

MEMORANDUM

ALASKA COURT SYSTEM

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TO: Senator Bill Wielechowski
Chair, Senate Finance Judiciary Subcommittee

FROM: Doug Wooliver
Deputy Administrative Director
Alaska Court System

DATE: February 20, 2019

RE: Questions from February 6th Subcommittee Meeting

At our first Judiciary Budget Subcommittee meeting I was asked for additional information about several subjects. The following addresses the questions raised.

How will re-opening the court system on Friday afternoons impact the movement of criminal cases?

In FY17 the court system moved our employees from 37.5 to 36 hours a week to save \$2 million dollars a year in personnel costs. Our employees receive 4% less than they would working 37.5 hours a week; they currently work 8:00 am to 5:00 pm Monday through Thursday, and 8:00 am to noon on Fridays. We chose to close on Friday afternoons to save personnel costs in order to avoid a further reduction in our workforce.

Our initial FY 20 budget request did not seek the funding to reopen Friday afternoons. In putting together our budget request, we were aware that the state remains in a challenging fiscal environment, and though the Friday afternoon closure is far from ideal, it has not proven to be a significant bottleneck in the justice system. But after the governor expressed an interest in having court open on Friday afternoon, and after OMB stated that they would support a request for the needed funds, we amended our budget request to include the cost of reopening.

The court system has mitigated the impact that the Friday afternoon closure has had on criminal cases by continuing to provide some services during the closure period. Judges remain available for the issuance of search and arrest warrants, they continue to hold in-custody arraignments for criminal defendants in Anchorage and Fairbanks, criminal trials in Bethel and Fairbanks may continue into Friday afternoons, and other trials may continue when requested. In addition, courts continue to handle domestic violence protective orders, emergency Child in Need of Aid proceedings, mental commitments, and other emergency matters, on Friday afternoons.

Also of note, although the closure was done as a cost savings measure, there are some benefits associated with the practice. Judges have more time to rule on motions, write opinions,

and do the other work that judges must do when not in court. And it allows others in the justice system time to do their many tasks that are outside of the courtroom, which they can schedule knowing that they will not be in court on Friday afternoons.

Nevertheless, reopening will have several positive impacts on the movement of cases, including criminal cases.

The biggest impact of the closures is the loss of court hearing time. One afternoon a week is the equivalent of 26 days a year. That inevitably leads to a gradual slowing of cases as fewer hearings means that many proceedings must be scheduled to later dates.

This may become a bigger concern in FY 20, as our FY 18 filing statistics show the highest number of felony filings we have had, and many of those cases will be coming to trial in FY 20. Additionally, we have already had to make exceptions to our Friday afternoon closure including approving more and more overtime requests, allowing trials to continue (as mentioned above), and amending the schedule to add additional time for the Anchorage grand jury to meet.

And there are administrative issues as well. We no longer have Friday afternoon mail pick-up and delivery, we are slower in distributing checks to vendors, jurors, and court employees, slower at distributing documents and responding to record requests, and because we do not accept case filings after noon, the lines at the front counter are longer on Friday mornings as people try to get their business done before noon.

In general, closing at noon is not what the public expects, and reopening, while not likely to result in a dramatic change in how cases are processed, will help with a variety of procedural and administrative delays and frustrations, and it will create additional court time for the growing felony caseload.

What is the recidivism rate for therapeutic court graduates?

In 2012 the Alaska Judicial Council studied the recidivism rate for therapeutic courts, and published the following summary of their findings:

Any participation by felons in a therapeutic court program appeared to be beneficial; all participants had lower rearrest and reconviction rates than comparison offenders. Graduates benefitted the most. The rearrest rate for felon graduates was about one-third lower than the comparison group, and the reconviction rate was about one-half that of the comparison offenders.

Misdemeanant success depended on graduation. The rearrest and reconviction rates for graduates were about one-third lower than those of the comparison offenders. Non-graduate misdemeanants had substantially higher rearrest and reconviction rates than comparison offenders, but the rearrest and reconviction rates for graduates and non-graduates combined were about the same as the rates for the comparison offenders.

The following charts show the details.

Table 1 Rearrests and reconvictions during first year after release, misdemeanants in therapeutic courts				
	Graduates and non-graduates combined	Graduates	Non-graduates	Comparison Misdemeanants
Rearrests	36%	23%	51%	36%
Reconvictions	24%	9%	41%	25%

Table 2 Rearrests and reconvictions during first year after release, felons in therapeutic courts				
	Graduates and non-graduates combined	Graduates	Non-graduates	Comparison Felons
Rearrests	26%	25%	29%	36%
Reconvictions	16%	12%	21%	23%

What is the per-participant cost of therapeutic courts?

The cost of therapeutic courts is difficult to figure out, but one way to do it is to simply take the full amount of the therapeutic court budget and divide it by the number of participants. We have a budget of \$5.1 million, and in FY 18, for example, we had 439 participants. That works out to \$11,700 per participant, which is the cost equivalent of 71 days in a correctional facility at the current rate of \$161 per day. This is the state-wide average; it costs more in some locations and less in others. The \$5.1 million includes the cost of attorneys, project coordinators, probation officers, treatment services, testing supplies and lab costs, office and other supplies, and statewide coordinators.

What resources need to be in place for a therapeutic court to operate in a community?

The necessary components for a successful therapeutic court are a judge, prosecutors, and defense attorneys who have been trained in, and are committed to how therapeutic courts operate; probation officers; affordable and available safe and sober housing; behavioral health and substance abuse treatment; and alternative transportation for the DUI courts.

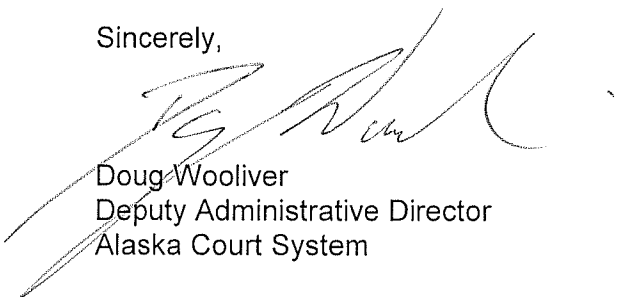
What are the eligibility requirements for therapeutic courts?

The court system operates 12 therapeutic courts in 6 locations. There are three main categories of therapeutic courts: drug and substance abuse, mental health, and family courts. Although the specific eligibility criteria vary from one court to another, there are some criteria that apply to all.

The first is that the defendant is before the court with a qualifying case, for example, driving under the influence, a felony drug charge, or a Child in Need of Aid Case. They must also be professionally assessed as meeting the criteria for intensive outpatient substance abuse or mental health treatment. Additionally, each prospective participant must, with input from his or her attorney, volunteer for the program, and in each case the prosecutor must agree that the person is an appropriate candidate. The specific eligibility criteria for each of our 12 therapeutic courts are posted on our website: <http://courts.alaska.gov/therapeutic/index.htm#about>

I hope this memo answers the questions raised during the last meeting, but please don't hesitate to ask if you have other questions or would like additional information.

Sincerely,



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