

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
SENATE JUDICIARY STANDING COMMITTEE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 14, 2006

8:40 a.m.

**MEMBERS PRESENT**

SENATE JUDICIARY

Senator Ralph Seekins, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Gene Therriault  
Senator Hollis French  
Senator Gretchen Guess

HOUSE JUDICIARY

Representative John Coghill  
Representative Peggy Wilson  
Representative Les Gara

**MEMBERS ABSENT**

SENATE JUDICIARY

All members present

HOUSE JUDICIARY

Representative Lesil McGuire, Chair  
Representative Tom Anderson  
Representative Pete Kott  
Representative Max Gruenberg

**OTHER LEGISLATORS PRESENT**

Representative Norman Rokeberg

**COMMITTEE CALENDAR**

Presentation: Therapeutic Courts

SENATE BILL NO. 222

"An Act relating to breaches of security involving personal information, consumer report security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, disposal of records, factual declarations of innocence after identity theft, filing police reports regarding identity theft, and furnishing consumer credit header information; and amending Rule 60, Alaska Rules of Civil Procedure."

SCHEDULED BUT NOT HEARD

#### **PREVIOUS COMMITTEE ACTION**

None to report

#### **WITNESS REGISTER**

Janet McCabe, Chair  
Partners for Progress

**POSITION STATEMENT:** Made the introductions to the committee

Helen Harberts, Special Assistant District Attorney  
Butte County, California

**POSITION STATEMENT:** Presented an overview regarding success of therapeutic courts

Carson Fox, Prosecuting Attorney  
South Carolina

**POSITION STATEMENT:** Presented an overview regarding success of therapeutic courts

Robyn Johnson  
Therapeutic Courts

**POSITION STATEMENT:** Added comments to the overview

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the joint meeting of the Senate and House Judiciary Standing Committees to order at [8:40:35 AM](#). Present were Senators Hollis French, Charlie Huggins, and Gene Therriault. Also present were Representatives Peggy Wilson, Les Gara, and Co-Chair John Coghill.

#### **Presentation: Therapeutic Courts**

[8:41:46 AM](#)

JANET MCCABE, Chair of Partners for Progress introduced herself and advised the committee that the two guests came to Juneau to provide training for the Juneau Therapeutic Court.

Representative Rokeburg recently introduced HB 441, which establishes a comprehensive and consistent structure for Alaska's therapeutic courts to deal with repeat substance abuse offenders. Alaska has twice the number of DUI deaths than any other state, she contended. She introduced Helen Harberts and Carson Fox.

8:44:30 AM

Rep David Guttenberg joined the meeting.

HELEN HARBERTS, Special Assistant District Attorney, Butte County, California introduced herself. She said she is from a conservative no-nonsense law enforcement-based culture. In her community the predominant drug of choice is methamphetamine and also houses the California State University at Chico, a nationally recognized "party school." Out of that dubious distinction, the county has an enormous alcohol and drug problem.

8:46:44 AM

MS. HARBERTS recognized that Alaska has done extraordinary work in the DUI court field. The therapeutic program in Butte County was the first to successfully treat high-end DUI offenders with Nalprexone and Alaska is now doing the same. She said she refers to Alaska as a model community that has figured out what works and has incorporated that treatment.

8:48:04 AM

Nationally drug courts have been studied inside and out. Studies prove that the therapeutic court model works and reduces recidivism rates. There are two kinds of people that the criminal justice system deals with; addicts whose addiction drives them to criminal behavior, and criminals who may or may not use drugs. The criminals have to be watched differently than the addicts. People who are addicted go through the drug court model and usually come out tax-paying citizens and usually don't come back. Drug courts stop the recidivism rate and that is a nationally recognized trend.

8:50:24 AM

Drug courts are smart on crime, extremely effective with the addicted population, amazingly cost-effective, and they save prison space for those who really need to spend their life in prison. Alaska is starting to see the "dreaded drug" known as methamphetamine. Among meth addicts, the only thing known to work is the drug court model. Nothing else has worked.

[8:52:23 AM](#)

The drug court model is perfect for Alaska DUI courts. High-end, repeat felony offenders, left untreated come back time and again. Meantime they kill people on the highways and create havoc in the communities. A therapeutic court saves money, time, and lives. It reduces recidivism rates, fetal alcohol syndrome, drug-involved children, and reduces impact on dependency courts.

[8:54:10 AM](#)

MS. HARBERTS said the program is "the greatest thing since sliced bread and mashed potatoes." Her primary mission has been to pursue public safety by the most effective means and that now means using therapeutic courts because they work. Her county has seen a drop from a 70 percent recidivism rate to less than 20 percent since incorporation of the model.

[8:55:34 AM](#)

Senator Gretchen Guess joined the meeting.

REPRESENTATIVE LES GARA asked Ms. Harberts whether Nalprexone worked on meth addicts.

MS. HARBERTS responded no. She said Nalprexone is an opiate antagonist. It works extremely well with alcohol and with opiates. It works well with Vicodin, OxyContin, and heroin addicts. At this point there is nothing known that helps relieve meth addiction.

REPRESENTATIVE GARA said he received a call from a person who could not get into an alcohol treatment program. He asked whether Naltrexone could be used without the treatment program.

MS. HARBERTS said Naltrexone helps people with cravings and it allows them to focus on treatment. The goal of the drug court and Naltrexone is to allow people to get into treatment and stick with it. The real work that is done is done with cognitive behavioral therapies inside treatment and treatment must be done for the duration of one year.

[8:57:44 AM](#)

Representative Norman Rokeburg joined the committee.

REPRESENTATIVE JOHN COGHILL commented that since Alaska is still in the pilot program phase they struggle with choosing who gets to try the drug court. He asked Ms. Harberts how she has dealt with the issue of deciding whether to go full scale with therapeutic courts.

MS. HARBERTS said she did two things. She wrote the protocol and then became the chief probation officer and implemented the entire problem-solving court system. She also kept her feet in the general fund because grants and pilot funding does not last. She worked very hard to develop a core budget based in general fund. She is an absolute advocate for mainstreaming and general fund basing of this type of program because she ran the numbers every year and found that her recidivism rate was 14.9 percent down from 70 percent. She said she realized if she could incorporate the program entirely the department's caseload would drop by half in five years. Drug court was the salvation of her department, she stated.

[9:01:36 AM](#)

REPRESENTATIVE PEGGY WILSON asked Ms. Harberts whether she had to hire new people or whether she simply trained her existing staff to work differently.

MS. HARBERTS said both. The drug court model is counter-intuitive and makes no sense. Everything is backwards and it takes a lot of training, for instance, prosecutors do not talk much in court. The outcome is that it works. As the program grew she hired new people but to begin with she chose people who were the most capable of learning something that was counter-intuitive.

REPRESENTATIVE WILSON asked Ms. Harberts whether she thought it was possible to ramp up the courts without an initial monetary impact.

MS. HARBERTS said the cost would be in supervision resources and treatment resources with some account for court time. Otherwise it is a front-loaded program but the offset on the other end is huge and keeps people out of jail.

[9:06:02 AM](#)

REPRESENTATIVE COGHILL said he watched a therapeutic court graduation and it was an intensive personal interaction. He asked her to give an example of how they determine that a person is not a criminal but an addict that possesses criminal behavior.

MS. HARBERTS informed the committee of the assessment instruments such as the "LSIR." It is an objective-based assessment that allows the department to identify who the criminals are. A district attorney can also pull out the rap

sheet and look to see where the predominant criminal activity has been. It is easy to identify the addict when the predominant criminal activity is basic theft, basic driving and basic possession types of crime. Rap sheets that are littered with crimes against people and property denote a criminal that has a drug problem. There are, of course, other technologies that one can use to determine whether or not a person is a psychopath.

[9:09:37 AM](#)

SENATOR FRENCH asked the reason her county has more people under felony supervision and not in the "wellness court."

MS. HARBERTS said two things. One of them is that wellness courts go against the existing criminal justice paradigm. The other is that Butte County has prepared filings for bankruptcy on three occasions and she is constantly fighting for funding. On the other hand, she said, there are 850 people that she is supervising in her courts now, so changes have been made.

[9:11:54 AM](#)

SENATOR FRENCH asked the number of years that her program has been in effect.

MS. HARBERTS responded she started the first program in 1995.

SENATOR FRENCH said with a decade of experience, she could probably demonstrate the enormous savings to the county in way of prison beds and corrections officers.

MS. HARBERTS agreed and advised that people thank her for her contributions but do little else.

[9:13:37 AM](#)

REPRESENTATIVE WILSON asked Ms. Harberts whether there is anything that works with meth.

MS. HARBERTS said she has never seen anything that works except the drug court model because it harms the brain in a distinct way. Meth addicts are arrested more frequently than other addicts and treatment takes longer than other addictions. Meth addicts experience short-term memory deficits and experience up to a year of active auditory and visual hallucinations.

[9:16:26 AM](#)

REPRESENTATIVE COGHILL asked what changes she has seen in treatment models.

MS. HARBERTS said one of the best things she has seen come out of the drug court model is an insistence on research-based practices.

REPRESENTATIVE COGHILL asked about including judges in the vision process.

MS. HARBERTS responded, "Traditionally the judiciary is the slowest moving and most conservative branch of government and is the bellwether against widening swings." Our form of government works very well but doesn't work in drug courts, she said. People have to keep talking to the judges and give them a break because some judges are rated on how fast they can move caseloads and drug courts are not churning out numbers.

[9:21:53 AM](#)

REPRESENTATIVE ROKEBURG asked Ms. Harberts for recommendations in dealing with cultural conflicts.

MS. HARBERTS said be nice. It is still the same fundamental business but prosecutors and corrections now have jurisdiction to "pay attention to monsters."

REPRESENTATIVE ROKEBURG asked the technology used to deal with the criminals and addicts.

MS. HARBERTS said they use the "SCRAM" in DUI courts but GPS technologies do not work in her county. There is new technology that measures metabolites in urine and detects alcohol use back three days but it is not currently affordable to her budget.

[9:27:13 AM](#)

CHAIR SEEKINS thanked Ms. Harberts for her time.

[9:29:51 AM](#)

CARSON FOX, South Carolina Attorney, advised the committee that he comes today to testify on drug courts because they work. His area had a big problem with crack cocaine. They found the drug court model and he was tasked with putting it together.

The first program started in 1989 in Miami, Florida because the problem with cocaine was so significant that they gave a judge a sabbatical to research how to better deal with the problem. He found that monitoring people closely and giving them intensive treatment. Today there are almost 2,000 courts and they also have them in South America.

[9:32:23 AM](#)

MR. COX said when he started working with drug courts the recidivism rate for multiple offenders was over 50 percent and is now below 20 percent. The numbers are so well proven that the New York system now requires every district to have at least one drug court and they save over \$1 billion dollars a year. Multnomah County in Portland, Oregon determined that for every dollar they spend on drug court programs they save \$10 dollars.

[9:36:45 AM](#)

MR. COX advised the committee that he and Ms. Harberts spent time training people in the local wellness court in behavior modification and ethics. He offered to answer questions.

REPRESENTATIVE COGHILL asked Mr. Cox the number of times the state has to come down on the people who fail the drug court.

MR. FOX said it depends on the individual. A recent study shows that intervention by the judge works because it gets people's attention. Using intervention as quickly as possible is a way to make the model work better.

REPRESENTATIVE COGHILL asked him to talk about the tipping point before they have to send people to jail.

[9:40:12 AM](#)

MR. FOX indicated it was an individualistic meter. There are some programs that will designate certain things that get people kicked out instantly. Nationally 70 percent of people succeed through the courts.

REPRESENTATIVE COGHILL asked Mr. Cox to address the issue of people who have mental health issues and use drugs.

MR. FOX advised that judges refer those people over to the Mental Health Board.

[9:44:53 AM](#)

REPRESENTATIVE ROKEBERG asked Mr. Fox his opinion of granting a limited driver's license in certain circumstances as a means of positive reinforcement.

MR. FOX said due to Alaska's large area with no or limited public transportation; it could become a jurisdictional issue. He agreed that at times it is necessary in order to keep rural people in the program.

REPRESENTATIVE ROKEBERG asked how other jurisdictions handle multiple offender clients in terms of coordination between the courts.

MR. FOX advised it depends on the jurisdiction. Some states probation falls under the judiciary and other states it falls under the executive branch so it takes a coordination of services. The key components are training and coordination. He has seen judges cooperate between courts and coordinate the transfer of the person.

[9:49:49 AM](#)

REPRESENTATIVE ROKEBERG asked Mr. Fox the distinction between the DUI court and the drug court in the types of treatment elements.

MR. FOX advised it is a different population. Alcohol is an insidious drug but treatment is different. For example, the testing for alcohol is very different than testing for other drugs. From a prosecutor's point of view, drugs like meth do damage to the brain in six months what alcohol generally takes 20 years to do.

[9:53:49 AM](#)

SENATOR HUGGINS noted that the veteran's court in Anchorage is based on the drug court model. He asked whether there are any indicating demographics or traits established in the court population.

MR. FOX responded drug courts started out as a grass roots program and the local population will differ from jurisdiction to jurisdiction.

SENATOR HUGGINS asked him to describe the role that marijuana plays in the drug courts.

MR. FOX stated that marijuana is far more potent than it was in the past and is virtually a different drug. People are overdosing and becoming addicted.

[10:00:56 AM](#)

SENATOR HUGGINS asked Mr. Fox his thoughts on the difference between addicts and criminals.

MR. FOX replied the issue was individualistic and one difference is that addicts become criminals to support their habit and

without the addiction wouldn't normally display criminal behavior.

[10:03:42 AM](#)

SENATOR HUGGINS asked him to comment on early intervention.

MR. FOX responded addiction doesn't know an age. When people start using drugs the brain stops developing. Treatment professionals work with people who are developmentally much younger than their age. The approach is to apply accountability no matter what the age is.

[10:07:15 AM](#)

MS. HARBERTS added juveniles are not little adults and the brain development is unique. Adolescent criminals do not have the capability of handling compound, complex tasks.

[10:10:38 AM](#)

SENATOR HUGGINS asked her to comment on Fetal Alcohol Syndrome (FAS).

MS. HARBERTS said there is a huge correlation between FAS and alcohol and drug addictions. The same is true with children born inside homes where adults use meth. There are developmental issues and some are treatable and some are not. Addiction treatment experts will advise that early intervention prevents addiction.

[10:13:33 AM](#)

CHAIR SEEKINS said 85 percent of Alaska prisoners are indigent drunks and many people don't want to change.

MS. HARBERTS said the higher end people would decline the invitation to treatment. It is a myth that a person has to bottom out before they would accept help.

MR. FOX added that a 33-year study concluded the longer a person is in treatment, the better they do. There generally is no impact when treatment lasts less than 90 days.

[10:18:28 AM](#)

ROBYN JOHNSON, Therapeutic Courts Program Coordinator, introduced herself and offered to answer questions.

REPRESENTATIVE ROKEBERG asked Ms. Johnson for an overview of the Alaska Therapeutic Court system.

MS. JOHNSON informed the committee there are three different courts. The mental health court in Anchorage is one of the first in the country and is going very well and a second one was added in Palmer last year. The first two addiction courts were opened as a result of HB 179 and were a felony DUI court in Anchorage and Bethel. A misdemeanor wellness court was established in Anchorage and has expanded to incorporate state offenders.

In the past two years they have received funding from the Alaska Office of Highway Safety and the Department of Transportation (DOT).

[10:21:12 AM](#)

MS. JOHNSON added they are adding a wellness court in Fairbanks and that Anchorage also has a non-criminal family care court for those at risk of losing parental rights. In Anchorage they have a felony drug court and a felony DUI court as well.

REPRESENTATIVE ROKEBERG noted that he has preliminary approval for \$900,000 from the DOT as a result of the "seatbelt bill."

[10:22:37 AM](#)

CHAIR SEEKINS thanked everyone for the presentation.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:23:05 AM](#).