



Staff Brief

Problem-Solving Courts, Alternatives, and Diversions



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INTRODUCTION

The Joint Legislative Council established the Legislative Council Study Committee on Problem-Solving Courts, Alternatives, and Diversions by mail ballot on March 19, 2014. The Study Committee is directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee is directed to examine courts, such as veterans' courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

This Staff Brief was prepared to provide background information on problem-solving courts both nationally and in Wisconsin. The Staff Brief is organized as follows:

- **Part I** provides background on problem-solving courts, including history; types of courts; characteristics of problem-solving courts; federal initiatives; and evaluations of problem-solving courts.
- **Part II** describes selected problem-solving court initiatives in other states.
- **Part III** describes Wisconsin problem-solving courts.

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PART I

PROBLEM-SOLVING COURTS: BACKGROUND

Problem-solving courts are courts which divert offenders from incarceration by deferred prosecution or post-adjudication case processing. These courts provide offenders with treatment, case management, close judicial supervision, and prompt incentives and sanctions. They have key components in common but may be specialized depending upon the issues presented by the offenders. The major types of problem-solving courts operating in the United States are drug courts, veterans' courts, mental health courts, domestic violence courts, and operating while intoxicated (OWI) courts. Community courts are also a type of problem-solving court that focus the offender on providing restitution to the community where the offense occurred, instead of incarcerating the offender.

This Part of the report provides background information on problem-solving courts in the United States, including history, types and numbers, characteristics, federal support, and evaluations of problem-solving courts.

History of Problem-Solving Courts

Problem-solving courts were first established in the late 1980s, most likely in response to high levels of offender recidivism and crowded prisons and jails. Much of this crowding has been attributed to the 1980s "war on drugs" which focused law enforcement attention on the drug problem, and created more severe sanctions for drug offenses.¹ A 2009 report by the Wisconsin Department of Corrections verified the impact of drug- and alcohol-related offenses on escalating prison populations. It recommended that the state explore alternatives to incarceration to ease prison overcrowding. The report identified the extent of increase in prison population from 1990 (7,554) to 2007 (22,690). Also, it found that drug offenders accounted for more than 20% of the prison population growth from 1996 to 2006, and OWI offenders accounted for more than 60% of the prison population growth from 2001 to 2006.²

Another factor that may have contributed to prison population increases was the de-institutionalization of persons with mental illness during the same period. The absence of adequate community support systems may have contributed to incarceration of mentally ill offenders, rather than the provision of treatment.³

¹ Casey, Pamela M. and Rottman, David B.; *Problem-Solving Courts: Models and Trends*; National Center for State Courts; 2003; pages 1 and 6.

² *Effective Justice Strategies in Wisconsin: A Report of Findings and Recommendations*; National Center for State Courts; 2012; page 37.

³ Rossman, Shelli, et. al.; *Criminal Justice Interventions for Persons with Mental Illness, Evaluation of Mental Health Courts in Bronx and Brooklyn New York*; The Urban Institute; February 2012; pages 4 and 5.

The following are some of the earliest problem-solving courts that were established in the U. S.:

1989: Miami, Florida drug court.

1997: Broward County, Florida, mental health court.

1992: Dade County, Florida, domestic violence court.

1993: New York City, New York, midtown community court.

2008: Buffalo, New York, veterans' court.

Types of Problem-Solving Courts

As mentioned above, the major types of problem-solving courts are drug, veterans', mental health, domestic violence, OWI, and community courts.

- **Drug courts:** Drug courts share the following characteristics:

Defendants eligible to be in drug court are drug dependent and charged with drug-related offenses or offenses that were influenced by their drug dependency. Defendants' cases are placed on a special calendar. The judge leads an interdisciplinary team of professionals who work with the defendant on a treatment plan. A typical drug court team, led by the judge, includes the prosecutor, defense attorney, treatment professionals, law enforcement, and probation officers. If the treatment plan is complied with, this may result in either dismissal of the charges, reduction in sentence, or striking a plea from the court records.⁴

Several different types of drug courts have been identified:⁵

- **Adult drug court:** A special court calendar which aims to reduce recidivism and substance abuse among nonviolent substance abusing offenders. These courts utilize early, continuous and intensive judicially supervised treatment, mandatory periodic drug testing, community supervision, and the use of appropriate sanctions, incentives, and habilitation services.
- **Campus drug court:** Application of the drug court model to the campus environment to address drug and alcohol violations by college students.
- **Family dependency treatment court:** A special court calendar for defendants whose suspected drug abuse has contributed to the abuse and neglect of their children. The court focuses on treatment both of the parents and providing safe and stable homes for the children.
- **Federal reentry drug court:** A program which works with released offenders to ease reintegration into the community for nonviolent, substance abusing offenders in the

⁴ *Ibid.*, footnote 1., page 6.

⁵ Huddleston, West and Marlowe, Douglas B.; *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Court Programs in the United States*; National Drug Court Institute; Bureau of Justice Assistance, U.S. Department of Justice; July 2011.

federal prison system. It is a voluntary treatment program with drug testing and intensive supervision that runs for 12 to 18 months. It incorporates incentives for success and sanctions for noncompliance with the treatment program.

- **Tribal healing to wellness court:** A tribal justice system court that incorporates wellness concepts to address substance abuse issues in a tribal community. The court establishes structure and accountability for the offender through supervision, drug testing, treatment services, immediate sanctions and incentives, case management and community support, and utilizes a multi-disciplinary team.
- **Reentry Court:** A court that works with parolees who are returning to their community to stabilize them and help them remain drug free during the initial phase of community reintegration.

Other types of problem-solving courts that have been established include the following:

- **Veterans' Treatment Court:** A court that addresses both the mental health and substance abuse issues of veterans who are offenders, in collaboration with state and federal Departments of Veterans Affairs.
- **Mental Health Court:** A court that diverts offenders with mental illness into judicially supervised, community-based treatment.
- **Domestic Violence Court:** A court that addresses issues in domestic violence cases, such as withdrawn charges by victims, threats to victims, lack of defendant accountability, and high recidivism. The focus tends to be on close monitoring of the offender, as well as providing services and protection to the victims.
- **Community Court:** A court that addresses nonviolent crimes by having offenders work with community and law enforcement entities to make amends to the community for the damage caused by crimes such as vandalism, petty theft, and similar crimes.
- **Drunk Driving (OWI) Court:** A court similar to the drug court, but focused on offenders whose primary offense involves drunk driving, rather than drug abuse and drug-related crimes. The court's goal is to protect the public while assisting the offender to stop driving while impaired by alcohol.

Number of Problem-Solving Courts

Drug Courts

As of June 30, 2012, there were 2,734 in the United States and its Territories.⁶ Of these, there were 1,438 adult drug courts, of which 401 were hybrid OWI/drug courts; 5 campus drug courts; 334 family treatment courts; 31 federal drug courts; 89 tribal healing to wellness courts; 30 reentry drug courts; 104 veterans' treatment courts; 458 juvenile treatment courts; and 37 co-occurring disorder courts.

⁶*Id.*, page 20.

Other Problem-Solving Courts

As of June 30, 2012, there were 1,122 problem-solving courts, in addition to drug courts, in operation in the United States and its territories. Of these, there were 349 mental health courts; 225 domestic violence courts; 26 community courts, and 522 other types of problem-solving courts.

THE CHARACTERISTICS OF PROBLEM-SOLVING COURTS

In 1997, the National Association of Drug Court Professionals (NADCP) identified 10 “key components” of drug courts.⁷ Since that time, research evaluations have been conducted on drug courts, which indicate that the success of a drug court program in achieving positive outcomes with offenders depends on the degree to which the 10 key components are complied with. The 10 identified key components are as follows:

1. Integrating alcohol and other drug treatment services with justice system case processing.
2. Using a nonadversarial approach under which prosecution and defense counsel promote public safety while protecting participants’ due process rights.
3. Early identification early and prompt placement of eligible participants in the drug court program.
4. Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Monitoring abstinence by frequent alcohol and other drug testing.
6. A coordinated strategy governing drug court responses to participants’ compliance.
7. Ongoing judicial interaction with each drug court participant.
8. Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education to promote effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations.

The Wisconsin Association of Treatment Court Professionals (WATCP) a multidisciplinary organization comprised of judges, prosecutors, defense attorneys, court administrators, treatment providers, probation and community corrections officers, social service caseworkers, and other stakeholders, adopted 17 treatment court standards in April 2014.⁸ The 17 standards are

⁷ U.S. Department of Justice, Bureau of Justice Assistance; *Defining Drug Courts: The Key Components*; January 1997; reprinted 2004.

⁸ Wisconsin Association of Treatment Court Professionals; *Wisconsin Treatment Court Standards*, April 2014.

intended to provide uniformity among treatment courts using practices based on evidence, while still allowing localities to tailor their courts to local needs.

The key components, identified by the NADCP are incorporated in the following 17 standards:

1. Demonstrated Commitment to Evidence-Based Practices: Treatment courts must demonstrate commitment to evidence-based principles in the design and delivery of the services, referrals to services, and the development of policies and procedures.
2. Equal Treatment of People who have Experienced Discrimination or Reduced Social Opportunities: Treatment courts must provide the same opportunity to people who have experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status.
3. Planning Process: Treatment courts must bring the appropriate individuals and agencies into a collaborative planning process as early as possible to attain the goals of the program.
4. Teams: The treatment court team is the group of professionals who are primarily responsible for overseeing the day-to-day operations of the program and administering the treatment and supervisory interventions. The judge is the leader of the treatment court team.
5. Judicial Interaction and Role: The treatment court judge's influence extends from the courtroom and justice system to the offender, the offender's family, and the community. The effective treatment court judge acts as leader, communicator, educator, community collaborator, and institution builder. The treatment court judge interacts frequently and respectfully with participants, and gives due consideration to the input of other team members.
6. Balancing the Nonadversarial Approach with Due Process Concerns and Community Safety: Treatment courts must protect a participant's due process and constitutional rights while promoting public safety and working in a non-adversarial fashion.
7. Record Keeping: In order to comply with both state and federal record keeping expectations for both legal and medical information, all problem-solving courts must develop a bifurcated filing system to protect confidential medical and treatment records as much as possible, while still providing a complete record of judicial action in the open court file.
8. Training: To promote effective treatment court planning, implementation, and ongoing operations, treatment courts must assure continuing education of team members.
9. Confidentiality: Treatment courts contemplate the integration of criminal case processing and treatment participation. Sharing of limited treatment information is a necessary function of treatment court operations. Compliance with federal

confidentiality laws can be readily accomplished with proper procedures, notification, and consent forms and limitations on disclosure to the minimum necessary to accomplish the intended purpose of the disclosure.

10. Community Outreach: Treatment court team members will engage in community outreach activities to build partnerships that will improve outcomes, support specialized docket sustainability, and ensure that the best interests of the community (including public safety) are considered.
11. Evaluation of Treatment Courts: A treatment court shall engage in ongoing data collection and evaluation to assess whether the treatment court is adhering to the 10 key components, described above, evidence-based practices, and specific program goals and objectives.
12. Referral and Eligibility: Eligibility criteria for referral must be nondiscriminatory in intent and impact, based on established written criteria, objectively measurable, and able to be communicated to a wide audience of potential referral sources, including law enforcement, defense attorneys, prosecutors, treatment professionals, and correctional officials.
13. Screening and Assessment: The treatment court must promptly screen and assess potential participants to determine program eligibility and adequate treatment services. Screening is a process used to determine if an individual is an appropriate candidate for the treatment court program. The screening process allows the treatment court to consider an individual's eligibility for participation and to complete a validated risk and needs assessment for candidates accepted into the court. Assessment must be an ongoing part of the treatment process.
14. Treatment: Treatment courts must provide prompt admissions to continuous, comprehensive, evidence- and strength-based treatment and rehabilitation services.
15. Monitoring Participant Behavior Through Drug Testing: Efficient and accurate monitoring of drug court participant abstinence through use of effective drug detection protocols is crucial for long-term program effectiveness. Drug testing serves as a tool for treatment teams to direct appropriate interventions which support participant goals.
16. Case Planning: Case planning is the process by which the staff and participant identify and rank criminogenic and responsivity needs based on a validated risk and needs assessment tool. This process establishes agreed-upon proximal and distal goals, based on criminogenic and responsivity factors, and determines a case plan and the resources to be utilized.
17. Applying Incentives and Sanctions: In a treatment court it is essential to closely monitor the participant's conduct and impose certain immediate rewards for achievements and sanctions for infractions.

FEDERAL SUPPORT FOR PROBLEM-SOLVING COURTS

Both the U.S. Departments of Justice (USDOJ) and Health and Human Services (HHS) authorize and provide support for problem-solving courts. The Violent Crime Control and Law Enforcement Act of 1994 authorized the USDOJ to provide federal grants for drug court programs that include court-supervised drug treatment. Under that Act, the U.S. Attorney General may make grants to states, state courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts. Violent offenders are statutorily excluded from participating in this program. The program requires a 25 % match from the grantee, unless the Attorney General waives the requirement. USDOJ must attempt to make an equitable geographic distribution of grant awards. [42 U.S.C. s. 3797u et seq.]

The Mentally Ill Offender Treatment and Crime Reduction Act of 2004 authorized the USDOJ to provide grants for mental health courts. This grant program is authorized to fund up to 100 pilot-project mental health courts around the country. [42 U.S.C. s. 3796ii.]

The HHS grant programs provide grants for substance abuse treatment courts and mental health courts. These programs are authorized under sections 509 and 520, respectively, of the Public Health Service Act.

For federal fiscal year (FY) 2013, \$35 million was provided nationally for USDOJ drug courts; \$9 million for USDOJ mental health courts; \$6.7 million for HHS drug courts; and \$67.3 million for HHS mental health courts.⁹

EVALUATIONS OF PROBLEM-SOLVING COURTS

Drug courts are the most frequently evaluated type of problem-solving court, due to their prevalence and longevity. The Multisite Adult Drug Court Evaluation (MADCE) published in May 2012, was conducted by the National Institute of Justice, the Urban Institute, RTI International, and the Center for Court Innovation.¹⁰ The evaluation was a five-year longitudinal study which included data from 1,157 drug court participants and 627 offenders in a control group. The drug court participants and control group members were matched on a range of variables that could influence program outcomes. The MADCE key findings were as follows:

- Drug court participants were significantly less likely than matched comparison offenders to relapse to drug use, and those who did relapse used drugs significantly less.
- Drug court participants report committing significantly fewer criminal acts than the comparison group after participating in the program.

⁹ National Center for State Courts; <http://www.ncsc.org/Services-and-Experts/Government-Relations/Appropriations/Drug-Courts-Substance-Abuse-and-Mental-Health.aspx>.

¹⁰ Rossman, Shelli B., and Zweig, Janine M.; *The Multisite Adult Drug Court Evaluation; National Association of Drug Court Professionals*; May 2012, pp. 2 to 4 (executive summary).

- Drug court participants reaped psychosocial benefits in areas of their lives other than drug use and criminal behavior reductions.
- Drug courts reduced drug use equivalently for most subgroups of participants, regardless of their primary drug of choice, past criminal history, or associated mental health problems.
- Participants with violence histories reduced substance use just as much in drug court as those without violence histories, and reduced criminal activity even more.
- The largest cost benefits were achieved by reducing serious offending on the part of a relatively small subset of drug court participants.
- The most effective drug courts had greater leverage over their participants greater predictability of sanctions, a consistent point of entry, and positive judicial attributes. They provided frequent judicial status hearings; higher and more consistent levels of praise from the judge; at least twice weekly urine drug testing; at least weekly clinical case management; and a minimum of 35 days of formal drug abuse treatment services.
- The primary mechanism by which the drug courts reduced substance use and crime was through the participants perceptions of and attitudes toward the judge.

The University of Wisconsin Population Health Institute (UW-PHI) evaluated the state's Treatment Alternatives and Diversion program (TAD) through December 31, 2014. TAD is discussed in more detail in Part III. The UW-PHI is scheduled to release a report in July on the 2014 TAD outcomes and a cost-benefit analysis. Programs funded by TAD include adult drug treatment courts and five TAD diversion projects. The report showed that 66% of offenders entering a TAD diversion project completed the program, and 56% of those entering a TAD drug treatment court complete the program. The 2013 TAD Project progress update reported that 55% of TAD discharges had positive case outcomes of case dismissal, reduced charges, or completing the requirements of their alternatives to revocation. The report noted that TAD graduates are significantly more likely than those who terminate their involvement in TAD to have their case dismissed, charge reduced, or complete the requirements of their alternatives to revocation, with 85% of graduates averted from further justice system processing.¹¹

An evaluation of two mental health courts in New York City, one in Brooklyn and the other in the Bronx, was conducted by the National Institute of Justice. The report was published in February 2012. In reviewing the literature on mental health court outcomes, the report found that mental health court participants tended to have higher engagement with treatment, but clinical improvement in mental health status was hard to document. In addition, the studies seemed to indicate that participants have lower recidivism rates than nonparticipants, following program completion. However, the report cautions against generalizing from these studies due to study design limitations.¹² With regard to the outcomes of the Brooklyn and Bronx mental health courts,

¹¹ *Id.*

¹² *Ibid.*, footnote 3; pages 16-19

the study found small but significant reductions in re-arrest and re-conviction rates among program participants.¹³

Few other evaluations of other types of problem-solving courts have been completed. However, in a review of scientific literature on problem-solving courts, the National Drug Court Institute stated that “the quality of the evidence is beginning to catch up for family dependency treatment courts, juvenile drug courts, and OWI court programs.” This report cited two evaluations of family dependency treatment courts which showed cost savings from reduction in foster care costs. Three studies of juvenile drug courts showed lower substance abuse rates, and lower recidivism for participants. Evaluations of OWI courts have produced mixed results. The report argues that more favorable outcomes from OWI courts might be achieved if the program adheres to the 10 key components of treatment courts, citing an evaluation of the OWI court in Waukesha, Wisconsin that showed recidivism rates for OWI offenders were significantly lower for OWI court participants for those on the waiting list for the court.¹⁴

¹³ *Id.*, page 136.

¹⁴ *Ibid.*, footnote 6; page 9.

PART II

PROBLEM-SOLVING COURT INITIATIVES IN SELECTED STATES

Problem-solving courts involve partnerships of different branches of state or local government and numerous outside organizations. The earliest courts started at the local level. As states have started to become more involved with organization and funding of problem-solving courts, they have also become more involved leaders in developing and administering them. Just as there is variability in the way local courts structure alternative adjudication options, states also have different approaches.

In some states, lawmakers have played an active role, outlining requirements for formation and operation of problem-solving courts. These range from requiring the establishment of problem-solving courts, restricting the types of offenders and offenses that are eligible for participation in these courts, and setting specific requirements that a treatment program must include. Other states have provided statewide support without mandates, restrictions, or other statutory guidance. Between these two approaches, some states have enacted enabling statutes without strict guidelines, leaving the details up to the individual courts. Some examples of the different approaches can be found in these states:

Texas (mandated for large counties): In 2001, the Texas Legislature authorized drug courts and mandated efforts to create drug courts in large urban counties. The seven Texas counties with a population over 550,000 were required to apply for federal and state funding to establish drug courts. The last of these, Hidalgo County, established its drug court in 2004. There are currently 161 problem-solving courts of all types operating in 51 of the 254 Texas counties, although many courts serve multiple counties.

Illinois (mandated for all counties): Illinois law requires the chief judge of each judicial circuit to establish a drug court program or, where appropriate, to combine with another circuit. Illinois statutes contain eligibility requirements, including that the defendant and the court agree that such a program is appropriate, and that the defendant has not committed a disqualifying offense and has not completed or been discharged from a drug court program in the past.

Louisiana (enabling statute): In Louisiana, legislation makes court-supervised drug treatment an officially sanctioned option for every parish in the state. There are currently 50 drug courts operating in the state. Louisiana statutes do not, however, mandate formation of problem-solving courts.

Oklahoma (enabling statute): Oklahoma law provides some guidelines for operation of drug courts, but does not mandate that local courts create them. Nonetheless, adult drug court programs have been established in 73 of the 77 counties in the state since the drug court program's inception in 1995.

New York (no enabling statute): New York has been a leader in establishing problem-solving courts. The earliest drug courts and the nation's first veterans' court were established

here. The New York state courts system has been the driving force behind these efforts, but has not actively sought an enabling statute. According to Deputy Chief Administrative Judge Joseph Traficanti, it would be “an invasion of the executive and legislative branches into the judicial branch of government.”¹⁵ New York has, however, codified a process through which courts in large counties can accept referrals from local criminal courts that do not have specialty courts.

¹⁵ “*The Future of Drug Courts: How States are Mainstreaming the Drug Court Model*,” Aubrey Fox and Robert v. Wolf, P.S., Contender Court Innovation, 2004. Found at: http://www.courtinnovation.org/pdf/future_of_drug_courts.pdf.

PART III

PROBLEM-SOLVING COURT INITIATIVES IN WISCONSIN

Background

In June of 1996, Dane County developed Wisconsin's first problem-solving court to address cases involving adult drug users. There are approximately 60 problem-solving courts in Wisconsin, including adult and juvenile drug courts, OWI courts, family dependency treatment courts, mental health courts, tribal healing wellness courts, veterans' courts, and hybrid courts. This number changes frequently, as more counties develop new problem-solving courts or expand the types of offenders and offenses adjudicated in existing courts.

Implementation and administration of problem-solving courts is conducted primarily at the county level, and the circuit courts are given considerable flexibility to design a court that meets local needs. Drug courts are the most common type of problem-solving court in Wisconsin, making up about half of the total number of problem-solving courts in the state.

The three levels of state government have been involved in establishing problem-solving courts:

Executive Branch

Governor Walker created the Wisconsin Criminal Justice Coordinating Council (State CJCC) by signing Executive Order #65 on April 9, 2012. The 20-member State CJCC is co-chaired by the Secretary of the Department of Corrections (DOC) and the Attorney General (AG); staffed by various state, county, and local stakeholders; and supported by the Department of Justice (DOJ). The State CJCC analyzes the state criminal justice system and makes recommendations for its improvement.

Among other things, the executive order charges the State CJCC with:

...assisting the Governor in directing, collaborating, and coordinating the services of state and local governmental agencies and non-governmental entities in the criminal justice system to increase efficiencies, effectiveness, and public safety. In the performance of these duties, the Council shall conduct planning, research, and evaluation activities and make recommendations to improve the criminal justice system policy, operation, and outcomes."

Specifically, the State CJCC must among other assigned tasks:

"[i]nvestigate and disseminate information about effective and innovative criminal justice related programs employed at the county level, including treatment alternatives, diversion initiatives, and specialty courts."

In accordance with this direction, the State CJCC established a Problem-Solving Courts Subcommittee, to coordinate with the Director of State Courts Office and support local Criminal Justice Coordinating Councils (CJCCs). The State CJCC assists in establishing problem-solving

courts to meet the needs of county court systems, as well as making available to local CJCCs federal Byrne Justice Assistance Grants. These grants provide partial funding for the local CJCCs.

Judicial Branch

The court system's Planning and Policy Advisory Committee (PPAC) is made up of the Chief Justice of the Supreme Court, one judge of the Court of Appeals, 13 circuit court judges, one municipal judge, and 10 others appointed by the Chief Justice and Board of Governors of the State Bar. It functions as the court system's long-range planning committee, and has established the Effective Justice Strategies Subcommittee. This subcommittee provides training on best practice standards, encourages expansion of treatment court programs, and implements evidence-based decision making and practices. In addition, the chair of the Chief Judges of the Circuit Courts is a member of the State CJCC and the Director of State Courts has obtained federal grant funding for the Statewide Problem-Solving Court Coordinator position. The state courts work with the National Center for State Courts to develop performance measures for adult drug and hybrid courts, and with the Wisconsin Association of Treatment Court Professionals to develop treatment court standards.

Legislative Branch

The Treatment Alternatives and Diversion (TAD) program is a grant program for counties originally funded through the 2005-2007 Biennial Budget Act. Section 165.955, Stats. defines "drug court" as ". . . a court that diverts a substance-abusing person from prison or jail into treatment by increasing direct supervision of the person, coordinating public resources, providing intensive community-based treatment, and expediting case processing." That statute also directs DOJ to establish a grant program from the appropriation under s. 20.455 (2) (eg), Stats. The TAD program is a partnership of the DOJ (as the granting agency), Department of Health Services (DHS), DOC, and the Office of the Director of State Courts.

The program provides grants to counties to develop treatment and diversion alternatives to jail or prison sentences for non-violent offenders with drug and alcohol problems. Permissible uses of TAD grant funds include personnel and fringe benefits, travel and training, consultant expenses, and supplies and operating expenses. An ongoing advisory committee has been created, with representatives from involved state and local agencies and organizations, treatment providers, and consumers. The TAD grants initially funded adult drug treatment courts in Burnett, Rock, Washburn and Wood Counties, and diversion programs in Dane, Milwaukee, and Washington Counties. In 2012 it expanded to fund diversion programs in Ashland and Bayfield Counties that are administered in conjunction with the Red Cliff and Bad River Tribes. 2013 Wisconsin Act 197 increased the amount for the TAD program by an additional \$1.5 million. Out of 36 applications for grants in 2013, the DOJ awarded grants to establish drug courts for Columbia, Jefferson, Waushara Counties and the Lac Du Flambeau Tribe, and to establish diversion programs for Dodge, Eau Claire, Kenosha, Marinette, Pierce, Saint Croix, Trempealeau, Walworth, and Waukesha Counties.

PROBLEM-SOLVING COURTS OPERATING IN WISCONSIN

Veterans' Courts

In 2008, the Office of the State Public Defender and the Wisconsin Department of Veterans Affairs (DVA) through a federal grant, arranged for Judge Robert Russell, organizer of the first veterans' court in Rochester, NY, to give a presentation on the veterans' court concept. In June 2009, a conference entitled Leave No One Behind: Veterans in the Criminal Justice System was sponsored by the Wisconsin court system, the State Public Defender, DOC, DOJ, the federal Veterans Administration (VA) and the DVA. Using the information acquired in these meetings, counties in Wisconsin began developing veterans' courts based largely on the New York model. There are currently nine veterans' courts established statewide, most serving multiple Wisconsin counties and one (La Crosse) serving Houston County, MN.

Veterans' courts utilize many of the tools and methods employed by drug courts, with a couple of important differences. First, veterans' courts typically assign each veteran defendant a mentor. These mentors are veterans who meet with the veteran defendant prior to court proceedings to help that individual navigate the process and track progress. The second important difference is assistance in early identification of VA resources available to provide substance abuse, behavioral health, or other relevant services. As availability of treatment resources can be a significant limitation of problem-solving courts, these programs can be important to a veteran defendant's successful completion of a veteran's court program. In addition to VA treatment resources, veterans' courts are funded through a combination of federal and state grants, local funds, and donations.

OWI Courts

OWI treatment courts have been in existence since Miami-Dade County Florida, established the first in 1989. Waukesha County established the first in Wisconsin in 2006. The courts partner the criminal justice system and the treatment community, combining treatment intervention with the authority of the court. Participation is typically limited to defendants with multiple OWI offenses who have been diagnosed with significant alcohol and drug dependency issues. There are approximately 17 OWI courts in Wisconsin.

Tribal Healing to Wellness Courts

A tribal healing to wellness court is a tribal court that incorporates and adapts the drug court concept, and combines it with tribal customs and traditions of community and family. There are approximately 300 tribal justice systems serving the more than 550 federally recognized Indian Nations. They (the justice systems) are funded by a combination of federal and state grants and local and tribal funds. There are currently two tribal healing to wellness courts in Wisconsin, established by the Ho-Chunk Nation and the Menominee Indian Tribe of Wisconsin.

Mental Health Courts

Mental health courts divert select, screened defendants with mental illnesses into judicially supervised, community-based treatment. There are currently mental health courts in the

Wisconsin counties of Eau Claire, Outagamie, and Kenosha. Mental health courts adopt many of the same concepts used in drug courts, and are funded primarily through a combination of federal and state grants and local funds.

Domestic Violence Court

A domestic violence court is one in which certain cases involving criminal and civil family conflict are addressed by a specialized court team in combination with key partners, such as victim advocacy groups. Domestic violence courts have been established in Trempealeau, Calumet, and Jackson Counties, and Milwaukee County has a specialized domestic abuse calendar.

Family Dependency Treatment Court

Family dependency treatment court is a juvenile or family court for cases of child abuse or neglect in which parental substance abuse is a contributing factor. These courts combine the justice system with treatment resources and child protective services to combat child abuse and neglect by combatting the substance abuse that is a contributing factor. There are currently family dependency treatment courts in the Wisconsin counties of Eau Claire and Milwaukee.

Drug Courts

Currently, more than 20 drug court programs are operating in Wisconsin, and 10 more are planned. They are funded with a combination of federal and state grants and local funds. Research has shown that drug courts result in a significant reduction in recidivism, returning an estimated \$1.93 in reduced incarceration and other costs for each \$1.00 spent on the programs.¹⁶ The programs are typically offered to those who have the highest risk of reoffending, but are not available to certain types of offenders (such as violent offenders).

¹⁶ Treatment Alternatives and Diversion (TAD) Program: Advancing Effective Diversion in Wisconsin, Office of Justice Assistance, 2011, found at: <http://uwphi.pophealth.wisc.edu/about/staff/van-stelle-kit/tad-2011-evaluation-report-exec-summary.pdf>