THE ANCHORAGE, ALASKA VETERANS COURT AND RECIDIVISM: JULY 6, 2004 – DECEMBER 31, 2010

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ABSTRACT

In July 2004 Anchorage, Alaska started one of the first veterans courts in the United States. That court has now been in continuous operation for over seven years. This Comment briefly describes the steps taken to establish the Alaska Veterans Court and how the court operates. An overview of the characteristics of participants in and graduates from the court is provided, followed by statistics concerning the effect of the court on recidivism. Several potential future areas of study concerning this court are also identified. The Comment concludes by highlighting the importance of the court and by noting that the benefits provided by the court are currently limited by the absence of funding from any source.

INTRODUCTION

In 2004,[1] the Alaska Veterans Court—the first known veterans court in the country[2]—was established in an effort to reduce the number of criminal cases involving former members of the United States military.[3] One problem with specialty courts is the lack of statistics showing who

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1. Amanda Ruggeri, *New Courts Give Troubled Veterans a Second Chance*, U.S. NEWS & WORLD REP., Apr. 3, 2009, at A1.

2. Michael Daly Hawkins, *Coming Home: Accommodating the Special Needs of Military Veterans to the Criminal Justice System*, 7 OHIO ST. J. CRIM. L. 563, 565 (2010).

3. *See* ALASKA COURT SYS., PUB-121, ALASKA VETERANS COURT 1 (Nov. 2008), *available at* http://www.courts.alaska.gov/forms/pub-121.pdf.

is using the courts and what effect the courts have on reoffending. Currently, there are no reported studies concerning the effect of a veterans court on reoffending.

This Comment describes the history of the Alaska Veterans Court in Anchorage and provides statistics on the demographics of those using and those considering the court. The Comment examines whether the graduates and those exposed to the court's programs have received new criminal convictions or petitions to revoke probation within twelve to thirty-six months after exposure to or completion of Veterans Court.[4] To determine whether the Veterans Court has succeeded in reducing recurring criminal conduct, this Comment compares the recidivism rate of graduates of the Veterans Court with the recidivism rates of individuals who did not successfully complete the Veterans Court program, individuals who were eligible but declined to participate in Veterans Court, and the few individuals found to be ineligible to participate in the Veterans Court.[5] The Comment includes several observations concerning these statistics. However, the statistics are primarily provided to serve as a jumping-off point for future studies, and no analysis of the statistics is attempted.[6] Additionally, although these court proceedings are open to the public and the records are available for review, citations to the court records have been omitted in order to protect the privacy of individual defendants. The Author participated in the establishment of the Veterans Court and the court's first three years of operation. These personal experiences provide the

4. This Comment does not address the broader questions of whether a veterans court is a "therapeutic" court or whether a veterans court can more effectively and efficiently address concerns dealt with by other therapeutic courts. While not this Comment's focus, those are legitimate questions, and they have been addressed by others to some degree. *See, e.g.*, *Veterans Treatment Court Studies and Statistics*, NAT'L ASS'N DRUG CT. PROFS., http://www.nadcp.org/JusticeForVets-studies/statistics (last visited Feb. 17, 2012) (discussing veterans courts and the criticisms about this new therapeutic court with interesting analogies to the initial comments concerning drug courts); *see also* ROBERT T. RUSSELL, VETERANS TREATMENT COURTS DEVELOPING THROUGHOUT THE NATION 1–4 (2009), *available at* http://www.ncdsv.org/images/Russell_VetsTreatmentCourtsDevelopNationwide_2009.pdf; *Veterans Treatment Court Resources*, NAT'L ASS'N DRUG CT. PROFS., http://www.nadcp.org/learn/veterans-treatment-courts/veterans-treatment-court-resources (last visited Feb. 17, 2012).

5. Some of these ineligible individuals were still on active military duty and thus were not considered "veterans" eligible for benefits.

6. Any conclusions drawn from the statistics would be speculative at best, particularly because the Anchorage Regional Office of the U.S. Department of Veterans Affairs declined to participate in this review due to federal privacy concerns.

basis for much of the description of the Veterans Court's history and operation.

This Comment begins by providing background information on the creation of the Alaska Veterans Court in Anchorage in Part I. Part II discusses the basic operation of the court. Part III provides an overview of the potential benefits of a veterans court. Part IV presents data on Veterans Court cases from July 1994 through December 2010, and Part V discusses the effect of the Veterans Court on recidivism. Part VI highlights possible issues that may be addressed in future research. The Comment concludes with some thoughts on the important role the Alaska Veterans Court plays in the Anchorage community and on the challenges it faces going forward.

I. HISTORY OF THE ALASKA VETERANS COURT

Although the specific procedures for veterans courts differ across the United States,[7] the basic outline is similar. Individuals facing criminal charges who are eligible for veterans benefits[8] are provided an opportunity to avoid criminal prosecution and receive reduced charges or sentences based upon completion of treatment provided through the federal Department of Veterans Affairs (VA).[9]

Alaska has a relatively large community of veterans,[10] which is at least partially attributable to two large U.S. Army installations (Fort Richardson in Anchorage and Fort Wainwright in Fairbanks) and two large U.S. Air Force installations (Elmendorf AFB in Anchorage and Eielson AFB in Fairbanks).[11] Anchorage District Court Judge Sigurd E.

7. Six states have legislatively created veterans courts: California, Colorado, Illinois, Oregon, Texas and Virginia. *Veterans Treatment Court Legislation*, NAT'L ASS'N DRUG CT. PROFS., http://www.nadcp.org/JusticeForVets-legislation (last visited Feb. 17, 2012).

8. Eligibility for veterans benefits is governed by federal statute and requires honorable completion of a period of federal military service. *See* 38 U.S.C. § 101(2) (2012) (defining veterans as only those who have been honorably discharged).

9. ALASKA COURT SYS., *supra* note 3, at 1.

10. As noted in a recent *Anchorage Daily News* editorial page comment by Senator Lisa Murkowski, Alaska has 77,000 veterans, the highest per capita number in the United States. Sen. Lisa Murkowski, Editorial, *VA Struggling to Serve Alaska's Veterans*, ANCHORAGE DAILY NEWS, May 28, 2011, http://www.adn.com/2011/05/28/1888111/va-struggling-to-serve-alaskas.html.

11. Elmendorf AFB and Fort Richardson have been joined as Joint Base Elmendorf-Richardson. JOINT BASE ELMENDORF-RICHARDSON, http://www.jber.af.mil/main/welcome.asp (last visited Feb. 17, 2012).

Murphy, a retired U.S. Army Brigadier General,[12] initiated efforts to establish a veterans court in 2003.[13] A district court judge since 1992,[14] Judge Murphy had observed a number of military veterans repeatedly coming through the criminal justice system, and he was interested in finding a way to reduce the repeated criminal court involvement of these veterans.[15] After researching specialty courts in San Diego, California[16] and King County, Washington,[17] Judge Murphy sought to establish a specialized court within the Alaska Court System designed to help military veterans facing criminal charges by utilizing the benefits they earned and were entitled to through the VA.[18]

Initiation of a veterans court raised a number of challenges. Judge Murphy was a district court judge with jurisdiction over misdemeanor crimes but not felonies.[19] The prosecution of crimes arising in Anchorage is divided between the City of Anchorage Municipal Prosecutor's Office and the State of Alaska Anchorage District Attorney's Office.[20] Therefore, the participation of both the Municipal Prosecutor's Office and the Anchorage District Attorney's Office was desirable.

Funding is always an issue in establishing a specialized court, and funds were not readily available to establish a veterans court in

12. STATE OF ALASKA, 2006 OFFICIAL ELECTION PAMPHLET 100, *available at* http://www.elections.alaska.gov/doc/oep/2006/2006_oep_reg_4.pdf.

13. Discussion with Sigurd E. Murphy, Former Judge, Anchorage District Court, in Anchorage, Alaska (Fall 2003); *see also* Hawkins, *supra* note 2, at 565 (discussing the establishment of the Alaska Veterans Court).

14. *Prior Judges*, ALASKA JUD. COUNCIL, http://www.ajc.state.ak.us/judges/judgformer.html (last visited Feb. 17, 2012).

15. Discussion with Sigurd E. Murphy, *supra* note 13.

16. *See* NANCY KERRY & SUSAN PENNELL, SAN DIEGO HOMELESS COURT PROGRAM: A PROCESS AND IMPACT EVALUATION 3 (June 2001), *available at* http://sandiegohealth.org/disease/homeless/publicationid_1113_5390.pdf (evaluating the Homeless Court in San Diego).

17. *See Veterans' Incarcerated Project*, KING COUNTY DEPARTMENT OF COMMUNITY AND HUMAN SERVICES, http://www.kingcounty.gov/socialservices/veterans/ContractorsAndPartners/VeteransIncarceratedProject.aspx (last updated Jan. 26, 2009) (providing basic information on the Veterans' Incarcerated Project in King County).

18. Discussion with Sigurd E. Murphy, *supra* note 13; *see also* ALASKA COURT SYS., *supra* note 3, at 1.

19. *See* ALASKA STAT. § 22.15.060(a)(1) (2010).

20. *See Criminal Justice*, STATE OF ALASKA DEPARTMENT OF LAW, http://law.alaska.gov/department/criminal/crim_justice.html (last visited Feb. 17, 2012) (noting district attorneys in the Criminal Division of the Alaska Department of Law prosecute violations of state criminal law while municipalities prosecute some misdemeanor crimes arising within their jurisdictions); *Criminal Law (Prosecution)*, MUNICIPALITY OF ANCHORAGE LEGAL DEPARTMENT, http://www.muni.org/departments/legal/criminal/pages/default.aspx (last visited Feb. 17, 2012) (noting the misdemeanor charges prosecuted by the City of Anchorage).

Anchorage.[21] Judge Murphy's plan was to volunteer his time to run the court.[22] He recognized the time required for Veterans Court could not impact his other cases or scheduled hearings without creating a potential roadblock to establishing the court.[23] To assist in presiding over the court and covering hearings in his absence, Judge Murphy recruited the Author of this Comment, Judge Jack W. Smith.

Judge Murphy and the Author met with the Municipal Prosecutor and Alaska representatives of the VA to gauge interest in the proposed court. Over several months, these parties hammered out the ground rules for how the Veterans Court would function. The Anchorage District Attorney's Office initially declined to participate in these discussions; because their staffing was based upon established courts, supporting a new court would be an unfunded requirement.[24] The VA and Municipal Prosecutor both conditioned their agreement to participate in the Veterans Court on having the right to refuse to allow otherwise eligible individuals entry into the Veterans Court due to their current offense, criminal history, or history with the VA.[25]

Contemporaneously, Judge Murphy and the Author discussed the proposed court with the Anchorage Presiding Judge and Area Court Administrator. They also coordinated with the district court calendaring office to ensure a time and day of the week could be established for Veterans Court to occur without disrupting their respective calendars for other district court proceedings. The Area Court Administrator was a strong proponent of therapeutic courts and readily supported the proposed court. The Presiding Judge was not opposed to the proposal so long as the new court had minimal impact on the admittedly busy court staff.

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21. At the time of this writing the Veterans Court still receives no separate funding for operation from the Municipality of Anchorage, the State of Alaska, nor the federal government.

22. Discussion with Sigurd E. Murphy, *supra* note 13.

23. *Id*.

24. The State never provided any written declination but orally indicated this was the rationale for not participating. Some state assistant district attorneys offered to assist out of their own time if the DA would allow. Occasionally, the Municipal Prosecutor's Office would agree to represent the State in order to allow a veteran facing state charges to utilize the Veterans Court. Today, the State does participate. A major advantage of state participation is that veterans from other communities can utilize the Veterans Court, which may necessitate those individuals relocating to Anchorage for treatment.

25. During the time the Author was involved with the court, the Department of Veterans Affairs seldom invoked this right. The Municipal Prosecutor also used this "veto" very sparingly, generally only in cases involving domestic violence. However, even that was on a case-by-case basis. Most often, the party was allowed to use the Veterans Court if the victim agreed.

The proposal for a new therapeutic court faced opposition from two camps within the judiciary. First, some judges were opposed to any new courts. Surprisingly, opposition to the proposed new court also came from the judges handling existing therapeutic courts. This second group of judges raised concerns over whether the proposed court was a therapeutic court[26] and whether the resources required for the new court would draw from those necessary for existing therapeutic courts. These concerns appear to have been unnecessary, as the Veterans Court developed a symbiotic relationship with the alcohol, drug, and mental health courts in Anchorage.[27] Individuals are referred by the Veterans Court to these courts either when the individuals are not eligible for Veterans Court or when their particular problems are more appropriately addressed in another therapeutic court.

Following extensive discussions, Judge Murphy and the Author met with the Municipality of Anchorage contract defense counsel firm, Gorton & Logue. Gorton & Logue expressed reserved support for the proposed court. To the extent it offered treatment and assistance to their clients at no expense to the clients, it was certainly preferable to the many court-ordered treatment programs requiring payment. However, they also pointed out the obvious difficulty for their clients in electing to participate in Veterans Court. The treatment and therapy through Veterans Court and the VA would almost always require a substantially greater commitment of time and effort than a plea in regular court. Nonetheless, they were willing to present the option to their clients and would support the Veterans Court program for those clients who were interested in treatment. After all the preliminary and preparatory steps were completed, the principals signed a memorandum of agreement establishing the Alaska Veterans Court effective July 6, 2004.[28]

Judge Murphy and the Author presided over the court, assisted by their shared judicial assistant. Pat Young, a special assistant to the area court administrator, provided additional administrative support. The Alaska Court System provided the courtroom, in-court clerk, and calendaring staff. Whenever concerns were raised over this use of facilities and personnel, it was pointed out that if the individuals involved in Veterans Court had their cases processed in normal court proceedings, those same court resources would be required. Certainly,

26. *Cf.* note 4.

27. *See Alaska Trial Courts*, ALASKA CT. SYS., http://courts.alaska.gov/trialcts.htm#therapeutic (last visited Feb. 17, 2012) (listing the therapeutic courts in Anchorage and elsewhere in Alaska).

28. *See* Memorandum of Agreement Between the Department of Veterans Affairs & Alaska Court System & Municipality of Anchorage (July 16, 2004) (on file with author) [hereinafter Memorandum of Agreement].

the number of court proceedings required in Veterans Court exceeds those required for traditional court. However, that requirement is a known aspect of therapeutic courts.[29]

A brochure explaining the Veterans Court was prepared for placement in self-help and public information areas of the court.[30] Posters explaining the Veterans Court were placed in the local jail. The court website was also updated with information on the Veterans Court.[31] Finally, all Anchorage district court judges were briefed on the purpose of the Veterans Court and eligibility requirements so that referral to the court would be considered if a defendant requested or appeared qualified.

The Alaska Veterans Court has operated continually since 2004. During the transition following the retirement of Judge Murphy and the Author's appointment to the superior court, a number of district court judges covered the Veterans Court. Currently, the court is presided over by Judge David R. Wallace, and his efforts have resulted in the court's growth.

II. OPERATION OF THE VETERANS COURT

The Alaska Veterans Court provides participants the ability to receive multi-disciplinary treatment and assistance for issues contributing to their involvement in the criminal justice system. Individuals facing misdemeanor charges filed by the Municipality of Anchorage,[32] who are veterans under federal law, can opt into the Veterans Court.[33] Any defendant interested in the Veterans Court is referred to the first Veterans Court hearing following his or her arraignment. Those individuals observe the Veterans Court proceedings and are advised of the procedures to opt in.[34]

If a defendant is interested in opting into the Veterans Court, an appointment is made, either in or out of custody, with representatives of

29. *See Problem–Solving Courts Resource Center*, NAT'L CENTER FOR ST. CTS., http://www.ncsconline.org/D_Research/ProblemSolvingCourts/Problem-SolvingCourts.html (last visited Feb. 17, 2012) (describing various therapeutic courts and their operations).

30. See ALASKA COURT SYS., *supra* note 3, for the most recent copy of the brochure.

31. *See Alaska Trial Courts*, *supra* note 27.

32. In 2010 the Anchorage District Attorney began providing staffing for the Veterans Court and referring state misdemeanor cases to that court. The Veterans Court also began accepting some class C felony cases in March 2011.

33. Memorandum of Agreement, *supra* note 28.

34. *See id.*

the VA to determine his or her eligibility for benefits.[35] If the defendant is eligible the VA sets appointments for substance abuse, mental health, and physical examination, and/or other resources as needed.[36] A future court date is also set.[37] Once the various providers have completed evaluation of the veteran, a recommended treatment plan is provided to the defendant, his or her counsel, the municipal prosecutor, and the court.[38] Based upon the current charges, the individual's criminal history, and the proposed treatment, the prosecutor prepares two proposed sentences for the defendant to review. One proposed sentence represents what the prosecutor will seek if the defendant declines treatment or enters treatment but fails to complete that recommended treatment. The second proposed sentence reflects what will be imposed if the defendant embarks upon and successfully completes the treatment plan.[39]

The defendant and his or her counsel are provided time to review the proposed treatment plan and the alternative sentences. The defendant can opt to return to regular court or enter Veterans Court.[40] If the defendant chooses to enter Veterans Court, he or she enters a plea to the charges. The treatment plan is then implemented, and the defendant is scheduled for periodic follow up court proceedings to monitor his or her progress.[41] Individuals are required to attend Veterans Court hearings until they establish consistent attendance at the scheduled VA meetings and treatment appointments. Once a record of consistent compliance is developed, absent objection by the prosecutor or the VA representative, attendance at Veterans Court hearings may be set further apart in recognition of increased trust in the veteran. If the veteran has minor attendance or compliance problems during treatment, sanctions including placement back to earlier phases of treatment, restarting the treatment, or even brief incarceration may be required.[42] At any time a defendant may opt out of Veterans Court and request to return to traditional court.

35. *See id.*
36. Veterans Affairs also provides job skill training and a domiciliary for individuals who lack housing. However, there are limited beds in the domiciliary and a waiting list is frequently in place.
37. *See* Memorandum of Agreement, *supra* note 28.
38. *See id.* Veterans Affairs has found many of these individuals have multiple health or life skill problems necessitating several visits and weeks to develop an appropriate treatment plan.
39. *See id.*
40. *See id.*
41. *See id.*
42. *See id.*

III. BENEFITS OF A VETERANS COURT

A recurring question while the Alaska Veterans Court was being set up and throughout its operation has been: why create a veterans court? This proposal made sense to Judge Murphy and the Author for several reasons.

A. Common Life Experiences of Military Members

Military members share common life experiences the general populace does not. In many individuals those shared experiences create a bond that requires completion of difficult and unpleasant tasks based on a desire to support the group. That bond and the desire to perform do not fade over time. Judge Murphy sought to tap that desire in a court where individuals could see other veterans facing similar issues. The hope was that the court would help encourage more veterans to "buy in" and try treatment.[43]

B. Integration with the Department of Veterans Affairs

Generally speaking, misdemeanants in Alaska do not get a probation officer who can direct them to seek treatment through the VA. However, VA representatives attend Veterans Court and arrange to determine eligibility at that time. When necessary, VA representatives have gone to the jail to meet with individuals to facilitate entry into Veterans Court. This participation encourages the defendants because it makes it clear the VA wants to assist them.

Although Anchorage had alcohol, drug, and mental health courts[44]—to which many veterans could have been referred—the VA was able to simultaneously address drug, alcohol, and mental health issues as well as homelessness, lack of job skills, and physical health issues.[45] For example, a review of Veterans Court files reveals several

43. Perhaps best said by Louis Zamperini, "You have buddies in college, buddies on the Olympic team, but there's something about combat buddies that it's hard to explain." Cal Thomas, Editorial, *Military Veterans Offer Most Poignant Reflection on Memorial Day*, SUN SENTINEL, May 30, 2011, http://articles.sun-sentinel.com/2011-05-30/news/fl-ctcol-memorial-day-veterans-thomas20110530_1_buddies-louis-zamperini-prison-cam. The Veterans Court seeks to tap into that bond from the military experience to reach individuals with significant issues.

44. *See Alaska Trial Courts*, *supra* note 27.

45. *See Veterans Treatment Court Studies and Statistics*, *supra* note 4 (noting 1 in 5 veterans report symptoms of mental disorder, 1 in 4 veterans ages 18–25 met criteria for substance abuse disorder, and as many as one-third of the adult homeless population has served in the military).

defendants who were referred to long-term treatment in VA facilities outside of Alaska at no expense to themselves. Another defendant involved with mental health court transferred to Veterans Court because of the availability of housing support through the VA domiciliary. A review of forty-six treatment plans contained in Veterans Court files indicates that thirty-one individuals required alcohol treatment, twenty-seven required mental health treatment,[46] and sixteen required access to the VA domiciliary to facilitate their treatment by providing housing. Thirty-six of the forty-six treatment plans reflected the individuals had more than one issue to treat.

Although veterans are served by drug and mental health courts, sometimes a veterans court proves more effective. The review of all the files reflects an effort to ensure the needs of defendants were met in the most appropriate setting. Three individuals seeking to utilize the Veterans Court who were not eligible were referred to the wellness court. Two were referred to the mental health court. Similarly, two veterans in mental health court and one in wellness court chose to transfer their cases into Veterans Court. In fact, the files reviewed for this Comment reflect that one of the earliest Veterans Court participants opted into the court based upon a second petition to revoke probation for failure to complete alcohol treatment. He had been on probation for four years trying to complete the necessary treatment. He spent twelve months in Veterans Court and was removed from probation upon successful completion of the VA alcohol treatment program. Notably, he had been in the VA alcohol program prior to entry into the Veterans Court but had not succeeded. The Veterans Court provided the support he needed to complete alcohol treatment.

C. No Cost Treatment

Eligible beneficiaries receive treatment at no cost to themselves, the Municipality of Anchorage, or the State. This free treatment is different from wellness or mental health court. The VA was required to seek additional professional staff based upon the number of veterans eligible for assistance identified through Veterans Court. Clearly, the Veterans Court is reaching at least some veterans who did not seek VA treatment on their own.

46. "Mental health issues" was also used to categorize anger management and post-traumatic stress disorders.

IV. OVERVIEW OF VETERANS COURT PARTICIPATION FROM JULY 1994 THROUGH DECEMBER 2010

The records for 182 individuals who attended hearings at the Veterans Court from July 1994 through December 2010 were reviewed for this Comment. This section presents information for 147 individuals[47] and over 215 files.[48] Of the 147 individuals, 133 were eligible for Veterans Court, 74 opted in, and 38 graduated. The graduation rate was a little over 51%.

A. Ethnicity

Table 1 presents information on the ethnicity of the 147 individuals who attended hearings for the Veterans Court.

Table 1. Ethnicity of Veterans Court participants.

Ethnicity	Number of Individuals Observing Veterans Court	Number Eligible	Number Opting In	Number Graduated
Caucasian	78	69	38	19
African American	44	42	23	10
Alaska Native	16	13	9	7
Native American	3	3	0	N/A
Hispanic	3	3	2	0
Asian/ Pacific Islander	2	2	2	2
Unknown	1	1	0	N/A
Total	**147**	**133**	**74**	**38**

47. Thirty-five of the 182 individuals whose files were reviewed could not be included in this analysis. Eighteen individuals were still in the Veterans Court treatment program at the time the cases were reviewed. Seventeen individuals had been out of Veterans Court for too short a period to include in the analysis. Six of those individuals have graduated from the court and not yet encountered any new violations. One individual who graduated in 2010 had a new violation prior to the end of 2010.

48. Fifty-seven individuals reoffended after contacting the Veterans Court and some had multiple contacts with the Veterans Court, resulting in over 215 files being reviewed.

B. Gender

Table 2 presents information on the gender of the individuals who attended Veterans Court hearings.

Table 2. Gender of Veterans Court participants.

Gender	Number of Individuals Observing Veterans Court	Number Eligible	Number Opting In	Number Graduated
Male	137	123	67	34
Female	10	10	7	4
Total	**147**	**133**	**74**	**38**

C. Age

Table 3 presents information on the age of individuals who attended Veterans Court hearings.

Table 3. Age of Veterans Court participants.

Date of Birth	Number of Individuals Observing Veterans Court	Number Eligible	Number Opting In	Number Graduated
Prior to 1950	25	21	9	5
1950-1959	61	59	35	17
1960-1969	31	27	17	10
1970-1979	22	19	10	5
1980-1989	8	7	3	1
Total	**147**	**133**	**74**	**38**

D. Financial Ability

Table 4 presents information on the representation of the individuals who attended Veterans Court hearings.

Table 4. Representation of Veterans Court participants.

Type of Representation	Number of Individuals Observing Veterans Court	Number Eligible	Number Opting In	Number Graduated
Appointed Counsel	119	109	58	26
Private Counsel	18	15	12	10
Pro Se	10	9	4	2
Total	**147**	**133**	**74**	**38**

The vast majority (119 out of 147) of the individuals observing Veterans Court and deciding whether to have their case processed through that court qualified for appointed counsel due to their financial circumstances. There is some indication, although the numbers are too small for definitive conclusions, that financial resources are beneficial to completion of the required treatment. Of the twelve individuals with private counsel who attempted the VA treatment plans, ten graduated, or 83.3%. By contrast, of the fifty-eight individuals with appointed counsel, twenty-six graduated, or 44.8%. Although, as noted, the numbers are small, the dramatic difference in the success rates between these two groups warrants further study.

E. Multiple Exposures to Veterans Court

Ten individuals were exposed to or utilized Veterans Court on two separate occasions for different crimes. The review counted each only once, reflecting each as having failed to remain crime free. Looking at the records of these ten individuals reveals that two of those individuals failed to complete Veterans Court on their first attempt but graduated after re-entering the program based upon the second crime. Two graduated from Veterans Court the first time but returned based on new crimes. One of these elected to re-enter Veterans Court and failed to complete it the second time. The other opted to not use Veterans Court for the second crime. Four individuals elected to not use Veterans Court

for their first offense but chose to try the treatment plan when a new offense occurred and then graduated. Of these four individuals, two have reoffended after graduation as of this review. The other two have not reoffended. Finally, two individuals tried and failed to complete Veterans Court on two separate occasions.

F. Classification of Offenses

The 147 files reviewed reflected a cross section of crimes or probation violations leading to Veterans Court exposure. The number one offense for individuals contacting the Veterans Court was assault (47 cases). Assault offenses occurred over twice as often as the next two most common offenses: theft (20 cases) and driving with a suspended or revoked license or without insurance (20 cases). Alcohol related cases constituted the next two leading categories of offenses: driving while intoxicated (16 cases) and petitions to revoke probation (PTRP) for failure to complete alcohol treatment (16 cases).

Similar to the above figures, the two most common offenses of those actually entering Veterans Court were assault (20 cases) and theft (15 cases). PTRPs for failure to complete alcohol treatment (12 cases), driving under the influence (10 cases), and driving with a suspended or revoked license (10 cases) were the next most frequent cases. Table 5 shows the graduation rates of those entering Veterans Court classified by offense committed.

Table 5. Graduation rates of those entering Veterans Court, classified by offense committed.

Offense Committed	Graduation Rate
Driving under the influence (10 cases)	70%
Assault (20 cases)	60%
Theft (15 cases)	53%
PTRP for failure to complete alcohol treatment (12 cases)	33%
Driving with a suspended/revoked license (10 cases)	30%

The minimum sentence for driving while intoxicated is generally greater than that for driver's license offenses. That potential for greater punishment may be influencing the desire to complete the VA treatment plan. Some of the PTRP files showed the individual actually completed alcohol treatment through the VA but failed to graduate because of

other issues the VA wanted to address through treatment. In those cases the veteran chose to accept a greater sentence to get out of treatment. Analysis of VA records might clarify how the individual's non-alcohol related issues were impacting the abuse of alcohol.

Although individuals with alcohol related offenses and those with offenses reflecting anger or possible mental health concerns would be expected to seek treatment through the VA, the question arises as to why individuals with driver's license offenses agree to enter into a VA treatment program. The ten driving with license suspended or revoked files were reviewed in an attempt to shed light on this issue. Those files showed that in eight of the ten cases, the individual had one or more of the following treatment issues: job training concerns, drug or alcohol issues, mental health issues, domiciliary issues, or medical issues. Two case files did not reflect what, if any, issues for treatment existed that would explain why the individual chose Veterans Court.

V. RECIDIVISM FROM THE VETERANS COURT

A recent newspaper article reports that recidivism in Alaska is high from all court proceedings.[49] That newspaper article cites a study by the Pew Center on the States that found a recidivism rate of 50.4% for Alaska.[50] The Pew study appears to have reviewed all criminal cases that resulted in a return to custody based upon either commission of a new crime or a violation of probation.[51] By contrast, this study was limited to the types of cases eligible for Veterans Court.[52]

For purposes of this Comment, recidivism is defined as a new criminal offense or a formal petition to revoke probation within one to three years of: (1) graduation from Veterans Court; (2) failure to complete Veterans Court; or (3) electing not to enter Veterans Court. Overall, seventeen of the thirty-eight graduates of Veterans Court reoffended within three years. That recidivism rate, 45%, is slightly better than the 50.4% recidivism rate for Alaska.

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49. Casey Grove, *Alaska Near Top in State-by-State Look at Ex-con Recidivism*, ANCHORAGE DAILY NEWS, Apr. 13, 2011, http://www.adn.com/2011/04/13/1807797/alaska-near-top-in-state-by-state.html.

50. *Id.* (citing PEW CTR. ON THE STATES, STATE OF RECIDIVISM: THE REVOLVING DOOR OF AMERICA'S PRISONS 10 (2011), *available at* http://www.pewcenteronthestates.org/uploadedFiles/Pew_State_of_Recidivism.pdf).

51. PEW CTR. ON THE STATES, *supra* note 50, at 7.

52. *See supra* text accompanying notes 32–33 (explaining the types of cases eligible for resolution in Veterans Court).

Examining the total number of individuals who entered but did not complete the Veterans Court program provides an interesting observation that warrants further study. Less than 31% of those who entered the Veterans Court but failed to complete the treatment plan reoffended (11 of 36). One possible explanation for this lower recidivism rate is that veterans with the greatest number or severity of problems stay in treatment, while those with fewer problems choose to opt out and resolve the case more quickly.[53]

Those individuals who were eligible for the Veterans Court but chose not to enter the program had a recidivism rate of 41% (24 of 59). A possible explanation for the lower recidivism rate, as compared to Veterans Court graduates, is that individuals choosing not to enter Veterans Court were charged with relatively minor offenses. The entire spectrum of individuals who were eligible for the Veterans Court, whether they chose to participate or not, had a recidivism rate of 39% (52 of 133), substantially below the state average of 50.4%.[54] It is unclear whether the fact that all of these individuals were veterans would account for this difference.

VI. AREAS FOR FUTURE STUDY

Future studies should examine why the recidivism rate for those who attempt the VA treatment plans in Veterans Court, but are unsuccessful in completing that treatment, nonetheless have a significantly lower rate of recidivism than graduates of Veterans Court, individuals eligible for but not entering Veterans Court, and the general criminal population in Alaska. Additionally, further study is required to determine whether and how the extent of the problems being addressed by the VA through the Veterans Court is impacting the recidivism rate for Veterans Court graduates.

The VA declined to provide information on veterans in Alaska based on federal privacy requirements. If available, that information could be compared with court records on criminal activity to identify veterans charged with misdemeanors who chose not to contact the Veterans Court. Such a comparison might provide more information on the success of the Veterans Court. The VA records would also show what percentages of the individuals utilizing the Veterans Court were previously utilizing VA programs. There was some indication from the VA that many of the individuals entering Veterans Court had not previously sought VA benefits and were now doing so because they had

53. *Cf. supra* Table 5 and associated discussion.
54. PEW CTR. ON THE STATES, *supra* note 50, at 10.

"bottomed out." Certainly a study that sought to interview Veterans Court graduates and those who entered but did not complete Veterans Court would provide insight into why they chose to try the program and perhaps why some succeeded and others did not.

CONCLUSION

The Alaska Veterans Court is an important resource for Alaska veterans involved with the criminal justice system who are eligible for federal veterans programs. If they are ready to try a comprehensive treatment plan at no cost to themselves, the State of Alaska, or the Municipality of Anchorage, Veterans Court provides a means to accomplish that with the added incentive that pending criminal cases can be more favorably resolved. The Alaska Veterans Court is a facilitator for veterans to interact with the VA. There is no indication that traditional court or other therapeutic courts were accomplishing this purpose on a regular basis prior to the establishment of the Veterans Court. However, the Alaska Veterans Court is doing much more than just facilitating access to the VA. As noted previously, it is allowing individuals to address multiple underlying issues attributable to military service that are contributing to criminal conduct. The criminal conduct is just a symptom of the other problems faced by the veteran. No other therapeutic court in Anchorage can provide job training, housing, mental health treatment, drug and alcohol treatment, and necessary medical treatment through a single provider at no cost to the veteran.

Any participation in the Alaska Veterans Court, for however long, provides participants with information as to the resources available when they are ready to use them. Additionally, it provides an opportunity for insight into the veterans' problems and how those problems are interrelated. Anecdotally, one of the first participants in Veterans Court appeared disheveled, unshaven, and unkempt. He was unemployed and homeless. This participant elected to enter the Veterans Court program and was diagnosed by the VA as having substance abuse issues in addition to his employment and housing problems. Over the course of several months this individual was moved into the VA domiciliary and given job training. He also received counseling and treatment for his substance abuse. After several months he was able to move out of the domiciliary and obtain a job. The participant began appearing in court clean-shaven and in a suit, with obvious pride in his appearance. He made tremendous strides, spending eighteen months in Veterans Court despite having been facing a sentence of ninety days or less for the offense that brought him before

the court. Although he eventually relapsed with his substance abuse, this case shows the potential of the Veterans Court.

Another veteran had been arrested multiple times. After being arrested for prostitution, she chose to try the Veterans Court. She had not accessed the VA previously. She was provided a treatment plan that addressed her substance abuse and medical health issues, including long-term residential treatment at a VA facility outside of Alaska. This participant graduated from the treatment program. The ability to obtain free inpatient treatment provided this veteran with help not available through other therapeutic courts. The Veterans Court gives individuals tools and opportunities to succeed. Even if they relapse, they have been shown people care about them and the service they performed for their country as well as an avenue to seek help when they are ready to do so.

The number of cases moving through the Veterans Court to date is too small to identify more than general trends. The number is low for several reasons. The Veterans Court is a completely voluntary court. The program is intense, frequently requiring twelve to eighteen months to complete the treatment plan. The failure rate once in the program is high for the same reason. As discussed, some participants in the program opt out after several months simply because the sentence for the underlying offense is so much shorter and easier to complete than the comprehensive treatment plan developed by the VA. Nevertheless, the Veterans Court has become more active recently,[55] and it has instituted a cap of thirty individuals in the program at one time to allow for the court and VA to adequately address participants' issues. The need for a cap highlights the need for increased funding so the court can expand its capacity. Currently, there are individuals eligible for VA benefits involved in criminal cases who desire help but are unable to utilize the Veterans Court given the limited slots.

The bottom line is the Anchorage Veterans Court appears to be taking on very difficult cases and serving veterans who are at a point where they feel treatment is necessary. Every successful case represents one less individual reappearing in the criminal justice system. If additional individuals want to utilize the Veterans Court, providing them the opportunity to do so by funding that court would fulfill an obligation on the part of the United States and the State of Alaska to honor the service of these veterans. Every veteran who gets his or her life back on track through the Veterans Court represents a small pay back in recognition for the veteran's service to this country. As noted,

55. The increased activity is at least partially due to the fact that the State is now allowing some cases to go to Veterans Court and the fact that some felonies are being admitted to the court.

there is some indication that even starting VA treatment through Veterans Court decreases recidivism. Why that may be is left for future analysis when either the VA allows access to individual's records or when in-person interviews of participants are conducted for additional insight into how participation in Veterans Court affected their future conduct.