

Problem-Solving Courts Annual Report

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South Dakota Problem Solving Courts Summary

Overview:

P-SCs were created to solve a unique and expensive problem within the criminal justice system. While many P-SC processes are counterintuitive to traditional court processing, decades of extensive research prove the effectiveness of the P-SC model in treating this unique population.

The proven effectiveness of the drug court model, which is a fundamentally different way of treating persons within the criminal justice system, has been expanded to include additional specialty court dockets. Collectively the specialized dockets make up South Dakota Problem-Solving Courts (P-SC). P-SCs include Drug, DUI, Veterans and Mental Health Courts. *(See Addendum A, South Dakota Problem Solving Court Locations, p.4)* The 2020 Problem-Solving Courts Annual Report provides a snapshot of court operations during a very unusual year.

The Effect of a Pandemic: Numbers

March of 2020 marked the onset of critical changes for South Dakota P-SCs in response to the global pandemic. Prior to the pandemic, the P-SCs were on target to serve their projected numbers. Since March of 2020, P-SCs have reported a decrease in applications, attributed to several factors ranging from a decrease in the number of arrests to number of applications received. Courts operating at full capacity create the efficiencies and savings central to the P-SC model. But building capacity happens over time. The decreases created by the pandemic will negatively impact participant numbers well into 2021. This should be seen as an unavoidable setback to program targets but one that can be overcome as our institutions return to normal operations. *(See Addendum B, By the Numbers, p.5)*

The Effects of a Pandemic: Program Operations

During the pandemic, P-SC Court Teams were tasked with the difficult job of determining if the applicants could adequately be served during this time while maintaining fidelity to the drug court model. Teams displayed their commitment, creativity, and dedication to the P-SC model and worked hard to offer uninterrupted services to their participants. Program operations, based on the needs of the clients, the resources available, and the safety of participants and staff required immediate adjustments. *(See Addendum C, Program Operations, p.6)*

The Numbers Know

The extensive research and analysis done on P-SCs provides a clear blueprint for creating, operating and managing successful programs. Rigorous data gathering and analysis is a critical component for program effectiveness and good oversight.

In 2020, after months of preparation, a Drug Court Information System (DIMS) was selected through the Request for Proposals (RFP) process. Over the next several months, P-SC Team members received training and began a statewide implementation. Previously there was no central data repository of complete information, making crucial program evaluation difficult. The implementation of DIMS will improve data collection and analysis, with a focus on

maintaining fidelity to the P-SC model. Teams will be provided with the necessary information required for continuous program improvement.

Fidelity and the Future

The success of the P-SC model relies on following Adult Drug Court Best Practices. These are both aspirational and obligatory. Courts are expected to continually improve their adherence to these Best Practices. In 2016, South Dakota adopted a multi-step model, called Fidelity First, to assist Teams in this goal. During 2021, fidelity to the model will continue to be the expectation, with a focus on several key projects moving forward to include:

- Ongoing implementation and operation of **DIMS**, including a participant app, a team communication app, and a drug testing laboratory system.
- Applications from offenders with a current or past **violent offense** will not automatically be excluded from program consideration during a **pilot** period. Teams will strive to serve all eligible offenders based on objective criteria as defined by research and science.
- Technical assistance has been secured to evaluate the **role of the defense attorney** on the Teams and make necessary program adjustments to ensure the rights of the participants served.
- Research reveals that a fundamental problem occurs within courts if, once program operations are established, Teams do not continuously monitor fidelity to the Best Practices model. This is known as program drift. The State will continue to provide mandatory **training to the P-SC Teams** to ensure they have the necessary information, focus, support, and oversight to operate effective courts as established, researched, and proven by the Best Practices Model.
- At the national level, a process and tools are being developed for **State Certification of Courts**. This formalized process creates additional structures to operate effective courts. South Dakota will continue to evaluate and consider participating in the process when it is released.

Conclusion: Did You Know?

P-SC are the single most successful intervention in our nation's history for leading people with substance use and mental health disorders out of the justice system and into lives of recovery and stability. (National Association of Drug Courts, <https://www.nadcp.org/treatment-courts-work/>). A large component of the program is the role of the Judge.

“Studies have consistently found that Drug Court participants perceived the quality of their interactions with the judge to be among the most influential factors for success in the program.” (Adult Drug Court Best practices, Volume I, p. 23) Judge Heidi Linngren, has presided over the Pennington County DUI Court since its inception eight years ago. She agreed to share some of her reflections on what it meant for her to be a part of an alternative (P-SC) court. (edited for length from original version)

Reflections of an Alternative (P-SC) Court Judge

As I wrap up my time as the Pennington County DUI Court Judge, I can honestly say that it has been one of the most rewarding and heart wrenching tasks that I have taken on so far.

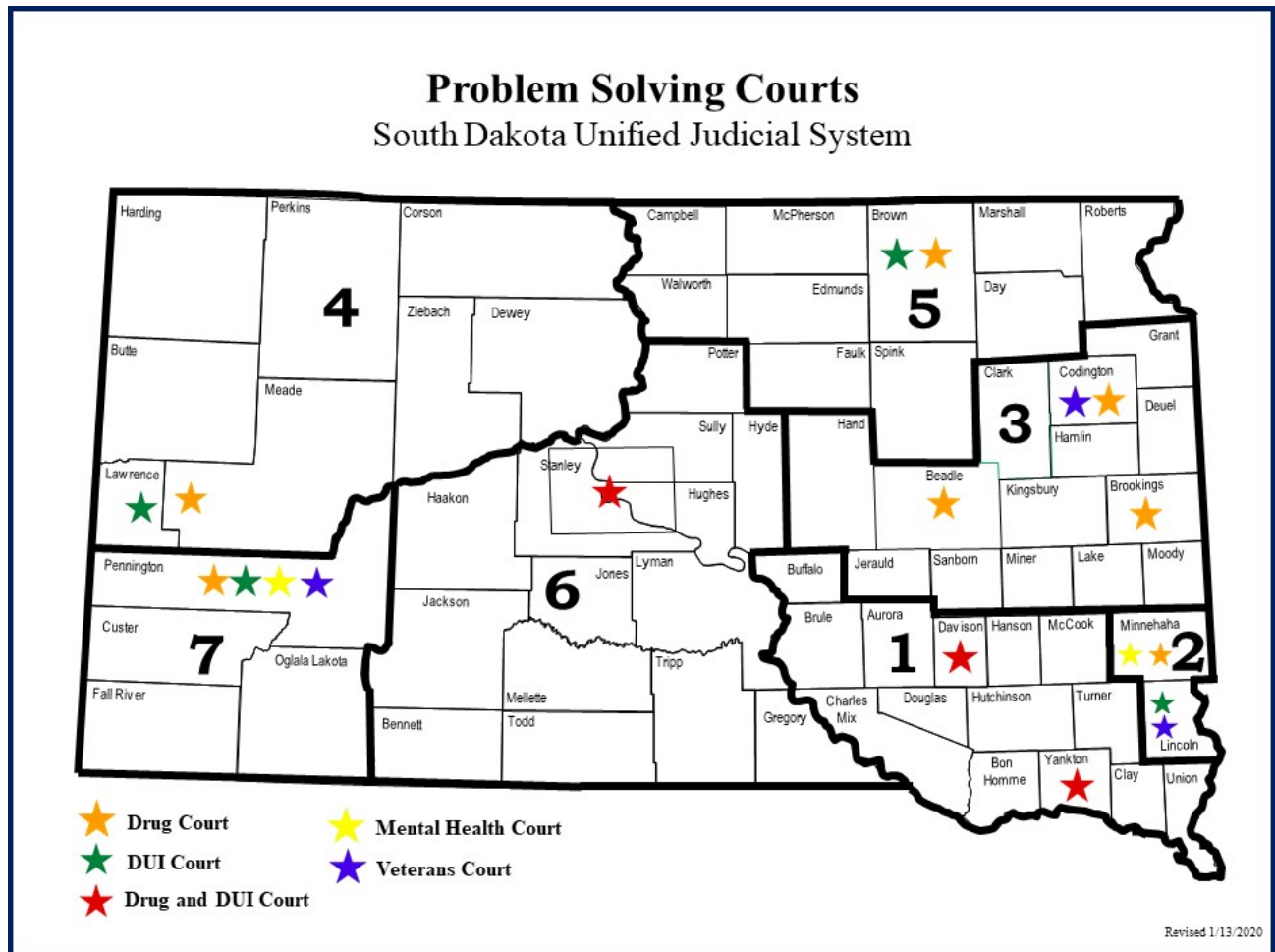
We started the program by developing our team and getting things organized in the fall of 2012. I have been the presiding judge of the court ever since. As a Team, we have seen marriages and births and deaths and success and failure. When I indicate rewarding and heart wrenching in the same sentence, one particular example comes to mind.

It was about this time of year, approximately 5 years ago that we had a participant who was nearing graduation get very ill. He had been sober for 2 years, worked the program hard, and even had his significant other working the program, as well. In fact, sometimes she would call the probation officers for advice or “permission” to do something when she wasn’t even being supervised. Sadly, our participant had not tended to his physical needs the way he had finally attended to his sobriety and mental needs, and he became very sick very rapidly. He was hospitalized in Sioux Falls and told to get his affairs in order, as he was dying. The two probation officers on the team at the time and I drove to Sioux Falls to visit him one last time. He asked for his DUI Court medals and when we said goodbye, he indicated he wanted to be buried with them, as his greatest accomplishment was his sobriety. He was sad that he was dying, of course, but he was dying with his family by his side. He was dying with adult children that he had been estranged from because of his drinking, by his side. And he held those medals and he cried. He thanked us one last time, and that was the last that we saw of him. We made a difference in his life, and he made a difference in ours. The most rewarding and heart wrenching experience of my career.

The Pennington County DUI Court recidivism rates are low and our graduation rates are high, exceeding expected number. I attribute this to many factors, including a dedicated Team who has often times worked extra on weekends and nights to make sure the needs of our participants were met. The response of our community has been one of generosity and support. The most important statistics are the people themselves and the changes the teams witness them making in their lives. Former clients have organized an Alumni group, who has in turn organized a closet full of donations to be shared with participants. I have told my participants for the last 8 years, this court is not just a program to keep you sober and caution them that unless they work on the entire essence of their being, the sobriety they achieve will not last.

To all the P-SC Court Team members, who work tirelessly to help the participants in each of their program, THANK YOU and keep up the good work! It is important, life changing work.

Addendum A: South Dakota Problem Solving Court Locations



Addendum B: By the Numbers

Statewide (including Drug, DUI, Veterans Treatment Courts)

PROGRAM DATA	FY18	FY19	FY20
Clients Served	490	557	607
Graduated	105	125	142
Terminated	86	96	98
Retention Rate	71%	71%	68%
Graduation Rate	59%	59%	61%

Statewide Cost Per Participant

PROGRAM DATA	FY18	FY19	FY20
Clients Served	490	557	607
Cost per client	\$8,065	\$8,015	\$8,382
Number of Court	16	18	19
Court Sessions Held	687	750	848

Statewide Recidivism Rate of Graduates

Circuit	Recidivism Percentage	Graduates	No Felony Conviction	Felony Conviction
Total	18%	210	172	38

Recidivism rate is defined in South Dakota law as a felony conviction having occurred within 3 years of drug court graduation. Statewide, 210 participants are three years post-graduation.

Secondary Benefits of Problem-Solving Court Programs

Income Reported	
Drug Court	\$1,542,256
DUI Court	\$1,178,208
Veterans Treatment	\$ 220,542
Total	\$2,941,006

Families Affected (Since 2012)	
Drug Free Babies Born	82
Number of Children	2,530

Addendum C: Program Operations

At the onset of the pandemic (March 2020), the National Association of Drug Courts and the National Center for State Courts published *Treatment Courts and COVID- 19: What to Consider During a Pandemic.*” The publication provided a template for the courts to follow. As information becomes available, the P-SC continued to evolve and adjust, operations.

(<https://www.nadcp.org/wp-content/uploads/2020/03/Treatment-Courts-COVID-19-Examples-3-26-20.pdf>)

Court Hearings: Most Courts chose to use an internet platform such as Zoom to conduct court hearings and Team meetings. Setting up the technology and learning how to navigate was a monumental task for the Teams, but done within days of the onset of the pandemic. Programs continue to adjust operations, using a combination of in-person and Zoom meetings for court hearings and Team meetings.

Accepting new clients: New applications were considered on a case-by-case basis. Teams reviewed the risk/need and treatment assessments of applications. Then, based on available resources and current operations, decided if they could meet the needs of the applicant and safely accept them into the program.

Treatment sessions: Most treatment agencies switched services to telehealth. The challenges the agencies had to overcome included adequate equipment and technology, for the clients to participate in treatment services. The method of delivery of treatment services going forward is determined by the community agencies.

Drug and Alcohol Testing: Random drug and alcohol testing is a major component in gauging program compliance. A variety of testing methods have been employed, including sweat patches and urine testing. As the science evolved, a safe way to return to testing as usual has been shared with the Teams and the expectation is they will continue to follow per guidelines.

Employment: Participants were held accountable to participate in employment in circumstances where this was possible.

Incarceration: Now and during normal operations, the science and research is clear; relying on jail is not effective at producing long-term behavior change. Teams were tasked with crafting meaningful sanctions to address non-compliance.

Commencement/Graduation: Graduation from the program is a big event for the participant and the Team members. The average length of time in a P-SC is 12-24 months. Commencement is a celebration. Teams used a variety of ways to hold the ceremonies, including live streaming the event, ZOOM and small family only ceremonies.