

[Print-Version](#) [PDF](#)

State of the Judiciary: 2012

February 29, 2012

Chief Justice Walter L. Carpeneti

President Stevens, Speaker Chenault, Senators and Representatives, and guests. Thank you very much for the opportunity to speak with you today. This year marks the 40th anniversary of the annual State of the Judiciary address, and I am honored and delighted to mark the occasion with what will be my third and last address to you as chief justice. In Alaska, we can be very proud of the spirit of collegiality and shared purpose that has marked the relationship between the judicial and legislative branches since Chief Justice George Boney first stood before this body in 1972. In my view and the view of many judicial experts across the globe, our mutual efforts have yielded one of the finest and most accountable judiciaries in the world.

Before I begin my remarks, I would like to acknowledge my colleagues on the supreme court who are with us here today. First, our senior justice - Justice Dana Fabe - probably needs no introduction here. Justice Fabe has served on the court for 16 years, following her appointment by Gov. Tony Knowles, including two terms as chief justice. She chairs the supreme court's Fairness, Diversity and Equality Committee, and is statewide chair of Color of Justice, a law-related education program to encourage diverse youth to pursue legal and judicial careers. She is also the long-time chair of the court's Civil Rules Committee.

Justice Daniel Winfree joined the court in January 2008, following his appointment by Governor Sarah Palin. He is a life-long, third generation, Alaskan from Fairbanks, whose great-grandfather first came north over the Chilkoot Trail during the Klondike Gold Rush. Justice Winfree chairs the supreme court's Access to Civil Justice Committee, which focuses on removing barriers to justice delivery, improving services to self-represented litigants, and expanding pro bono services. In January, he co-chaired the legal community's third annual Martin Luther King Day service project, during which volunteers in Anchorage, Fairbanks, Juneau, and Sitka donated over \$50,000 worth of services to help 372 Alaskans with their basic legal needs.

And finally, Justice Craig Stowers, who was appointed to the court in 2009 by Governor Sean Parnell after serving for several years as a Superior Court Judge in Anchorage. Justice Stowers currently serves as chair of the court's Committee on Security and Emergency Preparedness. In just two short years, his keen intelligence, tireless work ethic, and strong sense of compassion and fairness have made an indelible mark on our court.

Sadly for our state judiciary, but happily for Alaska's federal bench, our fifth colleague - Morgan Christen - left the Alaska Supreme Court last month to assume her new duties as a Judge on the U.S. Court of Appeals for the Ninth Circuit. We miss her already, very much, but console ourselves with the fact that she will continue to serve the people of Alaska in her new capacity, and we are confident that she will serve them with the same amazing dedication and care that we have been privileged to witness and admire. In the coming year, as we await the judicial selection process that will determine her replacement, we are fortunate that two recently retired justices, former Chief Justice Warren Matthews and Senior Justice Robert Eastaugh, have agreed to help handle the load as justices *pro tem*.

Next, I would like to recognize key members of the court's administrative staff. Christine Johnson has served as the court system's Administrative Director since 2009. Her excellent management skills and many years of prior experience in court administration have helped keep us focused and on-track as we confront a variety of challenges. Also, Christine continues her vital role as Chair of the Criminal Justice Working Group's Efficiencies Committee, where her wealth of knowledge and boundless patience are much appreciated. Our new Deputy Director Doug Wooliver is well-known to many of you. He served for two years as a legislative staffer before becoming an administrative attorney for the court system in 1995. All together, Doug has spent 18 legislative sessions in Juneau, away from his Anchorage family, on behalf of the people of Alaska, and we are very grateful for his service. Doug brings extensive experience and expertise to his new position, which he assumed when long-time Deputy Director Chris Christensen stepped down last summer to join the legislative staff of the University of Alaska. We were all very sad to see Chris go, but very fortunate that Doug could step into the job so seamlessly. And finally, I would like to introduce you to the court system's new General Counsel, Nancy Meade, who is attending this event for the first time. Nancy is joining Doug in Juneau this session to help evaluate legislation affecting the court system. She served as Court Rules Attorney for seven years before assuming her current role last summer, and her fine writing and analytical skills, along with her familiarity with court rules and procedures, will be a great asset to all of us.

As you may remember, I focused my first address to you in 2010 on the theme of inter-branch cooperation, and I focused my second address last year on the theme of cost-effective justice. Both included overviews of the work of the Criminal Justice Working Group, which I continue to co-chair with our new Attorney General, Michael Geraghty. Today, I would like to continue this thread by addressing a topic that merges both prior themes and infuses much of the working group's current effort: the growing trend both here and nationally to slow rampaging prison growth and reduce spiraling recidivism rates by applying concepts now known as "smart justice." "Smart justice" means weighing - in every criminal case - the likely effectiveness of the actions we take. Further, it means considering the costs of these actions - to our resources, to public safety, and to the collective human potential of our citizens. In practice, it means making criminal justice decisions that reserve our most costly response to crime - prison time - for those cases where other less-costly alternatives will not effectively protect the public or rehabilitate the perpetrator.

We are all familiar with the high rates of criminal recidivism in our state, and we are all rightfully concerned. The problem is simple to define: far too many Alaskan offenders - about two out of every three released - will return to jail within three years of their release. But addressing the problem successfully is probably the most complicated and daunting challenge facing our justice system. Slowing down the revolving doors of our courts and jails would free up countless resources for other good purposes, both within the justice system and without. And figuring out what works to inspire former offenders to lead law-abiding lives would give us a huge advantage in improving the health and safety of our communities. Yet with nearly 5,000 offenders in our jails at any given time, and nearly 6,000 more on probation or parole, where do we target our limited resources to make sure they make a difference? You may recall the problem I mentioned last year in this regard - how do we identify those inmates most amenable to rehabilitation? More on this in a moment, but fortunately, three recent reports promise to help us find answers to these questions.

The Alaska Prisoner Reentry Task Force, a committee of the Criminal Justice Working Group, issued its *Five-year Prisoner Reentry Strategic Plan, 2011-2016* about one year ago. The report is a very comprehensive vision that offers a number of hopeful recommendations for improving prisoners' odds for successful reentry. These include expanded substance abuse treatment programs, expanded electronic monitoring, improved access to housing and employment, and improved responses to inmates' behavioral health needs. Today I would like to mention four recommendations in particular because they bear directly on the role of the judicial branch.

First, we should continue collaborative efforts to reduce recidivism across the three branches and among state and local agencies. Collaboration best ensures that ideas and resources are brought to

bear collectively on targeted problems, and we have seen the tremendous benefit of this approach in the work of MAJIC - the Multi-Agency Justice Integration Consortium - and the Criminal Justice Working Group itself, among others. So many important achievements in recent years - from the electronic discovery project in Juneau, to speed up criminal cases, to the electronic filing of minor offense citations in 18 courts statewide - have come about because all concerned came to the table and worked together. In addition, we should continue existing efforts to track, identify, and share information about the factors that underlie Alaska's recidivism rates, without which it will be impossible to measure the success of our efforts. I couldn't agree more strongly with these recommendations because, as I've stressed before, we can use our respective skills, knowledge, experience and creativity to achieve results by working together that none of us could dream of achieving working alone.

Second, we should expand the PACE program, which ensures prompt court action and swift and certain consequences for probation violations. PACE, which stands for "Probation Accountability and Certain Enforcement," targets even relatively minor violations like missed appointments or failed drug or alcohol tests - violations that the justice system rarely acted upon in a timely manner in the past. In a recent Alaska Judicial Council evaluation, drug use by probationers in Anchorage dropped significantly after they began participating in the PACE pilot project. The majority - 68% - had no failed drug tests during their first three months of enrollment, and the failure rate overall dropped from one in four probationers prior to enrollment to less than one in ten after enrollment. As hoped, the PACE model is helping keep probationers compliant and on the road to recovery, and we are looking to expand it to communities outside Anchorage.

Third, we should continue to improve our ability to collect and disseminate data across agency lines. Accurate facts and figures speak loudly to the problems before us and are an invaluable measure of where we are and where we need to be. Without current and accurate information about where our resources are going and what impact they are having, and without an efficient means to share this information, we are floundering in the dark. So again, we support this recommendation wholeheartedly.

And finally, we should place a greater focus on misdemeanor offenders, who account for a surprisingly high number of prisoners - over 25% at any given time - and, as the Task Force suggests, examine existing "laws, rules, policies and practices that lead to the incarceration of individuals who pose no substantial risk to public safety." An expansion of therapeutic courts and other problem-solving courts for misdemeanor offenders is one recommendation for reducing incarceration rates for this population. Such courts address the problems at the root of criminal behavior, have solid track records across the state, and often succeed at reducing or eliminating prison terms. Expanding therapeutic courts for misdemeanor offenders would not only reserve prison beds and the prison budget for more serious felony offenders, but might well ensure that misdemeanor offenders do not become more serious felony offenders themselves.

A second new report, which was commissioned by the Criminal Justice Working Group, will be instrumental in our efforts to combat recidivism. It is the Alaska Judicial Council's *Criminal Recidivism in Alaska, 2008 and 2009*, it provides a wealth of vital information and much food for thought. The report, released last November, traces current patterns of recidivism in the state by location, by types of crimes, and by offender characteristics. We now know which prisoner populations are most likely to reoffend, the types of offenses most likely to be repeated, and where they are most concentrated. This invaluable information serves not only as a baseline against which to measure future efforts to reduce recidivism, but also as a critical guide for targeting limited resources where they are most likely to be effective.

I found a few of the study's findings surprising - even counterintuitive, and would like to highlight them here today because they illustrate why we need concrete data to inform our decision-making and to challenge our traditional ways of thinking about these issues.

First, the more serious the original offense, the lower the recidivism rates. Over one-third of those convicted of misdemeanors commit a new offense within one year after returning to their communities, while just over one-quarter of felons reoffend in the same period. By two years, nearly half of misdemeanor offenders are rearrested, compared to less than 40% of felons. Contrary to what we might logically assume, the worst offenders aren't necessarily the most prolific. When we consider that over 25% of our prison beds are filled with misdemeanor offenders at any given time, these statistics make a compelling case for the Reentry Task Force's recommendation to focus more anti-recidivism resources on this population.

Second, those convicted of driving under the influence, drug crimes, and sexual offenses were among the *least* likely to recidivate. Given Alaska's high rates of alcohol and drug addiction and sexual abuse, this information seems promising to me, because it indicates that these offenders may be more receptive than we might think to positive behavioral change. I know it can be dangerous to oversimplify this information, but it provides a reason to focus rehabilitative efforts in these areas.

On the other hand, offenders convicted of violent crimes are among the *most* likely to reoffend, and the most likely to recommit the same type of crime. It appears that we still have a long way to go towards addressing the violence that tears at the fabric of our communities over and over again - often at the hands of the same people.

Third, the Council's report confirmed something that many of us have long suspected: that youthful offenders, males, and minorities - namely Alaska Natives and African Americans - have among the highest recidivism rates. Taken together, these are sobering facts. Too many of Alaska's young men - particularly our young men of color - are spending their early adulthoods in our prison system. Their futures are being shaped not by the normative influences of their families, homes, and communities, but by the rules and rituals of life behind bars. As the years go by, they will be less and less able to function as productive citizens - less and less likely to forge a healthy course for themselves and their families. Too often, this legacy passes to the next generation, where the tragic pattern continues.

Finally, the judicial council's report identified Anchorage and Southeast as the regions with the highest recidivism rates. Being a resident of Juneau who spends a lot of time in Anchorage, I found this a little worrisome. But it's hard to argue with the data, and we now know the communities where our greatest challenges lie if we are to make a meaningful dent in recidivism with the limited resources at hand.

In sum, the judicial council's recidivism report presents us with both a challenge and an opportunity. We have known our dismal recidivism numbers - around two thirds of prisoners reoffend - for some time. But now we know the details behind the numbers, and we have a greater ability to take informed and meaningful action. As daunting as the task may be, we must now find effective ways to intervene with those populations that hold the most promise of success. And we must consistently measure the steps we take against the baseline that has now been established. We have never been better prepared to move forward - together - towards concrete, quantifiable goals.

Against this backdrop of ongoing activity in Alaska, I would like to introduce you to yet a third promising study - by the National Center for State Courts - entitled *Using Offender Risk and Needs Assessment Information at Sentencing*. A copy of the report has been provided to each of you. According to this study, offender risk and needs assessments, considered during the sentencing process, have a marked impact on reducing recidivism.

Last year during my State of the Judiciary remarks I mentioned that criminal justice experts divide offenders into roughly three categories: those who will almost *always* reoffend; those who will almost *never* reoffend; and those who could go either way. Devoting anti-recidivism resources to the first two categories is not cost-effective because they will likely make little difference in ultimate outcomes. Focusing resources on the third category - where a positive impact is most likely - is the "smart justice" approach. But the problem has always been accurately identifying in advance the category

into which an offender falls. Today, offender risk and needs assessments may provide a reliable method for making this determination.

Three basic principles come into play. First, the "risk" principle holds that supervision and treatment levels should be determined by the offender's risk of reoffending. Second, the "needs" principle calls for targeting the provision of services to specific risk factors that, left unaddressed, are most likely to contribute to a new offense. And third, the "responsivity" principle specifies that treatment interventions must employ "cognitive social learning strategies" - approaches designed to change behavior directed at an offender's specific risk factors. What we are learning is that antisocial and pro-crime ways of thinking are the attributes most likely to lead to recidivism, and that effective treatment must specifically challenge these thought processes. Other treatments and interventions such as substance abuse treatment and support for housing and employment may help, but behavioral change is unlikely to occur without behavior-oriented therapies. According to the NCSC study, applying these three principles together - "risk," "needs" and "responsively" - has been shown to reduce recidivism by 26%. Just imagine for a moment what a 26% reduction in our recidivism rate - or even half of that! - would do to improve criminal justice in our state.

While corrections officials have used a variety of validated risk and needs assessment instruments for several years to determine appropriate levels of supervision and treatment for offenders on probation or parole, the recommendation to consider them at sentencing is relatively new. Just last year, the national Conference of Chief Justices endorsed a resolution encouraging state and local courts to incorporate offender risk and needs assessments in the sentencing process. This recommendation is one of the most practical and promising approaches to date for putting offenders on track to successful reentry in a timely and effective way. It just makes sense that reducing recidivism should be a consideration at sentencing; that a sentencing decision should reflect a full understanding of an offender's risk of reoffending; and that sentence terms should include the level of supervision, behavioral therapy, treatment or other services that are most likely to be effective against recidivism by this offender. Without this approach, sentence terms may not only fail to address the problem of recidivism, but may actually make the problem worse by imposing terms that are counter-productive. According to the NCSC report:

[A]nalysis of the effectiveness of sanctions such as . . . electronic monitoring, boot camps, and incarceration that do not include behavioral intervention components show little or no reduction in recidivism; and, in some cases, the sanctions have been found to actually increase recidivism.

Yet in Alaska, incorporating offender risk and needs assessments into the judicial sentencing process is not an easy proposition. Many assume that judges are able to carefully consider risk, rehabilitation, and a variety of other factors in shaping their sentencing decisions. And, indeed, under our current law judges are generally required to take an offender's prospects for rehabilitation into account. But the modern reality of the sentencing process is much different from the assumption. Under our state's presumptive sentencing laws, in place since 1978, the judge's role in sentencing is actually quite limited. The range of most sentences is prescribed by law according to the nature and seriousness of the crime, and can be modified only when aggravating or mitigating factors are proven.

Because of this sentencing structure and the way it has been implemented and narrowed over time, judges today are rarely called upon to participate fully in the sentencing process. In the vast majority of cases, they simply approve or disapprove a plea agreement presented by the parties after negotiations in which the judges have no involvement and only the most superficial control. Prosecutors determine the initial charges, may change the charges, and make final offers on sentence terms, often after discussions with the defense of course, and what discretion exists in the process rests largely with these players. While the judge technically has the authority to reject a plea agreement, a judge with a pattern of doing so would likely be preempted from future cases by one or both sides. Open sentencing - where the prosecution and defense have not agreed on the ultimate sentence in advance - is quite rare, except in cases where no agreement is reached and the

defendant is sentenced after going to trial and being found guilty. And even in those cases where no agreement is reached and the case goes to trial - which account for only about 5% of all convictions - presumptive sentencing has narrowed the judge's role so much that fashioning a sentence sometimes resembles following an elaborate cookbook more than anything else.

It has not always been this way. When I was a young attorney trying cases in Juneau during the 1970's, sentencing proceedings were meaningful events where both sides presented in-depth information to the judge, the judge deliberated, and serious decisions were made - by the judge. By the time I was appointed to the bench in 1981, presumptive sentencing was in place, and I often felt that I was largely an observer at sentencing - left to review and, usually, bless the work of others, but not really participate in the analysis and important decision-making myself. Today, in probably 90% of our criminal cases, sentencings are largely ceremonial events, where little information is truly debated, the details of a sentence - down to the terms of probation - are negotiated by the parties in advance, and the judge's role is minimal.

Presumptive sentencing was intended to restrict judicial discretion. According to the statute's commentary, it was enacted to eliminate unjustified disparities in sentencing among defendants convicted of similar crimes - disparities attributed to factors that included race and judicial sentencing attitudes that varied from "strict" to "lenient." Now I'm not here to argue with the original intent of presumptive sentencing or the general policies behind it. There are good reasons to seek similar accountability for similar crimes. The old adage, "if you can do the crime, you can do the time," is appealing on a gut level, and has driven our criminal justice thinking for many years. It sounds tough; it rings true; it seems only fair. But as we now know, the idea that jail time is the fitting response to every crime - or even most crimes - has become an expensive and possibly unnecessary proposition. Many of us have had the transformative experience of meeting Rep. Jerry Madden of the Texas Legislature, who has been a national leader in efforts to stem the growth of prison populations by implementing less costly and more effective programs for diversion, rehabilitation, and re-entry. While Rep. Madden identifies himself as a conservative Republican, the shift in thinking he has championed finds wide support on both sides of the political aisle.

And much has changed in the last 30+ years in our understanding of criminal behavior. As one expert has noted:

[T]hirty years ago, we knew very little about the "causes" of crime (more accurately, "risk factors"), how to predict recidivism, or how to rehabilitate offenders. In fact, the state of our knowledge was so poor that it led one researcher to conclude . . . that "nothing works" in reducing recidivism Decidedly, this is no longer the case.

Today, we have scientific corrections research that shows us what intervention strategies work best. These "evidence-based practices" could not have been considered when presumptive sentencing was adopted, and as a result there is little room for them to be taken into account in the current sentencing structure. So while presumptive sentencing may have made sense over three decades ago, today it presents one of the greatest challenges to the implementation of new "smart justice" principles.

To summarize: a one-size-fits-all approach over-simplifies the challenge before us. As difficult as it may be to accept, we must ensure that sentencing decisions take the characteristics and circumstances of individual offenders into account - not just the nature and seriousness of their crimes. We should require that the sentencing process weigh recidivism reduction in determining the sentence to be imposed. We must give judges and others involved in sentencing the tools to distinguish those who pose the greatest risk of recidivism from those who don't, and we must empower them to respond accordingly. And I hope you will consider restoring the judge's proper role in sentencing decisions. When we have a talented and experienced judiciary that has been carefully selected to make the tough decisions in our justice system, and when we know that effective sentencing requires a close fit between the sanctions imposed and an individual offender's risks and needs, it makes little sense to set narrow ranges in advance and leave all the vital work of crafting

appropriate sentences to others. Judges are a valuable resource, and they can and should play a strong role in implementing "smart justice" principles.

If we are ever to turn the tide of prison recidivism, we must make room in the sentencing process for "smart justice" principles to take hold. Chief Justice Ray Price of the Missouri Supreme Court perhaps said it best in his own 2010 State of the Judiciary address: "There is a better way. We need to move from anger-based sentencing that ignores cost and effectiveness to evidence-based sentencing that focuses on results"

All three studies I've highlighted today offer greater clarity and hope for addressing the challenges facing Alaska's criminal justice system. Yet each also underscores a perennial concern that I would like to take a moment to mention: the special challenges to justice delivery posed by the isolation and cultural, social, and language differences of Alaska's remote villages. Among Alaska Natives, incarceration patterns are as disturbing as they are intransigent: even though Alaska Natives comprise only about 18% of the state's general population, they make up 36% of Alaska's prison population. Not surprisingly, rehabilitative and reentry services that might stem high rates of Native incarceration are few and far between in many predominantly Native communities. So I've been quite pleased in recent years to follow a cooperative effort in the Fourth Judicial District that promises to foster more successful criminal justice outcomes in villages across the Interior.

In a unique effort to engage village residents more directly in the cases that affect them, a team of criminal justice officials has been traveling to villages along the upper Yukon to hold circle sentencings with village residents in misdemeanor cases. At a circle sentencing, members of the community gather in a circle and one by one share the personal and community impacts of the offense, their concerns about the offender, and their views on what a fair resolution requires. While a judicial officer still imposes the final sentence, the decision is much more fully informed by local concerns and desires, and the offender is held accountable not only to the justice system, but to his family, friends, neighbors, and community. Circle sentencings have held such promise that Interior justice officials have developed a new training manual that is near completion, and the approach is being considered for more serious offenses.

The benefit of having the court system operate in a village goes far beyond the outcome of an individual case. Visits have helped foster mutual respect among the state, local, and tribal leaders involved in justice delivery, and have helped build greater community trust and confidence in the ability of our justice system to serve rural areas fairly and adequately. A judicial officer described the outcome of a circle sentencing in one village as follows:

[A] lot more than a sentence recommendation was accomplished as a community that day, and thus far the defendant has remained out of trouble and is reported to be doing well.

And he observed the following after a talking circle in another village:

There was another great community turnout and another priceless opportunity to talk and trade ideas. Of note to me was when the Traditional Chief...asked [the] DA...to close the circle in a blessing, an honor normally reserved for Elders. This was a sign to me of the changes and positive aspects of our efforts to work together as a people.

In my view, these efforts fall squarely within concepts of "smart justice" because they seek to reduce extremely high incarceration rates — here, for Alaska's Native people — through interventions that are more localized, culturally appropriate, and cost-effective. They also seek to marshal community resources in a coordinated way in a region where resources for rehabilitation and re-entry are especially limited. By focusing so far on misdemeanors, they help fulfill the recommendations to devote more antirecidivism resources to this offender group. And of course they offer another fine example of the benefits of collaboration, and a valuable reminder of how much more effective we are when we put aside differences to work together on common goals.

I would like to take this opportunity to thank several people for their innovative work in this area: Magistrate Christopher McLain of Galena has spearheaded the effort, with great help from the prosecutors — Fairbanks District Attorney Michael Gray and Assistant District Attorney William Spiers — and the defenders — Fairbanks Assistant Public Defender Steve Hansen and former Assistant Public Defender Michael Biderman. Lisa Jaeger and Mishal Gaede of Tanana Chiefs Conference; and Galena Clerk of Court Pam Pitka have also been instrumental in this effort. I would also like to thank Presiding Judge Douglas Blankenship of the 4th Judicial District, Area Court Administrator Ron Woods, and Rural Court Training Assistant Oscar Calvillo for supporting these efforts, and Fairbanks Superior Court Judge Paul Lyle and District Court Judge Jane Kauvar for their involvement in specific cases. And finally, I would like to extend special appreciation to the Alaska Native Elders and Traditional Chiefs whose support has helped draw communities together for these important events.

Clearly, it will take the best of our thinking, creativity, and cultural sensitivity to begin to reverse the historically high incarceration rates of Alaska's Native people. And it will take listening, reflection, respect and courage to better serve this population by confronting the occurrences of crime, working with village resources to bring offenders to justice, and then finding the ways to put communities back together. But the quiet work happening in the Interior, along with other dedicated efforts in rural communities across our state, gives me hope that change is possible, and that the alarming statistic that has haunted us for so long — that Alaska Natives are dramatically over-represented in our prisons — will soon be a relic of the past.

I have devoted most of my remarks today to compelling developments in the criminal justice arena because I want to encourage your consideration of coordinated responses in a timely way. But before I close, I would like to share news of other exciting developments in the court system that promise to significantly improve the way we do business. While they don't technically fall under the "smart justice" banner because they have no impact on prison growth, there is no doubt in my mind that they are very smart steps to take towards efficient, cost-effective justice delivery.

First, now that we have implemented a computerized case management system — CourtView — at all 44 court locations statewide, we're embarking on the next technology challenge: developing and implementing a system for electronic filing of documents. Anchorage Superior Court Judge William Morse has agreed to direct this project. He and his steering committee will be faced with an enormous challenge in the coming years, and it will no doubt be a long-term process. But the challenge is one that other court systems — including the federal judiciary — have met with success, and one that I'm confident we can achieve capably and competently, with your support.

Second, I mentioned last year the Early Resolution Project and I'm delighted to report that it continues to show enormous success in helping self-represented family law litigants reach early settlements in their cases. Founded in Anchorage by retired Superior Court Judge Stephanie Joannides and Stacey Marz of the Family Law Self-Help Center, it provides volunteer lawyers to help in family law cases where both parents are without counsel. Very soon after the cases are filed, these attorneys meet with the parties, give them candid assessments of the strengths and weaknesses of their cases, and help them settle their dispute. If settlement can be reached a judge is available to enter it on record. I told you last year the pilot program was settling 70% of the cases. Now the figure is in an astounding 85% of cases. Given this amazing track record, the program is now expanding: It started this month in Palmer — I heard yesterday that the first session was an unqualified success, with five of five cases settling — and we're hoping for a June roll-out in Juneau. We hope others can enjoy the benefit of resolving their family disputes early and fairly, with a fraction of the long-term conflict and expense that family cases often entail.

Finally, I mentioned two other "early resolution" programs last year and promised a fuller report this year. These programs are for potentially very difficult cases involving child custody disputes. Often, the potential for early settlement is undermined by high conflict between parents and sharply different views about the likely outcome of the case. Emotions run high, and it is easy to lose sight of the careful evaluation that the court must make going to the best interests of the child.


The first program is the Early Neutral Evaluation Project, designed to give the parties the benefit of an impartial assessment by an experienced child custody investigator who can help them focus on their children's needs and negotiate a positive way forward. In Fairbanks, Superior Court Judge Mike MacDonald and the Custody Investigator's Office have led the way in developing this program, which diverts cases away from the litigation process and toward early settlement. The second program is the Judicial Settlement Conference program, which offers parents the chance to weigh the relative strengths of their case with a retired pro tem judge who can provide a "reality check," temper the hostilities, and explore mutually agreeable outcomes. Both of these approaches give the parties the benefit of professional and judicial expertise at the critical early stages of a custody dispute, before positions harden and unnecessary damage is done to the relationships of all concerned. These developments in "smart justice" — primarily on the criminal side but also with regard to delivery of justice services in rural Alaska and in efforts to settle civil disputes earlier — are hugely encouraging to those of us working in the field. On the criminal side, I hope that you will carefully consider the three new studies — from the Prisoner Reentry Task Force of the Criminal Justice Working Group, the Judicial Council, and the National Center for State Courts — as you tackle the Herculean task of assuring that our criminal laws serve to protect Alaskans in a fair and cost-effective manner. On the civil side, I hope that you will continue to support the initiatives designed to make our justice system work better.

As you know, a new chief justice is elected by the court every three years, and my term will end June 30. In closing I'd like to take this opportunity to say what a great honor it has been to get to know and to work with many of you these last 22 years, and what a privilege it has been to continue this tradition on behalf of the Alaska Court System. The good will you have shown, both to me and to the court system as a whole, has been gratifying, and the dedication you have demonstrated to ensuring full and fair justice delivery across our state has been truly inspiring.

As I've said before many times, inter-branch cooperation is the key to ensuring the health and strength of our justice system. The people of Alaska benefit most when we work together, and I'm proud of everything we have been able to accomplish on their behalf. I believe I can safely speak for all of us at the court system — all 800 staff, clerks, magistrates, and judges, across our state — when I say thank you. Thank you very much.

Rev. 29 February 2012
© Alaska Court System

www.courts.alaska.gov
webmaster@courts.state.ak.us

 You'll need to download a free copy of [Adobe Acrobat Reader](#) in order to view and print documents with this symbol. If you are using a screen reader, get support and information at the [Adobe Access website](#).