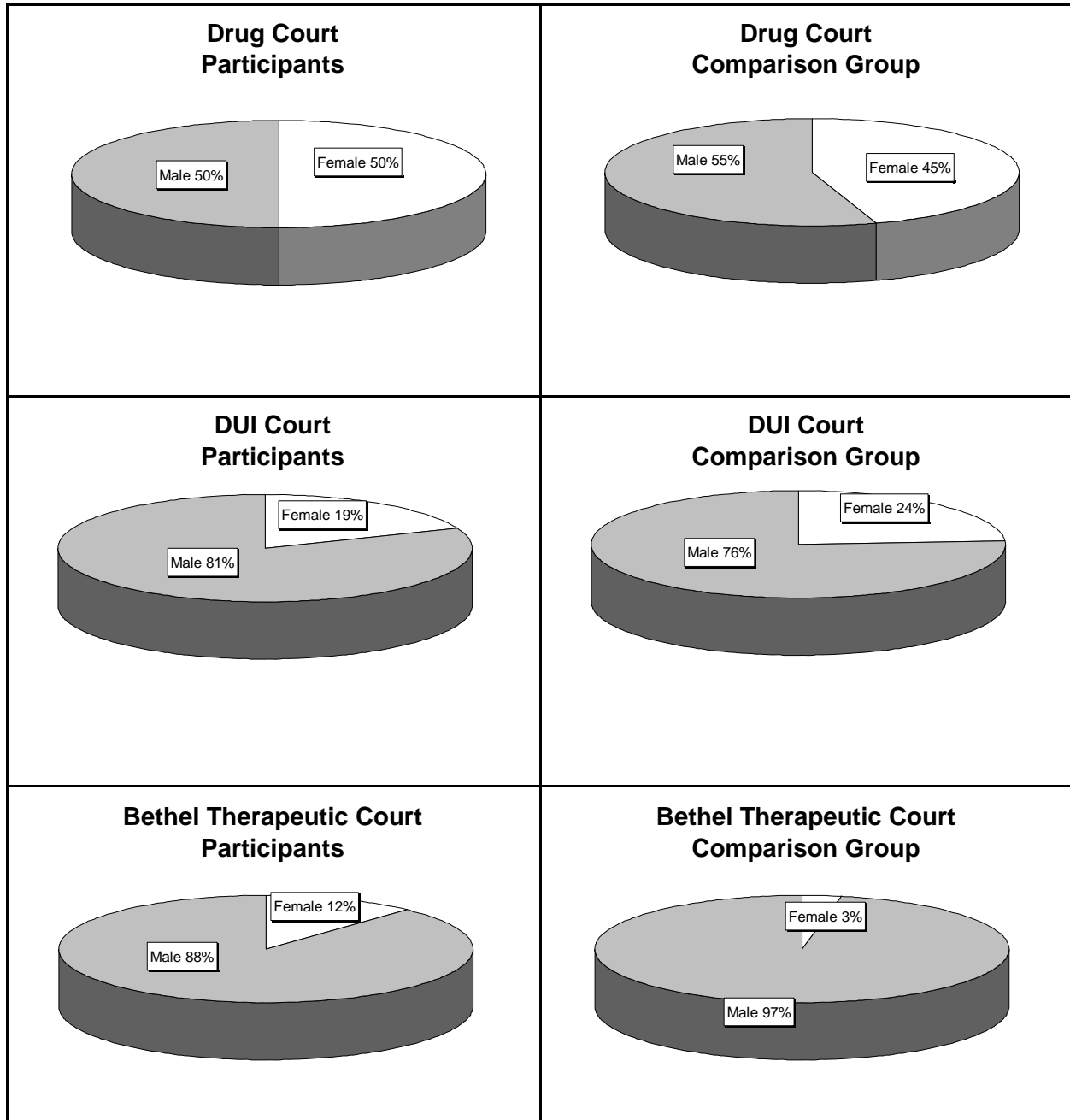
The groups included a total of 200 males (78%) and 58 females (22%).

Defendant Group	Number of Defendants	Male		Female	
		N	%	N	%
Drug Court	30	15	50%	15	50%
Drug Court Comparison	20	11	55%	9	45%
DUI Court	73	59	81%	14	19%
DUI Court Comparison	54	41	76%	13	24%
Bethel Therapeutic Court	51	45	88%	6	12%
Bethel Therapeutic Court Comparison	30	29	97%	1	3%
Totals:	258	200	78%	58	22%

The Drug Court had about 50% men and 50% women, and its comparison group had 55% men and 45% women. Both Drug Court groups had a much higher percentage of women than did the other groups, and than did the felony courts in general (83% of the 1999 sample of felony defendants were male and 17% were female). The 24 women in the Felony Drug Court and its comparison group accounted for 41% of the female defendants in the 258 total defendants.

The DUI Court participants and comparison groups were well-matched on gender (Figure 1). Males dominated in both groups: 81% of the court participants and 76% of the comparison group. The Bethel groups matched closely on gender too, with 88% males in the court group and 97% males in the comparison group. The Council also analyzed the gender of defendants by their status in the program (graduated, active, opted out, and comparison) for each of the courts. The analysis showed no significant differences by gender for any of the four status groups.

Figure1
Gender of Therapeutic Court Participants and Comparison Groups



D. Ethnicity

The whole group of defendants included somewhat more Native defendants than did the baseline comparison group of 1999 felony defendants (Table 4).²⁰ In this therapeutic court group, Natives were 44% of the defendants, as compared to 30% of the 1999 felony defendants. Another 44% of the defendants were Caucasian, compared to fewer than the 50% in the felony report. Blacks constituted 9% of this group, but 11% of the 1999 felony defendants. The groups were not entirely comparable because the Bethel groups were almost entirely Native; the 1999 felony report sampled defendants from around the state, so was less likely to be dominated by one group.

Ethnicity	Frequency	Percent	Percent of 1999 Felony Defendants*
Caucasian	113	44%	50%
African-American	22	9%	11%
Alaska Native/Amer. Indian	114	44%	30%
Asian/PI/Hispanic/Other	9	3%	4%
Total:	258	100%	

* Alaska Felony Process: 1999, at page 44

²⁰ *Supra*, note 7, at Figure 2, page 56.

Defendant Group	N of Defendants	Caucasian		Black		Native		Other	
		N	%	N	%	N	%	N	%
Drug Court	30	22	73%	4	13%	2	7%	2	7%
Drug Comparison	20	15	75%	1	5%	4	20%	–	0%
DUI Court	73	44	60%	7	10%	18	25%	4	6%
DUI Comparison	54	26	48%	10	19%	16	30%	2	4%
Bethel Therapeutic Court	51	5	10%	–	0%	45	88%	1	2%
Bethel Ct. Comparison	30	1	3%	–	0%	29	97%	–	0%

Table 4a shows the ethnicity of defendants by group. The Drug Court participants included more Black defendants (N=4,13%, vs. N=1, 3% for the comparison group).²¹ Overall, the Drug Court was largely Caucasian, with 73% Caucasians in the court group and 75% Caucasians in the comparison group.

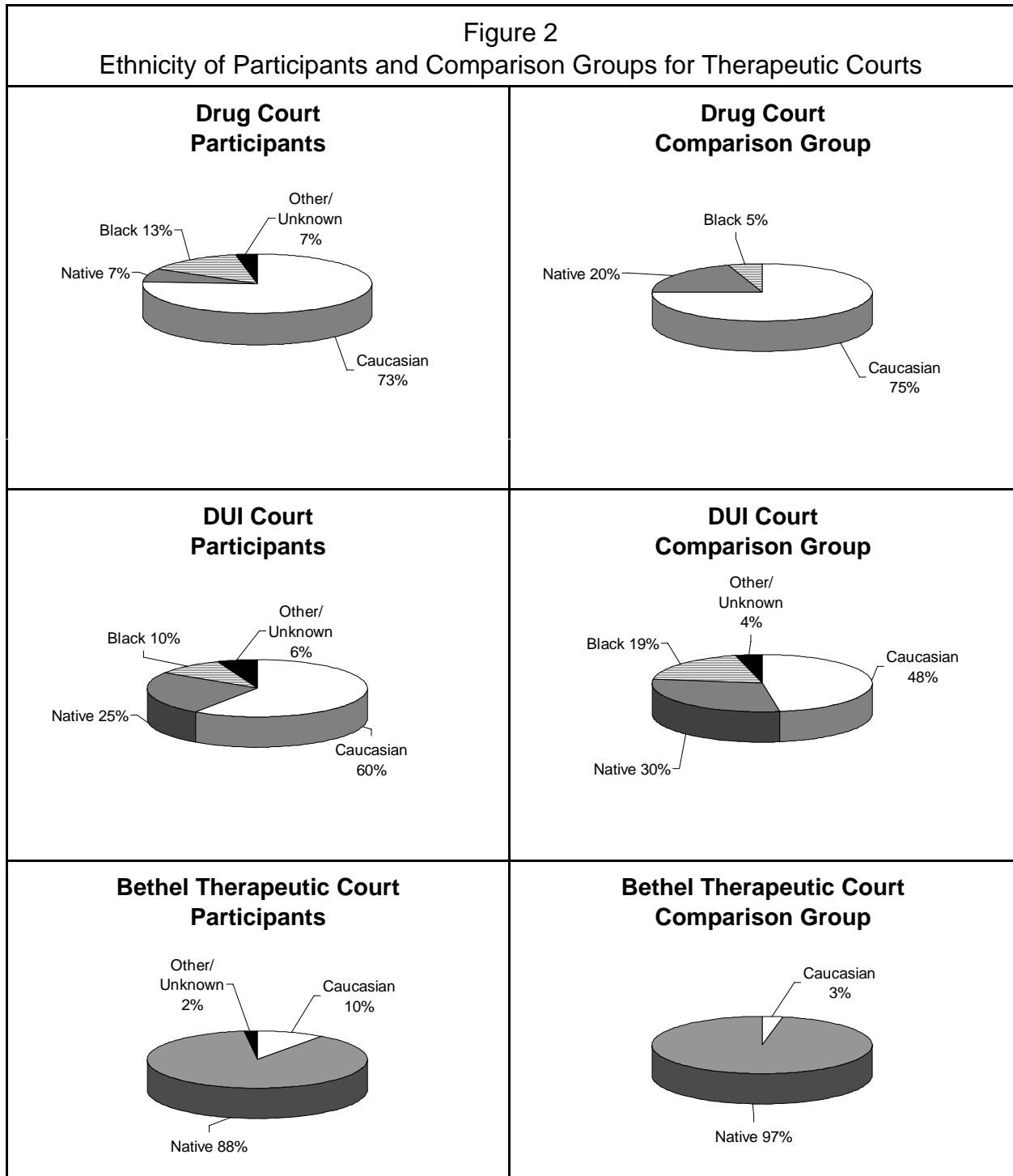
About 60% of the DUI Court participants were Caucasian, but about 48% of the comparison group. The relatively fewer Caucasians in the comparison group were balanced by relatively more Blacks (19%) and Natives (30%) in the comparison group. The DUI Court group also included 10% Black defendants, and 25% Native defendants.

The Bethel Therapeutic Court defendants were largely Native, with 88% Native in the court group and 97% Native in the comparison group. The Council also analyzed the ethnicity of defendants by their status in the program for each of the courts; the analysis showed no significant

²¹ In the 1999 felony report, *Id.*, at page 60, the discussion of ethnicity associations with offenses noted that Blacks were 15% of the defendants convicted of Drug offenses, a disproportionately high percentage. They also were convicted of some Property offenses at a higher rate than typical of all defendants. A review of the specific offenses in that report and those included in this evaluation suggested that although Black defendants might be expected to participate in the Felony Drug Court at a higher rate, it may be that the types of offenses with which they were charged were not offenses accepted in the drug court. The discussion of 1999 felonies noted that Black defendants were convicted in higher numbers of MICS 3 (Class B, Possession for Sale and Sale of different drugs); the drug offenses found in the Felony Drug Court were almost all MICS 4 (the less serious Class C charge of Possession of various drugs). An alternate explanation given by defense attorneys was that Black defendants were more likely to have prior records that kept them out of the felony therapeutic courts, especially the Felony Drug Court. Federal guidelines for funding in effect during most of this evaluation period had rigid requirements for admission to drug courts, including no prior violent convictions. The 1999 felony report (*id.*, at page 62) showed that Black defendants were twice as likely to have had two or more prior felony convictions, when compared to other defendants, and were slightly more likely to have had at least one prior felony conviction.

The small number of Native defendants in the Drug Court was consistent with the 1999 data. Only 14% of the Drug offenders, statewide, were Native.

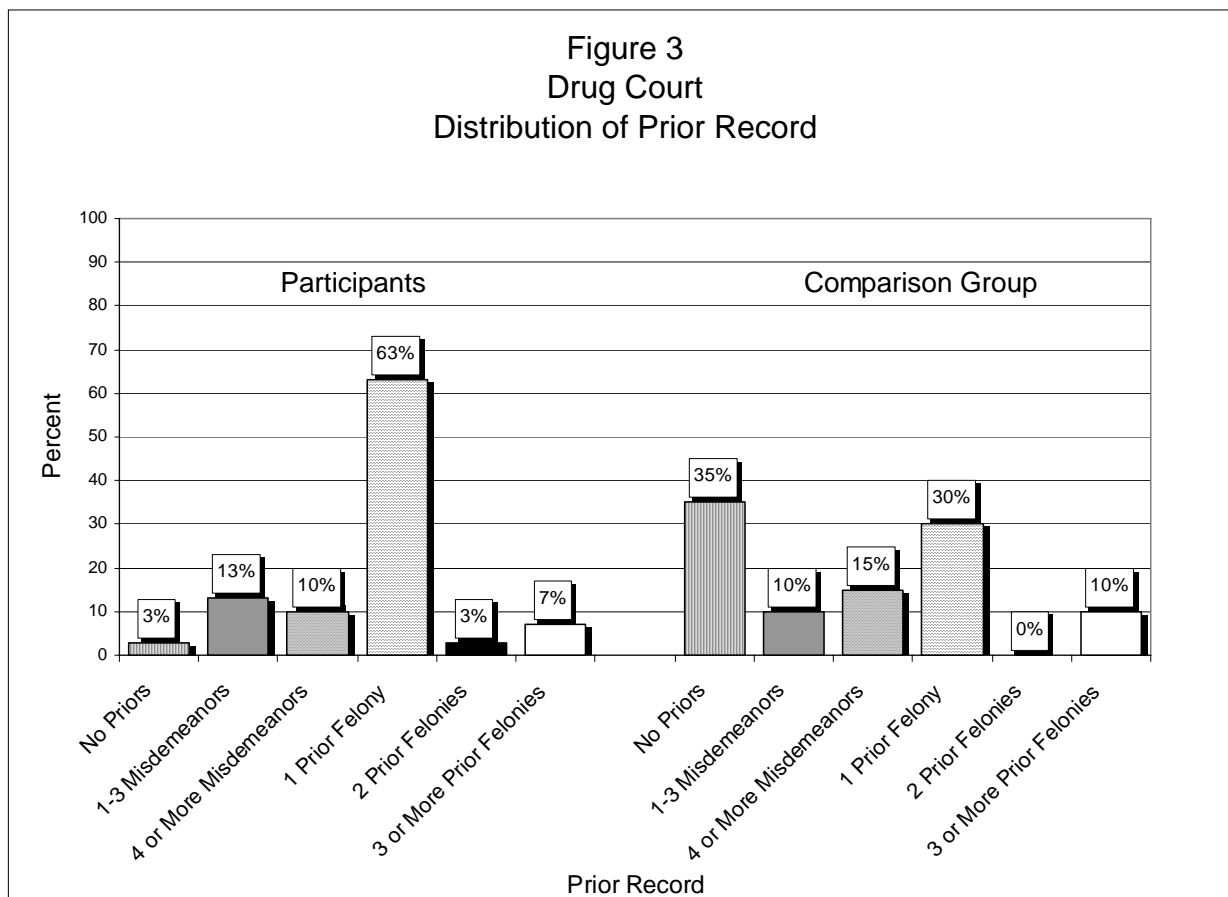
differences at all in status group by ethnicity (Figure 2).

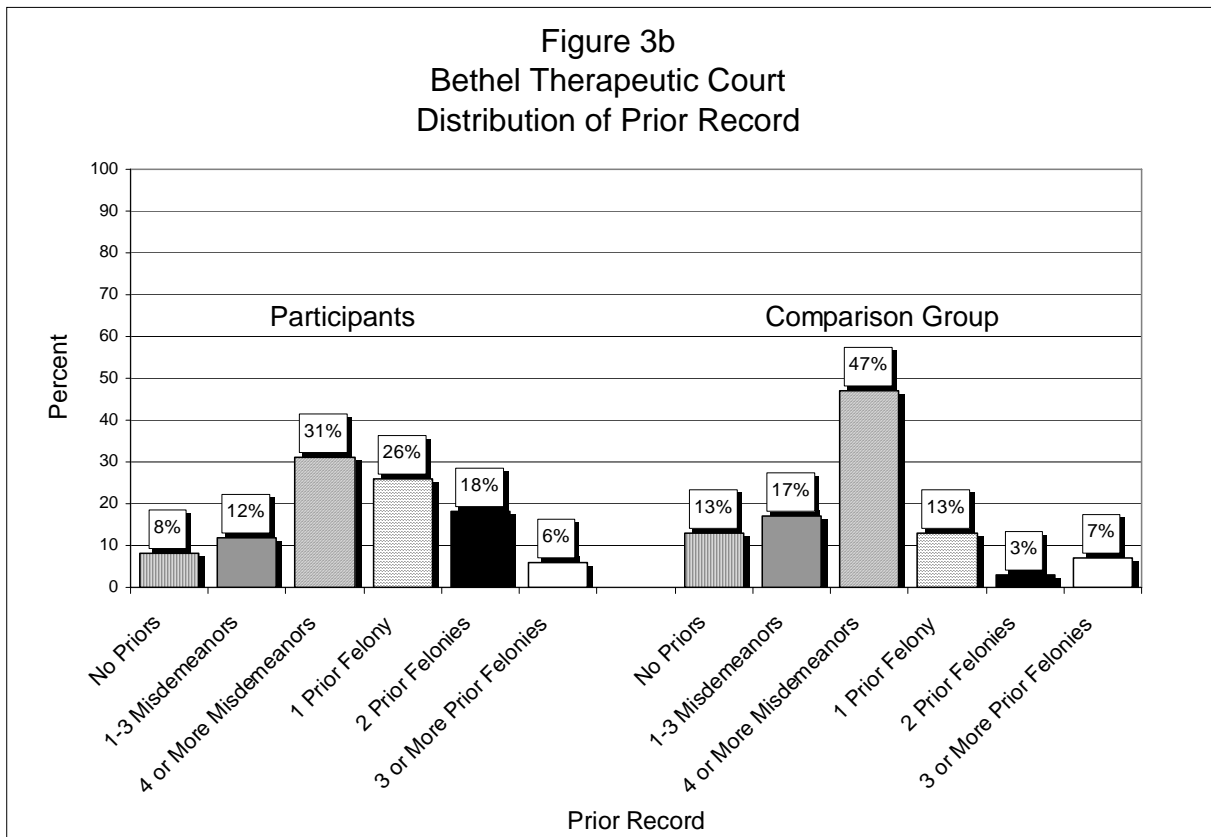
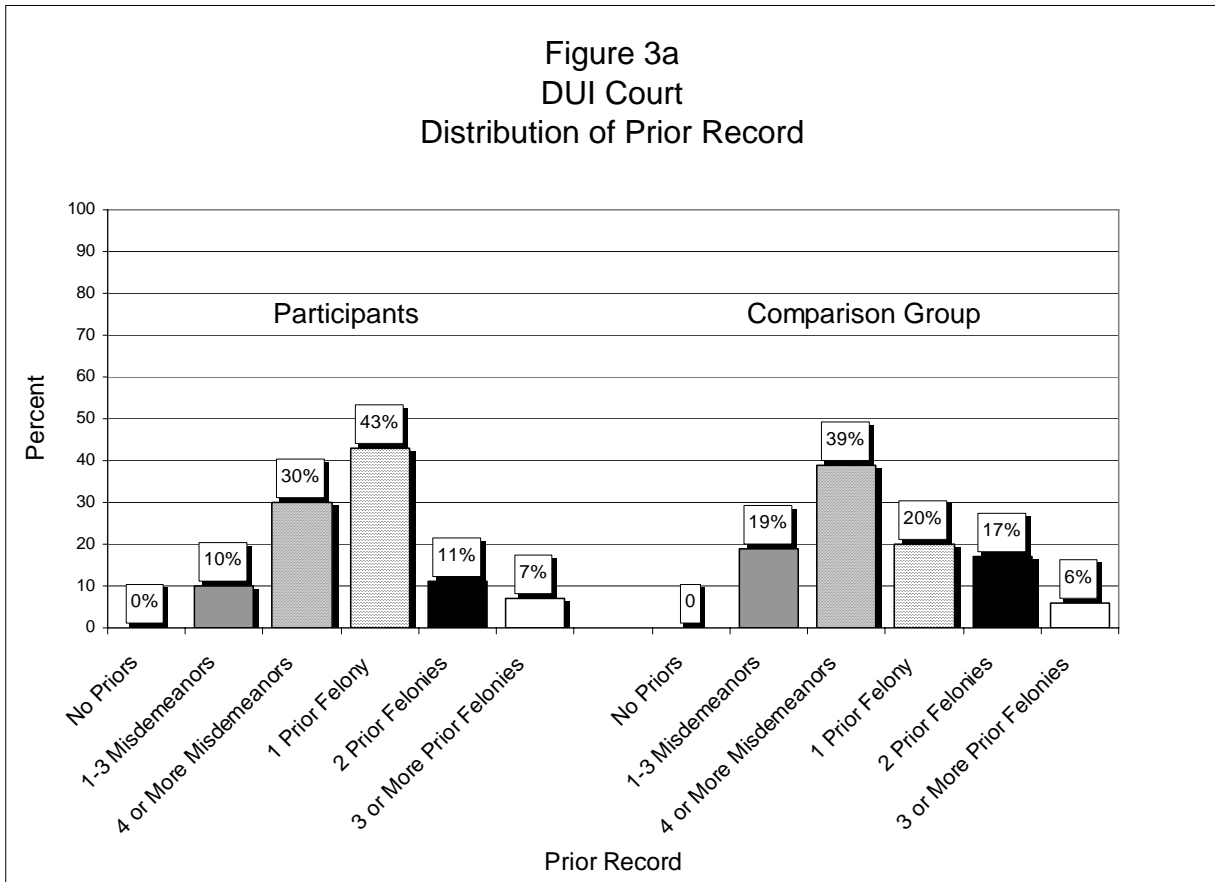


E. Prior Criminal History

The majority of Felony Drug Court and Felony DUI Court participants had prior felony convictions, including 73% of the Drug Court group and 60% of the Felony DUI group (Figures 3 and 3a). In Bethel Therapeutic Court, 49% had prior felonies. In the comparison groups, however, defendants had somewhat less serious prior felony records. Only 40% of the Felony Drug Court comparison defendants had prior felonies, 43% of the Felony DUI comparison group, and 23% of the Bethel Therapeutic Court comparison defendants.

One possible reason for this is that the comparison groups for the most part were made up of people who had been interested in the court, but who did not participate. Based on interviews with attorneys and judges, the differences between the two groups on prior record could be explained by the fact that the comparison group defendants with less serious prior criminal histories may have believed that the program was too lengthy and difficult, and that the time and conditions required by the program were substantially more onerous than any possible penalties that they would incur in a straight sentencing.





At the other end of the scale, looking at defendants in all of the groups who had no prior offenses or only one to three prior misdemeanor convictions, comparison defendants also showed less serious prior records (Table 5). About one-third of the Felony Drug court comparison group had no prior offenses; only 3% (N=1) of the court group had no prior offenses. About 10% of the Felony DUI court participants had only 1 to 3 prior misdemeanors, while 19% of the comparison group had these relatively minor records. In the Bethel Therapeutic Court group, 12% of the therapeutic court group had one to three misdemeanors, but 17% of the comparison group had the same relatively minor record.

Defendant Group	N of Defendants	N With Prior Felonies		N With 4+ Prior Misd.		N With 1 - 3 Prior Misd.		N With No Prior Offenses	
		N	%	N	%	N	%	N	%
Drug Court	30	22	73%	3	10%	4	13%	1	3%
Drug Comparison	20	8	40%	3	15%	2	10%	7	35%
DUI Court	73	44	60%	22	30%	7	10%	0	-
DUI Court Comparison	54	23	43%	21	39%	10	19%	0	-
Bethel Therapeutic Ct.	51	25	49%	16	31%	6	12%	4	8%
Bethel Ct. Comparison	30	7	23%	14	47%	5	17%	4	13%

F. Type of Attorney

Public Defender (PD) or Office of Public Advocacy (OPA) attorneys represented most of the defendants in each group (Table 6). Public attorneys interviewed for this report said that defendants with the funds to use private attorneys tended to choose out-of-state programs that they believed offered more effective treatment, rather than therapeutic courts or any other in-state programs. The largest numbers of private attorneys were found in the Drug Court comparison group (N=7), the Bethel Therapeutic Court (N=6) and the DUI Court (N=5). The DUI Court comparison group and the Bethel Therapeutic Court comparison group each had four defendants with private attorneys. OPA, by contrast, had the most attorneys in Bethel Therapeutic Court cases. The defendant's status in the program was not significantly associated with type of attorney.

Defendant Group	N of Defendants*	Public Defender	OPA	Private	Other**
Drug Court	30	24 80%	2 7%	2 7%	1 3%
Drug Ct. Comparison	20	10 50%	2 10%	7 35%	0 –
DUI Court	73	58 84%	3 4%	5 7%	3 4%
DUI Court Comparison	54	42 78%	4 7%	4 7%	4 7%
Bethel Therapeutic Ct.	51	26 68%	6 16%	1 3%	5 13%
Bethel Ct. Comparison	30	24 80%	2 7%	0 –	4 13%

* These numbers include defendants in the overall group who are missing data for this table.

** “Other” includes pro se and defendants whose type of attorney was unknown.

G. Type of Offense Charged

All of the defendants in both Drug Court groups were charged with felony offenses. The most noticeable difference between the two groups was that many more comparison group offenders had a Drug charge as their original offense, mostly the Class C Misconduct Involving a Controlled Substance in the Fourth Degree (MICS 4). Many more court participants were charged with Property offenses, primarily forgeries and Theft 2. Nearly half of the court participants (48%) had a Property offense as their most serious charge at the time of opting in to the court.

All of the most serious charged offenses in both DUI Court groups were felonies. All defendants but one in both groups had Felony DUI offenses. One of the comparison group was charged with Vehicle Theft.

The two Bethel Therapeutic Court groups differed somewhat on the offenses with which they were charged. Overall, 63% of the Bethel Therapeutic Court participants had felony charges, but only 40% of the comparison group. The court group included ten Felony DUIs (20% of its cases) but the comparison group had none. The court group also had six petitions to revoke probation, most for what originally were felony charges. The comparison group had only two, both for underlying misdemeanor offenses.

The comparison group had about 57% violent offenses, while the court group had 31%. The high percentage of violent offenders among the participants was an important feature of the Bethel Therapeutic Court. The Anchorage felony therapeutic courts did not accept offenders convicted of violent crimes, and the federally-funded drug courts throughout the country do not allow them. Bethel’s willingness to work with violent offenders in the well-supervised setting of therapeutic

courts could help to show the effectiveness of these programs for a wide range of offenders. The Felony DUI charges were perhaps the most important difference between the two groups: without them, the court group would have had fewer felonies and relatively more violent offenses.

H. Summary of Differences Between Court Participants and Comparison Groups

Perhaps the most significant difference between the court participants and the comparison groups in all three therapeutic courts was that prior records for the comparison groups were noticeably less serious than for the participants in the courts. For the most part, defendants in the comparison groups were those who had expressed an interest in the court, but who had decided not to opt in or who had not been accepted. Interviews suggested that it was perceived that defendants not facing substantial jail time did not have enough incentive to complete an arduous 12 to 18-month long program.

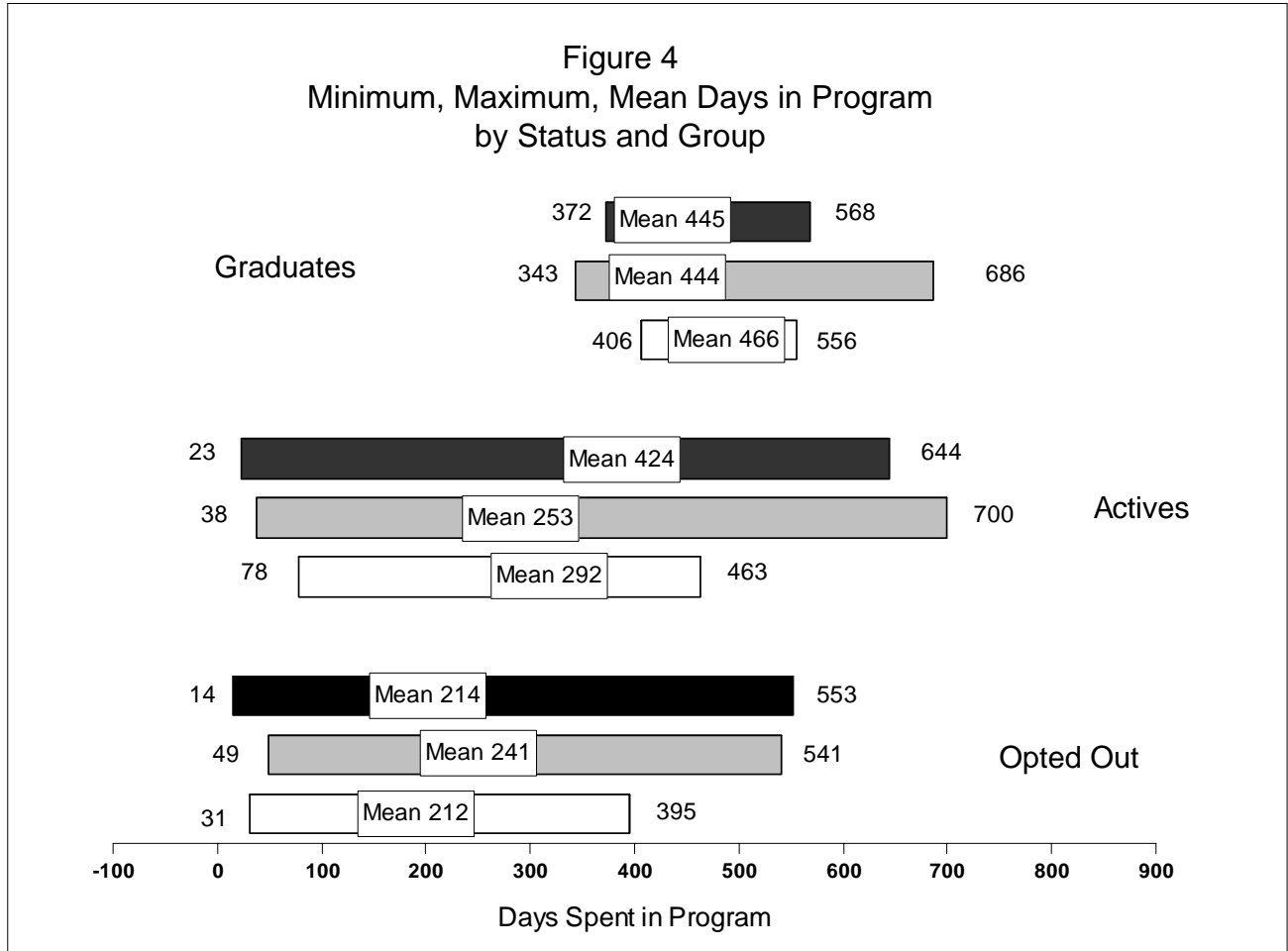
The defendants in all groups were well-matched on age and gender, and fairly well matched on ethnicity. On charged offenses, the Drug and DUI Courts were very similar. The Bethel comparison group had more misdemeanor and violent offenses; the court group had a number of Felony DUIs that distinguished it from the comparison group.

In general, the resemblances between the comparison groups and the court participants in all areas provided a reasonable basis for comparing the outcomes between the groups. Although the fairly small numbers of participants in all of the groups suggested caution in drawing conclusions, the differences were small enough to give a basis for discussion. The most important difference, the less serious prior criminal histories for the comparison groups, suggested that if the comparison defendants had been more closely matched, their outcomes would have been even less positive, and by contrast, the improvements noted in the therapeutic courts would have been more noticeable.

I. Days in Program, Hearings and Remands during the Evaluation Period

1) Number of days in therapeutic courts

The evaluation looked at the mean days, and the number of days spent in each of the courts between opt in and the end of each defendant's time in the program, and also analyzed the data for graduates, active participants and opt-outs in each court. Figure 4 and Table 7 show the findings for the different groups.



Drug Court	
DUI Court	
Bethel Therapeutic Court	

The number of days that defendants spent in each of the courts could help estimate the amount of resources required, and could also predict likelihood of eventual success in the program. A nationally-used standard for success in drug court programs is a measure called “retention rate.”²² The longer defendants stay in any treatment program, the more likely they are to complete the program successfully, and to maintain lower recidivism rates after completing the program. Even if defendants do not successfully complete one program, remaining in a program for a year or more significantly improves their chances for succeeding in a subsequent program. The national standard for drug courts is an average one-year retention rate of 60% (that is, 60% of the defendants had been in the program for at least one year).

Figure 4 shows that the lowest mean number of days spent in the program for all groups was 212 days or about seven months for Bethel opt-out defendants. The mean number of days spent by those still active in the programs and the graduates ranged from 253 (active in DUI Court) to 466 days (graduate of Bethel Therapeutic Court). These averages of eight to fifteen months suggest that the programs were retaining most defendants long enough to substantially improve the chances that the defendants would succeed in that or another program.

Number of Days	Graduated		Active		Opted Out	
	N	%	N	%	N	%
1-90 Days	-	-	7	11%	12	20%
91-179 Days	-	-	12	19%	13	22%
180-269 Days	-	-	11	18%	13	22%
270-364 Days	2	6%	12	19%	10	17%
365-413 Days	11	34%	8	13%	5	9%
414-456 Days	7	22%	5	8%	2	3%
457 Days or More	12	38%	8	13%	4	7%
Totals	32		63		59	

Table 7 shows the same information about number of days in the programs, but shows it as the distribution of days in the program rather than mean number of days. Among the graduates of Alaska felony therapeutic court programs, 93% of the graduates had spent one year or more in the programs. The minimum amount of time was 343 days for one or more graduates of the DUI court.

²² Rempel, et al, “The New York State Adult Drug Court Evaluation: Policies, Participants and Impacts.” VOL. IV, 2, DRUG COURT REVIEW (2004) 68, 74. “Retention is a key measure of program success. . . . Earlier research finds that retention not only indicates success in treatment but also predicts future success in the form of lower post-program recidivism and drug use (emphasis omitted).”

Of those active in the programs, one-third (33%) had spent one year or more at the time the data were collected for this report, suggesting that they had a better chance of completing the program successfully. Even among those who opted out of the program, 18% spent more than one year in the program before leaving, suggesting that they may be more successful in future treatment programs.

One expert compared the results for drug court programs to other types of drug treatment often used. He found that community-based treatment programs retained defendants for at least three months only 30% to 60% of the time. Therapeutic communities (a model used by the treatment program for the Drug Court and DUI Courts) had one-year retention rates ranging from 10% to 30%. The Alaska data, in the context of the national data suggest the therapeutic courts evaluated here are succeeding, by this measure, as well as drug courts in the rest of the country and better than many other types of treatment programs.²³

Sixty-one percent of the 31 defendants in the Drug Court had spent at least 365 days in the program. Only about 31% of the Bethel Therapeutic Court groups had spent that long, reflecting the fact that the Drug Court was the oldest of the three courts and Bethel was the youngest. About 37% of the DUI Court had spent at least 365 days in the program.²⁴

Among defendants who opted out of the program, two-thirds had left the program by the end of nine months. The mean number of days spent by opt-outs varied little by program, with Bethel showing a mean of 212 days, Drug Court a mean of 214 days, and the DUI Court showing 241 days (Figure 4). The range was wide, with some defendants spending as few as fourteen days and others spending as much as a year and a half in the program before opting out (or being asked to leave).

2) Total Hearings in and out of Therapeutic Court

One measure of the cost effectiveness of the therapeutic courts is how many resources from each agency went into their operations, contrasted with the potential savings in long or short term costs to the agencies. For the courts and other agencies, an important measure was the number and length of hearings for defendants. The data showed that participation in the therapeutic court was associated with substantially greater numbers of hearings for the court (and attorneys, case coordinators and treatment providers), as compared to defendants who were not in the therapeutic courts. Additional data that showed the comparative costs of hearings for defendants in the comparison groups who had subsequent offenses would be needed to further this analysis.

²³ *Id.*, at p. 74, footnote 4.

²⁴ Data available from Judicial Council.

	Drug Court	DUI Court	Bethel Therapeutic Court	Overall Mean
Not in Program	1	2.5	0.2	1.6
Graduated	41	44	42	43
Active	46	33	33	35
Opted Out/Left	31	31	26	29

Table 8 shows the mean number of hearings in therapeutic court by the location of the court and the status in the evaluation. The mean number of hearings for graduates in the Drug Court was 41; in the Bethel Therapeutic Court, 42; and in the DUI Court, 44. Given the differences among the programs, it was somewhat surprising that the number of hearings for graduates was so similar. According to interviews, many of the hearings lasted only a few minutes, perhaps three to ten minutes per defendant. Defendants active in the program at the time of data collection had a mean of 35 hearings in therapeutic court at the time of data collection (Table 8). Defendants who opted out of the program (Table 8) had an average of 29 hearings before they left the program.

Defendant Group	None	1-5 Hearings	6-19 Hearings	20-35 Hearings	36-49 Hearings	50 or More Hearings
Drug Court	- -	1 3%	7 23%	2 7%	12 40%	8 27%
Drug Ct. Comparison	13 65%	6 30%	1 5%	- -	- -	- -
DUI Court	- -	- -	15 21%	25 34%	22 30%	11 15%
DUI Court Comparison	14 26%	34 63%	6 11%	- -	- -	- -
Bethel Therapeutic Ct.	- -	4 8%	6 12%	16 31%	23 45%	2 4%
Bethel Ct. Comparison	27 90%	3 10%	- -	- -	- -	- -

In Anchorage, some defendants who did not enter the therapeutic courts (comparison groups) had at least one hearing in the Drug or DUI therapeutic court, for preliminary discussions of the possibility of opting in. About 30% of the Drug Court comparison group had 1 - 5 hearings in the therapeutic court and 63% of the DUI Comparison group had 1 - 5 hearings (Table 9). Most (90%) of the Bethel comparison defendants had no hearings at all in the therapeutic court (Table 9).²⁵ The

²⁵ These data may only reflect the different procedures used for selecting comparison groups for each of the three evaluated courts.

time for comparison group defendants was at least partially spent with the team members (attorneys, judge, treatment provider) deciding whether the defendant qualified for the program, based in part on the treatment provider’s assessment and the types of resources available.

	Drug Court	DUI Court	Bethel Therapeutic Court	Overall Mean
Not in Program	8	10.5	7	9
Graduated	8.5	6	4	6.5
Active	8	7	10	8
Opted Out/Left	10	9.7	9.5	9.7

The evaluation also looked at the mean number of hearings for defendants in the regular court process. Table 10 shows that defendants who had graduated were likely to have had the fewest hearings outside the therapeutic programs. Many of those hearings in the regular court may have occurred early in the case when the defendants were still considering and being considered by the therapeutic court. Those who had never been in the therapeutic court (comparison group) and those who were active at the time of data collection had more hearings in the regular court process, and those who had opted out of the programs had the most hearings not in therapeutic court.

	Drug Court	DUI Court	Bethel Therapeutic Court	Overall Mean
Not in Program	10	13	7	8
Graduated	50	51	46	49
Active	54	40	44	43
Opted Out/Left	37	41	36	38

Table 11 combines the mean total number of hearings in the therapeutic courts and outside the therapeutic courts to give a sense of how many additional hearings overall the court provides to defendants in the therapeutic courts. It shows that defendants who were never in the program had many fewer hearings than defendants who participated in the program at any level. Graduates had between 46 and 50 hearings combined, and those active in the program were ranging between 39 and 54 hearings. Those who opted out or left the program still had a substantial number of court hearings, some in the therapeutic court and some outside, ranging between 35.5 and 41 hearings.

There are no clear-cut differences among the courts, although there may be slightly fewer hearings occurring in the Bethel Therapeutic Courts.

Another way to view these data is to consider the frequency of hearings, by dividing the mean days (Figure 4) for each group of defendants by the mean number of hearings. This analysis shows that graduates of the program had one hearing every ten or eleven days, taking into account all of their time in the program. Those active in the program who could be expected to be at hearings more frequently had one hearing every eight or nine days. The opt-outs had one hearing every seven or eight days. The greater frequency of hearings for opt-outs and active participants suggests that more hearings are occurring in the earlier phases of the programs, consistent with the model for the therapeutic courts.

3) Remands to incarceration

One question raised when the analysis was begun asked if the judge, the prosecutor or the probation officer was initiating the most remands to incarceration. Analysis of the data by the defendant's status in the program showed that prosecutors made very few requests for remands, for any defendants. Probation officers initiated a few more remands, primarily for people who left the program or who were still active at the time of data collection. Judges initiated the great majority of all remands.

Of the defendants who participated in the therapeutic court programs, half (50%) had no remands at all. Even among those who opted out or were asked to leave, 26% had no remands. Those who opted out/left, however, did have significantly more remands than either the graduates or the active group. Twenty-six percent had one remand, 24% had two remands and 24% had three or more remands.

Part V

Analysis and Outcomes

A. Introduction

The Judicial Council analyzed the data for this report in-house, except for the following section; it contracted with the Institute for Social and Economic Research at the University of Alaska Anchorage to do most of the analyses of the outcomes and to advise on statistical significance of findings. This section includes that analysis and a brief description of qualitative outcomes such as improvements in education, work, and health of children and families.

Effectiveness of the therapeutic court process was measured using three criteria: did the therapeutic court process lead to fewer days of incarceration during the two years after opt in to the therapeutic court, as compared to the two years before starting the program? Did the therapeutic court process lead to fewer convictions during the two years after opt in to the program? Did the number of remands to custody change after beginning the program, as compared to the numbers of remands to custody during the two years before beginning the program?

The time frames were calculated for each defendant's "before" period using the opt in date (or if the defendant was in a comparison group, the plea date, or the sentencing date if the case file did not have a plea date), and the numbers of incarceration days/remands/convictions during the two years immediately before that date were calculated. The period after the opt in or test date varied by defendant, with some defendants in the program for only a few months before the collection of data. To account for these differences in time in the program, the statistical analyst used equations that would make the time spent comparable for all defendants. These same calculations were applied throughout the analysis.

The analyses show three different ways of viewing the findings. First, each group of defendants (e.g., those active in the Drug Court, those who opted out of the Drug Court) has a before and an after period. The measures of statistical significance apply only within each of the groups, and measure the significance of any changes between the two periods. Second, all of the groups for each court can be viewed together, to see, for example, whether graduates of the Drug Court show more or less improvement than those who opted out of Drug Court. Third, groups from each of the courts can be compared to the other two courts, so that graduates of Drug Court can be compared to graduates of the Bethel Therapeutic Court or the DUI Court. The second and third comparisons

are less exact than the within-group comparisons for which tests of statistical significance were used. In addition, the qualitative information provided by the probation officers in Anchorage and the case coordinator in Bethel is reported, to the extent that it was available.

The data showed that comparison defendants in all three programs spent significantly more days incarcerated during the two years after their offense. Graduates spent fewer days incarcerated after starting the program, as did those active in the program. The results were most significant for the DUI Court.

The two other measures, remands and convictions, also showed differences among the groups. Graduates and those active in the programs had fewer remands after joining the program than in the two years before the program. Those who opted out of the program had more remands, or showed no change. Graduates and those active in the program also had fewer convictions after joining the program than during the two years prior to therapeutic court participation. The next sections describe these findings in more detail.

B. Days of incarceration

The days of incarceration before and after starting the program (or, for the comparison group, entering a plea) changed in expected ways for each group of defendants. Graduates and those active in the program had many fewer days of incarceration in the two years after joining the program. Those who did not participate (the comparison group) had significantly more days of incarceration.²⁶ In the Anchorage courts, those who opted out of the programs also had more days of incarceration after their opt in dates to the program.

	Mean Days Incarcerated		prob*	N
	Days 2 years prior	Days 2 years post		
Drug Court				
Graduated	142	66	0.115	10
Active	100	60	0.620	7
Opted out/dropped out	187	249	0.369	13
Not in program	104	208	0.028	20
DUI Court				
Graduated	71	31	0.001	15
Active	177	88	0.008	34
Opted out/dropped out	233	313	0.068	24
Not in program	158	311	0.000	50
Bethel Therapeutic Court				
Graduated	140	7	0.070	7
Active	124	22	0.000	22
Opted out/dropped out	243	155	0.079	22
Not in program	115	182	0.012	30

* Statistically significant if probability is .05 or less. Significant findings are in bold type.

The results varied somewhat for each court.

- **Drug Court:** Graduates and active participants in the Drug Court both had fewer days of incarceration after joining the program than they had during the two years before starting the program. Although data were not available to measure whether these participants had fewer days of incarceration after completing the entire program, the outcome of fewer days at any point still may benefit both the defendant and the criminal justice system.²⁷ In contrast, both

²⁶ The days of incarceration for the comparison group and opted-out defendants include the time imposed during the two year “followup” or “after” period for their sentences.

²⁷ Available data suggest that participation in a therapeutic justice program may be less costly than incarceration. See *Final Report of the Criminal Justice Assessment Commission*, (May 2000, Alaska Judicial Council) at pages 30 - 32.

defendants who opted out of the program and those who did not participate in the program had more days during the follow-up period than they did during the two years before their convictions on the charge included in this research.

- **DUI Court:** Graduates²⁸ and active participants in the DUI Court had significantly fewer days of incarceration during the period after opting in to the program. Those who were not in the program had significantly more days of incarceration during the period after their offense, than during the two years before. Opted-out defendants also had more days of incarceration during the after period.
- **Bethel Therapeutic Court:** The defendants who graduated or were active in the program had fewer days of incarceration after opting in to the program. Those who opted out of the program also had noticeably fewer days of incarceration during the two years after opting in to the program. Defendants who were not in the program had significantly more days of incarceration after the date of their offense than they did in the two years before.

²⁸ Note that the graduates of the DUI Court had the fewest pre-program incarceration days of any group in the three courts. They had spent an average of 71 days incarcerated during the two prior years, as compared to 100 or more days for every other group. The graduates of DUI Court had fewer prior felonies, as a group, when compared to all defendants in DUI Court (see Table 5). Sixty percent of DUI participants had one or more prior felonies, but only 53% of graduates (data available from the Judicial Council).

C. Remands to Custody

The Department of Corrections provided data about the remands to custody and releases for each of the 258 defendants. The analysis looked at the mean number of remands to custody during the two years before the opt in or plea date, and during the two years after that date. The defendant could have been remanded to custody for a probation or parole violation, or for a new offense.

	Mean N of Remands		prob*	N
	Remands 2 years prior	Remands 2 years post		
Drug Court				
Graduated	2.5	0.8	0.022	10
Active	2.7	2.4	0.779	7
Opted out/dropped out	2.9	3.9	0.164	13
Not in program	2.4	1.9	0.552	19
DUI Court				
Graduated	2.0	0.8	0.002	15
Active	2.7	1.2	0.001	34
Opted out/dropped out	3.4	3.3	0.873	24
Not in program	3.1	2.1	0.106	53
Bethel Therapeutic Court				
Graduated	7.7	1.0	0.248	7
Active	5.2	3.9	0.422	22
Opted out/dropped out	4.1	5.8	0.093	20
Not in program	3.3	3.6	0.767	30

* Statistically significant if probability is .05 or less. Significant findings are in bold type.

Remands to custody were considered a part of the therapeutic court process, used if a defendant had a positive drug test or violated the conditions of the program in any other way. As a result, participants in the program might be expected to have a higher number of remands to custody after they began the program. However, because participants in the programs are so carefully supervised, another explanation is that problems discovered early can be handled with progressive sanctions rather than immediate remands. The progressive sanctions, according to a policy-maker, give participants learning opportunities and reduce the need for remands.²⁹ The fact that all of those active in or graduated from any of the three courts had lower numbers of remands suggested that the programs were successful in preventing problems for a number of defendants.

In the Drug Court and the Bethel Therapeutic Court, those who opted out had more remands after starting the program than they did during the two years prior. That suggested that for the

²⁹ Email from Therapeutic Courts Program Coordinator Robyn Johnson, March 22, 2005.

defendants who did not fit as well with the program, remands were used as a sanction more frequently. In the DUI Court, the mean number of remands for opted-out defendants changed insignificantly, from 3.4 in the two prior years, to 3.3 in the following two years.

- **Drug Court:** Drug Court graduates had significantly fewer remands to custody during the two years after opting in to the program than they did during the two years before. Those who were active in the program, and those who did not participate in the program also had fewer remands, although the changes were not statistically significant. The only Drug Court group who had more remands were those who eventually opted out of the program.
- **DUI Court:** Both the graduates of the program and those who were active in the program had significantly fewer remands to custody after starting the program. The opted-out defendants and those who were not in the program also had fewer remands, but the differences were not statistically significant.
- **Bethel Therapeutic Court:** As with the DUI Court, the Bethel graduates and those active in the program had fewer remands during the two years after opting in to the program. Those not in the program and those who opted out had more remands. None of the differences were statistically significant. When viewed in the context of the Anchorage Courts, the Bethel groups had many more remands, both before and after, suggesting a somewhat different approach to handling cases, or demographic differences between Bethel and Anchorage.

D. Mean Numbers of Convictions

The third measure of the effectiveness of the therapeutic courts in this report was any change in the mean number of convictions during the before and after periods in each case.³⁰ A conviction meant that the defendant had been charged with a new offense, and had pled guilty (or been found guilty at trial). The process of arriving at a conviction could take a substantial amount of time. A conviction on a new offense tended to be a more time-consuming process than a remand to custody, so there were likely to be fewer convictions for any group. For all groups in this analysis, defendants had fewer convictions during the two years after the program than during the two years before, with the exception of the comparison group for the Drug Court. Those active in all three programs had significantly fewer convictions during the period following their opt in to the programs.

	Mean N of Convictions		prob*	N
	Convictions 2 years prior	Convictions 2 years post		
Drug Court				
Graduated	1.0	0.5	0.030	10
Active	1.7	0.4	0.036	6
Opted out/dropped out	2.1	1.4	0.433	13
Not in program	1.3	1.6	0.520	20
DUI Court				
Graduated	0.7	0.1	0.070	15
Active	1.5	0.1	0.000	33
Opted out/dropped out	2.0	1.0	0.083	23
Not in program	1.4	0.3	0.000	54
Bethel Therapeutic Court				
Graduated	0.7	0.2	0.101	7
Active	2.3	0.2	0.000	21
Opted out/dropped out	2.7	0.7	0.001	22
Not in program	1.3	0.6	0.140	30

* Statistically significant if probability is .05 or less.

- **Drug Court:** Both the graduates of Drug Court and those active in the program at the time of the data collection had significantly fewer convictions during the two years after opting in to the program. Those not in the program had slightly more convictions during the two years after, while those who opted out had fewer during the two years after. Neither finding was significant.

³⁰ For all groups in the report, including the comparisons, the offense that brought the defendant to court was excluded from the analysis.

- **DUI Court:** Those who graduated from the DUI Court, and those active in it had fewer convictions during the period after opting in to the program than they had in the preceding two years. For those active in the program, the difference was significant. Those who opted out of the program and those who were not in the program also had fewer convictions.
- **Bethel Therapeutic Court:** As with the DUI Court, all groups in the Bethel Therapeutic Court saw a reduction in convictions during the two years after the plea/opt in date. The reductions were statistically significant for those active in the program and for those who dropped out/opted out of the program.

E. Qualitative Changes for Therapeutic Court Participants

The statistically measurable outcomes for therapeutic court participants were not the only valid ways to assess the effectiveness of the programs. Other information about changes in educational and employment status, stability in family situations, and benefits to the children of participants were just as important. The probation officers responsible for the Drug and DUI Courts reviewed their files in June and July of 2004 to find information about changes in the lives of persons who participated in those courts.³¹ The Council combined their observations with data drawn from the court case files to show other types of benefits to the individuals and the community. These data were not reported consistently in the case file, and should not be used to make definite statements about amounts of improvements. They help to understand the types of benefits that many therapeutic court participants may have experienced. Because they are data from objective sources and not self-reported data, they are reliable perspectives on changes experienced by participants in the programs.

Changes for graduates and those active in the Drug and DUI Courts included:

- 16% of the graduates and 6% of those active in the programs appeared to have improved their child support situations. Either they were able at the time of data collection to pay more support to their children, or they were receiving more child support.
- One graduate and one active participant reported the birth of drug/alcohol-free babies.
- 6% of the graduates and 3% of the active participants said that they had regained custody of their children.³²
- 81% of the graduates and 32% of those active in the programs had more stable family situations during or after participation in the program.

³¹ For this report, qualitative data were not available about the Bethel Therapeutic Court participants.

³² Data about how many defendants had lost custody of their children before participating in the program were not available.

- 9% of the graduates and 13% of the active participants reported reduced domestic violence after they participated in the program.³³
- 63% of the graduates and 46% of the active participants were holding a steady job after participation in the program.
- 41% of the graduates and 21% of the active participants had improved their educational status after participating in the program.
- 41% of the graduates and 15% of the active participants reported less debt after participation in the program.

³³ Data about how many experienced domestic violence problems before participating in the program were not available.

Part VI

Summary of Findings and Discussion

A. Summary of Findings

1. Overall, the data tended to show that defendants who had graduated from the program and who were active in the program had fewer days of incarceration, fewer remands to custody, and fewer convictions after they began the program than during the two years before entering the program. These findings were consistent with findings from a number of studies in other therapeutic courts across the country.³⁴
2. Defendants who were in the comparison groups had significantly more mean days of incarceration after their convictions for the evaluated offense than they did in the two years before. The mean number of remands to custody for the comparison defendants did not change significantly between the before and after periods.
3. Although further evaluation can be done, and data should be collected over longer periods of time, these present data fully support the hypothesis that therapeutic court participants show improvement in two ways: Their outcome measures improved during and after the programs; and their performance measures were demonstrably better than a matched set of comparison defendants.
4. Qualitative improvements for participants in the Drug and DUI Courts included marked improvements in family stability, employment, education, and financial status. Two drug-free babies were born to participants during the period evaluated.³⁵ Smaller numbers of

³⁴ *Recidivism and Other Findings Reported in Selected Evaluations of Adult Drug Court Programs Published 2000 - present*. Compiled by the BJA Drug Court Clearinghouse Project. School of Public Affairs. Updated, February 11, 2005. From email from Carolyn Cooper, February 12, 2005; documents available at (www.american.edu/justice).

³⁵ Some research suggests that the cost to the community of a baby born with drugs in its system or with Fetal Alcohol Effect/Fetal Alcohol Syndrome (FAS/FAE) exceed \$1,000,000 (e.g., "Alaska's Greatest Hidden Tax: The Negative Consequences of Alcohol and Other Drug Abuse and Dependence, Alaska Advisory Board on Alcoholism and Drug Abuse, February 2001, page 11: ". . .the lifetime expense of a Fetal Alcohol Syndrome birth (estimated at \$1.4 million). . ."). Even a single drug-free baby becomes a substantial benefit to the community, by avoiding these costs. Also, "The lifetime cost per child affected with FAS is estimated to be \$1.4 million." Alcohol Policies Project, Ctr. for Sci. in the Pub. Interest, *Fact Sheet: Fetal Alcohol Program 1*, <http://www.cspinet.org/booze/fas.htm> (visited June 24, 2003) (citing Centers for Disease Control and Prevention (CDC), *Preventing Secondary Conditions In Children With Fetal Alcohol Syndrome* (1998), <http://www.cdc.gov/nceh/programs/fas/factsheets/secondary/faqfas.htm> (no longer available)).

- participants also reported improvements in child support and child custody situations, and reduced domestic violence during or after participation in the programs.
5. The felony therapeutic courts that were evaluated served sizable numbers of ethnic minorities. In Bethel, most of the defendants were Alaska Natives, and in the DUI Court, 24% were Native. Some Blacks also participated in the DUI and Drug Courts, at about the same rate that they appeared in the general felony defendant population. This finding was important because it suggested that the therapeutic courts were useful in a variety of demographic groups, and their utility was not limited by demographic considerations.
 6. Analysis by the status of the defendants in the program showed no significant differences by mean age, gender or ethnicity. This further reinforced the finding that therapeutic court effectiveness was not limited by demographics. The Bethel Therapeutic Court had disproportionately large numbers of Natives, and the Felony Drug Court had disproportionately large numbers of women.
 7. About half or more of all participants in the courts evaluated had a record of one or more prior felony convictions. This indicated that the programs were serving many defendants for whom other efforts at rehabilitation had failed. Conversely, any improvements for these defendants would serve the criminal justice system by helping the more serious defendants for whom prior sanctions and incarcerations had not been successful.
 8. Most defendants in the program were represented by the Public Defender agency. Private attorneys did not seem to use the programs as frequently as public attorneys. Type of attorney was not associated with success or opt-out from the program.
 9. About half of Felony Drug Court defendants were charged with Property offenses; most of the remainder were charged with Drug offenses. All of the Felony DUI defendants were charged with Felony DUI. Bethel Therapeutic Court participants had a mix of Felony and misdemeanor DUI charges, a few petitions to revoke probation, and some violent offenses.
 10. Participants in the program and the comparison defendants tended to be older than the baseline group of defendants from the 1999 report on felonies. The mean ages ranged from 32 to 37, with the younger defendants in Bethel and the older defendants in the DUI Court.
 11. Graduates from each of the courts had spent a mean of about 452 days (fifteen months) in the court before graduating. The typical graduate had a mean of 43 hearings in the therapeutic court, and opted-out defendants had a mean of 29 hearings before leaving the program.

B. Discussion of Findings

The findings from these evaluations of the three therapeutic courts that serve felony defendants suggest further steps that the courts, legislature and participating agencies may wish to consider. The therapeutic courts have demonstrated some notable successes, both in qualitative and in quantitative ways. There have been clear reductions in days of incarceration for participants of programs, and reductions in the numbers of remands and in subsequent convictions. Probation officers noted improvements for participants in jobs, education, family stability and many other areas.

The data support continuation and possibly expansion of the therapeutic court programs. The evaluations also need to continue, for several reasons. First, long periods of follow-up are needed to demonstrate the continued effectiveness of the programs. The legislation creating the therapeutic courts (HB 172) set a deadline for evaluation of July 1, 2005. To get the report to the legislature for its use during the 2005 session, the Council completed its data collection by May 2004. In addition to the present measures of outcomes, the Council would compare the numbers of incarceration days, remands and convictions for graduates after they finished the program with comparison defendants (and opted-out defendants) after they had served their sentences. In this proposed analysis, the Council would not include time during the program, and thus could better demonstrate the long-term outcomes of the programs. The Council expects to carry out this analysis during the next two years.

Second, baseline recidivism data for all felony defendants needs to be established. Although the participants in the programs generally do better than the comparison groups included in the evaluation, a broader assessment of recidivism for all defendants would give a more solid basis for comparison. Third, the agencies involved in these programs (primarily the courts, prosecutors, defense attorneys and treatment programs) need to provide data to evaluators that can be used to assess the detailed costs and benefits of the programs. Without more detailed information about the actual in-court and out-of-court time spent by the professionals carrying out the therapeutic court work, it is impossible to compare the real costs and benefits.

Based on previous information available to people around the state, several new programs have been funded with federal and state monies. In considering the usefulness of expanding the scope of the felony therapeutic courts to other communities, professionals involved in the courts should share their perspectives with policy-makers for the felony courts. Policy-makers also can consider similar programs that could provide many of the therapeutic court benefits at lower costs, or could serve groups of defendants that do not qualify now for the therapeutic courts.

Finally, each successful graduate of a therapeutic court program has become an employed, sober citizen with tools to help prevent relapse and to remain accountable to the community. If defendants owed restitution to victims, payment was a part of their therapeutic court program. Sustaining and building on the work done by defendants in the therapeutic court programs will help maintain these benefits to the community in the long term. Chief among the needs for defendants,

according to program staff, were continuing support groups and safe, sober housing.

Appendix A

List of Variables

Description of variables for SPSS file for ISER

offId	Offender ID - unique to each record.
DOB	Date of Birth
APSIN#	APSIN# - matches with the DPS prior record data.
Gender	0 N/A, 1-Male, 2 Female, Unknown
Ethnic	Ethnicity - checked against ethnicity from DPS (only 2 unknowns)
Hisp?	Hispanic surname
Edu	Education level - only have data for 71 defendants
Emp	Employment - data on 98 defendants
Married?	Yes/No
Parent?	Yes/No
PriorIn?	Yes/No Incarcerated before sentencing?
MentHlth	Any indication of mental health issues 1 - no indication, 2- indication of problem
xrdpty_	Third party custodian required at any point?
AlcOff?	Under the influence of alcohol at the time of the offense?
AlcProb?	Any indication of an alcohol problem?
DrgOff?	Under the influence of drugs at the time of the offense?
DrgProb?	Any indication of a drug problem?
inctrout	Number of days incarcerated after plea
IncTrial	Number of days incarcerated before plea
IncAtDispo	Yes/No Incarcerated at time of Disposition?
ChFiled	# Charges filed
ChSent	# charges sentenced
PriorFel	Number prior felonies (from case file)
PriorMis	Number of prior misdemeanors (from case file)
Violent?	Any priors violent? (from case file)
DV?	Any priors domestic violence? (from case file)
DWI	Number of Prior DWIs (from case file)
MICS	Number of Prior Drug Convictions (MICS)
PDPay	Amount to pay for Public Defender
DWIBAC	Level of alcohol at arrest
DWISourc	Source of alcohol level
Drgtype	If drug involved - what type
THerCt	Which therapeutic court group does defendant belong to?
Priors	Prior record from file
TotlOut	Number of hearings out of Therapeutic Court
TotlHrg	Count total Hearings in Therapeutic Court
TotlCas	Total Cases for this defendant
Doff	Date of Offense
Off	Text field - name of charged offense
OffMdFel	Offense a Misdemeanor or a felony?
OffCode	Codes assigned for classes of felonies
Dsent	Date Sentenced
RestitCH	Amount of Restitution
FinalOff	Text field - Final offense
FinalCD	Coding of final offense
FinMdFel	Final offense is misdemeanor or felony
Fine	Fine
Dispo	Disposition
ATN	ATN Number
DVOffTbC	DV Offense?

Weap?	Was a weapon used in the offense?
DOpen	Date case filed
Plea	Plea type
TypDefAt	Type Defense attorney
Rest?CH	Restitution?
SIS?	Suspended Imposition of Sentence?
Presump?	Presumptive sentence?
DPlea	Date of plea - this date was used for the comparison group.
InitOpt	Initial Opt in date for therapeutic court
EndCRP	End date for therapeutic court.
DaySnSMS	Days sentenced
ExitRsn	Reason for end of therapeutic court (or case)
DFstThHr	Date of first therapeutic court hearing
EMdays	Number of days in electronic monitoring
RemandJudge	Number of remands by Judge after plea
RemandPO	Number of remands by Probation officer after plea
RemandDA	Number of remands by Prosecutor after plea
DOCInc2B	Days incarcerated 2 years before opt in
DOCInc2A	Days incarcerated 2 years after opt in
DOCFilOpt	Days incarcerated File date to opt in or sentence
DOCOptLst	Days incarcerated opt in to last date of Therapeutic Court
DOCLstSnt	Days incarcerated Last Date of Therapeutic Court to Sentence
DOCDispDOC	Days incarcerated Disposition to 3/31/2004 (date of DOC data run)
DOCTltArr	Number of arrests on DOC sheet
DOCfrstArr	First arrest date on DOC sheet
DPSDate	Date to use for final date for DPS calculations
DPSDateexp	Description of date used 1=Opt in 2=Plea 3=sentence
DOCArrRem	Number of Arrest Remands 2 years before opt in date* from DOC movement files
DOCBW	Number of Bench Warrants 2 years before opt in date* from DOC movement files
DOCPRev	Number of Probation/parole Revocations 2 years before opt in date* from DOC movement files
DOCSent	Number sentenced 2 years before opt in date* from DOC movement files.
DOCHold	Number "Hold Protective Order/Non Crim" 2 years before opt in date* from DOC movement files.
DOCRead	Number Readmits 2 years before opt in date* from DOC movement files.
DOCNewP	Number New Prison Commitments 2 years before opt in date* from DOC movement files.
DOCArrRemA	Number of Remands 2 years after opt in date* from DOC movement files.
DOCBWA	Number of Bench Warrants 2 years after opt in date* from DOC movement files.
DOCPRevA	Number of Probation/parole Revocations 2 years after opt in date* from DOC movement files.
DOCSentA	Number sentenced 2 years after opt in date* from DOC movement files.
DOCHoldA	Number "Hold Protective Order/Non Crim" 2 years after opt in date* from DOC movement files.
DOCReadA	Number Readmits 2 years after opt in date* from DOC movement files.
DOCNewPA	Number New Prison Commitments 2 years after opt in date* from DOC movement files.
<i>Conditions of Probation</i>	
CDSbsAbs	Yes/No Condition of probation substance abuse treatment.
CDMnHtlh	Yes/No Condition of probation mental health evaluation.
CDSxOfIn	Yes/No Condition of probation sex offender treatment while incarcerated
CDSxOut	Yes/No Condition of probation sex offender treatment not incarcerated
CDASAP	Yes/No Condition of probation ASAP evaluation
CDBttrs	Yes/No Condition of probation batterers intervention

CDAnger	Yes/No Condition of probation sex offender treatment while incarcerated
CDParent	Yes/No Condition of probation parenting classes
CDMoveRs	Yes/No Condition of probation movement restrictions
CDPerson	Yes/No Condition of probation person contact restrictions
CDWeapon	Yes/No Condition of probation weapons restrictions
CDDrivng	Yes/No Condition of probation driving restrictions
CDAlcohol	Yes/No Condition of probation alcohol restrictions
CDElecMn	Yes/No Condition of probation electronic monitoring
CDOtherIn	Yes/No Condition of probation other conditions while incarcerated
CDOtherCd	Yes/No Condition of probation other conditions (see notes field).
CDDNATst	Yes/No Condition of probation DNA testing